

THE RIGHTS OF CONVICTS DETAINED IN THE ORDLO



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This publication is devoted to the situation of detainees who are in custody in the non-government controlled territories of Donetsk and Lugansk oblasts and were deprived of liberty before the beginning of the military conflict. The report contains the analysis of the legal status and the detention conditions for the convicts in ORDLO, the violations of fundamental rights of this category of population in ORDLO, reviews the troubles of transfer of the detainees to the institutions on the territory controlled by the government, tells about the legal assistance provided to some of the prisoners. It contains the recommendations with the aim of improving the situation.

Ця публікація присвячена становищу в'язнів, які перебувають під вартою на непідконтрольних уряду територіях Донецької та Луганської областей та були позбавлені свободи ще до початку збройного конфлікту. У доповіді аналізуються правовий статус та умови тримання в'язнів в ОРДЛО, порушення фундаментальних прав цієї категорії населення в ОРДЛО, розглядається проблема переведення в'язнів в установи на контрольованій урядом території, повідомляється про правову допомогу, надану окремим в'язням. Надаються рекомендації з метою покращення ситуації.

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THE LIST OF ABBREVIATIONS

ATO — antiterrorist operation;
CC — Criminal Code of Ukraine;
CEC — Criminal-executive code of Ukraine;
CF — correctional facility;
CL — Contact line;
CO — civil organization;
ECHR — 1950 Convention for the Protection of Human Rights and Fundamental Freedoms;
ECtHR — European Court of Human Rights;
GCA — government controlled areas;
IAF — illegal armed formations;
ICC — International Criminal Court;
ICRC — International Committee of the Red Cross;
HRMM — United Nations Human Rights Monitoring Mission in Ukraine;
HS — human settlement;
KHPG — Kharkiv Human Rights Protection Group
MD — Ministry of Defense of Ukraine;
MIA — Ministry of Internal Affairs of Ukraine;
Minjust — Ministry of Justice of Ukraine;
NGCA — non-government controlled areas;
NSDC — National Security and Defense council of Ukraine;
NPU — National Police of Ukraine;
OSCE — Organization for Security and Cooperation in Europe;
ORDLO — separate areas of Donetsk and Luhansk oblasts on non-government controlled territory;
PI — penitentiary institution, the institution of execution of court sentences;
RS — Roma Statute;
RF — Russian Federation;
SCES — State criminal executive service;
SPSU — State Penitentiary Service of Ukraine;
SSU — Security Service of Ukraine;
SIZO — pre-trial detention facility;
S.-c. “LPR” — so-called “Luhansk People’s republic”;
S.-c. “DPR” — so-called “Donetsk People’s republic”;
UAF — Ukrainian Armed Forces;
UHHRU — Ukrainian Helsinki Human Rights Union.

INTRODUCTION

The reader is offered a report on the results of the joint research of the members of the coalition “Justice for peace in Donbas” — CO “Donbas SOS”, CO “Kharkiv Human Rights Protection Group”, Luhansk Oblast Human Rights Center “Alternativa”, CO “Public Committee for Protection of the Constitutional Rights and Liberties of the Citizens” — and dedicated to maintaining and protecting the rights of the convicts that are in custody in ORDLO — the detained persons, persons under investigation and convicts. The report concerns the legal status and the conditions of detention of the inmates who remained in PI and SIZO after occupation of certain areas of Donetsk and Luhansk regions by illegal armed formations.

The report consists of the summary and two parts — the first part reviews the legal status of the persons deprived of their liberty in ORDLO and contains the results of analysis of the violations of human rights of the detained persons in ORDLO, the second part contains the information about most of the PI and SIZO (on each institution separately).

The main sources of information for the report were the direct statements of the detainees who remained in PI in ORDLO. We used the phone connection and the “hotline” to communicate with the

prisoners who remain on the NGCA and their relatives. We received the information via the phone from 195 more prisoners, their relatives and some employees of PI. All interviewed persons were informed about the aim of the interviews. Within that study we also conducted 9 monitoring visits to PI on the territories controlled by the Government in December 2017 — May 2018, during which we questioned 63 prisoners who were transferred from PI in ORDLO. The report only contains the evidence from those interviewed persons who allowed to disclose the information about the events concerning which they provided the information.

To obtain the general official data we sent the information requests to SCEC of Ukraine, MJ, State Court Administration of Ukraine, Human Rights Commissioner of the VR of Ukraine, National Police, concerning the legal status of the prisoners in PI in ORDLO, their number, living conditions and transfer mechanisms. To compile the report we also used the open data in the Internet, press and official portals of the State authorities.

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SUMMARY

The situation with respect for human rights in PI and SIZO in ORDLO can be summarized in the following way.

In April 2014 ATO started on the territory of Donetsk and Luhansk regions. The number of victims among the civilians and the destructions of residential buildings and the objects of infrastructure grew with the progress of armed conflict. PI, SIZO and the persons detained there were almost in the worst position.

In August-December 2014 the representatives of IAF captured PI on the non-government controlled territory. 14 of 16 PI in Luhansk region and 14 of 20 PI of Donetsk region fell under control of IAF. As of 1 November 2014 16 200 persons were in PI and SIZO in Donetsk and Luhansk regions.

Some of those institutions underwent systemic artillery shelling. The shell shards often fell on their territory, and sometimes hit the very buildings of CF and SIZO. As a result of such shelling some detainees died, some were injured. Without a real possibility to leave the dangerous zone and feel safe, they survived under shelling for months. Those who were detained in the cells could not even descend to a bomb shelter because nobody brought them there. During powerful shelling the administration of PI was hiding, leaving the detainees on their own.

The institutions suffered the most from the shelling during the active hostilities in 2014–2015, but sometimes the correctional facilities are still being shelled. IAF placed the military vehicles near PI with hundreds of defenseless detainees, they used the vehicles to shoot in the direction of Ukrainian military. Thus they put the persons in the correctional facility in danger of the return fire, which often happened after some time. And when some of the convicts were injured or trapped under the rubble of a destroyed building, the members of IAF did not provide the urgent medical assistance.

Since December 2014 the employees of SPSU who left the dangerous regions were replaced by the “new administration” of PI. It consisted of the state officials of Ukraine who swore loyalty to the so-called “L/DPR” and the members of IAF. Simultaneously the funding of PI of the region from the state budget of Ukraine stopped. The members of IAF did not provide the convicts with food, therefore the starvation started in most of the PI. For months the convicts could only eat the boiled sour cucumbers or boiled sour cabbage, bitter and soggy pancakes, diluted soup almost without cereal. To survive the convicts had to ask their relatives to bring them food. Those who did not have relatives had to buy food at the raised prices from other convicts who co-worked with PI administration.

However, not only the quality of food, but the general detention conditions became intolerable. In 2015 PI did not have heating in winter. The cell windows were shattered by the blast waves, they were shielded with plywood that could not effectively protect from cold and wind. The convicts had to buy stoves at their own expense, at the same time the persons with life sentences were not even allowed to use them. They had to create fires in their cells using the everyday items: wooden furniture, clothes, to at least boil their water. The walls were covered with frost, the water froze and the temperature dropped to zero. There were periods when there was no electricity or water supply for weeks. The amount of water the convicts could drink was limited. Moreover, they could not use the hygienic procedures, the cells and bathrooms reeked of sewers.

In such conditions the detainees’ chronic diseases worsened and they received new ones. A small cut was enough for a development of a trophic ulcer in absence of the hygiene products, with lowered immunity and effective absence of medical assistance. Some of the PI did not have doctors at all for a long

time. To have a paramedic was considered a great luck. Even when there were doctors there were no medicines, except for the simplest. The convicts with HIV/AIDS were not provided with ART-therapy for several months. Only the persons in the most serious conditions were brought to the hospitals. No wonder that some of the convicts died in hospitals.

Illegal physical force was often applied to the convicts. Feeling their absolute impunity, the members of IAF could beat a person to death, leave a convict without clothes outside for an entire day in the winter, sic the dogs on a detainee. They showed an especially negative attitude towards the detainees who originated from the western Ukraine, as well as those who refused to work. As a result almost everybody worked without payment, for 10–12 hours each day and without the special clothes. Although there was a better attitude towards those who worked, like everybody else, they could not contact their relatives, their freedom of religion was limited, they suffered during the illegal searches, when the appliances were broken and all their valuables were taken away — even the new clothes and blankets in cold winter.

Their only chance to leave the inhuman conditions was to be transferred to PI on the territory

controlled by Ukraine, to that end the convicts submitted their applications. But such possibility of transfer now exists only in Donetsk region and fully depends on the members of IAF. They may refuse to transfer anybody on any purpose, moreover, many of the convicts have troubles submitting the application for transfer. Such applications are not admitted for different reasons. Moreover, the transfer goes on very slowly. Many convicts dream of returning to the controlled territory. Not only because of their hostile attitude towards the separatists, but also because: *“Now I often recall how in the childhood my grandfather told me about a German concentration camp. Back then I couldn’t imagine how it feels to be there. And now, thanks to all persons involved! — I was there myself”* (respondent L. who was in Yenakiyev CF no. 52).

The report contains the analysis of the legal status and the detention conditions for the convicts in ORDLO, the violations of fundamental rights of this category of population in ORDLO, reviews the troubles of transfer of the detainees to the institutions on the territory controlled by the government, tells about the legal assistance provided to some of the prisoners. It contains the recommendations with the aim of improving the situation.

THE VIOLATIONS OF THE RIGHTS OF THE DETAINEES IN THE PLACES OF NON-FREEDOM IN ORDLO

1. FEATURES OF THE PENITENTIARY SYSTEM IN DONETSK AND LUHANSK REGIONS BEFORE THE START OF ANTI-TERRORIST OPERATION (ATO)

The PI system in Donetsk and Luhansk regions has several features that were formed historically. Comparing to other regions of Ukraine, there is the greatest number of penitentiary institutions of different security levels on the territories of Luhansk and Donetsk regions, the greatest number of convicts serve their sentences there. Before 2014 the framework of correctional facilities of the region was actively developing.

As of early 2014 there functioned:

In Luhansk region

- 2 pre-trial detention centers
- 2 correctional centers,
- 1 penitentiary institution (former SIZO)
- 3 correctional colonies of the minimum security level
- 7 correctional facilities of the medium security level
- 1 correctional colony of the maximum security level
- 1 medical institution

In Donetsk region

- 3 pre-trial detention centers
- 2 correctional centers
- 2 penitentiary institutions (former SIZOs)
- 3 correctional colonies of the minimum security level
- 10 correctional facilities of the medium security level
- 1 correctional colony of the maximum security level

AS of 1 November 2014 16 200 persons were in custody in the penitentiary institutions on Donetsk and Luhansk regions¹.

In August–December of 2014 most of the PI of the region fell under the control of IAF.

¹ <http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/757958>

The terrorist groups captured:

- In Luhansk region — 15 of 16 PI:



The territory controlled by Ukrainian Government

- Starobilsk SIZO



The territory uncontrolled by Ukrainian government

- Bryanka CF no. 11
- Alchevsk CF no. 13
- Perevalsk CF no. 15
- Krasnolutsk CF no. 19
- Komisarove CF no. 22
- Chornukhino CF no. 23
- Petrovka CF no. 24
- Sukhodilsk CF no. 36
- Slovianoserbsk CF no. 60
- Sverdlovsk CF no. 38
- Seleznevka CF no. 143
- Luhansk CC no. 134
- Shterivsk CC no. 137
- Luhansk PI no. 17

- In Donetsk region — 14 of 20 penitentiary institutions of the region:



The territory controlled by Ukrainian Government

- Artemivsk PI no. 6
- Mariupol SIZO
- Mariupol CC no. 138
- Dzerzhinsk CF no. 2
- Selidove CF no. 82
- Priazovska CF no. 127



The territory uncontrolled by Ukrainian government

- Zhdanivska CF no. 3
- Kalinin CF no. 27
- Toretsk CF no. 28
- Kirov CF no. 33
- Makiivka CF no. 32
- Yenakiyev CF no. 52
- Michurin CF no. 57
- Mikitino CF no. 87
- Western CF no. 97
- Volnovakha CF no. 120
- Donetsk CF no. 124
- Snizhynska CF no. 127
- Kyseliv CC no. 125
- Donetsk PI no. 5

2. THE SITUATION OF THE CONVICTS AND THE PERSONS IN CUSTODY IN THE FIRST MONTHS OF ATO

On 14 April 2014 ATO started in the east of Ukraine. The first months of ATO were relatively calm for the detainees. Armed hostilities were on a significant distance from PI. The convicts received the information about the conflict from the administration of the institutions, their relatives and mass media. Characteristically, in the first months of the conflict the convicts did not file the petitions for their evacuation to the state authorities. It was connected to the fact that they, like most of the locals, did not consider the conflict a lasting phenomenon. Most of the convicts did not support the IAF².

Some of the administration of the PI at the outset supported the so-called “referendum on the self-determination of Donbas” on 11 May 2014. The convicts who expressed the pro-Ukrainian thoughts in conversations among themselves or with the PI officials underwent disciplinary sanctions. In some cases they were sent to solitary confinement for an undefined period. Some were threatened with physical reprisal or different kinds of pressure, for example, the prohibition of visits and phone calls, the interception and retrieval of correspondence.

On 22 June 2014 the terrorists captured the town of Sloviansk. I was in Donetsk PI then... I saw on the TV that the town of Sloviansk was liberated, and said that it was the right thing. For that I was sent to solitary... Only because my cellmate sent a word for me they returned me. I might have died there” (respondent T. who was in Donetsk PI no. 5).

Since June 2014 the Ukrainian television stopped functioning and was replaced by the Russian television on the official frequencies. The convicts who watched the Ukrainian TV channels instead of Russian ones underwent pressure as well. There was a particularly negative attitude towards the convicts from the West of Ukraine. Those convicts were promised physical reprisals and execution in case if IAF takes power. They were prohibited to speak Ukrainian in presence of the administration.

² The information provided by respondent convict R. who was in Yenakiyev CF no. 52.

“I was called “bandera” and “ukrop”. I was convicted to life sentence, and they had death sentence by their Russian laws. I was told that they would execute me as soon as “DPR” arrives, because I am convicted for life and originate from the western Ukraine. The people like me will not receive any mercy” (K., who was in Yenakiyev CF no. 52).

The absolute majority of PI of the region in summer — autumn 2014 underwent artillery shelling. The colonies situated in Donetsk, Makiivka, Horlivka, Toretsk, Zhdanivka, Kirovske, Snizhne of Volnovakha district of Donetsk region and Khrustalniy (Krasniy Luch town), Petrovske, Perevalsk, Sverdlovsk, Slovianoserbsk district of Luhansk region suffered the most.

At the start of the conflict the direct artillery shelling damaged:

1. On 25 June 2014 — Kirovske CF no. 33. the residential area was damaged because of the shelling;
2. On 22 July 2014 — Michurin CF no. 57. The shelling damaged the residential and industrial area, two convicts died and were injured³.

Throughout the entire period of the conflict more than 150 shells hit the territory, the hits were almost every day. there were hits to the diner, the club, the barracks of section no. 4 had 3 or 4 hits to the roof, the perimeter was hit many times, the industrial area — many times, the lawn near the club — 4 or 5 times, there were several hits to the disciplinary isolator, to the bath, near the bath, to the road that the convicts use to get to the diner, to the football field, the fence near the church (respondent Sh., who was in Michurinsk CF no. 57).

3. On 10 August 2014 — Donetsk CF no. 124. As a result of the shelling one convict died, 10 were wounded, the barracks were destroyed and the industrial area was damaged. Near a hundred convicts escaped (3/4 of them later returned)⁴.

4. Summer 2014 — Slovianoserbsk CF no. 60. The shell fragments fell on the territory of the facility.

The shelling started in the middle of the night, the shells fell nearby, the convicts ran from the bar-

³ <http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/757958>

⁴ The information provided by respondent K. who was in Donetsk CF no. 124.

racks in the local center and didn't know what to do next, it was really scary (respondent L. who was in Slovianoserbsk CF no. 60).

5. On 21 August 2014 — Makiivka CF no. 32. 4 people died as a result of the shelling, 8 more were injured, the second floor of the residential area was destroyed.

6. August 2014 — Toretsk CF no. 28. One convict died, one was injured, one colony employee was injured.

In August 2014, in the second half of the months, there were hits to the territory of the colony. Then the shelling started around 11 pm and went on all night long. Around 10 shells hit the territory of the colony, one of them hit the poplar behind the 8th barracks. One of the convicts died then, another one was wounded. One colony employee was also injured, her arm was torn off. She was in the tower during the shelling (B., who was in Toretsk CF no. 28).

7. August-September 2014 — Petrovka CF no. 24. The fence was destroyed.

8. September 2014 — Volnovakha CF no. 120. A hit to the fence, one colony employee was wounded.

In the period of active shelling (in late summer — early autumn 2014) the colony was hit more than 10 times. There were hits to industrial area, residential area, local sectors and the “forbidden area”. In autumn 2014 there was a hit to the fence. One colony employee who was in the tower was wounded then. The ambulance took him to the hospital. Meanwhile a breach appeared in the fence, two machine gunners from the militia were placed next to it so that nobody would escape. The colony employees warned that if someone runs they would shoot to kill (respondent L. who was in Volnovakha CF. no. 120).

9. Before September 2014 — Luhansk SIZO.

Before September 2014 the shelling was frequent, especially frequent in the night. The shell fragments hit the territory, there were hits near the building of SIZO. They performed shelling not far from the SIZO for several times. One can recognize it by the sound that they are shooting nearby (respondent L. who was in Luhansk SIZO).

Most of the convicts recalled the first shelling of PI by the members of IAF with fear. The administration of the institutions was not ready for the start of the ATO and did not know what to do during the emergencies. The convicts were not brought to the

bomb shelters, and the convicts who were held in the cells couldn't exit to the corridor.

For a long time IAF didn't try to capture PI. Regardless of the fact that each of the PI kept many weapons, comparing to other state institutions, the correctional facilities underwent the smallest amount of armed attacks. Donetsk CF no. 124, Donetsk PI no. 5, Makiivka CF no. 32 were captured in the first months of ATO.

It is known of one case of an armed attack on PI in the first months of ATO. In July 2014 the persons armed with assault rifles arrived to Yenakiyev CF no. 52. They started shooting near the walls on the institution, and then entered its territory freely. The administration did not resist them. The persons entered the maximum-security sector and freed two convicts. The members of IAF took those two persons for near a year: in 2015 they were returned to the colony for the new crimes.

"It was probably July or August, when they arrived to the colony. Some armed people. The administration didn't react to them at all, didn't even shoot them. They entered the sector of life imprisonment. We all looked out of the windows, we thought they would set us all free. But those people started shooting the windows, we barely hid. Did they take anyone? They took two persons... as if they enlisted to the rebellion, but I'm not certain. They were waging war the entire year on the side of DPR, and then they were returned, because one of them allegedly killed somebody, and the second one just didn't behave" (respondent R., who was in Yenakiyev CF no. 52).

Later the escape of six convicts was organized from Yenakiyev CF no. 52. Around February 2015 during a powerful shelling, in the night, six persons sentenced to life imprisonment opened the cells and escaped with the help of another convict who assisted the administration with the household service. Their fate is unknown. According to an unconfirmed data, one of them currently resides in the western Ukraine, another one participated in the hostilities on the side of IAF and died.

In April-May 2014 the conditions of detention in PI remained pretty much the same as they were before the start of ATO. Since June 2014 the conditions of detention began to gradually deteriorate. There were interruptions with food supply in Luhansk SIZO because of the blockade of the settlement. Sometimes all institutions without exception had inter-

ruptions of power and water supply because of the damage to the utility networks during the hostilities. Luhansk SIZO did not have power for near a month. Some of the employees of the institutions retired, in particular, there were not enough doctors. The medicines and some hygiene products were provided to the convicts from the humanitarian aid. Some of the PI had troubles with food by that time. The worst situation was in Western CF no. 97, where some of the convicts had swollen feet and abdomens because of the hunger. According to the persons who were in CF no. 97 then, some of the convicts were falling down from malnutrition, there were starved deaths.

I worked in the industrial area. Before I had the possibility to obtain food — to "buy food" in the colony diner. But everything changed when the hostilities arrived and the power changed. Many prisoners starved. There were times when we ate lean porridge once a day and considered ourselves lucky (respondent B., who was in Bryanka CF no. 11).

Between summer 2014 and winter 2015 the food was very bad, they were giving us a very diluted soup (water and several tiny potato pieces) and "sechka" porridge. There was a period when there was no flour, so there was no bread. Many of the convicts starved, then the convicts themselves started dealing with those issues and finding the possibilities to bring in the products to the colony (respondent L. who was in Makiivka CF no. 32).

Some of the institutions obtained the "closed" status during the active hostilities. The convicts were not brought for the walks, they did not receive visits and phone calls. Although officially SE "Ukrposhta" terminated the postal communication with ORDLO only on 7 November 2014⁵, in truth sending and receiving the letters became impossible in the early autumn of 2014. Most of the vehicle routes were blocked by the roadblocks, there were hostilities on other routes, and the trucks weren't approaching some of the human settlements because of the danger to the lives of the drivers.

When I was brought to Luhansk SIZO I couldn't call home anymore. There was no power and I couldn't charge my phone anywhere. The water was

⁵ The date is reported in the reply to an information request.

brought by the boys with the basins, so we had water. The food... my relatives brought me some, but it was really hard without the parcels. They didn't take us for walks, and I wouldn't come anyway, because there was constant shelling. The shell fragments were constantly falling on the territory, I don't know where — I couldn't see, I was locked (respondent K. who was in Luhansk SIZO).

For the similar reasons in June 2014 the escorting of the convicts to the courts was terminated. Most of the court hearings were not conducted because of the failure of the parties to appear. On 20 August 2014 according to Article 1 of the Law of Ukraine "On the administration of justice and criminal proceedings in connection with the ATO", the functioning of the courts in the area of ATO was suspended until the end of the conflict. The jurisdiction in cases considered by those courts was changed. However, the relevant case files remained in the courts on the non-government controlled territory. The employees of the courts left the buildings of the state institutions with all material and technical base. Later those buildings were occupied by the members of IAF who created their quasi-judicial bodies. The restoration of the case files that were left on the non-government controlled territory goes on still.

Due to aggravation of hostilities in late summer 2014 the staging of the convicts was suspended. In most of such cases the representatives of the state authorities weren't able to bring them to the destination points.

Many people like me remained. We were 30 persons (2 stages from Mariupol colony). All ages — from 19 to the old woman from Volnovakha who was around 70 (L. who was in Donetsk PI no. 5.)

On 6 September 2014 the press service of the prosecutor's office of Donetsk region reported about the change of place of its dislocation due to the aggravation of the military conflict in the East of Ukraine. Sending the applications to it was also hardly possible. The transfer of judicial and law-enforcement bodies made it impossible to transport the convicts to them and to send letters. The meeting with the representatives of the prosecutor's office wasn't possible either, because they weren't admitting people personally on the non-government controlled territory.

3. THE PLAN OF MASS EVACUATION OF THE CONVICTS FROM THE NGCA AND THE REASONS FOR THE FAILURE TO IMPLEMENT IT

The evacuation of the convicts from the dangerous areas was not discussed at once, and in many PI the question of evacuation was not raised at any time. The administration of IAF wrongly pointed out that the convicts did not wish to leave the s.-c. L/DPR.

Around autumn 2014 I heard on the TV that the Red Cross wanted to evacuate the convicts and detainees. Sometime later, on the TV of the so-called "LPR" I saw an interview with the head of SIZO in which he said that all prisoners were questioned and none of them wanted to be transferred to the territory controlled by Ukraine. Several prisoners told on camera how good they felt under the control of LPR. Those prisoners worked in the kitchen and cooperated with the administration of SIZO. In reality though, nobody else was questioned concerning their wishes. In 2015 the detainees wrote in mass their applications concerning their wish to be transferred, but they were later told that nobody would ever be transferred (respondent V. who was in Luhansk SIZO).

However, in the beginning of June 2014 there were the first attempts to evacuate the convicts. The convicts from Chervonopartisansk correctional facility no. 68, an institution of the medium security level for women on the territory of Luhansk region, were in the most serious condition. That colony is situated in border human settlement that was left by Ukrainian military back in April 2014. The town was surrounded by the hostilities between the terrorist groups that parked a tank near the town gate and conducted the drills on the territory.

We always had the restroom outside and the water was also outside. Therefore to visit the restroom we had to leave the building in the morning. But there, in the street, the snipers were shooting aiming at our legs. They didn't hit anyone, they did it just to scare us. You know that they won't kill you, but you are scared nevertheless... (respondent T. who was in Chervonopartizansk CF no. 68).

The paratroopers were landing behind the colony. The Russian ones. How do I know they were Russian? They were from the Russian side. Our colony was on the very border, everything could be seen. Those paratroopers, you know, they are like tiny mushrooms, they could be seen the best in the clear sky. And the helicopters were flying around, when we left for the check in the afternoon. They probably checked how many of us there were (respondent K. who was in Chervonopartizanska CF no. 68).

The colony was damaged. The laundry facility burnt down, the archive was damaged... one day I went outside in the morning, the sky was so very blue. It was so very silent. And then there was rumbling.... I thought I was hit, my ears went deaf. But no, over the first checkpoint there was this pillar of black smoke against the blue sky. There wasn't even the smell of smoke, only that pillar (respondent V. who was in Chervonopartizanska CF no. 68).

Since May 2014 the head of Chervonopartizanska CF no. 68 actively phoned the SPSU proposing to evacuate the colony⁶. But for some time the SPSU didn't believe, that PI is really in any danger⁷.

In the end of June 2014 Chervonopartizanska CF no. 68 was visited by the representatives of IAF who wanted to shoot the video "for Security Service department in Luhansk region". The convicts were asked to state the date of shooting of the video, allegedly to prove that there are still people in the colony and it must not be shelled. They also documented the destruction of the buildings of the facility⁸.

