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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine*

Summary

The present report is submitted pursuant to Human Rights Council resolution 26/30. It covers the period from 21 November 2013 to 5 September 2014, and provides an overview of key human rights developments and concerns described in the five reports issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) between 15 April and 29 August 2014, on the basis of the work of the United Nations Human Rights Monitoring Mission in Ukraine.

* Late submission.

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I. Introduction

1. In its resolution 26/30 of 25 June 2014 on cooperation and assistance to Ukraine in the field of human rights, the Human Rights Council invited the United Nations High Commissioner for Human Rights to report on the implementation of the resolution at its twenty-seventh session.
2. The present report covers the period from 21 November 2013 to 5 September 2014 and provides an overview of key human rights developments and concerns described in the five reports issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) between 15 April and 29 August 2014, on the basis of the work of the United Nations Human Rights Monitoring Mission in Ukraine.

II. Background

3. From 21 November 2013 to 22 February 2014, large-scale street protests erupted, triggered by the decision of then President Viktor Yanukovich not to sign an association agreement with the European Union. Underlying the protests was a widespread, deep-seated dissatisfaction with a system broadly perceived as corrupt and lacking accountability, with weak rule-of-law institutions and a judiciary that was neither independent nor able to ensure equal rights, fair trial and due process of law.
4. The protests were further exacerbated by violence and excessive use of force by the police, particularly on Independence Square (Maidan) in Kyiv, where over 100 people were killed between January and February 2014, including by snipers. The violence and human rights violations that took place at Maidan led to the downfall of the Government, the departure of the President to the Russian Federation and the formation of a pro-European interim Government on 27 February 2014.
5. In March 2014, the crisis broadened, with paramilitary and so-called self-defence groups as well as soldiers without insignia — widely believed to be from the Russian Federation — taking control of the Autonomous Republic of Crimea and organizing a referendum to join the Russian Federation. In its resolution 68/262 of 27 March 2014, the General Assembly, reiterating the sovereignty and territorial integrity of Ukraine, concluded that the referendum had “no validity” (para. 5). Furthermore, individuals could not freely exercise their right to freedom of expression and peaceful assembly, and there were credible allegations of harassment, arbitrary arrests, torture and targeting of activists and journalists who did not support the referendum.
6. Also in March, in the aftermath of the Maidan events, regular rallies, mainly in the eastern regions of Donetsk, Kharkiv and Luhansk, but also in the south, notably in Odessa, began to be organized with participation of the local population, but also allegedly individuals and groups from neighbouring regions of the Russian Federation. The main demand was that a referendum be held on the federalization of Ukraine or union with the Russian Federation, as well as recognition of Russian as a second State language. The demonstrations appeared widely sustained by Russian-language media and social networks. Supporters and opponents of that protest movement regularly clashed, resulting in the first three deaths of the crisis in the eastern regions on 13 and 14 March 2014.

III. Deployment of the United Nations Human Rights Monitoring Mission in Ukraine

7. Against the aforementioned background, on 14 March 2014 OHCHR deployed a Human Rights Monitoring Mission to Ukraine to monitor and report on the human rights situation throughout Ukraine and to propose recommendations to the Government and other actors to address emerging human rights issues as well as the root causes of the situation that was unravelling.¹ Initially deployed at the invitation of the Government of Ukraine for a period of three months, on the basis of a Memorandum of Understanding signed between OHCHR and the Government of Ukraine, the mandate of the Human Rights Monitoring Mission has been extended twice, most recently until 15 December 2014. Since April 2014, OHCHR has issued five public monthly reports on the human rights situation in Ukraine, found in the annex hereto, based on the findings of the Human Rights Monitoring Mission teams in Kyiv, Donetsk, Kharkiv, Lviv and Odessa. In line with General Assembly resolution 68/262, the Human Rights Monitoring Mission in Ukraine monitors the situation in the Autonomous Republic of Crimea from its office in Kyiv and other locations, since it has not been granted access to the peninsula by the Crimean local authorities.

8. The Human Rights Monitoring Mission in Ukraine works closely and collaboratively with the Special Monitoring Mission in Ukraine of the Organization for Security and Cooperation in Europe (OSCE). The Human Rights Monitoring Mission also cooperates with international and regional organizations, other United Nations agencies and programmes, the independent national human rights institution and non-governmental organizations in the accomplishment of its main objectives.

