



# SUBMISSION ON THE LIST OF ISSUES CONCERNING UKRAINE TO THE CEDAW PRE-SESSIONAL WORKING GROUP 66 25-29 JULY 2016

## I. ABOUT THE AUTHORS

The following submission concerns Ukraine, and specifically refers to the situation of women in the conflict zone in Eastern Ukraine. It is made by a group of Ukrainian non-governmental organisations represented by the Eastern-Ukrainian Centre for Civic Initiatives,<sup>1</sup> which leads monitoring activities focused on sexual violence, and the Helsinki Foundation for Human Rights (HFHR), which coordinated the submission process.<sup>2</sup>

The organisations submitting the following shadow list of issues are representatives of the Coalition “Justice for Peace in Donbas.” The Coalition was established in December 2014 and currently gathers 17 NGOs mainly from the Ukrainian regions of Donetsk and Luhansk. The Coalition’s purpose is to act together in documenting violations of human rights during armed conflict in the east of Ukraine.

## II. PROPOSED INPUT TO THE LIST OF ISSUES

### INTRODUCTION

The Committee’s General recommendation no. 30 notes that “[c]onflicts exacerbate existing gender inequalities, placing women at a heightened risk of various forms of gender-based violence by both State and non-State actors.” In the same recommendation, the Committee also notices “the fact that

---

<sup>1</sup> More information on the Eastern-Ukrainian Centre for Civic Initiatives is available at: <http://totalaction.org.ua/content/pro-stshi>

<sup>2</sup> The Helsinki Foundation for Human Rights was established in 1989. It is one of the biggest and oldest non-governmental organizations in Poland. Since 2007, it has enjoyed the consultative status by the UN Economic and Social Council. More information on HFHR is available at: [www.hfhr.pl](http://www.hfhr.pl)

reports of States parties do not provide sufficient information on the application of the Convention in such situations.”<sup>3</sup>

The eighth periodic report submitted by the Government of Ukraine for the review at 66<sup>th</sup> session of the Committee does not refer to the issue of violence against women in the conflict area of Eastern Ukraine either. This is to an extent explained by the fact that the report was to cover mainly the period between 2010-2013, and only partially refers to the year 2014. However, considering the timetable of periodic reviews and the serious impact armed conflicts have on women’s lives, it is our belief that the Committee should have an opportunity to ask the Ukrainian Government for additional information about this particular issue, consider it and form recommendations already at this session. Guidance from the Committee at this stage would necessitate a faster reaction from the Ukrainian Government and would perhaps help to prevent or limit further violations in the future.

Given the above, we would like to draw the Committee’s attention to the general problem of violence against women in the conflict zone in Ukraine. Below, we have made reference to three particular aspects of this issue – illegal detention and sexual violence, lack of statistics on and ineffective investigation of sexual violence. Information on those aspects follows a certain logic – statement of the problem, longer explanation with evidence and possible questions for the government.

The information is in part based on monitoring focused on sexual violence conducted by the Eastern-Ukrainian Centre for Civic Initiatives in cooperation with other Ukrainian NGOs. In this case, data on instances of sexual violence is collected in the course of direct interviews with victims or witnesses. The majority of these people have been illegally detained or otherwise deprived of liberty for a shorter period of time. As a complimentary source of information, interviews are conducted with representatives of humanitarian organisations working directly in the conflict zone and offering humanitarian aid or support in evacuation from occupied territories. Further data is obtained from open sources such as the press, the Internet or from the databases of human rights violations maintained by the “Justice for Peace in Donbas” Coalition.

## 1. SEXUAL VIOLENCE AGAINST WOMEN IN THE CONFLICT AREA

*There is a practice of illegal detention of women in the conflict area in Ukraine. Illegal detention is often followed or accompanied by various forms of sexual violence against women. In some cases, it may be motivated by women’s cooperation with the Ukrainian side.*

### **Explanation:**

In 2015, the members of the “Justice for Peace” Coalition in partnership with HFHR conducted monitoring of human rights violations in places of illegal imprisonment on the territories under the control of illegal armed formations in Luhansk and Donetsk regions. The violations registered in the course of monitoring were gathered in the report “Surviving Hell: Testimonies of Victims on Places of Illegal Detention in Donbas.”<sup>4</sup> For example, the study analysed “the circumstances and procedures of apprehension in 165 cases of illegal deprivation of liberty by representatives of illegal armed groups.”<sup>5</sup> In 10 cases, civilian women were apprehended (11,5% of analysed cases of apprehended civilians). As the authors of the report write, “[c]ruel and inhuman treatment against women by the militants of illegal armed groups and representatives of quasi-state agencies is particularly

<sup>3</sup> CEDAW, General recommendation no. 30 on women in conflict prevention, conflict and post-conflict situations, 1 November 2013.