...And then a really powerful shelling started. They were shooting constantly, and the head led us to the building of the garment factory «Gloria». There we were told to lie on the floor and stay there. They didn't even let us use the restrooms. Only after several hours they started to bring us out of the basement, and there were flashes and rumbling

⁶ The information was provided by the respondent M., who was in Chervonopartizanska CF no. 68.

⁷ The information was provided by the respondent L., who was in Chervonopartizanska CF no. 68.

⁸ The information was provided by the respondent K., who was in Chervonopartizanska CF no. 68.

outside. We didn't return to the buildings... we only took what we had on ourselves — not enough at all. We left in our summer clothing (respondent R. who was in Chervonopartizanska CF no. 68).

At the moment of the evacuation of the convicts from the colony several household buildings were destroyed (the second floor of the battery shop, bath and washing facility), the building for visits and the archive were damaged, as well as the gates and the residential area.

During the evacuation the prisoners were accompanied by the administration of Chervonopartizanska CF and the armed forces of IAF. The prisoners were placed in the micro buses prepared beforehand where they had to remain on foot, packed tight. The shelling did not stop during the evacuation. The convicts were escorted to Sverdlovsk CF no. 38, then they spent several months in Luhansk SIZO. Finally, on 18 October 2014 the convicts were sent by bus to Starobilsk town.

The case of Chervonopartizanska CF no. 68 is an indicator, because it is the only PI that was fully evacuated. Several factors influenced the possibility to evacuate this institution.

Promptness of the evacuation

Chervonopartizanska CF was evacuated on 28 June 2014, that is, in the first months of the conflict in the East of Ukraine. At the time of the evacuation most of the territories of the ORDLO were in unidentified legal situation. The administrations of most of the PI did not officially take the side of the self-proclaimed republics and kept the connection with SPSU. The transport routes between settlements were conditionally free. There was at least the possibility of free passage between settlements, although usually even back then any travel involved a significant risks. Especially when it involved the transfer of a great number of people in custody of the state agents.

The location of PI

Chervonopartizanska CF no. 68 was situated in Sverdlovsk district of Luhansk region, since April

2014 controlled by the "Dryomov Cossacks"⁹. They categorically refused to submit to the so-called "LPR" government and "militia", and instead constantly fought between themselves. They did not resist the evacuation of the colony that was situated on the territory under their control

The number of the convicts

171 female convicts were serving their sentences in Chervonopartizanska CF no. 68. It is a relatively small number of persons which could be physically evacuated in several hours by micro-buses or other vehicles. It is much harder to evacuate bigger colonies starting with 300 persons serving their sentences (for example, Yenakiyev CF no. 52) because of the need to involve a bigger number of the employees of SPSU in the operation as well as a bigger amount of vehicles.

The main question that arises after the analysis of the process of evacuation of Chervonopartizanska CF no. 68: whether there was a real possibility to evacuate other PI in June 2014? According to the authors — there was. Most of the PI of the region was in the same or similar situation. IAF did not attain such hierarchy and unity, they consisted of different departments and small groups. Between April and June 2014 there was the opportunity to choose the most favorable moment to evacuate any institution, with regard to the freedom of transport connection, retreat or attack of the terrorist groups, the danger to the lives of the convicts. At the same time even the judicial bodies continued functioning, they stopped working only in early August 2014. However, the danger to the PI that were systematically shelled could be seen absolutely clearly.

During the shelling the convicts (2014) attempted to call the newspapers with the aim of reporting about themselves and contributing to improvement of the situation. The wife of one of the convicts at the time read in the internet that Toretsk CF no. 28 was dismissed and it was empty. In reality at the time

⁹ Dryomov Cossacks are one of many groups of IAF that function under the guidance of Dryomov and currently control the towns of Stakhanov, Sverdlovsk, Chervonopartizanska.

there were 800 people there. The place was occupied by the militants of the s.-c. "DPR" (respondent R. who was in Toretsk CF no. 28).

The second important question: why wasn't the evacuation carried out in the most favorable moment? There is no exact answer for that question, however, most likely, it was the result of underestimating the danger and chaos. The conflict in the East of Ukraine, for which the state authorities were not prepared, has led to the complete confusion on the ground. Some of the employees joined IAF, some — retired and left, being concerned for their own lives and the lives of their relatives. Those who remained were careless about their functions. Moreover, the threat level was underestimated even by the central executive bodies. Thus, in case of Chervonopartizanska CF no. 68, they did not believe for a long time the words of its head, that the PI was in real danger¹⁰. When the danger was finally believed in, it became extremely hard to evacuate the colony.

It (the evacuation of the convicts) was out of the question. In February or even March 2015 there was a proposition for at least the medical staff of the colony to settle in a colony outside ATO, and some medical employees, if I'm correct, from the guard squad, left (respondent T. who worked in Alchevsk CF no. 13).

Only on 14 November 2014 the President of Ukraine approved by his decree the decision of National Security and Defense Council (hereafter — NSDC) of Ukraine of 4 November 2014 "On urgent measures concerning stabilization of the social and economic situation in Donetsk and Luhansk regions" (hereafter — the NSDC Decision). In para. 4 of that Decision the Ministry of Justice of Ukraine (hereafter — the Ministry of Justice) was ordered to take urgent measures to ensure the transfer of staff of the correctional facilities and the persons in custody from the separate regions and districts of ATO.

The ten-day delay between the adoption of NSDC decision and its approval by the decree of the President of Ukraine draws the attention. In our view, in the situation of the armed conflict, when the

¹⁰ The information provided by respondent K. who was in Chervonopartizanska CF no. 68.

prisoners are in real danger of being killed every day and IAF occupy more and more new locations, the delays were unacceptable.

On 18 November 2014 the Ministry of Justice held an inter-ministerial meeting on the issues of evacuation of the convicts from the territory of ATO¹¹. During the meeting the decision was made to transfer the convicts from Yenakiyevo CF no. 52. The question about the evacuation of other penitentiary institutions wasn't raised at all.

The possibility of transfer of Yenakiyevo CF no. 52 was influenced by several new factors:

The location of PI

Yenakiyevo CF no. 52 was situated in the neutral area of the conflict between the roadblocks of two parties. There was no need to negotiate the evacuation of that PI with the IAF, because the convicts weren't under their control.

The danger for the convicts

The location of Yenakiyevo CF no. 52 in the buffer zone caused another situation: the shelling of the colony was almost constant. At any moment the colony could have been hit by a high-caliber shell that could have killed dozens of people.

I remember the colony was shelled... the shells were falling constantly. We grew so used to them that we couldn't sleep when there wasn't shelling. The shell fragments were falling on our heads constantly. I counted 2000 shots before dinner (respondent P. who remains in Yenakiyevo CF no. 52).

Between 26 and 29 November 2014 the groups of representatives of SPSU carried out several visits to Yenakiyevo and its surroundings for reconnaissance of the routes and for preparation of the convicts¹². The administration of the colony at that time ordered the convicts to pack their things and prepare for the evacuation. Each convict could only take one

bag of things, because there wasn't enough transport, and at the time 343 persons were serving their sentences in the colony¹³.

I remember we were told to pack our things. We packed our bags and sat on them for several days, waiting for the evacuation. We were promised again and again that they will take us... but they didn't. We hoped, but they didn't give us specific dates (respondent Z. who was in Yenakiyevo CF no. 52).

On 28 November 2014 at 4 am the National Guard of Ukraine formed a line to leave Yenakiyevo colony¹⁴. But the evacuation of the convicts was postponed, according to SPSU, due to the lack of guarantees of safety for the staff and the convicts. However, according to the convicts, the transfer wasn't carried out due to a mistake¹⁵.

The question of why the attempts of evacuation of the convicts weren't repeated later remains open. In our view, there are several possible reasons:



¹³ The information provided by respondent P. who was in Yenakiyevo CF no. 52.

¹⁴ The information provided by the state bodies in a response to an information request.

¹⁵ The information provided by SPSU in a response to a request.

Currently 186 persons are evacuated from the NGCA¹⁶. The first group of convicts left on 20 December 2014 (3 persons), the last — on 7 February 2018 (20 persons). Most of the persons were transferred from Yenakiyevo CF no. 52. The convicts were not taken from Luhansk region because of IAF of LPR not wishing to negotiate about this issue, it was only possible to liberate two persons thanks to the efforts of Eastern Human Rights Protection Group.

4. THE LEGAL CLASSIFICATION OF LEAVING THE PERSONS WHO REMAIN IN CUSTODY ON THE NGCA

Leaving the convicts on the temporarily is a violation of rights of a particularly vulnerable group of population.

Convicts are a group of persons that completely depend on the administration of PI. Convicts cannot leave the correctional facility on their own, provide the adequate existence and the vital needs during their stay in the institution.

The state that controls the convicts should have ensured the protection of their life and health. The Constitution of Ukraine ensures for every person the right to life, to freedom and personal integrity, to protection from the inhuman and degrading, treatment, the right to judicial protection, to health care and other rights of which the convicts were deprived for a long time. Besides, Article 8 of CEC of Ukraine also contains the similar (specified) list of rights¹⁷.

Implementation of the rights to life, freedom, personal integrity were guaranteed by the decree of the President of Ukraine "On the decision of the National Security and Defense Council of Ukraine of 4 November 2014 "On urgent measures concerning stabilization of the social and economic situation

¹⁶ <http://www.ombudsman.gov.ua/ua/all-news/pr/7218-ux-sche-20-uvyaznenix-peremischno-iz-tak-zvanoii-dnr-na-pidkontrolnu-ury/>

¹⁷ <http://zakon2.rada.gov.ua/laws/show/1129-15>

in Donetsk and Luhansk regions". Thus, in para. 1 pt. 4 of the decree the Ministry of Justice of Ukraine was urgently ordered to take measures to ensure the transfer of the bodies and institutions of SCEC of Ukraine, the convicts and the detained persons, from the separate regions and districts of ATO. The decree wasn't executed properly.

The Ministry of Justice is a legal entity that works through its bodies. According to para. 12 of the Ruling of the Cabinet of Ministers of Ukraine "On approving the Regulation on the Ministry of Justice of Ukraine" of 2 July 2014 no. 228, The Minister of Justice, as a person in charge, directs and coordinates the execution of the measures on the issues that belong to the jurisdiction of the Ministry of Justice by other central bodies of executive power, gives the orders and errands that are binding for the services on the issues of directing and coordinating their functions. Thus, the Minister of Justice of Ukraine was responsible for execution of the order of NSDC.

His inactivity entailed several grave consequences, including the leaving in danger, deprivation of freedom, suffering because of the inadequate conditions of serving the sentence, fear of physical influence, violence from the side of IAF.

Such violations can constitute a crime envisaged by Article 135 of CC of Ukraine: "*Willful leaving of a person without help, if he/she remains in a condition dangerous to life and is unable to ensure his/her self-preservation due to young age, old age, illness or helpless condition and where the one, who left this person without help was obliged to care after this person and was able to provide help to him or her, and where this one himself put the victim in a condition dangerous to life*".

It can also lead to the violation of several Articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms:

- Article 3 of the Convention: "*No one shall be subjected to torture or to inhuman or degrading treatment or punishment*";
- Article 5 §1 of the Convention: "*Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law*";

- Article 8 of the Convention: “Everyone has the right to respect for his private and family life, his home and his correspondence”;
- Article 13 of the Convention: “Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity”.

5. THE STATUS OF THE PENITENTIARY INSTITUTIONS ON THE NGCA AFTER THEIR CAPTURE BY ILLEGAL ARMED FORMATIONS

As early as in the mid-May 2014 IAF started to form the system of quasi-state authorities on the territory under their control. On 17 July 2014 the Regulation of the so-called Council of Ministers of DPR no. 17-4 created the “Ministry of Internal Affairs of DPR”, which, in particular, had the duties to ensure the execution of the punishments, detention of the suspects, accused persons and convicts in custody, as well as other functions formerly performed by SPSU.

Thus, 14 PI, 12 CF, 1 correctional center and 1 SIZO effectively fell under the control of the “MIA of DPR”.

“MIA of DPR” received, in particular, the functions concerning the forming and implementation of the state policy and legal regulation in the issues of execution of criminal punishments, keeping in custody the persons suspected or convicted of crimes and the defendants, ensuring the lawfulness and order in all institutions that carry out the criminal punishments in the form of deprivation of liberty and in the investigative isolators.

A new stage of forming of the penitentiary service in “DPR” was the adoption by the so-called Council of Ministers of DPR of the regulation no. 17-25 of 2 September 2015 “On transfer of the State Penitentiary Service of the Ministry of Internal Affairs of Donetsk People’s Republic to the jurisdiction of the Ministry of Justice of Donetsk People’s Republic”. Judging by the contents of that regulation it could

be understood that the so-called SPS of DPR was transferred from MIA of DPR to the Minjust of DPR.

The similar legal acts were legally adopted in RF, the legislation of which is largely focused on by the legislation of the quasi-state of DPR, namely on 8 October 1997 the President of RF issued an order no. 1100 “On reforming of the criminal-executive system of the Ministry of Internal Affairs of the Russian Federation”, which propose to carry out a stage-by-stage reform of the criminal-executive system of MIA of RF, foreseeing its transfer to the Ministry of Justice of RF.

In the s.-c. LPR the situation was slightly different. First of all, the formation of the system of authorities started there much later. *Since December 2014 the decision of the so-called government of LPR, introduced PI to the structure of “MIA of LPR”. Currently there are 12 institutions in its jurisdiction — 2 correctional centers, 9 correctional facilities and 1 investigative isolator. Unlike the so-called DPR, LPR didn’t transfer PI from the so-called MIA to the Ministry of Justice of LPR.*

That means, that currently the legal status of PI of the s.-c. LPR, namely, namely, the PI in the jurisdiction of “MIA of LPR” does not correspond to the recommendation of the Committee of Ministers of the Council of Europe concerning the unified European penitentiary rules, which in turn indicates that LPR is not ready to carry out the international requirements in the area of treating the convicts and managing the prisons, fixed in the “European Penitentiary Rules”, adopted by the Committee of Ministers of the Council of Europe.

Concerning the staff of PI on the NGCA of the so-called “DPR” and “LPR”, a great part of staff retired, others remained and took the side of IAF. The fact that many of the administrative staff openly sympathize with the armed formations cannot be overlooked, such views were expressed openly before the convicts as early as in the beginning of ATO. The convicts were pressured for their pro-Ukrainian position even before the institutions fell under the effective control of IAF. The wages stopped being paid back in the summer 2014 because many human settlements were already occupied, and access to others was made harder because of the blocked roads.

A respondent who had worked in PI on the non-government controlled territory describes those events in the following way:

Before June 2014 the colony employees received their wages in time. As soon as the bank robbing started (first the Privatbank, then the Oschadbank and others), the payment stopped. Later some money was transferred to the cards, but there was trouble with ATMs, the postal service didn’t have money. The wages were paid with delays until around October 2014. Until March 2015 there was no salary whatsoever, since March 2015 they started to count wages in Russian rubles. The level of wages for the medical employees of the colony, at the rate of 1 hryvnia to 2 rubles, remained the same.

An armed occupation did not occur in most of the PI, instead they were effectively transferred under the control of IAF — after the occupation of the corresponding territories. Usually most of the respondents learned about the change of administration after the stripes on the uniform were changed or a flag of the so-called L/DPR was raised in the institution.

Around early 2015 the stripes appeared on the uniform of the colony employees, they were declared that they were now under control of the so-called “DPR”. Almost all employees of the colony changed, they were mostly transferred to the territory controlled by Ukraine. Soon after that all convicts were gathered in the club, the zampolit was there. We were forced to write the “papers” that we wanted to stay and serve our sentences in the so-called “DPR”. They promised to put to solitary confinement those who did not want to write. All convicts wrote such applications, me, too. (respondent T. who was in Volnovakha CF no. 120).

There is no unified opinion among the convicts about why the employees of the colonies kept working for the occupational government. The probable reason for that were the strong social and familial ties, because most of the colony officials were local residents and weren’t financially and psychologically ready to move out. Moreover, most were afraid of the troubles with housing for their own families on a new place. Therefore it was psychologically easier to remain than to leave. The family had to be fed. Of course, many people

simply sympathized with IAF and did not consider them the occupants.

After the occupation of PI many employees who were previously fired for disciplinary offences returned to work¹⁸. Such situation was seen in particular in Yenakiyev CF 52, Makiivka CF no. 32 and other institutions. Since there was a lack of staff, in many cases the local residents liable to commit crimes became the employees in the colonies. Those very employees later showed more violence towards the convicts¹⁹.

6. THE RIGHT TO LIFE, PROHIBITION OF TORTURES AND ILL-TREATMENT

At the very beginning of the conflict PI were rarely attacked. They were not included in the general list of objects that were captured by IAF in the first place (the buildings of police, SSU, region councils). It remains unknown why IAF did not turn attention to big weapon warehouses that each colony had. However after the aggravation of conflict the PI were increasingly exposed to indiscriminate and targeted attacks.

The artillery fire first hit the colonies that were situated in the human settlements on the very contact line — those were Donetsk CF no. 124, Mikitino CF no. 87, Makiivka CF no. 32, Michurinsk CF no. 57, Toretsk CF no. 28, Chervonopartizansk CF no. 69²⁰. They underwent systemic shelling. PI rarely underwent targeted shelling, except for the cases when the conflict participants were shooting from under the colony walls and received the return fire. The PI adjacent to Debaltsevo cauldron underwent powerful shelling.

During the shelling the administration of the institutions was mostly hiding, only 2–3 persons

¹⁸ The information provided by respondent Sh. who was in Yenakiyev CF no. 52.

¹⁹ The information provided by respondent R. who was in Yenakiyev CF no. 52.

²⁰ The information provided by the respondents who were in the corresponding colonies.

were on duty, they were bringing food to the convicts and observed the order. In some PI (in particular, Yenakiyevo CF no. 52, Mikitino CF no. 87)²¹, most of the administration did not appear on their workplace for almost a month. In the heavy hours there were appointed seniors among the convicts who had the possibility to freely traverse the territory of the colony. That gave them the necessary privileges: such convicts could hide in the bomb shelters any time.

However, other convicts, especially those who were held in the cells, couldn't leave the dangerous territory. During the shelling they remained in their cells, hiding under the beds. Such convicts were not brought to the bomb shelters. Sometimes they were promised that they would be brought to the corridor, when there is a powerful shelling. But they were not brought out of the cells, even though the shells were falling on the territory of the colony. The administration of PI was hiding in the basements and bomb shelters during every shelling.

Listen, what could we do? Only to pray! The colony is empty, there is nobody left of the administration. It's night, there is no electricity, but the cell is lit as though it is day, by the flashes from the cells. And we lie under our beds and pray. We were shouting during the first days, but nobody came to rescue us. Do you know how it feels, to lie and think: well, now I'll die. Several months in a row. Then we humbled ourselves and even started to count the shots. It was calmer that way (respondent K. who was in Yenakiyevo CF no. 52).

The convicts who lived in barracks had the possibility to get to the basement or a bomb shelter on their own. But such basements were often too far away, and the convicts didn't have the time to run to them (such was the situation in Makiivka CF no. 32). The convicts were almost never brought to the bomb shelters in an organized way (the lucky exception is Chervonopartizansk CF no. 69)²². Therefore the shelling was always accompanied by panic during which the convicts endangered themselves.

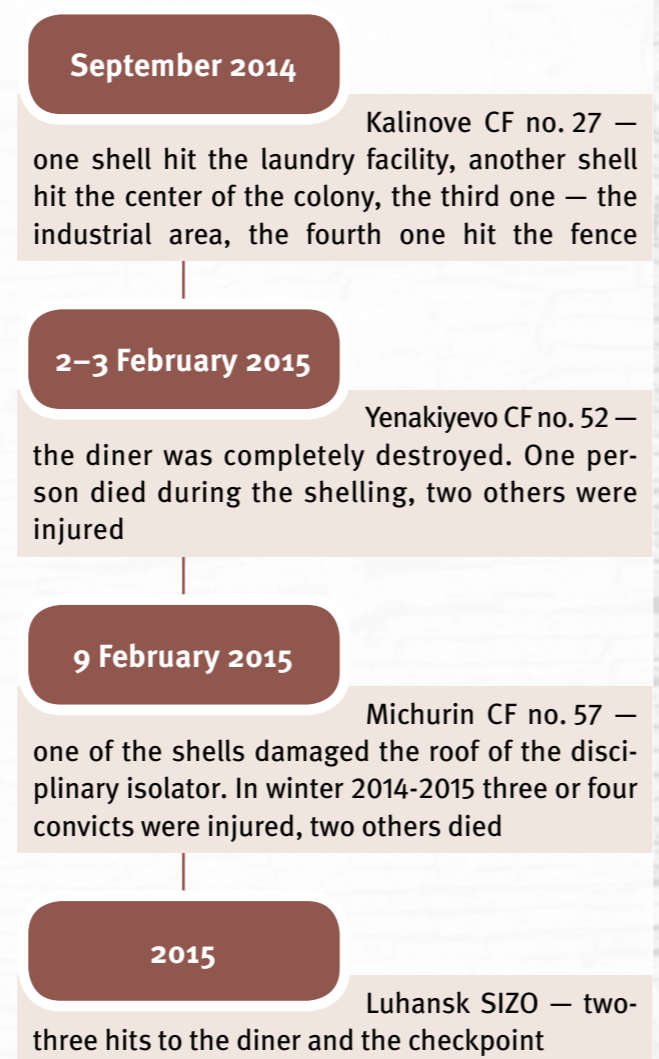
²¹ The information provided by respondent S. who was in Yenakiyevo CF no. 52.

²² The information provided by the respondents who were in the corresponding colonies.

There was the practice when the entrance to the bomb shelters was for a fee: it was possible to pay with money or the services for the administration. Thus the convicts who had money were in greater safety than those who didn't have money (Yenakiyevo CF no. 52)²³.

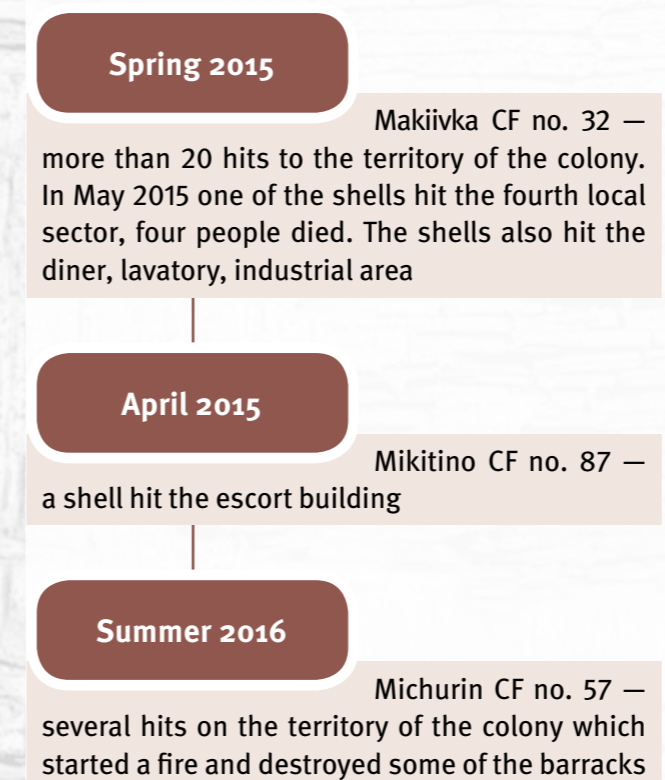
For most of the PI the artillery shelling went almost without losses. Although, sadly, there were PI that sustained a significant damage. First of all, the people serving sentences there were injured. Section 12 already told about the results of the shelling at the start of the conflict, when Michurin CF no. 57, Toretsk CF no. 28, Donetsk CF no. 124, Makiivka CF no. 32 sustained serious damage.

During the active hostilities (autumn 2014 – winter 2015) the following institutions sustained damage:



²³ The information provided by respondent S. who was in Yenakiyevo CF no. 52.

Since spring 2015 there were the following damages:



Most of the PI were in the area of powerful shelling for near half a year. In time the shelling slightly decreased, but most of the respondents noted that the shelling never really stopped for good. Some of the institutions, in particular, Mikitino CF no. 87 and Michurin CF no. 57 in Horlivka are still shelled. Makiivka CF no. 32²⁴ was shelled in 2017.

There were documented deaths and injuries of the convicts during the shelling of PI. The injured persons were usually assisted by other convicts, because there were no doctors, as well as no possibility to bring them to a hospital. In some cases the injured persons were brought to the hospitals, but their subsequent fate was unknown to the questioned witnesses — such injured persons never returned to PI²⁵. Therefore the concerns arose that they died in the hospitals because of the lack of medical assistance.

In spring 2014 a shell hit the fourth local sector. Four convicts died then. Two died at once, two more

²⁴ The information provided by the respondents who were in the corresponding CF.

²⁵ The information provided by respondent L. who was in Yenakiyevo CF no. 52.

died in the ambulance car. I was in the seventh local sector at the moment of the shelling, it was in front of the fourth. When I heard the whistling I was able to run to the barracks, a shell fragment hit the head of the man who ran behind me. It was a surface wound. After that the “DPRs” entered the colony, looked around, took the shell and left (respondent A. who was in Makiivka CF no. 32).

The tragic situation that arose in Chornukhino correctional facility no. 23 should be noted in particular. The institution found itself in the epicenter of the hostilities in the period of IAF's advance towards the town of Debaltseve. According to the information available from the open sources, between late January 2015 and early February 2015, the shells often fell on the territory of the institution. As a result there were victims in the colony and a significant part of the buildings was damaged. The issue of evacuation of the employees and convicts was not dealt with timely, and in the period of powerful shelling it became impossible to decide. According to the convicts, finally the colony employees who at that time remained in the institution opened the gates and left the territory of the institution. The convicts that served their sentences were left on their own, their subsequent fate and the total number of the wounded and dead persons is currently not known.