IV. Escalation of the conflict in eastern Ukraine

9. The Human Rights Monitoring Mission observed early signs of the rapid deterioration of the security situation as of mid-April 2014, when groups of armed men unlawfully seized public buildings and police and security facilities in cities and towns across the Donetsk and Luhansk regions, in a well-organized and coordinated fashion. The groups set up barricades and checkpoints in order to maintain control of the areas seized.

10. On 14 April 2014, the Government launched a security operation² to re-establish control over those territories, but in May 2014, a “people’s republic” had been self-proclaimed in both regions, following the holding of so-called referendums that neither the Government of Ukraine nor the international community recognized. Armed groups supporting the self-proclaimed “people’s republics” of Donetsk and Luhansk extended the portions of the territories of those regions that had been seized to include most of the main urban areas. A complete breakdown of law and order ensued, with parallel structures

¹ The objectives of the Human Rights Monitoring Mission in Ukraine are to monitor the human rights situation in the country and provide regular, accurate and public reports to the High Commissioner on the human rights situation and emerging concerns and risks; to recommend concrete follow-up actions to relevant authorities, the United Nations and the international community on how to address the human rights concerns, prevent human rights violations and mitigate emerging risks; to establish facts and circumstances and conduct a mapping of alleged human rights violations committed in the course of the demonstrations and ensuing violence between November 2013 and February 2014; and to establish facts and circumstances related to potential violations of human rights committed during the course of the deployment.

² Referred to by the Government as an “anti-terrorist operation”.

created by the armed groups in an attempt to exercise some form of control over public functions.

11. On 25 May 2014, presidential elections were held in Ukraine; but in most of the districts in the Donetsk and Luhansk regions, citizens were prevented from exercising their right to vote by armed groups of the self-proclaimed Donetsk and Luhansk “people’s republics”. With an escalation in hostilities in urban areas between heavily armed men — including foreign fighters — and law enforcement and security operations undertaken by the Government, violence escalated, leading to grave violations of human rights and international humanitarian law.

12. Following the announcement of a peace plan by the new President of Ukraine, Petro Poroshenko, on 20 June 2014, the Government implemented a 10-day ceasefire, which, however, has reportedly been breached at least 108 times, with casualties among Ukrainian soldiers and civilians. During the months of June, July and August, violence and fighting intensified in the Donetsk and Luhansk regions, including around the city of Mariupol. On 5 September 2014, the Trilateral Contact Group on Ukraine, meeting in Minsk, signed the Minsk Protocol, which included a ceasefire agreement to be implemented immediately and a 12-point peace plan.

V. Particular human rights challenges in eastern Ukraine

13. As documented by the Human Rights Monitoring Mission in Ukraine, the rule of law was replaced by the rule of violence in the Donetsk and Luhansk regions, where the regional governments ceased to function effectively, as did the police and judiciary. Banks were robbed, coal mines were attacked, with many forced to close. Railways were blown up and salaries, pensions and other social welfare payments were stopped in places under the control of the armed groups.

14. Most importantly, the intensification of hostilities led to a dramatic increase in casualties. The sharp increase in civilian casualties over the past month was largely due to the intensified fighting, including the use of heavy weaponry and indiscriminate shelling in densely populated areas. Given the presence of an increasing number of foreign fighters, including citizens of the Russian Federation, who were allegedly “former servicemen” or active duty personnel on “leave”, sophisticated and heavy weaponry — including tanks, artillery and missiles in areas of the Donetsk and Luhansk regions seized by the armed groups —, and the security operations undertaken by the Government, the Human Rights Monitoring Mission in Ukraine registered an average of at least 11 persons killed daily between mid-April and mid-July 2014, and an average of 36 persons per day in the period from 16 July to 17 August 2014. As of 3 September 2014, at least 2,905 people (including 28 children) were estimated to have been killed and 7,640 wounded (not including the 298 victims of the Malaysian Airlines-MH 17 plane crash) since mid-April 2014.

15. In that context, the principles of international humanitarian law in the conduct of hostilities, including the principles of necessity, distinction, proportionality and precaution should be recalled and respected in order to ensure the protection of civilians. There is need for accountability for the crimes committed. Indeed, no matter who the perpetrators or the victims are, every effort must be made to ensure that anyone who has committed serious violations of international law is brought to justice. That is essential in order to overcome divisions and pave the way for reconciliation.

