

Human Rights in Ukraine

Initiative of the Civic Solidarity Platform



International Partnership for Human Rights Newsletter

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IN THIS ISSUE:

Documentation of crimes in Eastern Ukraine

Page 1

The Volnovakha Incident

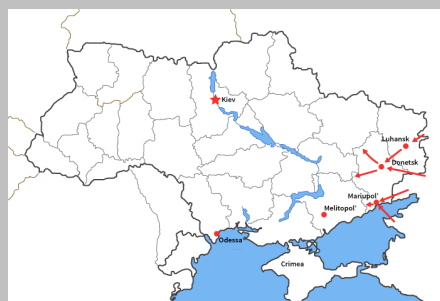
Page 2

The Mariupol Shelling

Page 3

Maidan Crimes Proceedings

Page 4



Fighting continues in Lugansk and Donetsk regions despite ceasefire Minsk agreements

Fighting Impunity through Sustained Support for Human Rights Defense is a Civic Solidarity Platform project in Ukraine. The goal of the project is to support Ukrainian human rights organizations by supplementing their documentation and monitoring capacities and providing opportunities for international advocacy at this critical time. International Partnership for Human Rights, in its capacity as a Civic Platform member, works to implement the project's objectives in Ukraine, effectively drawing on the expertise of the CSP network and partnering with Ukrainian member organizations which bear the brunt of the human rights defense as the situation on the ground evolves.

This Newsletter is issued to provide reliable information amid an ongoing propaganda war and to raise awareness among policy makers and the general public relating the deterioration of the human rights situation in Ukraine.

Documentation of ICC Crimes in Eastern Ukraine

More than 25 Ukrainian lawyers and civil society activists form a core of the local team of International Partnership for Human Rights in Ukraine. The team travels to areas of incidents and to places where internally displaced persons seek shelter in order to gather evidence and testimony on crimes committed in the course of military conflict in the Donbas region of Eastern Ukraine. The objectives are to ensure proper documentation of the atrocities with the view of using obtained information in the fight against impunity and to facilitate compensation for victims affected by the conflict. In the process of documentation work, IPHR identified victims who are interested in seeking compensation through the European Court of Human Rights (ECtHR). As a result, individual and group applications are in the process of preparation and will soon be launched to the ECtHR.

To guarantee consistency in documenting war crimes and crimes against humanity IPHR has developed a set of instruments

used by the teams in the field. As such, there are guidelines on locating and storing evidence for various types of war crimes, on conducting interviews as well as important physical security aspects.

A number of supplementary materials have been developed to streamline the documenting process. The Chronology of Incidents since April 2015 allows for focused and consistent mission planning. The Matrix of Combatant Groups in the Region provides detailed description of all formal and informal military and paramilitary organizations and facilitates attribution of crimes while taking testimony from witnesses and victims. Catalogue of Weapons used in the region, Database of Alleged Criminals and other materials equip mission teams to conduct thorough investigations.

As of March 2015, fifteen fact finding missions were funded under the project and as many as 120 witness testimonies have been collected along with substantial evidence that point to war crimes and crimes against humanity taking place in the East of Ukraine. The testimony relates to crimes such as murder, torture and inhuman treatment, use of indiscriminate force, use of prohibited weaponry, indiscriminate shelling, including firing on "green corridors", property destruction and persecution on the grounds of political affiliation. In addition to witness statements, the monitors collect important documentary evidence: investigation of crime scenes, fragments of weapons, as well as photo and video materials testifying about the scale and nature of the crimes.

Deadly Volnovakha Incident

Ukraine field mission of International Partnership for Human Rights (IPHR) in the framework of the Civic Solidarity Platform conducted an investigation of a deadly incident that took place near the city of Volnovakha in Eastern Ukraine on 13 January 2015 and resulted in civilian deaths and injuries.



The intercity bus on route to Donetsk after the shelling near the Bugas checkpoint

On 13 January 2015, at approximately 14:25 EET, a Grad rocket (MRLS) attack was carried out in the area of a Bugas checkpoint of the Ukrainian armed forces, which is located 2 km north of the city of Volnovakha on territory controlled by the Ukrainian government. A public intercity bus passing through the checkpoint on route to Donetsk came under fire. As a result of the attack, 10 bus passengers were killed, and two others died later in the hospital. A total of 18 people received injuries of varying severity.*

Assessing the type of weapon used, location, scale and direction of the shelling indicates that the attack in question was a purposeful act rather than accident or negligence that occurred in the context of ongoing armed conflict between the armed forces of the Ukrainian government and pro-separatist rebel groups from Eastern Ukraine.

Given the context in which the attack occurred, it can be assumed that those who carried out the attack were aware of the large number of civilians constantly

moving through the checkpoint. First, there was a publicly available and displayed schedule indicating when buses cross this checkpoint. Second, there were well known "rush hours" when number of civilians passing through the checkpoint was high. Third, given good weather conditions and exceptionally good visibility at the day of the incident, attackers must have been aware of the movement of the civilian transport that was passing through the checkpoint during and around the time when the attack occurred.