According to the fragmented information received by the human rights protectors, it is known that some of them, namely 23 persons, were able to reach the roadblock of the National Guard of Ukraine and were brought to Artemivsk penitentiary institution no. 6. According to PO “All-Ukrainian Network of PLWH” — 14 other convicts were able to reach the town of Debaltseve and were held in Debaltseve town department of MD MIA of Ukraine, which later sustained a direct hit from “Grad”. It is unknown whether the convicts who were saved from Chornukhino colony died.

According to unconfirmed information, some of the convicts could have exploded on the mines in an attempt to leave the dangerous place or died under the shelling that never stopped in Chornukhino and its surrounding territories, and some of them could have been saved — they later returned to the territory of the institution, some of them could have

joined the so-called militia. But there is currently no reliable information about subsequent fate of the convicts from Chornukhino correctional facility no. 23. According to the respondents who were in the colonies of Luhansk region, some of the prisoners from Chornukhino colony were later brought to other colonies²⁶.

When Chornukhino colony was shelled, the convicts from there were allowed to go home. Later when they went to the police to check in, they were detained and brought to other colonies. Our colony also received the convicts from Chornukhino. They reported that the colony was shelled from both sides. They said that near 70 people died. When they were let go they were told not to go to Ukraine, because they didn't have documents, they would have been shot there (Respondent Ye. who was in Sukhodilsk CF no. 36).

There are documented cases when the relatives of the convicts who were serving sentences in Chornukhino colony no. 23 still don't know anything about their relatives and search for them.

It can be assumed that the death toll of the convicts at that time drastically increased. It was connected to the low level of medical assistance (see in detail the Section 9.3), inadequate detention conditions (Section 9.1) and the suicides. The mental condition of the convicts was complicated because the administration left them on their own in the locked institutions; they spent several weeks under constant shelling without the possibility to hide from the danger; they were captured by IAF, deprived even of minimum rights.

PI of the region found themselves in various situations, therefore the conditions for the convicts there were also different. It was difficult to be a convict during the active hostilities, especially for those who ended up on the line of demarcation or near it. Yenakiyev CF no. 52 that in November 2014 — February 2015 was in the buffer area between the positions of IAF and UAF, suffered the most. In that period 20 convicts died from the illnesses because of the lack of adequate medical as-

sistance. Two hang themselves, unable to deal with the nervous stress²⁷.

Two hanged themselves. Some cut their veins, didn't want to live like that anymore. Others were swelling from hunger. Any cut turns into lethal wound in those conditions. One of the convicts had some troubles with his back, he suffered for a long time, asked for medicines. He wasn't given any. When he felt much worse and he started shouting at night they put him in a separate cell. We haven't seen him for a long time (Respondent P. who was in Yenakiyev CF no. 52).

IAF systemically placed military vehicles in the residential blocks, near hospitals and schools. They didn't leave CF alone, either. Various kinds of heavy weapons used for shelling²⁸ were placed near many PI situated near the line of conflict. After the shelling the militants usually left the location, and the institution sustained the return fire. Thus they put both the convicts and the employees of the institutions in mortal danger. The practice of using PI for “human shields” appeared at the beginning of the conflict and exists even now.

There were documented the following cases of using PI for “human shields”²⁹:

- heavy artillery volleys from under the walls of Kalinin CF no. 27;
- the “Grad” volleys and the military shooting range under the walls of Toretsk CF no. 28;
- “Grad” volleys from under the walls of Makiivka CF no. 32;
- tanks and shelling under the walls of Kirovsk CF no. 33;
- “Grad” volleys from under the walls of Sukhodilsk CF no. 36;
- “Grad” volleys, military vehicles in the quarry near Yenakiyev CF no. 52;
- military vehicles and shelling from under the walls of Michurin CF no. 57;

²⁷ The information provided by respondent Z. who was in Yenakiyev CF no. 52.

²⁸ The information provided by respondent M. who was in Yenakiyev CF no. 52.

²⁹ Human shield is a military and political term that describes the deliberate placement of the civilians in or around the military buildings to deter the enemy from attacking these targets.

- “Grad” volleys from under the walls of Slovianoserbsk CF no. 60;
- SPA and howitzer volleys from under the walls of Mikitino CF no. 87;
- heavy artillery volleys near Western CF no. 97;
- “Uragan” volleys, military positions under the walls of Donetsk CF no. 124.

The evidence that the members of IAF were regularly shooting from under the colony walls were collected during the interviews with the convicts. Most of the convicts could see that from the windows. The colonies were often visited by armed persons who had to stop the convicts in case of an attempt of escaping during the shelling. Here is how one of the convicts describes the events:

I saw in June 2015 how during the shelling, near the colony, there were two cars like APCs with machine guns. I believe they were there in case the convicts decide to escape.

Near the territory of the colony (beyond the sanitary department) the so-called militiamen equip the military positions. They shoot from there, endangering the convicts of the return fire. They are shooting still (there were shots two days ago). There is an anti-aircraft now, I can see it from my window. In 2015 there was Grad behind the sanitary department. They shoot and leave. A bit further, behind the fifth “local” (the area equipped for rest between the barracks) there was an Uragan. when they used it the sparks from it hit the “local” (respondent K. who was in Makiivka CF no. 32).

The level of torture and ill-treatment also greatly varied from one CF to another. In Yenakiyev CF no. 52 most of the convicts told that nobody used physical force to them. In other institutions, for example, Michurin CF no. 57, all respondents suffered from beatings³⁰. It depended first of all on the location, and hence the groups that controlled the territory. It was the hardest for those who were serving their sentences in Horlivka and the surrounding human settlements, where the leader, Bezler³¹ cruelly dealt with civilians and military alike.

³⁰ The information provided by respondent P. who was in Yenakiyev CF no. 52.

³¹ <https://www.ednist.info/dossier/93>

According to the statistics the physical violence was at least once used to 65% of the respondents, and near 30% suffered from it systemically. The convicts were often executed due to the political beliefs, their origin from the western part of Ukraine, their talks in Ukrainian, religious beliefs, other than Orthodox Christianity, refusal to obey the administration, refusal to appear on the workplace, etc. Here are some of the examples of the humiliation of the convicts by the members of IAF, according to the respondent convicts.

The people in the “covered” part of the zone were beaten until they lost their consciousness. When a paramedic arrived he patched them up and said that everything's fine, they will live (respondent Ye. who was in Luhansk SIZO).

The newly arrived convicts were brutally abused. They were beaten, the dogs were commanded to bite them. I was also beaten and hounded. I had bruises, the dogs didn't bite me. But there were convicts with fractures and bites. Two convicts were killed (respondent L. who was in Volnovakha CF no. 120).

Nine other convicts and I were put in the “pit” (isolator) when there was 12-degree cold, we were wearing only our underpants. Near 12 hours later they gave me a thin overalls. I spent 12 days there. This abuse ended on 1 February 2016, when we were visited by Zakharchenko. I shared a cell with a former militiaman who was also beaten. He had connections, he was able to bring this information to Zakharchenko (respondent L. who was in Volnovakha CF no. 120).

Drunk colony employees abused us, they beat us for any reasons, they were putting us in isolator (July-August 2014). When we called 02 because of the arbitrariness of the employees we were transferred to Horlivka, there we had the exactly same militia. On 26 August 2014 the militiamen arrived to the colony. They made every colony employee and every convict who worked in the headquarters, kneel on the ground, they placed a machine gunner and heavily beaten them (respondent M. who was in Michurino CF no. 57).

In 120th colony, when the new convicts were brought in, they were placed in quarantine for two weeks. There they were beaten a lot. Two convicts died after that. They hit one man's head at a car,

another man's liver failed because of the beating. He was brought to the hospital in 124th colony, he died there. The convicts were beaten by the zampolit, I can't remember the name and surname, several of them changed already, the head of the operative department, Malyshev, and the operative, Kalashnikov. One of the convicts was able to inform Zakharchenko about it, his friend worked in his security. Zakharchenko visited the colony, took those employees with him, apologized before everybody, 5 convicts who suffered the most received amnesty at once. (respondent L. who was in Volnovakha CF no. 120).

Around one time a month, sometimes two times a month, the "prison riot squad" arrived to the colony. We were all searched near the fence (face to the wall), they forced us to squat with hands over our head, and "yanked" us from the line one by one. They made us squat and beat us. The convicts only know who is beaten down by the voice, when they scream in pain. I was "yanked" and beaten almost every time when they arrived. Several times the convicts were called by the list, most of the times they take whom they can grab first. My ribs were fractured two or three times, they broke my jaw once, my arms and legs are blue every time (respondent R. who was in Krasnolutsk CF no. 19).

Near every three months the "masks" arrive to the colony and beat us. Later they were arriving without weapons and any markings. (they were with Russian chevrons only for the first time). The prisoners in the maximum security sector suffer the most. Each time the "masks" open all the cells and beat everybody. The convicts who live in barracks can be "lucky" sometimes, but there they beat everybody down every time. And the colony never had any "emergencies" (respondent T. who was in Krasnolutsk CF no. 19).

The so-called "masks" visited the SIZO two times a month. They were taking everyone to the corridor and beating them. Without any reasons, everybody. There were no such people in SIZO who did not suffer from those beatings. They beat those who were in IRH (Interregional hospital) and the minors, too. Those minors underwent even heavier beating. Only the women who were also in SIZO were not beaten. It went on all the time that I spent there. I was also

beaten, my head was busted several times, I had bruises on my body. In October 2015 one of the convicts was killed during such beating. He was 18, he was allegedly from Antracite (respondent D. who was in Luhansk SIZO).

Most of the cases of tortures and ill-treatment were inherent for the period of installation of IAF's rule in November 2014 — March 2015, but in Horlivka town (Mikitin CF no. 87, Michurin CF no. 57), Makiivka (Makiivka CF no. 32), Luhansk city (SIZO) and Slovianoserbsk (Slovianoserbsk CF no. 60)³². Nowadays the number of reports about physical violence in the so-called "LPR" is significantly decreased. In general the respondents note the relaxation of the regime comparing to 2014–2015.

In 2014 the IAF units often entered the territory of the colonies³³. During such attacks they beat everybody they saw, thus intimidating the convicts and preventing possible mutinies due to inadequate detention conditions. With strengthening of the power of the terrorist groupings the need to use such measures disappeared, but the feeling of impunity made the members of IAF continue using them. During the visits the convicts could have been beaten, threatened with weapons, their belongings were taken away.

The administration of PI cooperated with the attackers, but there were cases when employees themselves became the victims of attacks. Aside from the described situation in Michurin CF no. 57 such situation appeared in Yenakiyev CF no. 52, when in March 2015 the armed IAF militants arrived to the colony³⁴. Those representatives of the administration who did not hide were threatened with assault rifles. Chervonopartizansk CF no. 69 was visited by the so-called "Cossacks" who were allegedly allowed to enter the territory freely, but the respondents point out that in reality the administration was threatened with weapons, and some say that the "Cossacks" shot over the administration's heads.

³² The information provided by the respondents who were in the corresponding CF.

³³ The information provided by a respondent who was in Toretsk CF no. 28.

³⁴ The information provided by the respondents who were in the corresponding CF.

There is another known case in Kalinin correctional facility no. 27.

In late 2016 the convicts wanted to watch football, but the administration of the institution turned down the electricity. The convicts started to rally and demand to turn the electricity on. The positions of the so-called rebels were near the colony, they heard the noise in the colony and entered the territory. At first they made the colony employees lay on the ground, then they forced all the convicts to line next to their residential sectors on the parade-ground. Only the barracks where the tuberculosis patients lived weren't opened. They shot over the heads, asked who was the "seer", when he answered they shot him in the leg, another convict's arm was shot. He was passing by with a broom and a dustpan, he was an "offended", "a cleaner", he was always with a broom and a dustpan. He was asked — "Why are you walking here?" and they shot his arm. His arm was later amputated because of the gangrene. But he is still serving his sentence in colony no. 27 (respondent B. who was in Kalinino CF no. 27).

The respondent told that the colony employees tried to prevent this, at first they did not give the militants the keys to the barracks, even hid them, but then were forced to open the facilities anyway.

There was a particular kind of torture — the ill-treatment that degraded the convicts. This kind includes, first of all, public beatings, other abuse. Such punishment was used to level the convict's authority in the team as well as without any particular aim. Such treatment also contained various kinds of noises and smells, for example, turning on the bright light in the night or a loud music. Among other there are the following documented evidences of the respondents:

Every morning and every evening the hymn could be heard in the colony. At first it was the hymn of "LPR", than the Russian hymn, extremely loud (Respondent Ye. who was in Luhansk SIZO).

I was forced to squat, do push-ups, say that I like the administration of the colony (respondent D. who was in Krasnolutsk CF no. 19).

After the transfer to Makiivka CF no. 32 I was placed alone to the barracks with the so-called "thieves". Myself, I am a "goat". Due to the danger to my own life I was forced in March 2017, to cut my

arms, only then I was transferred to another barracks to the convicts who were like me. It was the only way to achieve transfer to other barracks (the respondent mother cites the memories of her convict son in Makiivka CF no. 32).

In March or April 2015 armed and masked persons wearing military uniforms entered the colony. They had machine guns and assault rifles. They brought all convicts to a local section. They forced us to squat, do push-ups (respondent L. who was in Slovianoserbsk CF no. 60).

The administration of the colony treats the convicts in a very bad way. Even the diseased persons in Zhdaniv colony are beaten for minor offences, different violations are attributed to them. There is no way to protect yourself, the complaints do not go further than the special unit. There are no benefits of the early release (respondent Z. who was in Zhdaniv CF no. 3).

The administration of some of the PI used tortures as disciplinary punishment, believing the physical force was the best way of punishment. In such cases the ill-treatment became systemic, and most of the convicts underwent it for minor offences. The use of such punishments was not appealed against in any quasi-state authorities of unrecognized republics. The practice of disciplinary punishments in the form of ill-treatment was seen almost in every institution. Below are only some of the examples:

For a minor offence in January 2015 I was placed in a cage. There were less than 15 C^o below zero. I was handcuffed to the cage to limit my movement. I spent 4 hours there. After that my nose and fingers on one hand were frostbitten (respondent Zh. who served his sentence in Yenakiyev CF no. 52).

For singing the hymn of Ukraine in December 2015 they broke my jaw. A colony employee hit me in the face with his assault rifle butt (respondent P. who served his sentence in Yenakiyev CF no. 52).

The armed people made us stand in line on the parade-ground before the barracks, beat us and publicly abused us in many ways. "Hurry and sweep, hurry and dig". They could do it to any person whom they didn't like, who looked at them the wrong way... It is possible that it was agreed with the administration and the decisions were made who had to be intimidated. They used the clubs, noise grenades,

they shot in the air (respondent O. who served his sentence in Krasnolutsk CF no. 19).

During the night the bright light is turned on in the rooms, in the isolator they made us wear bright orange uniform that was hard to look at (respondent B. who served his sentence in Donetsk CF no. 124).

The absolute majority of PI had the practice of psychological violence against the convicts. Its kinds varied a lot: from the threats of physical reprisals, the prohibition of visits and phone calls, to the moral pressure. Quite often the reason for such pressure was the wish to be transferred from the non-government controlled territory:

Maxim Yuriyovich who works in the general prosecutor's office of the so-called DPR, threatened to "shoot and bury me in the forest", if I go on with the actions directed at transferring me to the territory controlled by Ukraine (respondent L. who was in Yenakiyev CF no. 52).

Quite widespread was the use of disciplinary punishments to the convicts without the obvious reasons, as the means of moral pressure. The convicts had no place to appeal against such punishments to, therefore they completely depended on the will of the administration. However, it is worth noting that very few people were broken by that pressure. On the contrary, many supporters of the terrorist regime changed their positions because of the ill-treatment of the convicts.

After I began demanding my release they started to attribute to me many violations, look for the reasons. When I was closed in the pit for the last time they told me to stop writing, I wouldn't get transferred anyway, I won't be released under the Savchenko law and there is no such country as Ukraine (Respondent G. who was in Krasnolutsk CF no. 19).

In general it could be said that the violations of the right to life and prohibition of torture and other kinds of ill-treatment reached the dangerous scale. In reality not all of the convicts became the victims. Most often those of the convicts became the victims who couldn't deal with the change of power on the NGCA, openly expressed their pro-Ukrainian thoughts, refused to work for free, actively tried to achieve their transfer to the territory controlled by Ukraine. But the absolute majority was or remains in the real danger.

7. THE ENFORCED LABOR, ENFORCED PARTICIPATION IN HOSTILITIES

Enforced labor

As early as in 2015 in the s.-c. LPR was published the project of criminal-executive code³⁵, that wasn't adopted yet. That project envisaged that "each person convicted to life imprisonment is obliged to work in the places and on the jobs defined by the administration of penitentiary institutions of LPR". The so-called administration of the penitentiary institutions of LPR is obliged to involve the convicts to work considering their gender, age, ability to work, health state, and, if possible, specialty as well as considering the availability of the workplaces. The convicts are involved in work at the enterprises or in production workshops of the penitentiary institutions, as well as other enterprises regardless of the forms of property, provided with the adequate security and isolation of the convicts. That draft law envisaged that the convicts are prohibited to stop working to decide the work conflicts. The refusal to work or the termination of work is a gross violation of the established order of serving the sentences and can entail the use of the punishment means and the material responsibility. Also, the so-called administration of the penitentiary institutions of LPR has the right to involve the convicts in work without salary, namely: the persons convicted to imprisonment may be involved in unpaid work only to perform works on the improvement of correctional facilities and the surrounding territories.

The s.-c. DPR adopted the so-called legal act — "Temporary provision on the bodies and institutions of the criminal-executive system"³⁶. That legal act of the so-called DPR, unlike the s.-c. LPR, is not a project and is in force. In general it regulates the organizational functioning of PI. That legal act contains the section that regulates the possibility of involving the convicts in work.

³⁵ <https://nslnr.su/zakonodatelnaya-deyatelnost/zakonoproekty/1649/>

³⁶ smdnr.ru/wp-content/uploads/2017/04/postanovlenie-5-11.pdf

According to para. 3.1. of that provision: "the penitentiary institutions, taking into account the work capacity and, if possible, the specialty, involve the convicts in the paid work". However that legal act doesn't contain any norm that would explain whether that work of the convicts is their right or duty. In view of this legal uncertainty the representatives of the s.-c. DPR can interpret the term "involvement of the convicts in work", as the imprisoned persons' obligation to work. Moreover, no norms regulate the amount of payment for the work of the convicts.

Moreover, the above mentioned legal act allows to involve the prisoners in work outside of PI, including with the aim of performing works for the commercial structures, for insignificant salary. According to para. 3 p. 3.1. of that provision: "The penitentiary institutions, heaving regard to the work capacity and, if possible, to the specialty, involve the convicts in the paid work of the objects of the organizations of any organizational and legal forms, located on the territory of the penitentiary institutions and outside". P. 3.3. details the right of PI to use the work of the convicts for any legal entities: "Involvement of the convicts in work on the objects of organizations of any organizational and legal forms not included in the criminal executive system, located on the territory of the penitentiary institutions and outside, is carried out under the agreements (legal agreements, contracts), adopted by the heads of the penitentiary institutions and the organizations". In view of the above-mentioned, currently the administration of PI has the right to "involve" the convicts in the work even in commercial sector. What does it really mean? It is the enforced labor and human trafficking.

According to pt. 1 of Art. 2 of the Convention on the enforced or obligatory work, the enforced work is any work or service that is required from any person under the threat of any punishment, and for which that person did not offer his or her skills voluntarily. Moreover, according to p. c) pt. 2 of Art. 2 of the above-mentioned Convention, the transfer of the convicts under the command of the private individuals, companies and communities constitutes enforced labor.

Art. 4 of the Convention of the Council of Europe on the means of prevention of human trafficking defines the human trafficking as enlisting, transporting, transfer through threats or the use of force or other kinds of coercion, abuse of power of the helpless state or provision or reception of the payment or benefits to achieve the agreement of a person who has the power over another person, for exploitation. The exploitation includes the enforced labor.

In our view the convicts are in the helpless state under the power of the administration of CF. Therefore the fact of work of such persons in the non-state sector has the obvious signs of both the enforced labor and the human trafficking.

In view of the above-mentioned, the so-called legislation of the s.-c. DPR contains the regulation that effectively allows the enforced labor and human trafficking.

Considering that, the convicts are almost free workers. There are many convicts in the PI, they don't have any rights and completely depend on the administration in such circumstances. So no wonder that the members of IAF systemically use the convicts as unpaid workers. The biggest number of such cases was documented in the colonies with great industrial base — Donetsk CF no. 124, Krasnolutsk CF no. 19, Makiivka CF no. 32, Western CF no. 97, Sukhodilsk CF no. 36³⁷. The convicts were most often involved in the hard work — metal processing, sewing clothes and shoes, car repairs. The convicts who had art talents made the works for sale under pressure. The most valued among them were the wood carvers, carpenters, icon painters, artists and the masters of applied art.

The labor obligation was effectively common, although officially the regulation about such obligation was not adopted. The failure to appear to work without a warning was considered a disciplinary violation. For that the person could have been placed to disciplinary isolator. Although it can't be said that all the convicts went to work forcedly. Some of them worked conditionally voluntarily, hoping for the premature release which was impossible

³⁷ The information provided by the respondent convicts who were in the corresponding PI.

without the good work results. On the other hand, many of the convicts said that they went to work to not lose their minds under the shelling. Some were employed to have some privileges, like better food and medical care, the absence of physical violence³⁸.

A particular role was held by the cases of involvement of the convicts in sewing the uniforms for the military personnel of IAF (the so-called “hill”). The convicts were most often involved in such work in 2014–2015. For helping the “army” some of them were promised amnesty, but the promises were never kept. The prisoners were also forced to perform other works “for the sake of army”. Those who tried to sabotage the items or devices during the work were severely punished.

The cars of the so-called “MSS” arrive to Donetsk correctional facility no. 124 and the military reconnaissance (they have the bat emblem on their cars). They arrive for repairs, the convicts repair them. They do it under the agreement with the head of the colony (a respondent who was in Donetsk CF no. 124).

So it can't be said that all the convicts were violently forced to work. Rather, some of them worked voluntarily, some — under pressure. The specialists in the rare branches, as well as the wood carvers, icon painters and the artists are valued in the so-called LPR and DPR. Such masters often had troubles with transfer from the NGCA: the militants did not want to give them away because they brought income to the colony.

In separate cases the convicts were paid their salary, but it was low. The average payment was 50–100 rubles a month. The administration paid some of the convicts with cigarettes. The low level of payment was explained by the need to pay for the utilities and material and technical provision. But even in view of that the payments were much higher when the PI were under the control of Ukraine. Such situation with payment for work was reported by the convicts who served their sentences in the Western CF no. 97 and Krasolutsk CF no. 19. The convicts in

³⁸ The information provided by the respondents who were in the corresponding CF.

other PI maintained that they never received any money reward for their work.

For a year and a half they gave me 240 Russian rubles. In Ukraine I received 1700 hryvnias each month respondent A. who was in Zhdaniv CF no. 3).

The convicts who refused to work underwent the following disciplinary measures: placement in an isolator, deprivation of right to early release, deprivation of right to see the relatives, beatings. The convicts were forced to write the applications that they wished to work voluntarily. Those who refused to write such application but went to work were also placed in the disciplinary isolator.

It is worth noting that in time the situation with enforced labor of the convicts changed significantly. The respondent convicts maintained that:

Before they had forced us all to work. Each convict dealt with this problem on his own, some managed to deal with it, some didn't, some paid to avoid working. To those who didn't work were attributed the violations and they were placed in the isolator, for some the regime was changed to a stricter one (transferred to the covered prison). I refused to work, so they attributed the violations to me (respondent L. who was in Krasnolutsk CF no. 19).

However, since the mid-2016 the number of workers gradually decreased. (somewhere (although far from all the PI) nowadays only those people work who want it, as well as those who hope for the early release. All the workers still complain about the terrible working conditions³⁹. In many colonies the shells hit the industrial areas, therefore some shops are partially destroyed. But the convicts are forced to work for a long time even in the buildings that are in emergency state. There is unsanitary conditions in the work area, there is no special clothes, respirators, protection masks. The convicts work 10–12 hours without rest. The working hours last from 8 am to 8 pm (Donetsk CF no. 124, Krasnolutsk CF no. 19, Yenakiyevo CF no. 52⁴⁰).

³⁹ The information provided by the respondent convicts who were involved in work.

⁴⁰ The information provided by the respondent convicts who were in the corresponding PI.

Enforced participation in hostilities

At the start of the conflict the convicts were sometimes coerced to join IAF. For that the PI had lists. In most of the PI the prisoners were actively promoted to join the IAF in August-September 2014⁴¹. It was related to the fact that the terrorist groups felt the pressing lack of personnel back then.

The most powerful campaigning for the convicts to join the IAF was in large cities. In particular, in Donetsk SIZO no. 5 and Donetsk CF no. 124, the convicts who agreed to go to war were released early. Many respondents who served their sentences confirmed that like in Donetsk SIZO no. 5, some people agreed to join the terrorist groups. But some of them joined IAF under pressure and not voluntarily.

In 2014 some shells hit the territory of the colony, many of the convicts escaped during the shelling. When they returned they were told that either they get an additional term for their escape or they go to war. Some of the convicts agreed, some of them aren't alive anymore (respondent L. whose son was in Donetsk CF no. 124).

IAF were most interested in the military specialists — artillery operators, tank drivers. They tried to attract the convicts who had military skills to IAF at any cost: from promises to threats. Those who did not have a military specialty were offered to dig the trenches. They were promised that in the future if they prove themselves trustworthy they will be given weapons⁴².