<sup>4</sup> Bielousov I.L., Korynevych A.O., Martynenko O.A., Matviychuk O.V., Pavlichenko O.M., Romensky Y.V., Shvets S.P. (2015), *Surviving Hell: Testimonies of Victims on Places of Illegal Detention in Donbas*, Kyiv: “TsP Komprint” Ltd., available at: [www.hfhr.pl/wp-content/uploads/2016/01/SURVIVING-HELL\\_eng\\_web.pdf](http://www.hfhr.pl/wp-content/uploads/2016/01/SURVIVING-HELL_eng_web.pdf)

<sup>5</sup> Ibidem, p. 32.

exemplary.”<sup>6</sup> In those cases of apprehension, the monitors documented inhuman treatment towards pregnant and elderly women as well. The authors of the report consider torture and cruel treatment of illegally detained civilians and military as a widespread, systemic practice in relation to detainees. Even though, in the light of the report, women constitute a category of persons less often subjected to torture and inhuman treatment, this practice was “also used towards women who comprise 12% of all tortured civilians. Two of them were pregnant during interviews, and the members of illegal armed groups were aware of that. One of these women lost a child because of torture and assault.”<sup>7</sup>

As the Committee noted in General recommendation no. 30 “women and girls are primarily and increasingly targeted by the use of sexual violence, <<including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group>>.” In the course of 2015 monitoring, the “Justice for Peace in Donbas” Coalition documented various forms of violence towards women, including, arbitrary detention, confinement in illegal places of detention and torture. However, as the report “Surviving Hell: Testimonies of Victims on Places of Illegal Detention in Donbas” notes, “[s]exual violence towards detainees is the least studied category of crime. For instance, none of the female interviewees mentioned that she had been raped. However, a range of testimonies of males indicates that they learned accurate information about the use of sexual violence towards female detainees either from these detainees, or from other men, or security guards.”<sup>8</sup>

In the course of 2015 monitoring of illegal detention of people in the conflict area and in neighbouring territories, members of the “Justice for Peace in Donbas” Coalition learnt of cases of gender-based violence, including rape (collective rape, rape against minors), coercion to perform sexual acts, touching of sexual organs – breasts and buttocks, and threats of rape.<sup>9</sup> There is also evidence of kidnappings of young women at the separatists’ posts.<sup>10</sup>

In the course of its subsequent monitoring, the Eastern-Ukrainian Centre for Civic Initiatives in cooperation with other Ukrainian organisations documented further cases of sexual violence against women. The organisations have so far conducted 47 interviews with 27 women-victims of sexual violence, 15 witnesses of sexual violence and at least 5 other people who had some knowledge of the issue (from humanitarian organisations, NGOs, etc.). The interviewees were subject or witness to rape in 5 cases. Twenty interviewees were subject or witness to other form of sexual violence, including in 5 cases to threats of rape. In the course of interviews 4 interviewees admitted that they were pregnant while subject to violence or witnessed violence towards pregnant women (2) or elderly women (2). In 4 cases, interviewees states that sexual violence was motivated by the woman’s engagement with the Ukrainian side or by their political activity. In one of the cases, detention and the use of sexual violence was a consequence of the woman’s voluntary help to the Ukrainian army, while in another the victim of violence was accused of spying. The instances of sexual violence were registered both in the Luhansk region (in Luhansk, Popasnyansky Region and at the Dolzhansky border crossing between Luhansk and

---

<sup>6</sup> Ibidem, p. 32.

<sup>7</sup> Ibidem, p. 57.

<sup>8</sup> Ibidem, p. 57. An account from a detainee on sexual violence towards a female inmate is given on p. 61.

<sup>9</sup> In the course of 2015 monitoring of illegal detentions in the conflict area and in neighboring territories conducted by the “Justice for peace in Donbas” Coalition, the Eastern-Ukrainian Centre for Civic Initiatives obtained information on 36 cases of violations as a result of gender-based violence, including 26 cases in relation to women. The information concerned, among others, direct evidence of rape (1); sending women to satisfy the sexual needs of soldiers in the war zone (1); situations where there was no direct evidence of rape (6); threats of rape (2); harassment (2); stripping women down (2); sharing cells between women and men (2); shared toilets in one cell (2); shared shower (1); forced nudity for the purpose of psychological pressure (1); forced searches of women by men (2); using insults of a sexual character (1).