16. Furthermore, the armed groups continued to carry out abductions, physical and psychological torture, ill-treatment and other serious human rights violations. People were abducted for ransom, for forced labour and to be exchanged for fighters held by the Ukrainian authorities. As of the issuance of the present report, the number of people held by

the armed groups, mostly civilians, was estimated at more than 460. The reign of fear and intimidation by the armed groups has been well-documented in the reports of the Human Rights Monitoring Mission in Ukraine. Forced mobilization and threats of the death penalty were additional means to terrorize the population in the territory under the control of the armed groups. The case of Nadiya Savchenko, a former Ukrainian military pilot, allegedly detained and smuggled out of Ukraine by the armed groups and currently being held in pretrial detention in Voronezh in the Russian Federation, remains an issue of concern. She was charged with complicity in the killing of two Russian television journalists on 17 June 2014 near Luhansk. The court in Voronezh has extended her detention until 30 October 2014, and has ordered, reportedly against her will, that she undergo a psychiatric examination in the Serbsky Institute in Moscow.

17. The Human Rights Monitoring Mission in Ukraine received reports of armed groups preventing residents from leaving the regions, including by harassing them at checkpoints — where residents also reported being robbed — and firing at vehicles transporting fleeing civilians, and reportedly using them as human shields. In some places, older persons or persons with disabilities, who either decided to remain or who could not leave, were increasingly vulnerable without regular care and assistance providers. As of 30 July 2014, “safe corridors”, unilaterally established by the Ukrainian forces, have enabled people to leave the cities of Donetsk, Horlivka and Luhansk. Around 7,000 residents of Luhansk reportedly used the safe corridors in the early days of August.

18. The actions by the armed groups and the Ukrainian security operations also led to the destruction of, and damage to, infrastructure and civilian (including residential) structures such as water, communication, electricity and sewage treatment plants, which has caused the shutdown of essential supplies. That has severely impacted on the civilian population. Hospitals and clinics were also targeted and forced to close, with essential medicines and emergency medical services becoming either scarcer or unavailable.

19. Another matter of grave concern was the situation of the most vulnerable persons, including children in institutional care in Donetsk and Luhansk regions. Efforts by the Ukrainian authorities to evacuate the children have been hindered by the armed groups, which have repeatedly illegally transferred institutionalized children to the Russian Federation. Sixty children were abducted from the Luhansk orphanage on 26 July 2014 and eight children with cerebral paralysis were kidnapped from the same facility on 8 August 2014. Prior to that, on 12 June 2014, 16 institutionalized children and two accompanying persons had been abducted by armed representatives of the so-called Donetsk “peoples’ republic” and taken to the Russian Federation. All the children have been returned.

20. One of the most immediate impacts of the armed conflict in eastern Ukraine has been the increase in the number of internally displaced persons. About half the population of Luhansk and one third of the population of Donetsk have fled. There are more than 230,000 registered internally displaced persons from eastern Ukraine, the majority of whom are women and children. However, the actual number of unregistered internally displaced persons may be two to three times higher. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), around 378,000 people crossed the border into the Russian Federation in recent months.

21. Initially, the Government of Ukraine did not immediately react to the growing flood of people fleeing the violence in the eastern Ukraine, but rather relied on volunteers and the goodwill of the local receiving communities. However, as the numbers increased and the lack of coordination, planning and resources became evident, the State Emergency Service stepped in. Nonetheless, many problems remain to be addressed, including the need for a central registry to document internally displaced persons and for the central Government to ease access by internally displaced persons to social and economic rights. In that regard, it is crucial that the draft law on internally displaced persons, currently under review by

Parliament, outline areas where the authorities should be providing basic services, in line with the Guiding Principles on Internal Displacement.³ Besides stronger Government involvement, international assistance is needed. The temporary conditions in which most of internally displaced persons live in collective centres will not be sustainable for much longer. The situation is further exacerbated by the expected energy shortages in the country, which will likely affect the entire population, but, in particular, disproportionately affect internally displaced persons residing in temporary shelters that are ill-suited for colder temperatures.

22. In early August 2014, the Government of Ukraine regained control of some of the areas that had been seized by the armed groups and managed to restore law and order. In Slovyansk, some 20,000 residents who had fled the fighting have since returned home.⁴ Government ministries and volunteer groups began working to restore essential services, clearing away rubble and unexploded ordinance as well as rebuilding damaged areas. All basic services have been restored and residents started receiving social welfare benefits and pensions that had not been paid during May and June 2014 when the city was under the control of the armed groups.