It is very difficult to determine the exact number of convicts who expressed their wish to join the IAF, even more — those who waged war. For example, in Donetsk SIZO no. 5 near 200 persons were enlisted in the lists, but in reality only few went to war⁴³. A good percentage between the total number of convicts and the number of those who participated in hostilities is shown by the evidence of respondent R. who was in Donetsk SIZO no. 5:

⁴¹ The information provided by respondent convict S. who was in Donetsk CF no. 124.

⁴² The information provided by respondent D. who was in Donetsk CF no. 124.

⁴³ The information provided by respondent K. who was in Donetsk CF no. 124.

There were 18 people in my cell, 3 or 4 of them agreed to go to war. I know of around 10 people who went to war from Donetsk SIZO. Some of those who went to war were wounded and received a disability (without arms, legs), then they were returned to SIZO or colonies.

Almost in 100% known cases the convicts who went to war later returned to PI for various reasons to serve their sentences. A small part of those who allegedly went to war were able to escape and their current location is unknown⁴⁴.

Thus not all of the prisoners who participated in hostilities were forced to do it. Most of them went to war voluntarily, guided by various personal reasons. Few of them really sympathized with the policy of DPR and LPR. However some of the convicts were really forced to wage war. In particular, when they were serving their sentence in such conditions that going to war was the only possibility to leave the PI that was too dangerous.

We didn't want to sit under shelling, some really wanted to go to war, whether for Ukraine or for DPR, so that not to sit under shelling. Some believed it was better to die in battle than in the colony during a shelling (respondent K. who was in Michurin colony no. 57).

In some of the PI the campaigning to join the IAF did not lead to any result — the lists were created but nobody joined the terrorist ranks. Toretsk CF no. 28 was visited by the members of the terrorist group “Oplot”, offering every physically strong man to join it. In the end none of them were released. The same situation was inherent to Yenakiyevo CF no. 52, where the convicts could only recall two persons who were taken to war by IAF⁴⁵.

But all the respondents told about the attack on 25 July 2014 on Yenakiyevo CF no. 52 by the members of IAF to “free” two persons convicted to life imprisonment. First the members of IAF shot the colony gates, then entered the sector of life imprisonment. Threatening other convicts who started shouting, and shooting in the air, they forced the

⁴⁴ The information provided by respondent L. who was in Donetsk CF no. 124.

⁴⁵ The information provided by respondent convicts G. and D. who were in Yenakiyevo CF no. 52 and Toretsk CF no. 28.

controllers to open the cell doors and took two convicts. It should be noted that the administration did not try to resist the terrorists, although the colony wasn't captured yet.

Both of the convicts who were abducted in that way later participated in hostilities. But near a year later the first, and later the second was returned to the colony due to the new crimes. After their return they were violently beaten by the colony administration. Here's how these events are described by the convict Sh. who was also serving his sentence in Yenakiyev CF no. 52 then:

In 2014 the so-called militiamen from Bezler's (Bes) group, freed from the colony two convicts who were imprisoned for life. They went to war, I saw on TV that they were awarded. Now they are in the colony again, convicted for life for weapons fraud. They were free for near a year and a half.

The attacks on a colony with the aim of freeing particular convicts were also reported by the convicts from Bryanka CF no. 11. However, unlike Yenakiyev, the prisoners were freed with complete agreement of the administration. The same situation was in Michurin CF no. 57.

On 24 August 2014 near 20 armed persons arrived to the colony walls in 4 cars. It was Bezler with his people. I saw it in the window. There was a camouflaged Jeep, a pick-up. They entered the territory of the colony, armed, They had stripes like Berkut's. They took 20 convicts who were in isolator at the time, took from the pens, too. (the respondent does not know how many were taken, four convicts were taken from his pen — the interviewer's note). They gave the convicts the uniform, masks and weapons, the convicts changed their clothes (respondent K. who was in Michurin CF no. 57).

29 persons were freed from Michurin CF no. 57 in the similar way. According to unconfirmed evidence, they all participated in hostilities. But almost all of them were later returned for the new crimes, as was the case with Yenakiyev CF no. 52.

In the so-called LPR the convicts were also offered to fight for the terrorist groups. In particular, in Sloviatorb CF no. 50 the "Cossacks" entered the colony and campaigned for the convicts to participate in hostilities. Some of the convicts even agreed, but actually none were taken to war. Espe-

cially given that the so-called "campaigning" was carried out in a weird way:

They lined all the convicts, shot over their heads from assault rifles and machine guns, and then offered everybody who wanted to go to war to write the applications to General Kozitsyn. They said: "Who wishes to join the Red Army?". After that I laughed unwittingly. I was yanked from the line and beaten (respondent A. who was in Sloviatorb CF no. 60).

In time both the number of offers to join IAF and the number of those who wished to join decreased. First of all, the privileges that were promised to the convicts, such as amnesty or the shortened terms, were really received by very few people, and those who did were later convicted for new crimes. Some convicts got contusions or were injured during the hostilities, which also decreased the flow of volunteers. Second, the convicts were used as "cannon fodder", that means that they were often sent to die. The respondents know about the death of the convicts who went to war.

In total, based on the statements of the convicts who were in the places of non-freedom on the NGCA in the East of Ukraine, it can be concluded that the real number of prisoners who were involved in illegal armed formations did not exceed 1–2% from the total number of persons who remained there. The majority of them contacted the so-called "militiamen" on their own, through their relatives or friends and looked for the possibility to be released on the condition of joining the IAF.

Only the situation in Donetsk CF no. 124 stands separately, there the convicts who escaped during the shelling fearing for their life were threatened with increasing their sentence for the escape or, as alternative, were offered to join the IAF. That situation with Chornukhino colony no. 23, where after a strong shelling and destruction of the buildings of the institution in late January — early February 2015, the convicts left the institution, saving their lives. It is known from the open sources that some of them joined the so-called "Cossacks", but it is currently unknown whether they did it voluntarily or under pressure⁴⁶.

⁴⁶ <https://www.youtube.com/watch?v=bFcSFnTkNNs>

There were many more convicts who agreed to go to war when the lists were being made. But the conditions in which such offers were made should also be taken into account. In most of the cases armed people entered the colony and offered the convicts to write the relevant applications, threatening them, and the convicts didn't feel protected by the administration. According to the characterization of the persons, who wrote the applications to join the IAF provided by our respondents, it may be assumed that a significant part of the convicts enlisted with the aim of being released and later escape. The representatives of IAF might have understood it, that is why they refused the idea of mass involvement of the convicts in hostilities.

There were also documented the cases of involvement of the convicts in IAF after they served their sentences. Such facts are related firstly to Luhansk region, in particular, it could be seen from the story of a former prisoner who served his sentence in Sukhodilsk CF no. 36, but currently there is no data even on an approximate number of convicts involved in IAF after serving the sentence.

Those convicts who were freed were offered to join the militia. There were enough of those who went. Those who wanted went to military committee after the release. Some had the numbers of the officers, they called before the release and they were met near the colony gates. They were allegedly paid 12 000 rubles each. There wasn't any other job. Later some of those who went to war arrived to the colony with assault rifles, brought parcels (respondent Ye. who was in Sukhodilsk CF no. 36).

8. THE LEGAL STATUS OF THE CONVICTS ON THE NGCA OF UKRAINE

Holding the persons in custody on the non-government controlled territory is illegal. However the absence of the reasons to hold them in custody under Ukrainian legislation is not an obstacle for the occupation authorities, so the persons convicted by the courts of Ukraine before the start of the oc-

cupation keep serving their sentences on the non-government controlled territory. Moreover, the persons who had the status of suspects, defendants but were not convicted yet and were held in custody at the start of the occupation are also in the places of the deprivation of liberty. The Ukrainian state can only indirectly influence the detention of individuals in the places of non-freedom on the non-government controlled territory because of the absence of Ukrainian state authorities on that territory.

Conditionally the persons in custody could be divided into following groups:

- Those who were convicted and whose sentence entered into legal force before ATO;
- Those who were convicted but whose sentence didn't enter the force before ATO;
- Those who were not convicted but whose case was in a first-instance court;
- Those who were undergoing pre-trial investigation at the moment of start of the ATO;
- Those who were detained and/or convicted members of IAF.

Each of the groups has the peculiarities of its legal status. For the first group of persons whose sentence entered into force the issue of counting of their time spent in custody on the non-government controlled territory to the terms of their sentence is especially relevant, as well as applying to them the Law no. 838-VIII "On amending the Criminal Code of Ukraine to improve the procedure for enrollment by the court of the term of pre-trial detention to the term of sentence" (also known as the "Savchenko law"), early release, amnesty. On the other hand, it is the least vulnerable category of the convicts. They were already convicted, and although there were attempts to review their sentences, in general they continue to serve their sentences established by Ukrainian courts.

The convicts sentenced to life imprisonment demand particular attention. They often hear the threats to review their sentences. And since the so-called "criminal code of DPR" envisages the possibility of death penalty for some particularly gross offences, the life of such convicts can end up in direct danger anytime.

Four other groups more or less depend on the quasi-judicial bodies of the unrecognized repub-

lics. Since Ukrainian courts left the case materials in the occupied regions during the evacuation, IAF could possess the documents and continue their quasi-judicial review. Only in some of the courts of Luhansk region the employees burnt down the criminal and civil case files that were on consideration.

Sometimes the cases of the detainees and accused persons remain on the territory controlled by the government and the persons themselves — on the uncontrolled territory. In such cases the quasi-courts reviewed the materials of the proceedings at their discretion, to only consider the cases. There were documented instances when the process of consideration of a case went on in absence of the witnesses, or, in another case, the suspect was offered to plead guilty in full to have a chance to go free, because the time he spent in custody already exceeded the term of punishment envisaged for the crime he was charged with.

In view of the members of IAF, all the convicts, accused persons, suspects, regardless of the stage of consideration of their cases, are in their jurisdiction. Those who originate from Donetsk or Luhansk regions are called “citizens” of the unrecognized republics and they are offered to receive the local “passports”. The administration of PI usually “loses” the Ukrainian passports to implement the psychological pressure on the convicts, threatening them. The status of such persons under Ukrainian legislation is undefined. Therefore the common problem of all groups of persons in custody on the non-government controlled territory is their unregulated legal status.

The lawfulness of detention

The persons sentenced to the deprivation of liberty are a part of the civil population which is to be protected in accordance with the provisions of the Geneva Convention for the Protection of Civilian Persons in Time of War (IV) and Additional Protocols to the Geneva Conventions of 1977.

Therefore the general principles envisaged by Article 3 of the Convention on the Protection of Civilian Persons in Time of War must be applied to

the persons who are held in custody in relation to whom it is absolutely forbidden:

- violence over life and personality, in particular all kinds of murder, maiming, cruel behavior and torture;
- taking the hostages;
- humiliation of human dignity, in particular offensive and degrading behavior;
- sentencing and the use of punishment without a previous court decision, delivered by a court which was created in a proper way and which provides the court safeguards, recognized as necessary by civilized nations.

At the moment of drafting of that report the current legislation of Ukraine does not provide for the possibility to include the holding in custody on the non-government controlled territory in the term of the deprivation of liberty on the controlled territory. But there are projects of such legal acts.

The current legislation of Ukraine does not limit the rights to use amnesty, early release and the use of law no. 838-VIII — Savchenko Law⁴⁷ (the legal acts that decrease the real term of deprivation of freedom) of the persons serving their sentences on the non-government controlled territory. However the mechanism of use of Ukrainian legal acts that decrease the term of deprivation of freedom is impossible to implement on the non-government controlled territory because the Ukrainian bodies of power do not function there.

Meanwhile, the quasi-courts of the so-called DPR and LPR do not use the legislation of Ukraine, including the acts that regulate the amnesty and early release, therefore the persons held in the places of deprivation of freedom on the non-government controlled territory cannot be released on the conditions of the legislation of Ukraine on amnesty or early release.

Holding in custody on the NGCA is illegal for several reasons. First, the convicts and detainees are held in custody by persons who do not have the relevant authorization to do that. After the occupation of PI the members of IAF proclaimed themselves the administration of CF and SIZO, having only changed their chevrons. But none of the state authorities of

⁴⁷ <http://zakon.rada.gov.ua/laws/show/838-19>

Ukraine (or even any other state) gave them the authorization. Therefore, by its nature, it is a hostage situation.

Secondly, holding the persons who were freed from serving their sentences by Ukrainian courts in custody is in itself a violation of their rights. Such situation appears when Ukrainian courts deliver a decision about amnesty, but the decision is not recognized by the members of IAF.

Many of the transferred convicts reported that the criminal cases are open concerning the officials who joined the IAF. Among other, they are suspected in illegal deprivation of freedom. Sadly, the investigation cannot be conducted properly because of the fact that most of the participants are on the non-government controlled territory — that is, beyond the reach of the law-enforcement bodies.

Access to court system and state authorities

The persons who are held in the places of deprivation of freedom in reality do not have access to the justice of Ukraine. The cause of that is the complex of issues laid down below.

First, back in August 2014 according to Article 1 of the Law of Ukraine “On the administration of justice and criminal proceedings in connection with the Anti-terrorist operation”⁴⁸ a peaceful evacuation of the bodies of court started from the non-government controlled territory. The functioning of the courts started in various periods, but their work was effectively paralyzed in June 2014. The court hearings were not carried out due to the impossibility to bring in the defendants, the failure of the participants to appear, etc. After the evacuation officially started some of the judges left the zone of conflict, another part remained and later swore loyalty to the so-called “DPR” and “LPR”. Meanwhile the court buildings were left with all the material and technical base. One way or another the functioning of the court system was completely stopped in September 2014.

Secondly, according to the Provision of the Higher Specialized Court of Ukraine on Civil and Criminal Cases “On the definition of territorial

⁴⁸ <http://zakon3.rada.gov.ua/laws/show/1632-18>

jurisdiction of cases”⁴⁹, the cases that were in jurisdiction of an evacuated court body were transferred to the jurisdiction of other courts. But such courts are on the territory controlled by the government of Ukraine. The persons held in custody on the non-government controlled territory cannot be delivered physically. Such problems were reported by almost every other respondent. Below is an extract from one of the interviews.

In 2014, at the start of ATO, I was in pre-trial detention center in Luhansk and was appealing against my sentence. When the connection with Ukraine was lost it made the process of appealing significantly harder. A hearing of the appellate court in Luhansk was scheduled on 15 May 2014. The escort wasn't bringing the already convicted persons to the court anymore, because it wasn't safe in the streets. The hearing was carried out via Skype. The petition of that “flunky” concerning the application of amnesty was granted, my petition concerning the cancellation of the term wasn't. After the hearing ended the judge told me that the amnesty could be used to my article as well. The hearing had already ended, so I could write a petition for amnesty at the place where I served my sentence. I at once wrote the petition for amnesty in SIZO to Zhovtnevy court of Luhansk. Then the courts stopped functioning in Luhansk because of the shelling (respondent O. who was in Luhansk SIZO).

In summer 2014, back in July, there was the last court hearing in my case in the video conference mode. I planned that they would acquit me, because new circumstances appeared. The hearing was postponed until the next day. But they could not take me to the court due to the shelling. Then the courts stopped working in Luhansk region. And I remained in SIZO (respondent K. who was in Luhansk SIZO).

Since November 2014 the departments of Ukrposhta did not work on the NGCA, so the detained persons couldn't send the procedural documents to the law-enforcement bodies of Ukraine in the form of papers. So they were deprived of the possibility to not only physically attend the

⁴⁹ http://sc.gov.ua/uploads/tiny_mce/files/розпорядження.pdf

hearing, but also to keep the correspondence with the judges. Only some of them were able to send the documents via their relatives during the visits or via other convicts who were leaving on the non-government controlled territory.

The convicts found themselves cut off from access to the courts that had to continue the consideration of their cases. While the cases of some convicts remained on the NGCA, other cases remain on the territory controlled by the government, but it does not improve their situation.

Thirdly, the imprisoned persons in ORDLO do not have access to Internet, therefore they are deprived of the possibility to appeal to the law-enforcement bodies of Ukraine through the e-mail. Even for those who were able to obtain such access in an illegal way, the application to most state authorities remains impossible — because the current procedural legislation deprives them of the possibility to send their documents via e-mail and receive the decisions via e-mail. The courts simply return their applications. However, this rule has some exceptions.

I've written two petitions for reviewing my decision under the "Savchenko Law". I have access to Internet. I've written the petition in the e-mail, added the photo of my signature. But I was denied! Because I didn't send the original of the petition. The second petition was granted by another judge, but there is little sense — I wasn't released anyway (respondent F. who was in Donetsk CF no. 124).

Fourthly, the so-called DPR and LPR created their quasi-advocacy. The so-called lawyers of "DPR" and "LPR" have the possibility to provide the legal defense to the convicts, but they cannot represent the interests of the convicts with the law-enforcement bodies of Ukraine. On the other hand, the access of Ukrainian lawyers to the penitentiary institutions on the uncontrolled territories is absent.

Therefore, considering the absence of Ukrainian authorities on the NGCA, the state does not have the possibility to ensure the access of the convicts to Ukrainian justice. However, this situation does not free Ukraine from its duty to care for the possibility of access of its citizens to justice, according to Article 6 of The Convention for the Protection of Human Rights and Fundamental Freedoms.

The fairness of justice

Most of the respondents complained about the absence of fairness of justice in the quasi-state formations. The procedures contained in the so-called criminal procedural legislation of DPR and LPR are analogous to the procedures regulated by criminal procedural code of Ukraine of 2012.

Meanwhile the so-called legislation of DPR contains an important exception — the sanction to arrest a person is given by a prosecutor and not by a court.

Also important is the fact that the representatives of the so-called Ministry of State Security of LPR have the authorization to arrest persons without a sanction from a court or a prosecutor whatsoever.

In general the law-enforcement system of the s.-c. DPR and LPR works the same way as the law enforcement system in Ukraine before 2012. However, in the so-called LPR there are still no appellate courts. So the prisoners serving their sentences there and those whose sentence did not enter into force can appeal against it neither Ukrainian courts, nor to quasi-judicial bodies of the self-proclaimed republics either.

The process of consideration of the criminal cases by the quasi-courts of DPR and LPR raises many questions. Some of the cases that are considered by the quasi-judicial bodies were started by Ukrainian courts. The consideration of such cases is carried out based on the materials that were left by Ukrainian courts during the evacuation. The process begins anew. In most of the cases currently not only the sentences were delivered, but the case was considered by all the quasi-judicial instances and the sentences entered into "legal force". The persons convicted in such way complain that in reality their case had to be considered by another Ukrainian court to which went the jurisdiction over their cases. But such court does not have the case file and the consideration is suspended until the reopening of the case. However, when such convict returns to the territory controlled by Ukraine after serving the sentence on the non-government controlled territory, he or she can be convicted again by a Ukrainian court and serve the sentence again.

I was just sitting there, nobody was doing anything with my case. Only in 2016 I was visited by a prosecutor of the so-called "LPR" who offered me to either plead guilty and receive 4 years according to their legislation (then I would be immediately released because I had already spent 4 years in SIZO), or they would think of something else for me and I would serve some more time (respondent V. who was in Luhansk SIZO).

A small percentage consists of the instances of reviewing of those criminal cases that were opened by the quasi-state bodies on the temporarily non-government controlled territory. During the pre-trial investigation in such cases widespread are the tortures and ill-treatment that nobody documents or investigates. After the release such persons would not be considered as convicted in the understanding of the legislation of Ukraine, they will be able to reside freely on the territory controlled by the Government.

There are cases of reviewing by the quasi-courts of the s.-c. DPR of the sentences that were delivered by Ukrainian courts before the conflict. They usually consist of the situations in which the sentences are changed because of an inconsistency in the norms of substantive law between the legislation of Ukraine and that of a quasi-state. The sentences could be reviewed both in the context of easing the sentence, and its strengthening. The convicts learn about the changes post factum in most of the cases, when they are shown the results of the judicial review in PI. They are not invited to the hearings, believing that the procedure is automatic. The review of the case started in December 2015 and still goes on.

The review of the sentences towards the aggravation of the convict's position is an obvious violation of the principles of the criminal justice:

By the decision of Kirov court in Donetsk city my sentence was brought in accordance to some kind of their criminal code, changed the article for which I was convicted, the sentence was the same. There are convicts who received stricter punishments than those provided for by the CC. For example, M., for his crime the CC guarantees the punishment — 6 years of imprisonment, but the so-called court of "DPR" delivered the sentence — 7 years of imprisonment (convict N. who was in Donetsk CF no. 124).

I know that at least 20 people who were convicted by Ukraine to life imprisonment (exactly the same number of them were transferred to the pen), had their terms of punishment changed by the so-called courts of DPR to 15 years of imprisonment. It happened in 2016, some of those people were held in Yenakiyevo correctional facility, some in SIZO in Donetsk (respondent U. who was in Yenakiyevo CF no. 52).

Another field of activity of the quasi-courts of the unrecognized republics is the release of the convicts from punishment. But the rules of an early release are different from those that exist in Ukraine. For example, to have the right to early release in Ukraine it is necessary to serve 2/3 of the term of punishment, while in the s.-c. DPR — 3/4 of the term. The early releases are rare, most often — for the payment of unlawful reward to the administration of PI⁵⁰. Because many people were not released, despite the presence of encouragement, positive characterization and the absence of disciplinary punishments. There is a documented case when a convict was denied an early release after he stated his wish to leave for the territory controlled by Ukraine after the release. In that case the reason for denial was the impossibility of the illegal bodies to control all the conditions of the early release.

Moreover, even after release on the non-government controlled territory a convict can hardly cross the line of demarcation. Because on the territory controlled by the government he or she can be detained according to the current legislation and will have to serve the rest of his sentence.

The execution of the punishments and the court decisions

The legislation that regulates the execution of punishments has a significant role in life of every convict. As for the so-called LPR, currently it does not have any legal acts that would regulate the execution of punishments. Meanwhile, in accordance to the transitional provisions of the constitution of the s.-c. LPR the legislation

⁵⁰ The information provided by respondent K. who was in Yenakiyevo CF no. 52.

of Ukraine as of May 2014 remains active in part that does not contradict the so-called constitution of the s.-c. LPR. Thus the quasi-state of LPR uses the Criminal-executive code of Ukraine, active as of 2014.

The s.-c. DPR adopted the so-called legal act — “Temporary provision on the bodies and institutions of the criminal executive system”. In general it regulates the organizational activity of PI.

The execution of the court decisions of the Ukrainian courts on the territory of quasi-state formation remains a separate question. As of today, the decisions of Ukrainian courts are not executed on the territory of the quasi-states. Regardless of whether a sentence was delivered in the accused’s case, whether the convict received an early release, because of amnesty, health state or whether the term of his punishment was re-counted under the “Savchenko Law”, such decisions are not taken into account. Therefore many of the convicts continue to be illegally held in custody even after such decisions, and it is impossible to influence such situation.

As of today, there is no decision for that situation. It is necessary to carry out the negotiations with the representatives of the occupational authorities to regulate the transfer of such persons in the shortest terms.

(The respondent was judged by Troitskiy District Court of Luhansk region — the authors’ note) The jurisdiction of Zhovtnevy court of Luhansk was transferred to Troitskiy district court of Luhansk region. At first Troitskiy court refused to grant my petition, because I missed all the terms for application. There was an appeal against the decision of Troitskiy court which was granted, and on 20 April 2015 Troitskiy court reviewed my case again and decided to release me from serving the sentence, using the law on amnesty. The lawyer at once took the court decision and went to Luhansk. I went to the Head but he said he wouldn’t take such responsibility. The penitentiary service of Luhansk took the court but refused to execute it because there weren’t “International treaties with Ukraine” (respondent Ye. who was in Luhansk SIZO).

I have a ruling of a Ukrainian court according to which I had to be released three months ago

under the Savchenko Law. Two months ago I filed an application to the local court in which I asked to transfer me to the territory controlled by Ukraine for serving the sentence and provided the ruling of the Ukrainian court which counted the term of my pre-trial detention as two days for one. I received the answer that they could not transfer me, because there were no agreements with the s.-c. LPR and Ukraine (respondent Sh. who was in Krasnolutsk CF no. 19).

Not all of the convicts could return to Ukrainian courts with the petitions under “Savchenko Law”. So in reality those who would have been entitled for recalculation of the term of their pre-trial detention under the rule “one day of pre-trial detention equals two days of imprisonment” are many more. Some of the convicts should have been released in case of such recalculation. But they cannot implement such right on the non-government controlled territory.

9. THE CONDITIONS OF WORK IN CUSTODY IN THE PENITENTIARY INSTITUTIONS ON THE NGCA

The general review of the detention conditions

After the aggravation of conflict the conditions of detention in PI in Donetsk and Luhansk regions significantly deteriorated — it is pointed out by all the respondents without exception. At first, in April — May 2014, the convicts felt little to no changes. They heard about the conflict from the news on TV and radio. Then Ukrainian channels and radio stations started disappearing. At the same time the hostilities aggravated.

The buildings of many PI were heavily damaged during the shelling. The convicts were rarely transferred from such buildings. They spent weeks in the rooms with broken windows. When winter came the smashed windows were barred with plywood. On one hand, it allowed for a slight protection from the cold wind and rain, but on the other hand, it blocked the access to the daylight. During the active

hostilities the windows in PI were never equipped with glass at all, because in a day or two they were smashed again. Some damage to the buildings was not repaired either.

I spent more than a year with the damaged roof, the water was leaking into the room. In summer 2017 they installed glass in the windows, before that the windows were closed with film and blankets (respondent S. who was in Kalinin CF no. 27).

The maintenance of the colony buildings was not carried out because of the lack of funding. Therefore if something broke it had to be repaired by the convicts at their own expense. The illegal bodies only repainted the fences that had the colors of the flag of Ukraine⁵¹.

In winter 2014–2015 most of PI did not have heating. After the heating was turned off the temperature in the cells dropped to zero Celsius degrees. The persons who were held in custody had to wear all of their clothes at once to keep warm. But it was not enough. In some cases the convicts were provided with ovens, but in most of the cases the ovens were bought by the relatives⁵². The persons who were imprisoned for life were in the worst situation. Nobody gave them ovens. To keep the cells warm they made fires from everything they could — wooden furniture, clothes, paper. The water was also boiled on those fires.