<sup>10</sup> The Eastern-Ukrainian Centre for Civic Initiatives has so far registered two cases. These violations took place in Kramatorsk in Donetsk Region and at the Dolzhansky border crossing in Luhansk Region in 2014. They were documented in Kramatorsk in 2016.

Rostov Regions) and in the Donetsk Region (in Donetsk, Kramatorsk, Makiivka and Yasynuvata). Women were subjected to violence among others while in detention (in 14 cases) and in the car (2 cases).

The above-presented preliminary results of monitoring conducted by the Eastern-Ukrainian Centre for Civil Initiatives and other Ukrainian NGOs are focused on sexual violence, and not generally on gender-based violence. This means that certain practices where the gender aspect is strong have necessarily been left out. For example, according to the testimonies of detainees held in illegal places of detention in the so-called “Luhansk People’s Republic” (LPR) and “Donetsk People’s Republic” (DPR), women and men were held together, including in common cells. The detainees in those cells had to fulfil their natural needs in the presence of persons of the opposite sex.<sup>11</sup> However, monitoring focused on broader aspect of gender-based violence is and will be conducted by the Eastern-Ukrainian Centre for Civil Initiatives and members of the “Justice for peace in Donbas” Coalition under the project “Action to ensure the respect of human rights in the armed conflict zone and on its bordering territories in Donbas, Ukraine,” coordinated by HFHR. Its result will be available later in 2016.

### **Questions to the government:**

Has the Ukrainian government undertaken efforts to organise the process of collecting and recording the necessary evidence of sexual violence against women in the territories of the so-called “LPR” and “DPR”? Have there been any awareness-raising actions concerning sexual violence against women as a strategy in and a by-product of military conflict, and as a war crime? Has the government undertaken any outreach actions towards women victims of sexual violence from the conflict area?

## **2. STATISTICS ON SEXUAL VIOLENCE AGAINST WOMEN IN THE CONFLICT AREA**

*There is a lack of proper statistical data on instances of sexual violence against women. The system of data collection in place does not work properly. This is partly because of the fact that responsible specialists do not recognize the need for proper data collection, but also due to the reluctance of victims to speak out.*

### **Explanation:**

In relation to women in conflict and post-conflict context in its General recommendation no. 30, the Committee recommended that State parties “[c]ollect data, and standardize data collection methods, on the incidence and prevalence of gender-based violence, in particular sexual violence, in different settings and with regard to different categories of women.”

The monitoring conducted by the members of the “Justice for Peace in Donbas” Coalition shows that in Ukraine, in particular in the conflict zone, the state does not gather reliable and comprehensive statistical data on sexual violence. The responsibility for collecting such data rests on the labour and social protection bodies of the local and regional branches of state administration.<sup>12</sup> These bodies employ specialists on gender issues who are responsible for “collecting data needed to assess the

---

<sup>11</sup> These practices were registered to have taken place e.g. in the prison operating in the student halls of the East-Ukrainian University (Luhansk, Luhansk SBU) and in the basement of the Zhovtnevy District Executive Committee in Luhansk.

<sup>12</sup> The obligation on the part of various institutions under the Ministry of Social Policy of Ukraine to take those actions is set forth in the National Action Plan on The Implementation of the Security Council Resolution 1325 on Women and Peace and Security;<sup>12</sup> National Human Rights Strategy of Ukraine approved in the Decree of the Ukrainian President of 25 August 2015 no. 501/2015 (<http://www.coe.int/t/commissioner/source/NAP/Ukraine-National-Action-Plan-on-Human-Rights.pdf>); as well as in a Special Decree of the Minister of Social Policy of Ukraine of 26 November 2012 no. 741 on the division of responsibilities between various departments of local bodies of state administration in the area of social protection.

impact of the conflict on the national human rights enforcement system, in particular for the protection, assistance and rehabilitation of victims of gender-based violence." Gender specialists are obliged to take measures to prevent gender-based violence and to respond to violations associated with this form of violence.

However, these institutions and specialists mainly work with the problem of domestic violence. The statistical data which is gathered on violence does not distinguish gender-based violence which results from the military conflict and war crimes. There is no information on actions undertaken by the local and regional branches of state administration in cases of violations related to gender-based violence which appears in connection with the military conflict.