23. The Human Rights Monitoring Mission in Ukraine also received reports of allegations of human rights violations committed by volunteer battalions under the Ministry of Defence or the Ministry of Internal Affairs in the aforementioned areas. Those reports included cases of arbitrary detention, enforced disappearances and torture. Such allegations must be investigated and those responsible held accountable. In addition, the relevant ministries should exercise more control over the volunteer battalions. As at 16 August 2014, the Security Service of Ukraine and the police had reportedly detained more than 1,000 people in the Donbass region, invoking “irrefutable evidence of their participation in terrorist activities”. The procedural rights of those people have not always been observed and there were reports of ill-treatment during arrest or in custody. Particular attention must be paid to ensure the presumption of innocence and that people are not subjected to reprisals.

24. The media, and, at times, lack of professionalism, is playing an increasing role in fuelling conflict, dividing society and causing tensions. The deterioration of the situation has been accompanied by disinformation, incitement to hatred and propaganda, carried out predominantly by the Russian-language media. Foreign and domestic journalists have been threatened, abducted and killed. The Donetsk and Luhansk self-proclaimed “people’s republics” have unlawfully prevented broadcasting of Ukrainian channels in the territory under their control. At the same time, several Russian television channels have been banned by the Ukrainian authorities, following court decisions. It is important to maintain an environment in which the public can benefit from pluralistic information, while calls for hate speech and violence are curbed. In addition, all acts of intimidation against journalists must be condemned and the Government must ensure that all acts of violence are properly investigated.

25. Ukrainians are also likely to be facing more challenges in terms of their economic and social rights because of the impact on their economy of the ongoing situation in eastern Ukraine and in the Autonomous Republic of Crimea.

³ Office for the Coordination of Humanitarian Affairs, *Guiding Principles on Internal Displacement*, (Geneva, 2004).

⁴ According to UNHCR, since early July 2014.

VI. Accountability

26. The Government must ensure that all allegations of human rights abuses and violations are fully investigated and that all international human rights norms and standards, including the presumption of innocence, due process and judicial guarantees, are strictly adhered to with regard to violations committed by both the armed groups and the Ukrainian military or their volunteer battalions. Perpetrators of serious violations of international law during the conflict must be brought to justice in order to guarantee individual accountability for actions, including in cases of command responsibility.

27. Accountability for the violence in and around Maidan is yet to be achieved. The Prosecutor General launched investigations into 445 cases of unlawful acts against demonstrators, but only two people were sentenced for ill-treatment of a demonstrator, and three members of a special police unit were placed in pretrial detention in connection with the shooting of protesters. No one has been held accountable for the violent dispersal of demonstrators on 30 November 2013. Accountability is still sought for the violence in Odessa on 2 May 2014 between supporters of unity and those supporting the federalization of Ukraine, which resulted in the death of 48 people, mostly supporters of federalization. Two people were detained on murder charges and placed by court order under house arrest. According to the Ministry of Internal Affairs, of the 33 suspects in the 2 May 2014 violence, 12 were in custody and 21 were under house arrest, charged with intentional homicide and mass riots. The suspects included people from the Russian Federation and the Transnistria region of Moldova.

VII. Particular human rights challenges in Crimea

28. In Crimea, the human rights situation has been marked by multiple and continuing violations. The introduction of Russian Federation legislation, in contravention of General Assembly resolution 68/262, hampers the enjoyment of human rights and fundamental freedoms. Numerous legal problems have arisen from the application of Russian Federation legislation and regulations with regard to citizenship, which jeopardize the rights of the residents of this region, in particular those who do not hold Russian citizenship. Residents in Crimea who are known for their “pro-Ukrainian” position face intimidation; many face discrimination, particularly in the areas of education, employment and property rights. Crimean Tatar leaders have been banned from entering Crimea, and Crimean Tatar activists face prosecution and limitations on the enjoyment of their rights. Most residents could not participate in the presidential elections on 25 May 2014 because of the uncertainties and costs associated with travelling, in advance, out of the region in order to be able to vote.

29. Residents of Crimea have seen a deterioration in their rights with regard to freedom of expression, peaceful assembly, association, religion or belief. In addition, no serious attempts have been made to investigate allegations of human rights abuses committed by the so-called Crimean self-defence forces, following the “referendum” in March 2014. As of 1 September 2014, the number of internally displaced persons from Crimea stood at 15,845, according to UNHCR. Furthermore, recommendations addressed to the local authorities and reflected in the OHCHR monthly reports on Crimea have so far been ignored.