It was so cold that the water froze in the cups. The walls were covered with frost. And they took all my warm clothes (respondent K. who was in Yenakiyev CF no. 52).

Some PI were cut off from the electricity supply. In particular, Yenakiyev CF no. 52 did not have electricity for 50 days, Makiivka CF no. 32 — for two weeks. The convicts were shelled in complete darkness. Some of the cells never had the daylight because the windows were covered with plywood or wood. The problems with power supply were inherent in some degree to all PI. Some of them had light only for several days because of the accidents and artillery shelling, some had the electricity accor-

⁵¹ The information provided by respondent M., who was in Makiivka CF no. 32.

⁵² The information provided by respondent T., who was in Yenakiyev CF no. 52.

ding to the timetable for several hours in the morning and evening⁵³.

As for the water supply, there was no hot water for months, but it had been interrupted even when the territory was under control of the government. Instead, the cold water disappeared only because of the accidents — for example, water main ruptures due to the shelling. Then the convicts could not wash themselves and perform other sanitary and hygienic actions. It was especially hard for the women. Because of the violations of sanitary conditions the convicts were plagued with insects and parasites, they started having skin inflammations. A convict’s small scratch was healing for very long. The convicts who were in different PI describe the events in almost the same way.

Since May 2014 we started having troubles with power supply. At first they said that the colony saves power. There was no electricity or water during the day. The lights were turned off even during the night. Similarly, in heating season of 2014/2015 the heating was turned off during the day and was turned on only after taps. The absence of water significantly influenced the disinfection procedures. When a diseased person arrives it is necessary to wash hands, examine him or her, then carry out the disinfection again. It was all done using the plastic bottles. The same problem with quality floor cleaning using the disinfection concoction (respondent I., who worked in Alchevsk CF no. 13, where there is a specialized hospital for people with tuberculosis).

We weren’t shaved or trimmed, and our cells reeked horribly. It was really cold, the frost was everywhere. To warm ourselves we burnt everything that could burn. There was no light... When the lights were turned on all walls were covered with soot, and we were black because of it. There was no heating... The colony had one generator, but it worked too loud, therefore they didn’t turn it on, they were afraid that the military would think that it’s the engines of the military vehicles and would shoot there (respondent P. who was in Yenakiyev CF no. 52).

⁵³ The information provided by the respondents who were in the corresponding colonies.

The water is turned on for two hours in the morning and two hours in the evening. It flows in a thin stream, we don't have enough time to gather enough water. Therefore we have to save the water. The convicts wash themselves in bath once in two weeks or once a month (respondent O. who was in Slovianoserbsk CF no. 60).

During the periods of powerful shelling the convicts were not brought for walk from their cells for weeks. First of all, sometimes it was dangerous for their lives, But most often the PI just did not have enough staff left to escort them. The same concerned the sanitary and hygienic norms. Somewhere the convicts were not brought to bath for almost three months⁵⁴.

Food

On 1 December 2014 Ukraine adopted the decision to stop funding the PI that ended up under control of IAF⁵⁵. Since then the supply of food to the PI effectively stopped. For some time the colonies could provide for themselves at the expense of their stocks, but the stocks ended soon. The supply of food for the convicts at the expense of IAF was not created for a long time. The hungry period lasted between 2 months and a year in different institutions. At the same time, there were institutions where food was even better than under the control of Ukraine — for example, Volnovakha CF no. 120, where all the respondents pointed out the exceptional food quality. Certainly, such misbalance was connected with regional factor (humanitarian aid from RF did not reach all the regions and was not distributed equally), as well as with local leaders who agreed or refused to give orders to feed the convicts. Also significant was the disposition of the administration of PI concerning their duties.

The convicts from different institutions ended up in a similar position. However in most of the institutions the food supply stopped. It was hard for the persons who were detained in Luhansk and its

neighboring settlements which ended up in blockade in July 2014. The food was not being brought to the city at all, there the convicts had to survive with the parcels from their relatives. Here is how the events are described by one of the convicts:

At once (with the beginning of the blockade) our isolator started having troubles with food, they stopped feeding us, we survived only at the expense of our relatives and acquaintances who were constantly bringing us food parcels. All the limitations concerning food were lifted. Of three of us in SIZO cell only one had the possibility to receive help in the form of food parcels (daughter in Luhansk). Thanks to her we survived. The food conditions were especially hard in winter 2014–2015 (respondent Ye. who was in Luhansk SIZO).

Only one of the three of us in SIZO cell had the possibility to receive the food parcels — his daughter lived in Luhansk. We survived thanks to her. It was especially hard in winter 2014–2015. It became better later (respondent Ye. who was in Luhansk SIZO).

In truth, the convicts were left to survive on their own during the active hostilities in more than just Luhansk SIZO. Most of PI had periods when the convicts weren't fed at all. Then they survived at the expense of their relatives or at their own expense, buying the food illegally from other convicts. The families were sending parcels through the administration, but they were usually partially looted by the administration. Some brought food for the visits. It was also possible to buy food for greatly increased prices (1,5–2 times higher). Such trade was actively endorsed by the administration that received a percentage from each “deal”⁵⁶. In average a package of buckwheat could cost 50–70 hryvnias. Usually those who did not have relatives or money were in the worst position. But they survived because they were helped by other convicts, or else they would have died of hunger.

In 2014–2015 the convicts joined their money to buy food. I was given the money by my wife and father. Then we were buying wheat for this money, crushed it, boiled and ate it. We were effectively

sustaining ourselves (respondent K. who was in Slovyenoserbsk CF no. 60).

Everybody survived as they could at the expense of their relatives and acquaintances. Those who did not have them had to starve. The administration of the colonies allowed to send the food that was prohibited before and obtain the refrigerators (respondent O. who was in Krasnolutsk CF no. 19).

A heavy situation was also in Yenakiyevo CF no. 52, where the convicts starved for almost half a year. There the food supply also stopped in December 2014, but the colony planned to survive for some time on their stocks. Sadly, the situation developed in another way: in February 2015 the colony's diner was completely destroyed by a shell. After that there was no place to prepare the food.

Between the mid-January 2015 and late April 2015 the convicts didn't have food. They cooked in the ovens, there were the situation when they had to burn their slippers and pillows. I once heard the former Head of the colony, Lavruk, talking to someone on the phone, he told somebody that if the food is not brought he would open the gates and allow the convicts to go where they like. The products weren't brought, nobody wanted to go there because of powerful shelling (respondent D. who was in Yenakiyevo CF no. 52).

The food was also prepared on the fires. Meanwhile, there were troubles with the supply of products. There were no food products until late February 2015. Then the convicts could only eat what was brought by their relatives. They shared it between themselves. The parents of one of the convicts, K., established the supply of food products from the town of Selidove (the territory controlled by the Government). First of all, the food products were 2–3 times cheaper there than on the non-government controlled territory. Secondly, the non-government controlled territory often did not have some products at all.

To deliver the food every month all willing persons gathered a necessary sum — around 7000 hryvnias for the food and 1200 more for the driver. So the driver from the controlled territory was bringing the necessary food through the line of demarcation. But in time it started to irritate the administration because it obstructed its illegal trade

at the increased prices. So there began a pressure on those who gathered money for such car. Meanwhile the stocks appeared in the colony. However, they were too scarce.

What were we fed with? They gave us some kind of pancakes, very raw, as if made of bread — less than a hand palm in size. They also gave us bread loafs, or boiled cucumbers or fermented cabbage. It was impossible to eat. They could give us a liquid soup, there wasn't practically any cereal. and around 100–150 grams of bread a day (respondent K. who was in Yenakiyevo CF no. 52).

But the worst food situation, according to the persons whom we talked to, was in Western correctional facility no. 97 and it was difficult until spring 2015.

...they started to feed us very badly. Three times a day they gave us a portion of 150 grams of water with cabbage. The relatives could not bring food parcels because of the shelling. The convicts starved. Some of the convicts' abdomens and legs were swollen due to the starvation. There were cases when some of the convicts fainted because of hunger, while running to a bomb shelter or going to the diner. Those were brought to the interregional hospital, in Donetsk correctional facility no. 124. Several of such people were brought away every month (Respondent L. who was in Western CF no. 97).

Near 15 people died of hunger during that period, but they were all documented as those who died because of heart failure. Some of them died in the colony (they fell and never stood back up), some of them were brought to the hospital and they never returned from there, we understood that they died (respondent O. who was in Western CF no. 97).

Back in 2013 the food was bad here, since July 2014 it became gradually worse. The situation with food became much worse since October-November 2014. Then they started to give porridge in small cans, like the mustard cans, it was really liquid, like soup, and a little piece of bread. the convicts didn't feel sated (respondent T. who was in Western CF no. 97).

The situation in other PI was better, but only slightly. The food troubles were felt by around 80% of the respondents. Only in summer–autumn 2015 the situation started to slightly improve. Here is

⁵⁴ The information provided by respondent T. who was in Yenakiyevo CF no. 52.

⁵⁵ The information provided by Minjust as a response for an information request.

⁵⁶ The information provided by respondent T. who was in Yenakiyevo CF no. 52.

how those events are described by the people who were in various institutions.

The bread portion was really small. I weighed 60 kilos. I usually weigh around 100. Forty kilos off. We constantly thought about food. They fed us three times a day. There were dinners, but they were too small. The same porridge. There were also French vegetable blends. Could be the humanitarian aid. They gave each of us a cup of milk. They (the administration) tried, but it was hard for them to feed us. The new 2015 year was celebrated with “pea tea”. I had a pack of pea soup. In the brigade we made a “pea drink” out of it and celebrated the New Year like this (respondent S. who was in Snizhyno CF no. 127).

The starvation started in the colony in that period. The colony survived those four months as it could. We were fed with boiled fermented cabbage. It was impossible to enter the diner, so horrible was the stench. There were times when I haven't eaten anything but several pieces of bread a day (respondent P. who was in Krasnolutsk CF no. 19).

After the start of ATO the food became much worse. They only gave us boiled barley porridge and “pancakes” made of flour (respondent V. who was in Kirov CF no. 33).

For 2–3 months in 2014 when there was powerful shelling, when there were almost no colony employees, the food situation was very difficult, we ate all the pigeons. Nobody could visit us and bring us food. Our relatives and friends at their own peril visited us and brought us food (respondent O. who was in Volnovakha CF no. 120).

The convicts pointed out the hungry deaths in Western CF no. 97 and Yenakiyevo CF no. 52. There were rumors about the deaths of the convicts in other colonies, but nobody could name a single deceased. Therefore this information remains unconfirmed. The administration of the institutions actively fought the very possibility of hungry mutinies among the convicts, using any possible means of influence.

In Snizhne colony the regime requirements became stricter due to the hunger. If they saw you with a candy or a piece of bread they could punish you because it could start a fight (respondent S. who was in Snizhne CF no. 127).

In summer 2015 the humanitarian aid from RF started reaching the colonies. The respondents suspect that it existed before but they were not provided with it. Instead of the food from it they sometimes received the hygienic products. Some of the respondents pointed out that after the humanitarian aid was received the food became really good — the products appeared that were not in the colony ever before.

But even later there were multiple incidents when the humanitarian aid was partially looted or was not given to the convicts at all. Somewhere, for example, in Donetsk CF no. 124, the humanitarian aid could only be bought at the convicts' own expense. The convicts often complained to the visiting commissions about that, but the situation did not change. Instead those who complained started receiving threats: if they don't stop writing the applications their relatives may never see them again.

The humanitarian aid provided by the humanitarian organizations for the convicts was almost never given to them. I believe that because of that humanitarian aid they are not transferred to the territory controlled by Ukraine (convict Sh. who was in Yenakiyevo CF no. 52).

There were rare cases when the convicts were also deprived of a normal supply of drinking water. It was connected to location features of some of the colonies, in particular in the very epicenter of hostilities. Sometimes such interruptions were felt because of the accidents on the water mains, as well as the blockade of the transport routes (the water tanks just couldn't approach). Volnovakha CF no. 120 suffered the most from the lack of water, although the convicts from other institutions also faced such troubles sometimes. And they also had to deal with them at their own expense, by digging wells.

There is lack of water in 120th colony. The water here is brought from outside but they don't give enough of it. When I was in Isolator they gave 700 grams of water for 7 people a day. Sometimes they give half a liter, the maximum was — 1 liter of drinking water for one person a day. The convicts have to buy water. There is a well, but the water is bitter in it, sometimes the food is made on that bitter water (respondent K. who was in Volnovakha CF no. 120).

Sometimes there is no water on the territory of the colony for three days in a row. The relatives combined their money to dig a well. We dug it ourselves. It is possible to take a small amount of drinking water there every day (respondent who was in Krasnolutsk CF no. 19).

It is really hard now when it's almost 40 degrees outside. They gather the drinking water but it is rarely enough (respondent K. who was in Makiivka CF no. 32).

There were problems with water in the colony (July — August 2014). The water tower was damaged in the industrial area. They were only giving us 1 liter of water per day (respondent L. who was in Michurin CF no. 57).

In general, the provision of food and drinking water were the moments that contributed to the deterioration of the state of health of convicts on the NGCA the most. It especially concerns the persons who had chronic problems with gastrointestinal tract. In case of aggravation such persons couldn't count on adequate medical assistance.

Medical assistance

The level of medical assistance in PI remained very low. Many of the doctors who worked in the institutions left the non-government controlled territory. Those who remained, as well as the administration, were hiding during powerful shelling. Only around April-May 2015 they started to return to their work places. However, they could not provide the medical assistance — there were no medicines or the medicines were of bad quality. That, according to some of the data, was one of the reasons of growth in death rate of the convicts.

The situation was almost disastrous. That's a fact. I have troubles with my stomach. I turned to the medical department several times. For them to at least diagnose me. What are the causes? Was it the stomach, or kidneys, what was the cause? Nobody even diagnosed me. They gave me some kind of primitive anesthetics. Like Analgin... they recommended to obtain at my own expense... They don't receive any serious medicines. It was directly told to me by the Deputy head of the medical unit (respondent Ya. who was in Petrovska CF no. 24).

Everybody had very strong side-effects of the used medicines, someone's hearing was affected, or liver, or joints, or stomach. The doctors do not even allow to read the manual to those medicines. The medicines gave me the side-effects for my stomach. I was drinking them for 4 months. Ten I stopped drinking them and refused the injections, and gained weight up to 52 kilos. More than 50 people died in summer 2016. Because of the heat, it was very hot then, and because of those medicines. Near 20-25 people died in 2017 (respondent L. who was in Zhdaniv CF no. 3).

Because of the deterioration of the detention conditions the chronic diseases of many of the convicts aggravated. But they couldn't have been helped. Only those who were in heavy and critical state were brought to the hospitals. Others were not treated at all, and if the relatives did not have money for the medicines the diseased person could die. There were documented cases when the diseased persons were locked in the isolated cells and left to die. The failure to bring the diseased to hospitals was explained by the fact that the hostilities were going on and transporting a person was dangerous. Officially the medicines came to the territory of the so-called “DPR” and “LPR” in the Russian “humanitarian convoys”. It can be assumed that such medicines were not transferred to penitentiary institutions or were given to the convicts for payment only.

In November 2015 my son cut his finger off by a machine tool while working. In the medical unit of the colony they only gave him a pill of Analgin, there were no medicines at all. I transferred the money to the card of medical employees and they bought him the medicines in the drugstores and treated him (a respondent whose son was in Donetsk CF no. 124).

A particular place among the PI was held by specialized PI which had interregional hospitals that admitted the heavily diseased. In Donetsk region it was Donetsk CF no. 124. The hospital's conditions were satisfactory: there were some of the medicines, the diseased were adequately fed and provided with medical assistance. Sadly, many of the doctors retired and were replaced by inexperienced graduates from local universities.

The convicts reported about the lack of dentists and dentist medicines in Donetsk CF no. 124. They

were denied in the hospital even when they had difficult inflammations that required urgent assistance, because there were no specialists. Later the dental help started to be provided for payment (one tooth — 200 hryvnias), the medicines were sold there illegally. The specialists of other specialties were also not enough, especially the cardiologists, oncologists, neuropathologists — the medical employees of high profile. The medical employees treated the convicts rudely.

In Luhansk region Alchevsk CF no. 13 had such status — the institution which had a specialized hospital for patients with tuberculosis. The situation with the quality of medical assistance was hardly better there than in so-called DPR. Here is how one of the former employees of the PI describes the level of medical assistance:

Until June 2014 there were no trouble with the supply of medicines. Since June the troubles started, when all the state institutions closed. The active hostilities were going on then and the route to Kharkiv or Donetsk was closed. It was impossible to leave for the medicines through Schastya, Lisi-chansk, Debaltseve... Although there was no trouble with specialized medicines (anti-tuberculosis medicines, medicines for the people with HIV) because of the stocks, until late 2014. There were troubles with the medicines of the general group.

Tuberculosis is a difficult and dangerous infection disease, The convicts had not only the first stage of the disease, but also the later stages, complicated even more by concomitant diseases, including HIV/AIDS. And the diseased person is concerned with the overall state of health. And he can't even receive that same pill of Analgin. If he caught cold Aspirin was given only on rarest occasions. The injections were limited, only for the heavily diseased or in case of some attacks.

Even when the medicines were available there were doubts concerning their quality because of the unsatisfactory keeping conditions. Thus, in most of CF the electricity was turned off for several hours each day. Accordingly, the refrigerators weren't functioning and the medicines went bad. Especially in summer when it was very hot. One of the respondents became a victim of the bad quality medicines, he describes his suffering in the following way.

I have been ill with open-form tuberculosis, since August 2015. I was transferred to 13th colony where the convicts with tuberculosis serve their sentences. I was there until January 2017.

I was treated with the medicines that had expired expiration date. I had the intoxication and poisoning twice. It was because of the expired medicines and food. In 13th colony they caught the colony employees on several occasions with the products designated for the diseased convicts (eggs, oil), they were fired (respondent T. who was in Sloviano-serbsk CF no. 60).

As for the convicts with HIV/AIDS, they did not receive ART-therapy for several months. Having regard to the negative conditions of the outside world that provoked the diseases in the people with weakened immunity, it could only be assumed how dangerous was the absence of ART therapy at that time. Quite possible, the death rate of such convicts could grow several times. Only several months later the quasi-states established the supply of ART-therapy from RF. However, even then the convicts complained that the quality of medicines was often unsatisfactory, and the schemes were changed in accordance with the available medicines. Some schemes were not fit for some of the convicts or were changed too often.

Moreover, the people with HIV/AIDS, especially on the late stages, have several concomitant serious diseases that also require treatment. Due to the weak immunity, each of those diseases and even a slight cold may lead to unforeseen consequences. In the conditions of the absence of medicines any of their diseases can become lethal. Moreover, the doctors never conducted the monitoring of health state of such convicts and it is unknown how they corrected the ART-therapy.

I have HIV, in 2014 there were 1000 cells. Since the colony became uncontrolled by the Government of Ukraine there was no treatment, there wasn't even a possibility to do a blood test. In 2015 I already had 260 cells. I refused the therapy because they only had one therapy, which I believe did not suit me. My health deteriorated significantly, in April 2017 I was sent to a hospital. They didn't do the test to determine the number of cells because they didn't have the reagents. They don't have such reagents

here at all now, before that test was only performed at liberty, in the paid clinics, for the pregnant women, now they don't do it for anybody, because there are no reagents in the entire so-called "DPR" (respondent V. who was in Yenakiyevo CF no. 52).

The convicts who were serving their sentences in Makiivka CF no. 32 reported an outright unique situation: in the medical unit many were diagnosed with HIV and/or hepatitis C. We are talking about near 10 cases since the moment of occupation of the territory by the members of IAF. When the persons with such diagnosis were released they underwent a repeated test in the civil hospitals. In all cases the tests showed that those people were not diseased. However in the colony they were treated for serious diseases for several years. Recently a similar situation appeared with the suspected tuberculosis — 30 people received such diagnosis at once. It was a lot for one colony.

The quality of medical assistance in PI on the non-government controlled territory remains really low. The available medicines either come from RF in the form of "humanitarian aid" (most of them), or provided by ICRC (in several cases). But the relatives of the convicts still have to buy most of the medicines. All respondents agree that the medical support was much better before the ATO.

10. THE RIGHT TO PRIVACY

Correspondence and other means of connection

According to CE "Ukrposhta", since November 2015 the postal connection between the territory controlled by the Government of Ukraine and the non-government controlled territory was terminated⁵⁷. In reality the postal connection stopped in many towns even earlier. The cars with the correspondence were not let through at the roadblocks, often the drivers refused to go to the regions where

⁵⁷ The information provided by SPSU in a response to a request.

the active hostilities were going on⁵⁸. Therefore for most of the convicts the possibility to send and receive the letters disappeared in June–July 2014.

The same situation appeared with the delivery of correspondence with the help of private delivery services, such as "Nova Poshta", "Intime" etc. They effectively stopped working in the dangerous regions even earlier. Therefore the persons who were held in custody have lost the possibility of sending the letters to the relatives and state authorities. They also could not send and receive the parcels from the relatives with very necessary food products and medicines. Most of the convicts lost the connection to the outside world, including the lost of connection with the judicial bodies.

I tried to appeal against my sentence, because I believe I was illegally convicted. Remaining in the colony I was keeping the correspondence with the Higher Specialized Court in Kyiv, the Supreme Court, the first-instance court, with the European Court of Human Rights. The correspondence stopped because of the hostilities, I don't know what stage is my case currently on, whether my appeals were accepted (respondent L. who was in Slovianoserbsk CF no. 60).

In absence of the postal correspondence the phone became almost the only way of connection. In most of the PI during the active hostilities the convicts lost the possibility of the phone connection with their relatives. In absence of electricity in most of PI the cell phones almost stopped working. They only allowed to charge them from the generators at the additional costs and it wasn't always available (Yenakiyevo CF no. 52)⁵⁹. Consequently, after the power supply improved, the phone calls became paid in some PI, in others the prisoners could make several calls a week for free. Therefore since the mid–2015 the means of illegal connection became popular among the convicts.

The average price of one "phone" a month was 500 hryvnias. Such phone could be used by several prisoners who shared the payment. In case if

⁵⁸ The information provided by the respondent mother of a convict who was in Donetsk SIZO no. 55.

⁵⁹ The information provided by respondent R. who was in Yenakiyevo CF no. 52.

a convict wished to have a smart phone with access to Internet such device could cost 2000 hryvnias a month (the data concerns Yenakiyevo CF no. 52)⁶⁰. Most of the convicts did not have the possibility to pay such sums, and illegal and “unpaid” devices were regularly confiscated during the cell searches. Moreover, the “paid” phone could be confiscated during the search and had to be bought again. A convict could have been cruelly beaten for possessing a phone or a SIM-card. They were beaten until they lost consciousness (Yenakiyevo CF no. 52)⁶¹.

I don't have the connection with my relatives for two years already, they do not even know that I was transferred to another colony. Because the colony is located on the territory uncontrolled by Ukraine I cannot communicate with my relatives, write and receive letters, parcels. They cannot visit me (respondent L. who was in Donetsk CF no. 124).

The problem aggravated even further when in January 2018 due to an accident at PRaT “Vodafone Ukraine” the phone call was absent on the NGCA⁶². The repairs of the network were complicated because IAF refused to allow the company employees to access the cables and ensure their safety. Therefore for some time (more than three months) the connection was absent. The local residents had to create the “maps” of places, where the cell phone connection worked. But the convicts could not perform such searches for the points because they were in custody in the penitentiary institutions.

The phone “catches” only in one place in the industrial area, and the connection is often interrupted. I don't know what to do. If I didn't work at all I wouldn't be able to make calls. The local Phoenix (an operator created by IAF — an author's note) does not make calls to Ukrainian numbers and works terribly (respondent L. who was in Donetsk CF no. 124).

Only in April 2018 the connection partially returned. Currently the phone connection works in most of the settlements of the s.-c. “DPR” (but its quality is very bad in PI), in the so-called “LPR”, ac-

ording to the locals, the connection is still bad, and it is necessary to dial the number many times to make a call. The convicts whose calling time is often limited don't have such possibility.

The visits of relatives

During the active hostilities between the conflict sides the convicts were deprived of the right to visits. Some of the PI, for example, Luhansk SIZO, adopted the locked regime because of the blockade of the city and the absence of electricity. Other institutions found themselves in the epicenter of hostilities, such as Yenakiyevo CF no. 52. Of course, it was hardly possible to get there, and it was dangerous. Many routes were blocked by the members of IAF who did not let people through. Only starting from spring 2015 the possibility to visit the convicts in the colonies was partially restored.

In general, most of the relatives had the possibility to see the convicts. But somewhere the convicts reported the need to pay an additional fee to the administration for the visits (the data concerns Makiivka CF no. 32). The convicts whose relatives lived on the territory controlled by Ukraine in many cases do not have the possibility to see the members of their families. The relatives' trip to see them is dangerous for them because of the absence of the guarantees of safety and other obstacles, such as the need to receive an additional permission to cross the line of demarcation, long lines on CIOP, the increased cost of such trip because of the absence of direct connection etc.

Other rights

Some of the convicts complained on the violations of other rights. Thus, one of the respondents maintained that she was not allowed to see her little daughter who currently lives with her caretaker. The woman expressed her concerns that in such way her child would be taken from her altogether. Others stated of the impossibility to profess any religion except the Orthodox Christianity. The limitations to the freedom of religion is a trait of the political regime in the so-called “DPR” and

“LPR”. But the convicts suffered the most, because they are the easiest to control. If some religious literature was found they could have been beaten and the literature — seized⁶³. Moreover, sometimes they even took the Orthodox symbols.