Furthermore, gynaecologists are also obliged to inform the police about cases of rape which they discover in the course of medical examinations. However, they often refrain from doing so at the request of victims who are afraid that the fact of rape would become known to their local communities. Only in the cases when an expert opinion (medical expertise) is prepared will the data on rape be included in statistical reports.

It is worth noting that the statistics gathered by health care institutions on cases of rape do not take into account the specificity and character of this crime either. It is mostly concentrated on domestic violence or everyday violence. In other words, it will not specify that particular cases of rape were connected to the military conflict. At the same time, the statistics on rape related to the conflict provided by the regional branches of the Ministry of Health and the Ministry of the Interior of Ukraine differ. At one of the joint meetings, the Department of Health Care of the Luhansk Regional Military-Civilian Administration reported 15 registered cases of rape, while the Regional Branch of the Ministry of the Interior informed about the initiation of only 4 proceedings. Registration of other gender-based violation is not conducted.

#### **Questions to the government:**

Does the government collect data on instances of sexual violence against women specifically related to military activity in the east? If so, is the data disaggregated by the type of crime, age of victim, perpetrator's role and side in the conflict or in any other way? Has the government conducted any evaluation of the current system of data collection on instances of sexual violence against women, including in the conflict area? Has there been training provided to specialists responsible for recording cases of sexual violence against women, including in the conflict zone?

### **3. PROSECUTION OF SEXUAL VIOLENCE AGAINST WOMEN IN THE CONFLICT AREA**

*In Ukraine, in particular in the conflict zone in the territories under governmental control, there is a lack of effective investigations of sexual offences.*

#### **Explanation:**

Police bodies do not always conduct effective investigations in cases of sexual offences or abductions of women and men. This is due to a number of reasons. There are instances when the police refuse to register cases of sexual violence perpetrated by soldiers.<sup>13</sup> One reason for this is the unwillingness or inability of law enforcement agencies to conduct investigations against army units and units of the National Guard.<sup>14</sup> This may be due to the corruption of the investigative bodies and the unwillingness of the police to conduct investigations against well-armed units of the army.

---

<sup>13</sup> Statement of an expert who has been working in the conflict zone for 2 years.

<sup>14</sup> For example, in the town of Kramatorsk, Donetsk Region.

Ukrainian legislation provides for an alternative mechanism of registering sexual offences. The victim can turn to the labour and social protection body in a case when the police refuses to register a gender-based crime. The specialists on gender issues employed by those bodies are obliged to notify the police about such crimes. However, this mechanism does not work either. In the Lugansk region, there has been no case registered through this alternative mechanism.<sup>15</sup>

It should be noted that cases when the victim takes back the statements submitted earlier to the authorities are typical.<sup>16</sup> Resignation from prosecuting rapists in the criminal procedure is also the result of settlements between perpetrators and victims, and compensations paid by perpetrators to victims.<sup>17</sup> This practice is related to the difficult living conditions and lack of resources among the population of the conflict zone.

In the course of monitoring conducted by the Eastern-Ukrainian Centre for Civic Initiatives only some information on investigation and prosecution of sexual violence against women in the conflict area was gathered. In at least 1 case, a woman-victim said that she was afraid to report to the police and, in at least 1 other case, that she was afraid that people from her community would learn about the fact. In at least 4 cases, victims reported violence to the police. In 15 cases, victims reported violence to a non-governmental organisation. Following victim's reporting, criminal proceedings were initiated in at least 1 case. There is no data on the final result of those proceedings. In all cases, victims who reported to such an institution received legal assistance from a victim support organisation, but they did not always receive psychological or medial support. At least 1 woman-victim interviewed stated that she had to move away from the area out of fear of sexual violence being used against her.

#### **Questions to the government:**

Has the government taken any action to improve prosecution of sexual violence towards women in the conflict area? Has the government taken any action to address the problems of prosecuting sexual offences perpetrated by the Ukrainian forces? Has there been any training conducted for the police on sexual violence against women as a strategy in and by-product of military conflict, and as a war crime? Does the government gather statistics on discontinuation of proceedings in cases of sexual offences, including against women in the conflict area? If so, is the data disaggregated?

*Eastern-Ukrainian Centre for Civic Initiatives*

*“Justice for Peace in Donbas” Coalition*

*Helsinki Foundation for Human Rights*

*Warsaw, 1 July 2016*

---

<sup>15</sup> Statement of an expert in a private conversation.

<sup>16</sup> Data from conversations with experts and state officials.

<sup>17</sup> Data from conversations with experts and state officials.