30. The situation of four people, including Ukrainian filmmaker, Oleg Sentsov, detained in Crimea in May 2014 on charges of terrorism and transferred to a detention facility of the Russian Federal Security Service (FSB) in Moscow remains unchanged. Representatives of the Ukrainian Consular Office in Moscow have not been allowed to meet with them, under the pretext that the detained men were now citizens of the Russian Federation. Their lawyers have had difficulties accessing their clients and must sign a declaration of non-

disclosure of information obtained during each visit. Mr. Senstov's lawyer was not permitted to take any written statements from his client or to meet with him without the presence of FSB officials.

VIII. Governance and legislative reforms

31. The Government of Ukraine has made efforts to implement the Geneva Statement.⁵ National roundtables on constitutional reform, decentralization, minority rights and the rule of law were held in Kyiv on 14 May 2014, in Kharkiv on 17 May 2014 and in Mykolaiv on 21 May 2014. In Kharkiv, Prime Minister Arseniy Yatsenyuk declared that the Constitution should be amended in order to assign special status to the Russian language and national minority languages.

32. On 27 June 2014, President Petro Poroshenko signed a trade agreement with the European Union that completed the association process. On 2 July 2014, the Government of Ukraine published its proposed amendments to the Constitution, providing for greater regional autonomy and special status for the Russian language. With its attention focused on the situation in the east, the Government has advanced slowly on the needed reforms. On 23 July 2014, the President established the National Reform Council (NRC) to spearhead the national reform process, and on 13 August 2014, a statutory framework for reform was established involving three bodies. The NRC is to prepare a strategic plan for the sustainable development of Ukraine, up to 2020, and ensure coordination of the activities of ministries and government agencies in formulating and implementing reforms. As reforms, laws and state policies are adopted, it is crucial that the process be sufficiently and meaningfully inclusive.

33. Initial steps have been taken to reform law enforcement, however, the reform also needs to address the powers of the Security Service of Ukraine. The legal framework to fight corruption has been improved and the anti-discrimination law has been amended and is closer to international standards. A law seeking to restore trust in the institution of the judiciary been adopted and provides for a vetting procedure; however, concerns remain with regard to due process guarantees. Legal guarantees for an independent judiciary have not been introduced and the reform of the prosecution has not yet progressed. A progressive law, regulating the rights of Ukrainian citizens from Crimea, has been adopted, without compromising freedom of movement or containing discriminatory provisions. However, there is still no law regulating freedom of assembly. While the post of President Commissioner for Crimean Tatar issues has been established, there is still no law on indigenous peoples.

34. In August 2014, several laws were adopted that significantly expand the powers of law-enforcement bodies in relation to the security operation in eastern Ukraine, including laws expanding the powers of the prosecutor and extending the period within which an arrested suspect must be presented before a court from 60 hours to 30 days. Attention is

⁵ The Geneva Statement on Ukraine was issued on 17 April 2014 by representatives of the European Union, the United States of America, Ukraine and the Russian Federation. It sets out the agreed initial concrete steps to de-escalate tensions and restore security for all, as follows: (1) all sides must refrain from any violence, intimidation or provocative actions; (2) all illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public places must be vacated; (3) amnesty will be granted to protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) the announced constitutional process will be inclusive, transparent and accountable, and will be accomplished through a broad national dialogue.

drawn in that respect to the International Covenant on Civil and Political Rights, which requires that anyone arrested or detained on a criminal charge shall be brought before a judge promptly so as to be charged or freed. While acknowledging that security measures might require the adoption of specific provisions limiting certain guarantees, they must, nonetheless, always be consistent with the norms, standards and procedures of international law.

IX. Conclusion

35. Respect for human rights, good governance and the rule of law are key to peace and security and economic and social development. An environment conducive to the promotion and protection of human rights in Ukraine depends on respect for General Assembly resolution 68/262 on the sovereignty and territorial integrity of Ukraine, the absence of armed conflict and the effective control of the State borders between Ukraine and the Russian Federation.

36. As OHCHR has consistently highlighted in its reports, the Government of Ukraine should prioritize addressing systemic and structural issues affecting human rights through institutional reform, with the aim of establishing governance and justice systems that are effective and accountable, promote and protect human rights for all and are non-discriminatory.

37. A comprehensive human rights plan, reflecting recommendations from international and regional mechanisms, should become an integral part of the reform agenda of Ukraine, with the sustained support of the international community, regional organizations and the United Nations.

38. OHCHR appreciates the good cooperation extended by the Government of Ukraine to the Human Rights Monitoring Mission in Ukraine. The Human Rights Monitoring Mission in Ukraine will continue to monitor and report on the evolving situation, with a view to contributing to an unbiased and accurate assessment of the human rights situation and a stronger and effective national human rights protection system.