They recently took my crucifix that was given to me by my wife. And the icons that I sewed for my relatives. They probably sold the icons. When they were seizing them I didn't want to give them, I disagreed, so I was heavily beaten (respondent F. who was in Yenakiyevo CF no. 52).

The prohibition of art, if the convicts refused to sell the works, was also a widespread phenomenon. One of the respondents was making wooden model ships, but when he refused to give them up for sale he was given a choice: either they prohibit him to make model ships or he will give the ready ships for free. The respondent agreed to give his model ships for free to keep his sanity.

11. THE RIGHT OF PROPERTY

Illegal searches

The illegal searches were conducted in almost every PI in different time. Only the persons conducting them and the cruelty directed at the convicts varied. Usually the colony employees performed the searches, sometimes — accompanied by the visitors wearing military uniforms. During the massive searches everybody was brought outside or to the corridor, while everything in the rooms was turned upside down. They could break the belongings, in particular expensive household appliances were often broken, such as teakettles or TV sets. They were allegedly searching for secret stashes there. The broken devices were then repaired by the convicts at their own expense. Thus convicts' dishes were broken, their food was leaked to the floor and their clothes were stained in it, their books were kicked. They did everything to show their supremacy.

⁶³ The information provided by respondent S. who was in Yenakiyevo CF no. 52.

Year 2014 — when the power changed, the masked strangers with LPR chevrons were conducting searches, throwing noise grenades during the searches, there were three attacks in late 2014 and early 2015 (respondent P. who was in Krasnolutsk CF no. 19).

Once again, it wasn't easy for those convicted to life imprisonment in Yenakiyevo CF no. 52. The searches here are used as the means of intimidation and humiliation. They are conducted almost every day. During the searches the convicts — frail, hungry, skinny — were brought to the corridor (the data concerns Yenakiyevo CF no. 52)⁶⁴. There they made them bow and left them for several hours in such position. Those who begged for mercy were beaten. And the cells were turned upside down again and again until nothing remained.

Confiscation

At first during the searches they only took the prohibited items. But later they started to seize the ones that were allowed. In particular, the valuables, new clothes and even bed linen and pillows. Those who started to argue were beaten and could even be beaten to death. Nobody could appeal against the actions made during the search. The members of IAF were most irritated by the found SIM-cards as well as patriotic and religious symbols.

They found a Ukrainian flag in one convict's nightstand during the search and for that they deprived him of the visits of relatives (a respondent who was in Krasnolutsk CF no. 19).

They tried to take his (another convict's — a monitor's note) phone, he didn't want to give it, because the phone is the only way to communicate with the relatives. He was taken to the isolator, then they said that he hang himself there. I believe that the hanging was imitated by the colony employees. I saw his body, he was heavily beaten, his skull was broken, his ribs were fractured (respondent K. who was in Yenakiyevo CF no. 52).

The worst came when in horrible colds they took the convicts' warm blankets and warm clothes, then

⁶⁴ The information provided by respondent K., who was in Yenakiyevo CF no. 52.

the convicts asked in vain to leave them. The members of IAF just laughed⁶⁵.

Moreover, the belongings could also be confiscated before the person's very transfer from the non-government controlled territory or before release. Thus, before a convict leaves the colony, his belongings are necessarily searched. Anything that the administration doesn't like is seized. The convicts could not argue, because they risked staying there.

12. TRANSFER OF THE CONVICTS FROM THE NGCA TO OTHER REGIONS OF UKRAINE

According to the results of the interviews with the convicts, near 90% of them wished to return to the territory controlled by Ukrainian government. There were several reasons for the convicts to wish to be transferred:

- Failure of the members of IAF to keep their promises concerning the benefits for the convicts;
- Their relatives living on the territory controlled by the government;
- The aggravation of regime and detention conditions;
- Massive shelling of some of the territories;
- The total spirit of impunity for the new administration and the deprivation of rights for the convicts;
- Negative attitude of the administration to the convicts from the western part of Ukraine.

The convicts started to file their pleas for evacuation from the dangerous territory back in autumn 2014. Most of the applications were filed to the administrations of PI. Most of such applications were oral. Later such applications became massive, and simultaneously the transfer mechanisms appeared.

For the first time the prisoners were transferred from the non-government controlled territory in

January 2015 — three prisoners from Yenakiyev CF no. 52. It was quite unexpected for other convicts, because the hostilities were going on, the shells were falling and they were told nobody would be brought anywhere. Therefore the rumors appeared that the first evacuated convicts paid a bribe for their evacuation to the members of IAF. It is unknown whether it was the case. However a logical question appears, Why were those three persons transferred and what were the causes to choose the three of them?

Moreover, the next group of convicts was only transferred on 1 December 2015 — almost a year later. After that the convict groups were transferred every 3–6 months. Most of the evacuated persons were sentenced to life imprisonment.

As of 1 August 2018 186 persons are transferred. On the side of Ukraine the transfer is organized by Human Rights Commissioner of VR of Ukraine. On the side of the s.-c. "DPR" the transfer is organized by the so-called "State penitentiary service". Up until today, only two persons were transferred from the territory occupied by "LPR" (released) to the territory controlled by Ukraine, thanks to the efforts of Eastern Human Rights Protection Group.

Legal regulation in Ukraine

Currently Ukraine does not have a legal act that would regulate the legal status of the persons who remain in PI on the non-government controlled territory. But Ukraine must regulate the status of the persons who served their sentences on the non-government controlled territory and returned to the territory controlled by Ukraine.

And at last on 5 July 2018 Verkhovna Rada of Ukraine registered the draft law no. 8560 "On the settlement of the legal status of persons in respect of which was violated the legislation of Ukraine on criminal liability, criminal procedural, criminal-executive legislation of Ukraine as a result of armed aggression, armed conflict, temporary occupation of the territory of Ukraine", developed by the work group of Committee on legislative support of the law-enforcement activities of Verkhovna Rada of Ukraine and the Ministry of Justice of Ukraine concerning the reform of the penitentiary system with participation of the authors of this report.

The draft law is directed at the persons who are or were detained in the places of deprivation of liberty on the NGCA, in particular in Donetsk and Luhansk regions, and whose legal status remains unregulated on the legislative level for more than four years.

It is very important to point out that Ukraine must perform its positive obligations in the area of human rights concerning such category of persons, because at the start of ATO (currently OUF) they were under the control of the state, on the territory of the state penitentiary institutions, therefore this very state has the obligations to care for such persons. And while the state is currently unable to ensure the transfer of such persons to the territory controlled by the Government, the state is not just able, but also obliged to ensure the respect for their rights and perform its duties on the territory controlled by the government concerning the persons who were able to leave (return).

The draft law has several positive novelties:

- among the total number of persons serving their sentences there is a separate group of persons concerning which was violated the legislation of Ukraine on criminal responsibility, criminal procedural, criminal-executive legislation, due to the armed aggression. The status offered for such category of persons allows to regulate the fact of them serving their sentences on the NGCA according to court decisions; to regulate the issue of renewing of criminal case materials concerning such persons; introduces the accounting of this category of persons; allows to start the measures to regulate the legal status after their own applications or the applications of their representatives, relatives etc.;
- it envisages the procedure for deciding the question of counting the term of sentence after the start of armed aggression to the main term of the sentence;
- it establishes the legal reasons for the representatives of SSU to communicate with the persons concerning which was violated the legislation of Ukraine in criminal responsibility, criminal procedural, criminal-executive

legislation of Ukraine due to armed aggression.

- it provides for the possibility to establish only under the court decision the administrative supervision over the persons concerning which was violated the procedure of execution of the sentence, and envisages the reasons to apply the administrative supervision to such persons;
- it is necessary to point out in particular the offered changes to Criminal Procedural Code of Ukraine concerning the renewal of the materials of the criminal proceedings that were lost due to armed aggression.

However, some of the provisions of the draft law raise our concerns:

- the draft law does not provide for the establishment of the terms of preparation and filing to the court the petition for the regulation of status of the persons indicated in the draft law for the territorial body of central authority that ensures the forming and implements the state policy in the area of execution of sentences and probation. The norms of the draft law present them with all the powers in finding such persons. In practice it can mean that the process of regulating of the legal status can last for a long time, without the possibility of the interested person to influence the terms of review in this case;
- the draft law provides for the compensation measures, related to the regulation of the legal status of the persons concerning which was violated a procedure of serving the sentence. It reality it means counting to the term of sentence the period spent by the convict/convicts after the start of the armed aggression and occupation of the separate regions of Ukraine, and the changes to the Criminal Procedural Code of Ukraine provides for the possibility of the persons convicted by the courts of Ukraine to life imprisonment, to which this draft law is applied, to file the petitions for pardon after they served no less than 10 years of the designated punishments. In our view, it is necessary to consider the different conditions of detention in the places of depriva-

⁶⁵ The information provided by respondent K., who was in Yenakiyev CF no. 52.

tion of liberty located in AR Crimea and in the East of Ukraine while determining the compensation measures. Some colonies in the east of Ukraine ended up in the epicenter of hostilities, there were deceased and wounded among the convicts, The supply of adequate food and medical assistance was stopped etc.

Sadly, the draft law does not contain anything concerning the transfer of the convicts from the non-government controlled territory to the territory controlled by the government of Ukraine.

The legal regulation of transfer in L/DPR

The conditions of transfer of the convicts in DPR and LPR differ greatly. However, in both quasi-states the procedure of transfer remains unregulated. On one hand, the members of IAF in Donetsk region believe that the transfer is the so-called “extradition for serving the sentence”. On the other hand, the mechanism of transfer has a rather political nature.

Not all categories of the convicts can be transferred. Usually the members of IAF in the s.-c. DPR do not allow to transfer:

- The s.-c. “citizens of DPR”, those who were born in Donetsk region or lived there for a long time;
- The persons whose offences harmed the victims — “citizens of DPR” or the residents of AR Crimea;
- The persons convicted by quasi-courts of DPR, or those whose cases are still being considered.

As a response to the refuse to transfer them a group of convicts from Yenakiyevo CF no. 52 in summer 2017 proclaimed a hunger strike. They wished to return to the territory of Ukraine and haven’t eaten for more than 20 days. This led to a positive result. The human rights activists referred the information about the hunger strike to the office of Human Rights Commissioner of Verkhovna Rada of Ukraine, after that the negotiations started with IAF concerning the reasons for refuse to include those persons in the list. As a result many of them were included in the lists, and some of them were even transferred in February 2018.

The convicts from other institutions also complained about the refusals to transfer them. They usually appealed against such refusals to the so-called “DPR prosecutor’s office” or to Zakharchenko.

I wrote several applications asking to transfer me to the territory controlled by Ukraine. They tell me orally that they won’t transfer me because I am from Mariupol, and they believe that territory is theirs, temporarily occupied by Ukraine. When the convicts wrote the applications asking to transfer them, I was ordered to write the application where I would agree that Mariupol is a territory of the so-called “DPR”, I refused, so they did not give me the possibility to write the application for transfer. Later I wrote it still, but I had to write that Mariupol is a territory temporarily occupied by Ukraine. Without that note they refused to accept my application (respondent K. who was in Makiivka CF no. 32).

The procedure of applying for transfer is also unregulated. Although the situation in the so-called LPR, where the negotiations concerning the transfer of the convicts re not carried out at all, is still worse. There the members of IAF still refuse to accept the very possibility of transfer of the convicts.

The mechanism of transfer

The mechanism of transfer started forming at the end of 2015. Several circumstances contributed to it: in particular, a relative truce and absence of massive hostilities on most of directions, as well as the formation of the clear organization of the s.-c. “DPR”. It is indicative that the so-called LPR refused to cooperate with the state authorities of Ukraine and refuses still, therefore the convicts are not transferred from the PI of that region.

The participants of the transfer process are the Human Rights Commissioner of Verkhovna Rada of Ukraine and the so-called “State Penitentiary Service of DPR”. Several stages of negotiations must pass before a particular person could be transferred. Meanwhile the Ukrainian state authority was not able to provide the accurate information on how the negotiations are carried out and which particular persons are involved.

To be transferred the person who is held in custody has to file the application to the Human Rights

Commissioner of Verkhovna Rada of Ukraine (on his/her own or through the relatives or a third party), and also file the application to the administration of the PI as the representatives of the quasi-state authority of DPR. After that such person is usually included in the lists and awaits his or her turn.

There are cases when the convicts are denied the filing of letters to the quasi-state bodies of DPR, that deprives them of the possibility to file the application for transfer. Such refusals are explained by the absence of postal stamps and forms. The real reasons are the conflict relations with the administration of PI, the reluctance to allow a good worker to leave or other personal reasons. Moreover the convicts who actively seek release often receive disciplinary punishments. Here are some of the incidents of refusals:

A man wrote three applications asking to transfer him to serve his sentence on the territory controlled by Ukraine, but he wasn’t in the lists of transfer. He was told unofficially that his applications do not go beyond the head of the colony. He believes that the reason for that is that he is a good worker, the head of the colony takes the private orders for the manufacture of wood products and earns money on that (the wife of a person who is in Donetsk CF no. 124).

The administration of the colony tells my son that there is no such country as Ukraine, nobody will ever be transferred, they will stay from start to finish and will work “for the sake of a young republic”. In June 2016, the convicts were surveyed whether they want to serve their sentences on the territory controlled by Ukraine, near 45–50 convicts said that they wanted to be transferred. Almost all of them were later placed in the cellar. The official reasons were different, but after that they began to be harassed for various reasons (respondent F. who was in Krasnolutsk CF no. 19).

After the person is included to the lists the profile with the photograph is subsequently made for him/her and sometimes the personal file materials are provided. The personal file materials were not returned to some of the convicts, as well as the personal documents. In particular, the Ukrainian passports were not returned to some of the convicts. Between three months and three years usually pass between the moment of filing of the application for transfer to the transfer itself.

The convicts usually learn that they are going to be transferred to the Ukrainian authorities several weeks before the transfer. However some of them learned about the future transfer several days before it, or on the same day. Almost all groups of the convicts were brought out according to the same plan. Each one of them was allowed to take only one bag of belongings. Before the convict was to leave the colony he was searched. Sometimes all valuables were taken from him. Then the groups of the convicts were brought to Donetsk SIZO no. 5, where they were left for several weeks.

I was leaving with the help of Human Rights Commissioner of Verkhovna Rada of Ukraine (Ombudsman Lutkovska). She was worried about those lists. I was summoned to the duty department, they brought my belongings. Convict L. and I were locked in the basement (we were together on the first stage). We stayed there for the entire day. We were fed there once. They locked us to prevent the “mutiny” in the camp. Too many people wanted to return (respondent S. who was in Snizhyno CF no. 127).

Finally the entire group of evacuated persons was taken from Donetsk SIZO no. 5, brought to the place of transfer. The transfer was carried out in the following way: the buses stopped on two sides. the members of IAF let the convicts out of the bus, the convicts walked 10 — 20 meters to the line of demarcation, crossed it and entered the similar bus. They stated their surnames, names and patronymics.

When they brought us it turned out that they didn’t make the stamped documents for us. We were ready to go and they returned us. We had to stay for several more weeks (respondent P. who was in Yenakiyevo CF no. 52).

It was hard while I was in Donetsk SIZO I was unable to take practically anything with me and there I wasn’t even provided with a blanket. I froze (respondent K. who was in Yenakiyevo CF no. 52).

After the transfer the convicts were most often brought to Mariupol or Bakhmut SIZO where they spent several weeks before being distributed to serve their sentences to one of the institutions on the territory controlled by the Government. During that period the convicts were usually talked to by the representatives of authorities and international organizations.

Release from the places of deprivation of liberty on the non-government controlled territory

The convicts could be released from PI on the non-government controlled territory on various conditions. Therefore they can be conditionally divided into several groups. First of them consists of the convicts who were released from serving the entire sentence. Such convicts usually received a certificate of serving the sentence, certified with a stamp of the so-called “DPR” or “LPR”. Such certificate did not have a legal significance on the territory of Ukraine, but usually convicts were able to cross the line of demarcation with it.

The passports of the Ukrainian nationals were rarely returned to those who planned to stay on the non-government controlled territory. When release the convicts were persistently offered to issue a so-called “passport of the resident of L/DPR”. Those who refused were sometimes threatened. Also in DPR the convicts were forced to be registered in the local quasi-state bodies if the convicts did not leave the non-government controlled territory. However, later such persons did not have troubles crossing the line of demarcation.

I was released on 22.03.2016 according to the ruling of Krasnolutsktown court of “LPR”. I was given the certificate of release with the stamp of “LPR” and told to go and register at my place of residence (Perevalsk dostrict of Luhansk region) and receive the passport of the resident of “LPR”. My civil wife and I arrived to the local police where I was offered (by major of Perevalsk department of “LPR” Oleynik and precinct inspector, major Igor Pilipenko) to receive the passport of the national of “LPR” and jokingly told “Look how pretty it is, take it and shut up!”. Your Ukrainian documents are in the case file, you will never receive them, you may go. After that I went to the executive service of the sp-called LPR where I was told that until I am employed I must clean the town of Perevalsk for free, if I do not do that they can detain me again.

I looked at it all and decided to go to Ukraine. Since I refused to take the passport of LPR I turned to the direct line of SSU as well as local acquaintances who helped me to cross the “LPR” checkpoint where at the time were the “Don Cossacks”, on the Ukrainian territory I was met by the representatives of

SSU who received my explanations (respondent O. who served his sentence in Krasnolutsk CF no. 19).

My documents were “lost” by the administration — they said that my passport was not in the personal file, they only gave me the LPR certificate of release. I went through Artemivsk, I was asked where I was going, I responded and they let me go in peace (respondent P. who served his sentence in Krasnolutsk CF no. 19).

It was even worse for those who received an early release from quasi-judicial bodies of the so-called D/LPR and those who were released due to an illness. The decisions of such bodies did not have any legal force, therefore such convicts could have been detained on the border of Ukraine to continue their sentences. Knowing this many of the convicts remained on the non-government controlled territory before the end of their sentences.

Some of the convicts still had troubles while crossing the CL. Such troubles were most often related to the refusal to allow to cross the CL on the side controlled by the government of Ukraine. However after 2016 there were almost no complaints of such kind from the convicts. Also some of the convicts complained that they were denied the registration at their place of residence in the law-enforcement bodies after crossing the CL or that they were threatened with an additional punishment — a repeated serving of the same sentence on the territory controlled by the government. However such complaints were isolated in nature.

13. THE LEGAL AID TO THE CONVICTS THAT REMAIN IN ORDLO OR ARE TRANSFERRED TO THE CONTROLLED TERRITORY

The convicts who are still serving their sentences in ORDLO and the convicts who were already transferred require different kinds of legal assistance.

The main wish of many convicts of the first group is to be transferred from ORDLO to PI on the territory controlled by the government. Therefore the legal assistance for such convicts consists of assistance with

filing the applications to Human Rights Commissioner of VR for inclusion in the list of persons who wish to be transferred, as well as provision of oral consulting concerning the possibility to apply to other state authorities and the necessity to file the application to quasi-state bodies of L/DPR. Such convicts usually do not have the possibility to direct their applications to the Commissioner because of the absence of the postal connection. Often their relatives or acquaintances do it for them, and in case of the absence of the latter — the lawyers from public organizations.

It is also possible to apply to other state authorities, namely: Minjust and SSU. Minjust has a direct duty to protect the rights of the convicts, however, as the practice shows, sending the applications to Minjust was ineffective, and the employees of the ministry do not participate in the process of transfer of the convicts and it is unknown whether there was the attempts of the Minjust to decide the situation with the help of the international organizations etc. As for the SSU, this body participates in the negotiations concerning the release of the hostages, but since the convicts on the NGCA do not have the status of hostages, the SSU does not negotiate about them.

The convicts can also file the applications to OSCE, ICRC, HRMM and other international organizations. However, sadly, such applications were also less than effective. Although, according to the respondents themselves, several convicts were transferred from the non-government controlled territory thanks to the international organizations. In particular it concerns the seriously diseased convicts.

The convicts who were already transferred from ORDLO usually wish to receive the compensation of pecuniary and non-pecuniary damage for the fact they spent a long time under the control of IAF. Therefore the assistance to such convicts consists of preparation of the applications on the criminal offences and the following of the opened criminal proceedings. The criminal proceedings are opened after the fact of leaving the convicts in danger on the NGCA (art. 135 of CC of Ukraine). Currently the lawyers know of more than 50 of such proceedings. However none of them report about a suspicion of any person and none of the proceedings are transferred to court.

Given the inefficiency of domestic remedies it is also possible to prepare the applications to ECtHR. Such applications were already prepared concerning the violations of Article 3 (the prohibition of torture and other cruel or degrading treatment), Article 5 of the Convention (the right to freedom and personal integrity), Article 8 of the Convention (the right to privacy), Article 13 of the Convention (the right to effective remedy). In some cases the convicts complained about the violations of the right to a fair trial (Article 6 of the Convention) in cases when they were convicted by quasi-judicial bodies of L/DPR.

Up until today the practice of ECtHR did not know the cases in which the state left the convicts on their own under the control of the armed groups. Therefore if a decision is made in such category of cases, it will be a pilot decision dedicated to a completely new issue in the work of ECtHR.

It is indicative that the applications to ECtHR may be prepared in case of the convicts being in ORDLO at the time of applying to the Court, as well as in the cases when the convicts were already transferred. In total we prepared near 40 such applications. They are all pending consideration in the Court and are declared admissible on the first stage.

To provide the legal assistance the public organizations arranged several phone lines. The convicts could also turn to the “hot line”, which was arranged in 2014 for the IDPs, the residents of the “grey zone” and the citizens who remained on the non-government controlled territory. Usually the work with the convicts involved their interviews and if necessary — the provision of legal assistance. At the same time, such help rarely limited itself to the oral consulting, more often it included the preparation of drafts of various procedural documents.

The legal aid was also provided to the convicts during the visits to the institutions in which the convicts serve their sentences. The human rights activists also interviewed the witnesses of the events who were already under control of IAF and the prisoners who remain on the non-government controlled territory. The work with them included the long conversations, as well as subsequent legal following of their cases.

During the entire period of ATO the lawyers of various human rights protection organizations were addressed by more than 200 convicts who wished to

be transferred from the non-government controlled territory. Near 50 more wrote the letters asking to provide the legal assistance after they were transferred. At the same time the lawyers have to state that they cannot guarantee to a convict his transfer from ORDLO to other regions of Ukraine even in case when all legally significant actions were performed.

As was numerously pointed out by the Human Rights Commissioner of VR, the final decision about whether to transfer a particular convict is made by the armed formations⁶⁶. It is currently hard to influence their decision. There are no international agreements concerning the transfer of the convicts, no legal mechanism. Therefore no legal assistance can be effective in such conditions, when the process of transfer has the political nature.

It should be noted in particular that the international organizations that are currently working on the NGCA in the east of Ukraine, despite multiple requests, for more than four years of the conflict were not able to achieve access to the places of the deprivation of liberty controlled by IAF and the confidential conversation with the convicts who currently remain there. In particular, the information about the absence of access to the places of deprivation of liberty located on the non-government controlled territory can be found in the reports of HRMM. In our view, it indicates that the representatives of illegal armed formations are aware about the entire complex of violations of human rights and ill-treatment of convicts in PI and SIZO, the reluctance to change and the attempts to hide this situation.

⁶⁶ The information provided in the response to an information request.

14. RECOMMENDATIONS

Continue the transfer of prisoners from ORDLO to the controlled territory, intensify the negotiations to that end, including the negotiations within Minsk agreements.

Regulate the legal status of persons serving their sentence on the non-government controlled territory of Donetsk and Luhansk regions, as well as the persons who were transferred to the controlled territory, by adopting the draft law no. 8560 of 5 July 2018, while taking into account the following:

- establish the terms of preparation and filing to the court the petitions of the central executive body that provides the forming and implements the state policy in the area of execution of sentences and probation, to regulate the status of the persons indicated in the draft law;
- perfect the compensation measures related to the regulation of the legal status of the persons concerning whom was violated the procedure of execution of sentences, taking into account the varying conditions of convicted persons in places of non-freedom located in Crimea and the east of Ukraine.

To ensure the access of the representatives of the international organizations that work on the NGCA to the convicts in PI and SIZO.

Take the measures to investigate and bring the responsibility the persons responsible for leaving the prisoners in danger on the NGCA of Donetsk and Luhansk regions, deaths and injuries of the prisoners.

ANNEX. THE DESCRIPTION OF FACTS

I. LUHANSK PRE-TRIAL DETENTION CENTER

Address: 91002 Luhansk, 24 Line Street, 4.

Security level: the institution is intended to hold the persons for whom was chosen a prevention measure in the form of deprivation of liberty; the persons convicted to the deprivation of liberty concerning whom the sentence has not entered into legal force; the persons left for maintenance work; those who were left or transferred from other CF or SIZO.

Occupation date: June 2014.

Production: none.

1. The events at the start of ATO (April–November 2014)

The convicts heard the first sounds of shelling in April 2014. In June 2014 the shells were falling in direct vicinity of the institution. Before the so-called First Minsk Agreement⁶⁷ in September 2014 the shelling of the neighboring territories and the shelling coming from the neighboring territories was regular. Although there were no direct hits to the territory of SIZO or destruction of the buildings, the shells fell near the institution, the shell fragments periodically fell on the territory of the institution.

In summer 2014 the people wearing unmarked uniforms started visiting Luhansk SIZO. Since the moment of occupation the lack of staff was felt in SIZO. Each level must have its “corpsman”, but only two levels had the “corpsmen”. There was the lack of inspectors. Many of them retired because they stopped receiving Ukrainian wages. Nobody forced anybody to stay — those who wished to work worked, those who were not satisfied — retired.

⁶⁷ https://uk.wikipedia.org/wiki/Мінські_угоди

The main issue of that period in PI was the access to fair justice. The persons whose criminal proceedings were going on stopped being transported to court hearings because of the regular shelling of the city back in mid-summer 2014. In many cases they could not participate in the court hearings via the video conference because the institutions did not have electricity.