Even if the site of the checkpoint was chosen as a military target, then, to prevent damage to civilians, it would have been possible to fire at the Bugas checkpoint at night when traffic through the check-point decreases to 2-3 cars per hour.

These arguments combined lead to the assumption that attackers were purposefully targeting civilian population with the intention to bring about civilian casualties and spreading the terror among the civilians crossing the boundary between government and rebel controlled territories. Intentionally directing attack against the civilian population as such or against individual civilians not taking direct part in hostilities is classified as a war crime under the international law of armed conflicts (see Article 8 (2)(b)(i) of the Rome Statute and Article 51(2)(3) of the Additional Protocol 1 to the Geneva Conventions for example). According to article 85(3)(a) of Additional Protocol I to the Geneva Conventions it is a grave breach of that Protocol to make the civilian population or individual civilians the object of an attack.



At the time of the incident there were more than 30 civilian passengers on the bus

Considering the balance of power on the point of impact (about 33 combatants vs 180 non-combatants) principle of proportionality and humanity in choosing a military target was also violated.

For the full length report please visit: <http://www.iphronline.org/ukraine-field-mission-report-20150128.html>

"Suddenly we were engulfed by the wave. Windows shattered. The bus jolted. I felt a sudden pain in my knee. I said: 'It got my knee!' She said: 'Me too!' and died instantly. I began to slap her on the face, but she was dead".

-Volnovakha incident survivor

"I can't say exactly how many explosions there were, but after the first one I couldn't hear anything. Right after the explosions stopped I jumped out of the shattered window near the seat following the doors. Next to me lay an elderly lady. There were screams to open the doors and to call an ambulance. The doors were jammed. The driver got out on his side and together we force opened the door".

-Volnovakha incident survivor

Total of at least 5,665 people had been killed and 13,961 had been wounded in the continuing conflict**

*Ministry of Internal Affairs of Ukraine

**Estimated by the Human Rights Mission in Ukraine and the World Health Organization. Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Ukraine, 1 December 2014 to 15 February 2015

Indiscriminate Shelling of Mariupol

The shelling of the residential district in Mariupol, the sea town bordering the separatists-controlled territory came less than two weeks after the deadly Volnovakha bus shelling and proved to be even deadlier. IPHR mission team travelled to the scene of the attack and investigated the details of the attack.



Fires engulfed the Vostochniy district of Mariupol in the aftermath of the shelling

On 24 January 2015, at around 9:20 local time, the Vostochniy residential neighborhood of Mariupol and surrounding territories were shelled. Most of the 100 missiles that were fired struck private and public buildings, shops, drug stores, market places, banks, schools and kindergartens. As a result of the shelling, 31 civilians, including 2 children were killed and 102 civilians were injured.* Local authorities recorded

more than 650 complaints concerning the destruction of private property as a result of the attack.

By analyzing the testimony of witnesses, examining available photo and video evidence, as well as surveying the site of the attack, field mission team members concluded that the shelling originated from the direction of the Dzherzhynske-Kacharske-Rosy Luxemburg villages located on the territory controlled by the so-called Donetsk Peoples Republic. The evidence obtained suggests that the shelling was carried out using several Grad MRLS with light fragmentation parts and involved the firing of more than 100 rockets.

On the basis of their assessments, field team members conclude that it is unlikely that the destructive impact of the attack among civilians was due to unintended error resulting from the lack of knowledge on the use of Grad MLRS. On the contrary, available evidence suggests that the attack was deliberately targeted at civilians. Thus, this attack can be qualified as a war crime that should be investigated by the relevant authorities in the framework of international law on armed conflicts.

For the full length report please visit: <http://www.iphronline.org/ukraine-field-mission-report-mariupol-20150213.html>



Missiles struck a parking lot in front of the market place

"I was thrown off by the blast. When I regained consciousness, I saw construction debris, broken glass, a lot of dust. At first I was in shock, then started looking for my mother. I noticed that I was barefoot, before I was wearing sneakers. I saw that my right foot was missing the sole and the heel, tendons were drooping. I tried to stand up on my left leg, but fell down- it was broken. I got on my knees and started searching for my mom among the wreckage. I found her in 2-3 meters from me. She was underneath all the debris and dust. I cleaned up her face and wanted to free her legs, but saw that they were torn off below the knees".