Regardless of the constant shelling, no actions were taken to organize the evacuation of the convicts from Luhansk SIZO or the respondents did not know about them. The persons detained in this institution were able to receive the information from the television. One of them reported that in autumn 2014 he saw a report on the local TV in which the head of Luhansk SIZO said that the convicts allegedly did not want to move to the territory controlled by Ukraine. Although no explanations or questioning of the convicts took place on that issue.

2. The events after the occupation of PI (December 2014 — nowadays)

In December 2014 the militants occupied the facilities of the penitentiary service in Luhansk and since the new year it was completely in their control. However, there was no campaigning to join the IAF among the convicts. The rules of internal order of the institution became stricter comparing to the ones that existed before the occupation.

The functioning of courts and law-enforcement system remained the main issue. The persons who were detained under the decisions of Ukrainian courts did not undergo any investigative measures for a long time. The people remained in SIZO for years without any reasons and explanations. Some of them were offered a quasi-agreement with the prosecution party, according to it they had to plead

guilty and in return they would be given a more lenient punishment.

There were also documented cases of ill-treatment of the convicts. Many complaints concerned the regular, several times a month, beatings of the convicts by unidentified masked persons. The consequences of those beatings are documented as heavy injuries, as well as the death of one of the convicts. According to some of the reports, the practice of such beatings in Luhansk SIZO and other colonies of Luhansk region stopped in early 2018.

3. The conditions of detention

In summer 2014 the SIZO did not have electricity for almost two months. Because of that the convicts were not brought outside for exercise, they could not use the cell phones and notify their relatives that they were alive. The water supply remained stable at the time, but the water was often taken from the reservoirs and distributed to the cells in buckets. Then the use of water was limited to one-two buckets a day. Therefore, it was hard to bathe and wash the clothes. Nobody was brought to the bath.

The isolator started having the food troubles at once, the convicts stopped being fed, and they only survived at the expense of their relatives or acquaintances that were constantly bringing them food. During the blockade of Luhansk the food was not brought to SIZO at all, and the convicts whose relatives could not reach Luhansk barely survived because of the hunger. The bread rations became six times smaller, as well as the rations of tea and sugar. The convicts were fed one or two times a day. After the end of blockade the food conditions slightly improved, but not ultimately. According to the convicts, they almost never received food from the humanitarian aid because the administration of the facility was taking the humanitarian aid.

The food situation started to improve in early 2015. The SIZO started receiving the humanitarian aid, the convicts do not know who provided it. Currently there are no complaints about improper food. Our respondents point out that now the convicts are fed in the same way as they were fed under the control of Ukraine.

Most of the respondents pointed out an inadequate level of medical assistance — the medical units either lack the necessary medicines or have only the basic medicines. To receive treatment in the medical unit the patients were suggested to turn to their relatives for the provision of the relevant medicines.

II. DONETSK PRE-TRIAL DETENTION CENTER NO. 5

Address: 83086 Donetsk, Kobozeva Street, 4.

Location: located in Kuybyshev district of Donetsk that underwent a particularly powerful shelling.

Security level: the institution is intended to hold the persons for whom a prevention measure was chosen in the form of detention; the persons convicted to the deprivation of liberty concerning whom the sentence has not entered into legal force; the persons left for maintenance work; those who were left or transferred from other CF or SIZO; the persons serving their sentence in the form of arrest; the persons convicted to life imprisonment.

Occupation date: June 2014.

Production: 4 garment workshops, cardboard shop, carpentry shop, recycling shop for recycling raw plastic.

1. The events at the start of ATO (April — November 2014)

On 21 April 2014 the last stage of the convicts from Priazov colony no. 107 (Mariupol) was carried out in Donetsk SIZO no. 5. The persons concerning whom the court sentence entered into force but who were sent to Donetsk to undergo a medical commission examination remained in SIZO no. 5 along with the persons under the investigation.

The first explosions started to sound near the institution in June 2014. It is currently unknown for certain when the employees of PI joined the IAF, but since June they were attending their work without

the insignia. In August 2014 the media⁶⁸ started reporting about the occupation of pre-trial detention center in Donetsk with almost 2000 male and female detainees by the illegal armed formations of “DPR”.⁶⁹

In August — September 2014 the members of IAF proposed to convicts to participate in hostilities. To that end the colony was visited by unidentified people wearing military uniforms who created the lists of all persons who wished to be released in case of enlisting to the so-called “militia”.

The convicts and arrested persons had a negative attitude concerning the events. They were concerned for their fate during the hostilities. Some of them expressed pro-Ukrainian positions during the conversations with each other, as well as in conversations with the administration. However, even before the PI was occupied by the members of IAF, the administration severely punished the pro-Ukrainian views. Some of the convicts were sent to the solitary confinement or received other punishments, later they could have been beaten for expressing their support of the state authorities.

2. The events after the occupation of PI (December 2014 — nowadays)

In summer — autumn 2014 the active stage of hostilities was going on near Donetsk, the city underwent shelling. There were no direct hits to SIZO, but there were hits around it. Several times during the shelling the persons in SIZO had to lie on the floor because of the nearby explosions. The windows in the cells were smashed because of the explosions.

Once during the shelling the convicts started to call the SIZO staff demanding to open the cells — so powerful were the explosions. However, the PI staff was hiding in the bomb shelter, so the cells were not opened.

The convicts turned to the administration of SIZO every day asking to return them to the constant

⁶⁸ https://censor.net.ua/news/299161/boeviki_zahvatili_donetskiyi_sizo_i_ugrojayut_kaznit_zaklyuchennyh_snbo

⁶⁹ <https://inforesist.org/sotrudniki-doneckogo-sledstvennogo-izolyatora-prisyagnuli-dnr-smi/>

places of serving their sentences. The administration of the isolator refused to do it. A small group of convicts (30 persons) remained in SIZO due to a coincidence. At the moment of aggravation of hostilities they were staged from one PI to another, but the stage was paused because of the danger to the life and health of the convicts. Therefore, they remained in Donetsk.

For some time some of the convicts stayed in the so-called “transit” cells (25 persons on 22 beds, the total area of the cell was 18 square meters). Later, in reply to numerous complaints, those convicts were divided to two cells, 10 persons in each cell.

3. The conditions of detention

The food between April and late October 2014 was usual, except the interruptions with bread supply. The bread ration was decreased, the Donetsk bread factory sent the expired products to SIZO. When the SIZO ran out of food products that were delivered back when the Ukrainian authorities were in charge, the food quality significantly worsened: the convicts were fed with boiled cabbage, crushed wheat without fat and spices. The bread was raw, it was possible to squeeze water out of it. Eating such bread caused stomach pains.

The medical assistance was not provided at all. The doctors refused to work. The convicts had to treat themselves with “folk methods”.

There often was no electricity or water. The water was turned on for 1–2 hours a day. The shower was provided to the convicts very rarely. The cells became infested with insects (bugs and lingerie lice), the convicts had to get rid of some of the items that were damaged by the insects.

The temperature in the cells lowered significantly in winter. The convicts had to close the holes in the windows on their own, and wear the winter clothes in the cells. There was no centralized heating. The convicts had to get warm with the help of ovens, they received fuel from their relatives.

Besides, unidentified persons wearing unmarked camouflaged uniform searched the cells. During the searches they were taking the belongings, destroying the Ukrainian documents (personal documents, court decisions with Ukrainian stamps, etc.).

In late October 2014 two female stages were formed from the pre-trial detention center to Snizhne CF no. 127, situated on the territory controlled by the “DPR”. The convicts did not agree to continue to serve their sentences in a colony of “DPR” instead of a penitentiary institution on the territory controlled by Ukrainian government, in which they had their belongings and from which they arrived to SIZO. That category of convicts was taken from SIZO by force, handcuffed.

III. BRYANKA CORRECTIONAL FACILITY NO. 11

Address: 94190 Bryanka town, Luhansk region.
Security level: medium security level colony for male convicts who had served their sentences before in the form of life imprisonment.
Occupation date: Autumn 2014.
Production: manufacturing of chain link fence, barbed wire and barriers.

1. The events at the start of ATO (April – November 2014)

At the start of ATO, in summer 2014, the shots were constantly sounding near the colony, the so-called “militia” conducted the trainings in the ravine not far from the colony.

The stressful situation led to the retirement of the staff of PI. In four months since the start of hostilities almost all the officers retired and were replaced with those who had worked on the lower positions before. Thus, for example, the position of the head of the colony was taken by Danilchenko who had been the first deputy before.

Since the beginning of the conflict there were documented cases when the armed persons in military uniforms took certain convicts with permission from the administration, gave them military uniforms and took them in an unknown direction. They never returned to the colony.

The interruptions of the food supply started in summer 2014. The convicts started to starve significantly, there were days when they only ate a portion of lean

porridge once a day. Such situation lasted for near 4 months. Later, when humanitarian aid started coming from Russia, the food supply gradually improved.

2. The events after the occupation of PI (December 2014 – nowadays)

After the occupation of the institution, all the possibilities to use the benefits of early release were cancelled. According to a respondent, before the prisoners had worked almost for free, receiving insignificant money, but they could qualify for early release. Now such possibility disappeared. When someone’s term of early release was near, they could write the possession of a phone to the violations of order, thus destroying the possibility of early release. There was a tacit rule: “use the phone if you want to, but you will be on the hook”.

IV. ALCHEVSK CORRECTIONAL FACILITY NO. 13

Address. 94200 Alchevsk town, Luhansk region.
Security level: medical institution of medium security level for the convicts suffering from tuberculosis.
Date of occupation: March 2015.
Production: none.

1. Events at the start of ATO (April – November 2014)

Since March 2014 a massive propaganda against Ukraine was going on the Russian channels on the TV in the colony (there is a TV set in every unit, in the recreation room).

In summer 2014, since June, the active hostilities were going on around the town of Alchevsk. At that time near 100 convicts were serving their sentences in the facility, they were divided in 10 units according to the kind and stage of their diseases. The number of medical employees (including the doctors) of the colony was near 50 persons.

The hostilities were going on nearby, in particular, near the village of Mykhaylivka and correctional

facility no. 15 of the town of Perevalsk of Luhansk region, it could be heard clearly on the territory of the institution. During the explosions in Mykhaylivka (several kilometers away from the colony), the windows were trembling in the colony. The colony did not undergo a direct shelling. However, during the shelling both the convicts and the employees of the colony were concerned. The staff was giving away their phones at the entrance to the colony and effectually lost their connection with the outside world. It is unknown where the explosion was, and the relatives and friends remained at home.

In May-June 2014 the representatives of the Russian army from Luhansk arrived to the colony. They arrived by car, provided the administration of the colony with the phone number and warned that if there are any provocations (for example, shooting in the colony), they should be phoned, they would arrive in 5-10 minutes and sort things out. The staff was unofficially notified of this information. It could be heard from their speech that they were not locals, and not even from Ukraine. It could be understood judging by the uniform and the attitude that they were regular officers, they wore camouflage, but without insignia. They only arrived once.

The armed occupation of the colony did not take place. The administration of the colony designated by the Ukrainian authorities changed their allegiance to “LPR”.

Around June 2014 the roadblocks appeared around Alchevsk, that made it more difficult for the relatives to visit the colony to see the convicts, bring them food and other items. This negatively influenced the convicts, both psychologically and morally. According to the received evidence, most of the colony guards took vacations at the time, they worked at the roadblocks as the “militiamen”.

Before June 2014 the colony employees were receiving their wages in time. As soon as the bank robbing started (first the Privatbank, then Oschadbank and others) the payment stopped. Later some money was transferred to the bankcards, but there was trouble with ATMs, the postal service did not have money. The wages were paid with delays until around October 2014. Then until March 2015 there were no wages at all.

Since June 2014 the colony started having trouble with the supply of food and medicines, as well as trou-

bles with visits of the persons who had relatives on the territory of Ukraine controlled by the Government.

2. The events after the occupation of PI (December 2014 – nowadays)

In March 2015 there were no Ukrainian symbols anymore, the guards wore other uniform, with the stripes of “LPR”. The administration of PI also changed. For example, a 18–19-year old Russian national from Irkutsk was included among the employees.

Since March 2015 they started to count the wages of the employees in Russian rubles. The level of wages of the colony employees, at the rate of 1 hryvnia to 2 rubles, remained almost the same.

Since December 2014 “LPR” started to provide the colony with the Russian medicines.

In relation to the termination of functioning of the prosecutor’s office and courts, the convicts whose term of punishment was approaching its end, under the agreement received their documents for release, they received a certificate with the stamp of “LPR”. The convicts reacted to that negatively, because the convicts from the entire territory of Ukraine were serving their sentences in the colony and most of them wished to leave the non-government controlled territory.

Currently the colony is functioning in the working mode. Only the contingent of the convicts changed – recently many members of IAF were sentenced to imprisonment for looting. The total number of convicts decreased to around 80 persons. The staff number also decreased.

3. The conditions of detention

Since June 2014, the paths to PI were blocked due to the hostilities, so the administration of the colony used the food and medicines that could be found near the colony. As for the food for the convicts, the diet in general has not changed, but the portions decreased in size.

Since May 2014 there were troubles with power and water supply. At first the administration was telling that the colony saves water and electricity. There was no power or water during the daytime. The electricity was turned off even in night time. Without the electricity

the refrigerators with food stopped working, which, naturally, negatively affected the quality of the food.

The absence of water significantly affected the disinfection procedures. When a doctor received a patient, he had to wash his hands, conduct the examination, then conduct the disinfection again. It was all done with the help of water in the plastic bottles. The same issue was with quality washing of the floors using the disinfectant mixture.

The colony did not have problems with special medicines (anti-tuberculosis medicines, medicines for patients with AIDS) thanks to the colony's own supply, until the end of 2014. There were problems with the medicines of the general group. Tuberculosis is a difficult and dangerous infectious disease, and many convicts had not only the early stage of the disease, but also other stages, aggravated by the concomitant diseases, including AIDS.

There were also troubles with the medicines of the general group. If a convict caught a cold he received aspirin only in the worst cases. The injections were also limited and were intended for the patients in heavy conditions. The procedures of the general nature were significantly limited for the convicts.

V. KRASNOLUTSK CORRECTIONAL FACILITY (NO. 19)

Address: Mira Street 20, Khrustalniy town, Bokovo-Khrustalne town (before 2016 — Vakhrushevo-2), 94562, Luhansk region (10 km. west from the town of Krasniy Luch).

Security level: medium security level colony for men convicted to imprisonment for the first time.

Occupation date: November 2014.

Production: wire products, mining equipment, brick blocks production, metal processing.

Planned population: 2100 convicts.

1. The events at the start of ATO (April — November 2014)

During the conflict the colony did not suffer from the shelling, only in August 2014 there were several

hits to the surrounding areas. The shell fragments fell on the territory of the colony. The floors and glass in the windows vibrated, but there were no direct shell hits. Because of the shelling the convicts stayed in the barracks all the time, they were brought to the basements several times when there was powerful shelling. According to one of the convicts, in 2014 the industrial area of the colony was hit several times. There were no victims.⁷⁰

The convicts saw the fall of the hit Boeing MH-17. One of the respondents pointed out that in summer and in the end of 2014 there were cases when the military vehicles stayed near the colony and carried out the shelling. The convicts also saw and heard the planes and drones being shot at near the colony.⁷¹

According to the available information, there was no capture of the colony. In 2014, when the active hostilities were going on, there were almost no employees on the territory of the colony.

The Ukrainian laws acted almost until 2015, the convicts were released under the amnesty, received early release according to the legislation of Ukraine. In November or December 2014 Ukraine stopped paying wages to the colony employees, many of the employees retired, but most of them stayed⁷².

The colony administration changed (around 2015), Those who held the governing positions were replaced. In November 2014 the colony employees did not have chevrons.

Since 2015 the new uniform was introduced with the insignia of PD (Penitentiary Department) and the police of “LPR”⁷³. One of the respondents knows about at least 5 colony employees who left and decided not to work for the so-called “LPR”.⁷⁴

One of the convicts believes that the employees stayed to work for the so-called “LPR” because they could not leave their families, possibly, they could not leave the convicts either⁷⁵.

⁷⁰ Date of the interview 21.08.2017.

⁷¹ Date of the interview 28.11.2017.

⁷² Date of the interview 16.08.2017.

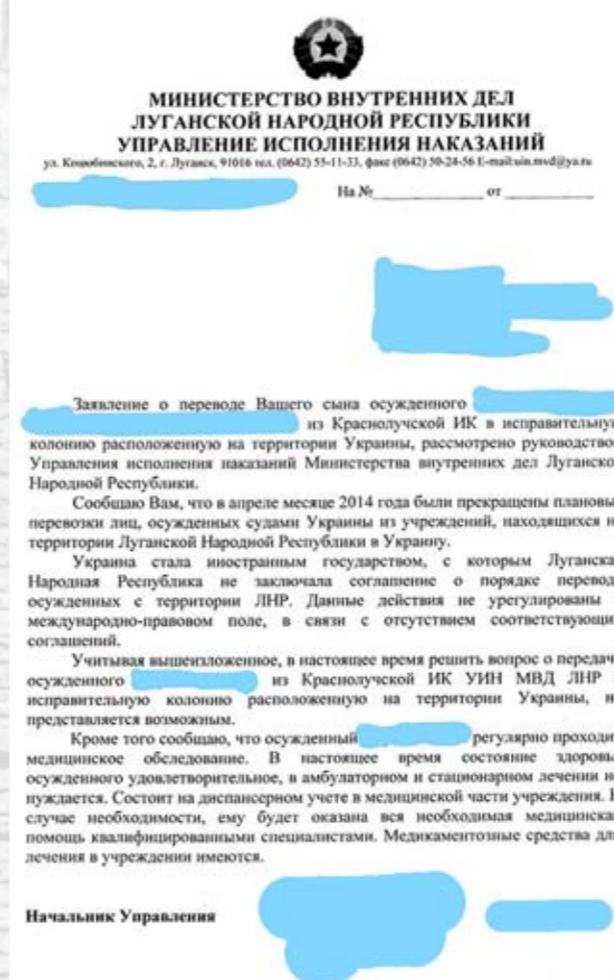
⁷³ Date of the interview 18.08.2017.

⁷⁴ Date of the interview 21.08.2017.

⁷⁵ Date of the interview 28.11.2017.

2. The events after the occupation of PI (December 2014 — nowadays)

In early 2015, masked people wearing military uniform with Russian chevrons arrived to the territory of the colony, armed with assault rifles and handguns, with dogs. One of them had a machine gun. (The assault rifles were of 74 mark, newer than the ones they had previously used). If some of them did not like somebody for example, somebody turned the wrong way, they used to beat the convicts with assault rifle butts, clubs. Some of the convicts ended up in the sanitary unit after that⁷⁶.



After that, such raids were performed almost every 3 months, although without weapons or any insignia. Some of the convicts ended up in medical unit after that. They beat those who have some claims towards the administration of the colony, violators of the regime. The convicts in isolator

⁷⁶ Interview date 23.08.2017.

and those who are detained in the maximum-security cells suffer most often. According to some of the reports, there were no such beatings in the colony in 2018.

The convicts in the colony were obliged to work. According to the respondents, in the so-called “LPR”, if a convict does not work, he would have violations for failure to attend to work. They could put him to solitary confinement. The prisoners do not receive wages for their work.

The applications to the so-called authorities of “LPR” asking to transfer the convicts to the territory controlled by Ukraine for serving their sentences are met with refusals.

3. The conditions of detention

According to most of the convicts, the conditions of detention deteriorated significantly. The colony started having troubles with water. Sometimes, there was no water on the territory of the colony for three days in a row. The relatives of the convicts collected money in order to dig a well. The convicts dug it on their own. Now it is possible to take a small amount of drinking water from it every day. The rooms were heated with ovens that were also bought for the money of the convicts' relatives. The coal was also prepared at their expense.

Besides, the convicts are currently unable to complain anywhere about the violations of their rights. One of the respondents also pointed out that while the colony was under control of Ukraine the convicts could play football, volleyball, there were gyms. Those activities are prohibited for the convicts now⁷⁷.

In total, currently there are between 700–750 and 1000 persons in the colony. There were more people before, according to one of the respondents — many were released on parole in 2014. Besides, the convicts pointed out that the people from Luhansk SIZO were transferred to the colony, the barracks were being prepared for them⁷⁸.

Food. Between August 2014 and early 2015 the situation with food was very bad, the convicts were only fed with porridge. The village nearby prepared the

⁷⁷ Interview date 15.08.2017.

⁷⁸ Interview date 15.08.2017.

cabbage, because of that the convicts only ate sour cabbage for three months. The convicts were buying the grain at their own expense, they had the hand mill. At that time, their relatives were allowed to bring food without limitations. Nobody died of starvation.

The food situation more or less stabilized in summer 2015, but it was still worse than when the colony was under the control of Ukrainian government. Then the administration of the colony treated the convicts more loyally, their relatives could send more products, now some products are not allowed to be sent, for some products the amount was decreased⁷⁹.

Medical assistance. There are medical employees in the colony, however, the medical units often lack medicines. The situation with medical assistance was the worst in 2014 and 2015. There were no regular doctors then, there was only one on-duty doctor. Many convicts received their necessary medicines from their relatives. The Red Cross visited the colony several times. The necessary medicines appeared in the colony after the visit.

VI. PETROVSKE CORRECTIONAL FACILITY NO. 24

Address: 94543 Petrovske town of Krasnoluch district, Luhansk region.

Security level: the colony of medium security level for the male persons convicted to imprisonment for the first time for grave and especially grave crimes.

Occupation date:

Production:

1. Events at the start of ATO (April – November 2014).

In summer 2014 the town of Petrovske ended up in the area of hostilities. In August–September 2014 the PI located within the town underwent shelling. As a result of the shelling of the colony its fence was destroyed, the members of IAF performed shelling

⁷⁹ Interview date 21.08.2017.

in the direct vicinity of the institution. The staff and the convicts were not affected.

There was no armed occupation of the colony; the colony administration designated by Ukrainian authorities changed the allegiance to the so-called “LPR”.

2. The events after the occupation of PI (December 2014 – nowadays)

After the capture of PI the overall regime became stricter, for example, the amount of searches and seizing of the convicts’ belongings increased without any explanations. The administration performed the groundless searches and seizures three times a day.

During such measures, the representatives of IAF were involved in the cases of physical and psychological violence towards the convicts.

3. The conditions of detention

The possibility to receive correspondence and maintain connection to the outside world deteriorated significantly. There was no possibility to use the phones. It became impossible to receive parcels from the territory of Ukraine.

After the food became worse in 2014 (the rations decreased and there were small interruptions of food supply), the general situation with food for the convicts improved significantly. The convicts received the possibility to obtain the food products “illegally”.

The general level of medical assistance remained unsatisfactory.

VII. KALININ CORRECTIONAL FACILITY NO. 27

Address: 84647, Donetsk region, Horlivka town.

Security level: medium security level colony for men sentenced to imprisonment for the first time for grave and especially grave crimes.

Occupation date: 30 May 2014.

Production: shops.

Planned population: 700 people.

1. Events at the start of ATO (April – November 2014)

Since 14 April 2014 armed people began attempting to occupy the town of Horlivka. The situation in the town remained unstable until 14 May 2014, after that date the town was occupied.

The shelling started in the town in June – July 2014. In its turn the location of the colony allows to assume that in the period of active hostilities the facility could undergo shelling, because it is situated in the outskirts of the town. The military positions of the so-called “militia” are situated not far from it, the shelling was performed from there and that area was shelled in return.⁸⁰

According to the respondents who were in that facility at the start of ATO, the shells hit the territory of the institution.

The first shell fell on the parade-ground, next to the second barracks, two convicts were wounded then and the windows were smashed in the barracks. Later there were hits to the “Bath and laundry room”, to the roof – it was damaged. The third shell hit between the garages, the shell fragments damaged the garage walls.⁸¹

2. The events after the occupation of PI (December 2014 – nowadays)

According to unofficial information, the occupation of the colony was carried out on 30 May 2014, when the “armed” persons took the weapons and the premises.⁸²

According to the official information as of 24.07.2014, there were no cases of illegal release of the convicts, the situation was satisfactory.⁸³

There are no mentions of the armed occupation of the colony in official or unofficial sources.

According to the persons who were held in this institution at the time, there was no armed occupation of the colony. For some time, for about a week,

⁸⁰ <http://mediarnbo.org/2014/10/18/hronika-viyni-na-don-basi-vid-mitingiv/>

⁸¹ Interview date 22.06.2018.

⁸² <http://gorlovka.ua/News/Article/6672>

⁸³ <http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/734385>

the representatives of the administration of the institution remained without chevrons, later they at once received the chevrons of the so-called “DPR”. Almost all employees remained to work for the so-called “DPR”.⁸⁴

Periodic shelling of the surrounding territories and colonies lasted until the end of 2016. On the territory of the institution there were hits to the industrial area, near the fence, on the parade-ground. No colony employees were injured during the shelling.⁸⁵

In late 2016 the colony underwent an armed attack by the members of illegal armed formations. That evening the victims wanted to watch football, but the colony employees turned the electricity off. The prisoners started to knock loudly and demand to be allowed to watch football. It was heard by the members of IAF that were not far from the institution. They entered the territory with weapons. First they forced the employees of the institution to lay on the ground, they forced the convicts to stand in line next to their barracks. The members of IAF shot over the people’s heads, two of the convicts were injured. One of them had to have his arm amputated due to the complications as a result of the shot.

According to the witnesses of that event, the colony employees tried to prevent it. They tried not to give to the “militiamen” the keys to the barracks, even hid them, but they were still forced to open the rooms.⁸⁶

There were documented cases when during the active hostilities the members of IAF were bringing military vehicles on the territory of the institution. The convicts had to repair the damaged vehicles.⁸⁷

3. The conditions of detention

Food. The food quality decreased significantly in the period of active shelling. The diet food supply for the people with tuberculosis living in the separate facilities on the territory of the institution stopped. Currently the respondents point out the

⁸⁴ Date of the interview 22.06.2018.