-Mariupol attack survivor



Body of one of the victims of the Saturday morning shelling of the residential area

*Ministry of Internal Affairs of Ukraine

Seeking Accountability for Crimes on Maidan

In his interview, Taras Hatalyak, a Ukrainian human rights advocate offers insights on the investigation

In November 2013, after years of negotiations Ukraine's then President Victor Yanukovich backed away from signing trade pact with the EU in a move that stunned Brussels and caused pro-European rallies in Kyiv's central square Maidan Nezalezhnosti. Massive permanent protest with public demand for governments' resignation ensued after special forces unit Berkut violently broke up a peaceful student demonstration in the city square. In the three months of social unrest that followed, violent clashes between riot police and the protesters lead to numerous injuries and disappearances of the activists. Eventually live ammunition was used against the protesters, claiming as many as 100 lives, known today as the Heavenly Hundred.

Taras Hatalyak, a human rights advocate from Lviv has spent most of his time on Maidan during the protests. Today he is working to bring those who are responsible for the deaths and injuries of activists to justice. He

provides an insight on what it's like to demand due investigation from the system that is notorious for its selective justice and where the courts and the judiciary are manipulated for political and business reasons.



Taras Hatalyak, Human Rights Advocate

When did you become involved in investigating the Maidan events?

I observed all the events on Maidan from the first day when I arrived to Kyiv from Lviv on December 1, 2013. I provided legal

assistance for detained protesters, stayed in hospitals where wounded arrived, curated international delegations. On February 20th, when the awful murders of protesters on Maidan took place, together with two other rights defenders, we moved the dead from Kozatsky hotel to the St. Michael's Cathedral and then on to morgue. Since then we work with families of the killed protesters.

How many people do you represent? What goals do you set for these cases?

All people that sustained injuries are automatically considered victims of violence. Today, together with Opora civil organization and the Advocates of the Heavenly Hundred we provide legal assistance to approximately 600 protesters, and processing another 100. In total scope there were about a thousand injured. Of course, families of the Heavenly Hundred are in our focus. From the very start we worked together with Initiative E+ - a group of medics that worked on Maidan, treated the wounded in covert hospitals and then organized specialized treatment for some victims abroad. Since then we monitor that

all the people who sought medical assistance receive proper care. Their health and safety has been and remains our biggest goal. However, the eventual goal that unites us all is that we see the responsible for deaths and injuries get punished and that includes first and foremost the very top layer of former government, including former president Victor Yanukovich.

What are the biggest challenges in investigating the Maidan cases?

The biggest problem is that the people who were giving out orders during Maidan events are still working in the different ranks of the internal security forces and today they jeopardize the investigation. They officially state that the investigation undermines the morale of the policemen and servicemen of special units. Another problem is the absence of effective coordination between the different structures within the internal security forces. Thus, General Prosecution doesn't have operatives working in the field, this job is done by policemen who are not motivated to conduct a fast and effective investigation. On the other hand, the judges who give access to crucial for the investigation resources: telephone conversations, warrants of different type are reluctant and generally slow down the process. There is also, in general, low expertise in analytical, ballistic and medical areas. Today it is clear that the whole system is in dire need of a great sweep and reform.

What has changed in the last year of the investigations?

Recently we have seen great strides. In September of 2014 the European Council organized an effective conference to discuss the first results of the investigation and essentially everyone saw that the result was low. At the same time we had an opportunity to learn from prosecutors who have experience working with international courts. Alex Whiting represented International Partnership for Human Rights and shared a lot of insights. Since then General Prosecutors Office has created

a dedicated group of detectives working in three areas: crimes of violence, crimes of financial fraud and analytical effort tying it all together. Thus, instead of 5-10 agents working ad hoc on Maidan cases, now we have 55 specialists concentrating on solving the crimes. And it is very apparent now that the pace and the quality of the investigative process has improved greatly.

Ukraine is yet to ratify the Rome Statute necessary for International Criminal Court to have jurisdiction in investigating the crimes taking place in Ukraine. On what basis does your group plan to work with the ICC?

Ukraine has the right to petition the ICC in Hague to investigate these crimes. A coalition of 13 civil initiatives here in Ukraine as well as General Prosecutors Office has submitted petitions to the ICC with request to investigate the crimes of Maidan events. Based on these petitions and other evidence available to the Prosecutor in ICC, preliminary examination of the crimes has already begun.

What is your honest outlook on seeing justice served for the families of the slain and the injured, many of whom are left with serious disabilities?

International experience suggests that for this type of crimes investigation can take years. One thing for sure is that the public demands punishment for the responsible and their call for justice is not going to wane any time soon, after all this is why the civil unrest began in the first place. At this point we observe a positive dynamic in the way the General Prosecutors Office is handling the investigation and we will continue to monitor and demand the results of their work.

We have to start rebuilding the trust between the government and the people of Ukraine. The Maidan cases could also become exactly that- the first step to regain the trust without which the society cannot function to the fullest. But for that we need great political will, which, at this point is rather thin.

“108 protesters and 13 policemen died, 10 more deaths are being checked for cause and time. Altogether nearly 1000 people received injuries”
-Taras Hatalyak

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