⁸⁵ Date of the interview 01.06.2018.

⁸⁶ Date of the interview 01.06.2018.

⁸⁷ Date of the interview 22.06.2018.

inadequate quality of food, even in comparison with other colonies in the so-called “DPR”.

Medical assistance. The convicts pointed out an inadequate level of medical assistance — the medicines are absent in the medical units, there are no doctors for some of the specialties. The relatives of the convicts have to provide them with the necessary medicines.

VIII. TOREZ CORRECTIONAL FACILITY NO. 28

Address: 86600, Donetsk region, Torez town.

Security level: medium security level colony for men convicted to imprisonment for the first time.

Occupation date: 8 May 2014.

Production: enterprise that produces: mining chutes “SP-202”, chain link fence made of wire and cable, barbed wire barriers. three kinds of mine valves, wire drawing, liquid soap, sewing products.

Planned population: 500 people.

1. Events at the start of ATO (April — November 2014)

The colony is situated in the southern part of Torez town. The quarry and waste heap are situated nearby.

The shelling of the surrounding territories started in early summer 2014. The town of Snizhne and “Savur Grave” are situated not far from the colony. There were fierce battle clashes for the control of those “strategic spots”. The shells flew over the colony almost every day, they were falling nearby and the shell fragments were hitting the territory of the colony.

On 9 July 2014, near 2:30 pm near 50 unidentified armed men arrived in four micro-buses, wearing masks and camouflage, with the insignia of battalion “Vostok” and the so-called “DPR”. The administration of the colony left the buildings in order to peacefully regulate the situation with the separatists.

In order to preserve the life and health of the hostages, the demands of the separatists were met — 8 indicated convicts were brought outside the guarded territory of the colony, after that the separatists took them in an unknown direction.

The employees and convicts were in constant danger because of the hostilities in the direct vicinity of the colony. The threat to life was maximal, and the urgent measures to transfer the staff and the convicts were not taken.

The convicts in the colony heard Boeing 777 falling. It was not far from the colony (6–7 km in the direction of Grabove village). The convicts saw the smoke and heard the colony tremble from the explosion. Then they heard that on the TV (July 2014)⁸⁸.

2. The events after the occupation of PI (December 2014 — nowadays)

The last mention of the functioning of the colony on the resources of the State Criminal Execution Service of Ukraine is dated of 08.05.2014. After that date the news concerning the colony were not published.⁸⁹

In September–October 2014 the colony was visited by masked members of IAF. They have beaten the convicts, as a result two of them had fractured jaws and ribs. After that the “militiamen” visited the territory of the colony several more times. Once the barracks were entered by armed men wearing military uniform. They took all the convicts to the parade-ground, they said that it was necessary to obey the new administration of the colony. If someone escapes, the men with assault rifles and machine guns are positioned behind the colony, they would shoot anyone who tries to escape. The convicts were asked, who wished to join the so-called “militia”. Near 300 men agreed, but the lists with their names were burned down.

The colony started receiving the convicts from other colonies whose regime changed, also the convicts from Torez CF no. 28 started to be transferred to other colonies, those whose regime of detention

⁸⁸ The interview of 14.12.2017.

⁸⁹ <http://www.kvs.gov.ua/peniten/control/main/uk/publish/article/720853>

did not correspond to the regime in Torez CF no. 28 after the review of their cases. Currently the institution also holds the persons convicted by the courts of the so-called “DPR”.

The information was documented concerning the offers to join the armed resistance in the so-called “DPR”, several respondents reported that some of the convicts expressed such wish, but returned to the colony after some time.

3. The conditions of detention

In general, the convicts did not report any critical conditions of the detention, however, they reported about some particular violations and periodical absence of water, electricity or heat.

The electricity and water in PI was turned on in the morning and evening, for several hours. The heating system was damaged during the shelling, and since then the colony premises were heated with ovens.

The water supply sometimes stopped during the powerful shelling, but the colony had 20-ton reservoirs with clean water. That water was enough, so the convicts did not feel the lack of water.

The convicts reported the absence of necessary hygiene products and humanitarian aid. they were provided with humanitarian aid several times: tooth brushes, toothpaste, shampoo, toilet paper, shaving machines. After that they were provided with the documents for signing (the packages had the red cross symbol on them).⁹⁰

Food. Most of the convicts pointed out the satisfactory food. During some periods there were troubles with the preparation of food, but not with the lack of it.

Medical assistance. The overwhelming majority of the respondents reported an inadequate level of medical aid — the medicines are absent in the medical units, there are no doctors for some of the specialties. The relatives of the convicts have to provide them with the necessary medicines.

Several persons told that they were offered the necessary medical assistance in the hospital on the territory of Donetsk city.

⁹⁰ Interview of 06.12.2017.

IX. MAKIIVKA CORRECTIONAL FACILITY (NO. 32)

Address: 86110 Makiivka town, building 10, Donetsk region.

Security level: medium security level colony, for men convicted to imprisonment for the first time.

Occupation date: September 2014.

Production:

Planned population: 1800 people.

1. Events at the start of ATO (April — November 2014).

The shelling of the territories surrounding the colony started since mid-summer 2014. Until the end of 2014 the institution was effectively in the epicenter of hostilities. The shells hit the territory of the colony several times, hitting the diner, industrial area and the fence.

During the shelling on 20 August 2014 there was a direct hit to the residential facility of the fourth residential sector. Four convicts died then, at least 8 people were wounded. Two of the deceased died because of the wounds and delayed medical assistance. During the periods of intensive shelling there were almost no employees of the administration on the territory of the colony, therefore nobody could provide the timely medical assistance to the heavily wounded.⁹¹



The heating system in the colony was damaged during the intensive shelling, and later there were troubles with provision of proper food to the convicts.

⁹¹ Interview of 22.06.2017.



There is a bomb shelter on the territory of the colony, during the intensive shelling the convicts were able to stay there, at the same time some of the respondents said that the bomb shelter was located on a significant distance from the residential sectors, it was too far to run there during the intensive shelling.

In 2014 there were numerous instances of shelling near the colony walls, that placed the convicts under the risk of return fire.

As for the occupation of the institution, there was no forced occupation. The employees of the administration of the colony spent some time without chevrons, in autumn 2014 they received the chevrons of the so-called “DPR”. The so-called “militiamen” visited the territory of the colony several times.

2. Events after the occupation of PI (December 2014 – nowadays)

In 2015–2016 the territory of the colony and the neighboring territories were still undergoing periodic shelling. The shells were flying over the colony, there were hits near the colony, the debris often fell on the territory of the colony. The last hit to the territory of the institution was documented in February 2015. Two convicts and two colony employees were wounded then.⁹²

Besides, in 2015 and 2016 the colony was periodically visited by military vehicles that carried out shelling near the colony walls. In 2017 no such instances were documented, but periodically the shelling was carried out from the waste heaps that were situated near 1–1,5 km away.

⁹² <https://www.youtube.com/watch?v=igveuK6w2pg>
Interview 23.06.2017

The buildings that were damaged during the shelling were repaired by the convicts themselves and the employees of the administration.⁹³

In 2015–2016 the so-called courts of “DPR” changed the sentences to the persons convicted by the Ukrainian courts according to their legislation. The term of the sentences remained mostly unchanged, they only changed the articles and in particular the regime of detention. In some cases the articles were left unchanged according to the sentence of a Ukrainian court (for the persons convicted for the serious crimes, when the use of an article of the so-called “DPR” would significantly worsen the convict’s situation), and in some cases the term of sentence was increased or decreased. The change of regime of detention was documented for the more lenient and more strict regime.

Currently the colony also holds the persons convicted by the courts of the so-called “DPR” for the crimes that were committed after the start of ATO. Among them are the so-called “militiamen” and the persons convicted for spying for Ukraine, as well as the persons convicted for the article “treason”. Most of them were given to Ukraine during the exchange on 27.12.2017. In the colony they were held separately from other convicts.

The enforced participation in the armed conflict was not documented. Some of the convicts expressed such wish voluntarily, but most of them were not involved in illegal armed formations. In one case a convict’s “militia” acquaintances offered to release him from the colony if he goes to war.⁹⁴

There were numerous documented cases of refusals to accept the applications from the convicts asking to transfer them for serving their sentences on the territory controlled by Ukraine. The colony employees refuse to accept the corresponding applications for various reasons.

3. The conditions of detention

The power and water supply in PI is turned on in the morning and evening, for several hours. The heating system was damaged back in 2015,

⁹³ Interview date 23.06.2017.

⁹⁴ Interview date 28.11.2017.

since then the colony facilities are heated with ovens. Some fuel for them is given in the colony, some is bought by the relatives of the convicts.

The cases of enforced labor were not documented, the working convicts do that voluntarily, hoping for a more lenient regime. There are either no wages, or the convicts receive between 50,00 and 200,00 Russian Rubles a month, depending on their area of work.

Food. The food situation started to slightly improve in spring 2015, but most of the convicts reported about the absence of the minimum food rations necessary for a person. The situation is complicated with the convicts who do not have the possibility to receive parcels from their relatives.

Medical assistance. Overwhelming majority of the respondents reported an inadequate level of medical assistance — the medical units either do not have the necessary medicines or only have the most basic ones. The situation is difficult for the convicts with chronic diseases. Their relatives have to provide them with the necessary medicines. In 2017 there were significantly more documented instances of tuberculosis illness in the colony.⁹⁵

X. SUKHODILSK CORRECTIONAL FACILITY NO. 36

Address: 4421, Luhansk region, Krasnodon district, Sukhodilsk town, Karpinskogo Street, 46.

Security level: medium security level colony, for holding the men convicted to imprisonment for grave and particularly grave crimes for the first time; for holding the men who had previously served their punishments in the form of imprisonment; the men convicted for deliberate crimes of medium gravity while serving their sentences in the form of imprisonment; the men transferred from the colonies of maximum security level under the procedure provided for by the Criminal Executive Code of Ukraine.

Occupation date: May 2014.

⁹⁵ date of the interview 19.12.2017, 03.08.2017.

Production: the following products are manufactured: barbed wire fence “yegoza”, chain link fence, foam concrete, paving tile, curbs, slag blocks, work gloves, gluing of paper bags, the manufacturing of containers, bins, playgrounds, the manufacture and repair of furniture, the manufacturing of section blocks, park benches, repair of automatic barrels for transportation of milk and water, the repair of PV, the manufacture of door and window blocks, bread trays, the manufacture of fixture M-24, M-16, arc support screed, mining net.

Planned population: 1800 people.

1. Events at the start of ATO (April – November 2014)

The colony is situated not far from the border with the Russian Federation. Car route M-04 is located near the colony. It begins in the town of Znamyanka, goes through Luhansk and ends on the state border with Russia, on CIOP “Izvarine”.

Since May 2014 pory the military vehicles from the direction of the border with Russia started using that road to get to Luhansk and Donetsk.

The employees of the correctional facility took off their Ukrainian chevrons and Ukrainian insignia at once on the territory of the institution, also replaced their uniform with the uniform of the so-called “LPR”. According to the evidence, some of the colony employees started to work on the roadblocks of illegal armed formations.

The so-called “militia” placed their cannons near the correctional facility, they were shooting the planes and drones from them every day. They were also shot at from the planes. The shells did not hit the territory of the colony, there were hits to the surrounding territories, one shell hit a lane near the headquarters, behind the fence, it did not blow up. The shelling lasted for near half a year.

Since summer 2014 the food got worse. The convicts received a small amount of various porridges, mixed, a soup without potatoes, only with cabbage. Because of the hostilities the relatives could not send the parcels and money transfers.⁹⁶

⁹⁶ Interview date 22.01.2018.

Around half a year after the start of ATO, the former head of the colony who was fired for violations in Ukraine was placed in the position of the colony head by the so-called “LPR”.

2. Events after the occupation of PI (December 2014 – nowadays)

There was no shelling of the colony and the surrounding territories during that period, the military vehicles also stopped being placed near the colony.

After the colony ended up under the control of the so-called “LPR” the Ukrainian legislation stopped working in the colony. The early release became effectively impossible.

In summer 2015 there were rumors about the transfer of the convicts who lived in other regions of Ukraine, but ultimately they were not transferred.

3. The conditions of detention

The conditions of detention of the convicts have not changed significantly.

The water supply, power supply and heat supply were provided during the entire period.

All convicts were obliged to work, they were placed in disciplinary isolator when they refused to work. The convicts did not receive the wages, they were paid with cigarettes and food. The so-called “militia” ordered the coffins in the colony, brought the military vehicles for repair.

The enforced participation in hostilities was not documented. Some of the convicts after the release expressed their voluntary wish to join the so-called “militia”. To achieve that they turned to the local military commissions, some of the convicts contacted the field commanders before the release and they were met near the colony.

Food. The food slightly improved in spring 2015 because of the humanitarian aid. There is a mill on the territory of the colony, the colony was provided with flour.

Medical assistance. The medical unit lacked the medicines, there was only a paramedic of all the specialists. For some time the people with HIV stopped receiving ART-therapy.

XI. YENAKIYEVO CORRECTIONAL FACILITY (NO. 52)

Address: Yaltinska Street, 2 “A”, Olenivka village, Yanakiyevo — 13 town, Donetsk region. 86489.

Security level: maximum security level colony for men.

Occupation date: May 2014.

Production: manufacture of mining equipment, ferroconcrete items, “rabitsa” net and metal barriers, sewing products.

Planned population: 850 persons⁹⁷. according to the office of the Commissioner, as of 1 November 2014 there were 470 convicts in the colony⁹⁸.

1. Events at the start of ATO (April – November 2014)

After the start of hostilities Yenakiyevo correctional facility ended up between the military positions. From one direction, near 5 km away, there were Ukrainian military positions, from the other — the positions of the so-called militia. The so-called militia often approached the colony walls and performed the shelling from there.

The shells were constantly flying over the colony, the fragments were falling on the territory of the colony. During that period the respondent’s mother visited the colony to see him, there was a powerful shelling — the walls shook and the plaster fell off. It was a mortar shelling. The military vehicles circled around the colony, the APCs, there was machine gun fire.

2. The attempt to evacuate the convicts in November 2014

On 18 November 2014, the Ministry of Justice conducted the inter-ministerial meeting on the issues of evacuation of the convicts from the territory of ATO. During the meeting the decision was taken to evacuate the convicts from Yenakiyevo CF no. 52.

⁹⁷ http://ukrprison.org.ua/department_institutions//1209364223

⁹⁸ <https://dostup.pravda.com.ua/stories/publications/plius-23-z-95-tysiach-ukraina-zabrala-shche-23-svo-ho-hromadianyna-z-dnr>

Between 26 and 29 November 2014 the groups of representatives of SPSU carried out several visits to the town of Yenakiyevo and its surroundings to reconnaissance the routes and prepare the convicts.

On 28 November 2014 at 04 am the National Guard of Ukraine formed a line to move to Yenakiyevo correctional facility. However, the evacuation of the convicts was postponed, according to SPSU, because of the lack of guarantees of safety for the staff and convicts. However, according to the convicts, the evacuation was not carried out due to a mistake.

In winter 2015 they wanted to evacuate the convicts two times (when there was the Debaltseve cauldron). They spent several days with their belongings packed, they were told that the buses would arrive and they would be transferred to Artemivsk.

After the failed attempt to evacuate Yenakiyevo CF no. 52 some of the administration of PI retired from the colony and moved to other regions of Ukraine. However, most of the employees remained to work on the non-government controlled territory: some supported the members of IAF, others did not have the resources to move with their families.

3. Events after the occupation of PI (December 2014 – nowadays)

In winter 2015 the hostilities were going on near Yenakiyevo CF. The convicts suffered from the constant shelling. In some cases there were up to 2000 explosions a day. During that period the administration of the colony did not attend work: there were 2–3 persons on duty. They were bringing food to the convicts and kept order. During the especially powerful shelling the administration was hiding in the basement, but the prisoners were never brought to the basements. Those who were serving their sentences in the cell system could only hide under the bed, others were hiding from the explosions in the corridors.

Later the members of IAF visited the PI. They notified the administration that they controlled the territory, they walked among the convicts, looking in every cell. They said that they did not expect to find anybody alive because they had the informa-

tion about the evacuation of all convicts. According to them, none of the shells destroyed the colony only due to a lucky coincidence.

The shells smashed the windows in many rooms, and around 2 February 2015 one of the shells hit the diner of the colony. As a result of the explosion the building collapsed, one convict died, another one was wounded. The administration of the colony did not try to save the wounded — other convicts had to drag them from under the rubble on their own. Later a shell also damaged the roof of the sector of life imprisonment.

In February 2015, when there was no administration in the colony, six convicts escaped. Back then the convicts themselves kept order after the request of the administration. They also helped to organize the escape in which they participated. The fate of those convicts is still unknown. According to unconfirmed data, one of them was seen in Zaporizhya region.

There was also a documented case when at the start of the conflict the colony was visited by the armed masked men, they took with them two convicts who were sentenced to life imprisonment. According to other convicts, they were taken voluntarily, because they had military training. For near a year they participated in hostilities, later they were returned to the colony.

Some of the persons sentenced to life imprisonment had their term changed to 15 years of imprisonment by the illegal courts of the so-called “DPR”.

When the convicts turned to the administration of the colony requesting to transfer them to the territory controlled by Ukraine their applications were not accepted for various reasons, or those applications did not go to the further instances. Those convicts who lived in Donetsk and Luhansk region-swere orally told that they would not be transferred.

4. The conditions of detention

With every day spent in PI the convicts felt that the conditions of detention were gradually worsening. At the same time, the convicts with various terms of punishment were treated much better than those who were serving their life sentences. In addition to the

shelling that lasted until May 2015, the convicts suffered from the lack of water, heat and power supply.

The electricity disappeared in PI for the first time in September 2014 (for several days), then — for a week (in November 2014, before the failed evacuation), and then — for a month and a half. According to most of the convicts, the power supply could not be repaired for 50 days. The convicts spent that period in complete darkness under powerful artillery volleys. Those sentenced to a limited term of life imprisonment bought the generator to charge their cell phones sometimes, and those sentenced to life imprisonment did not have the generator.

The situation with heat supply was the same. In winter 2015 the colony was not heated at all. The persons convicted to imprisonment for a certain term received the ovens to heat their cells, they made the fires outside to get warm. The persons convicted to life imprisonment found themselves in a much worse situation. They did not have the heaters, the windows were smashed in some cells. The sector of maximum security level was situated in two-storey house and on the second floor, above some of the cells, a shell damaged the roof that started leaking. The convicts had to wear all of their clothing, cover themselves with all the blankets. They burned everything that could burn to warm themselves in their cells, from wooden furniture to papers. They boiled water to make tea in the same way.

The centralized water supply worked in the colony with significant interruptions, but the cold water was available almost every day. In case it was turned off the convicts always gathered special bottles. For four months the convicts could not wash themselves because of the lack of staff that would bring them to the bath. When they were finally brought to bath, all convicts were black because of soot. Due to the violation of the rules of hygiene the cells reeked horribly, the convicts suffered from insects and infections.

The convicts were not brought outside for exercise during winter–spring 2015.

Food. After the funding of the institution by the state authorities stopped the convicts stopped being fed. At first, they received food from the supplies, but after the diner was destroyed the supplies disappeared. Officially, every colony was receiving

humanitarian aid, but the convicts did not receive it. They only received the hygiene products and canned food one or two times.

The usual rations of the convicts consisted of two small damp pancakes that could fit on the hand's palm, 100–200 grams of some porridge. The food was given two times a day.

The convicts dealt with the situation in various ways. Some of them organized the delivery of products from Selidove at the expense of their relatives. The mother of one of the convicts lived on the territory controlled by Ukraine. Every month she made arrangements with a driver, that he would deliver the products to the colony across the line of demarcation.

Such service cost 1200 hryvnias. Besides, the relatives bought the products for the convicts: cereals, oil, potatoes, etc. It all cost around 8000 hryvnias a month. For a long time the car with the products was allowed to go to the colony, but later it was prohibited to deliver the cereals in such way and it lost sense.

Other convicts were buying products through one of the convicts who cooperated with the administration. He was buying products and selling them to the convicts at two or three times higher price, and the percents from the sale went to the administration. He was selling cereals and potatoes in such way. The convicts could buy such products, transferring the money to the “seller's” phone or his card of a Russian bank. However, such purchase was disadvantageous, although it was endorsed by the administration.

Finally, some of the convicts received the food from the relatives that lived not far from Yenakiyevo CF. However, such parcels from the relatives were not given to the convicts by the administration in full.

After the destruction of the diner the convicts had to prepare their food on the fires. Because of that the meals were often burnt or undercooked.

In general, most of the convicts in three or four month of such food lost 15 to 20 kilos of weights.

Medical assistance. For a long time (between December 2014 and May 2015) the colony did not have a doctor at all. During that period and later, the convicts could not receive the medicines, because they were not delivered to the colony. The medical treatment was only possible at the expense of the relatives and only in case if the relatives pay to the administration for such “service”.

A case is known when a convict died because of the complication of flu.

Another convict died of an unknown disease. In the conditions that appeared in the colony any injury could result in gangrene. Thus, one of the convicts' leg ulcer turned into a huge wound of which he died in several weeks — locked in a cell without medical assistance.

There are known cases of suicides of the convicts who could not take such conditions of detention.

XII. MICHURIN CORRECTIONAL FACILITY NO. 57

Address: 84606, Donetsk region, Horlivka town, Miru Street, 1.

Security level: medium security level colony for men who were convicted to imprisonment for the first time.

Occupation date: August 2014.

Production: leading area of production of the institution — engineering. The enterprise manufactures the mine tightening, nets, curly paving elements, galvanized “Yegoza” fence, slag blocks etc. The main kind of services — firewood, charcoal, alabaster sorting, sewing of the clothes for workers, utility gloves.

Planned population: 1780 people.

1. Events at the start of ATO (April — November 2014)

The colony is situated not far from the line of demarcation. The colony underwent the first shelling on 21 July 2014. Then several shells hit the territory of the institution at once. Two convicts died that day, two were wounded, an employee of the institution sustained injuries. Also the buildings, fence and a guard tower sustained damage.⁹⁹

The institution was effectively under shelling during the entire mentioned period. The powerful shelling lasted in July-August 2014. The territory of the colony

was hit by the shells almost every day. Later the institution and the surrounding territories were shelled, but to a smaller extent. The military vehicles approached the colony walls regularly, it performed the shelling.

There is a bomb shelter on the territory of the institution, during the intensive shelling the convicts were able to hide there.

During that period the colony employees behaved inadequately, attended their work while drunk, mistreated the convicts, beaten them without any reason, sent them to the DISO. Because of the arbitrariness of the administration the convicts phoned “02”, phoned Horlivka where there already were the militiamen.

On 24 August 2014 there was an armed attack on the colony. Several people armed with assault rifles, machine guns and grenade launchers entered the territory of the colony. They inflicted bodily injuries on the administration of the colony and took some of the convicts with them.¹⁰⁰

In two days the colony was visited by the so-called “militia”, among them there were the convicts that were taken the last time. They forced all the colony employees and the convicts who worked at the headquarters, to kneel on the parade-ground, placed a machine gunner and beat the employees heavily. The convicts who were taken must have told about their mistreatment. That time they took several more convicts with them.

After that attack the employees of the colony almost never appeared on the territory of the institution. The armed people visited the colony several more times, taking several convicts each time. there was no documented enforced participation in the armed attacks, but it was documented that some of the convicts voluntarily wished to go to war, they tried to find a possibility of connection with illegal armed formations.¹⁰¹

In autumn 2014 the new head of the colony was appointed, the employees who stayed swore allegiance to the so-called “DPR”.

In the period of intensive shelling there were escapes from the colony because of inadequate security of the institution. Two-three people escaped every day.

¹⁰⁰ <http://www.kvs.gov.ua/peniten/control/don/uk/publish/article/91638;jsessionid=B11829554F1726C962039CBEE4234918>

¹⁰¹ Interview date 28.12.2017.

2. The events after the occupation of PI (December 2014 – nowadays)

In late 2014 and early 2015 the territory of the institution and the surrounding territories underwent massive shelling. Later the shelling of the colony and the surrounding territories was carried out periodically. At least one convict died, several persons were wounded.¹⁰²

During the entire period of ATO the territory of the institution was hit by more than 150 shells and mines which caused a lot of damage to the buildings. There were hits to the club, diner, barracks of section no. 4, to the industrial area, disciplinary isolator, bath, football field, fence.

Also, the convicts do not feel safe because of the sounds of shelling and explosions, regular gunfire. The last time the shells hit the territory of the institution was documented in summer 2016.¹⁰³

When the convicts turned to the administration of the colony requesting to transfer them to the territory controlled by Ukraine their applications were not accepted for various reasons, or those applications did not go to the further instances. Those convicts who lived in Donetsk and Luhansk region were orally told that they would not be transferred.

3. The conditions of detention

The overwhelming majority of the respondents reported a significant deterioration of the detention conditions after the colony ended up under the control of “DPR”. Currently the colony holds around 300 convicts.¹⁰⁴ They live in two areas that were less affected by the attacks.

The colony has no heating or hot water, the cold water is available for several hours a day. The convicts received the heaters to heat the rooms, but it is not enough in winter.

The roofs and windows were damaged in the residential areas during the shelling. The repairs started in residential areas only in summer 2017, before that the windows were closed with films and blankets.¹⁰⁵

¹⁰² <https://www.youtube.com/watch?v=-PMC3hmVuWE>

¹⁰³ Interview date 30.01.2017.

¹⁰⁴ Interview date 28.04.2017.

¹⁰⁵ Interview date 29.01.2018.



The cases of enforced labor were not documented, the prisoners who work do that voluntarily, hoping for a more lenient regime. They either do not receive wages at all or receive some insignificant amount.

Early release is effectively impossible.

Food. Since the PI was captured, there were troubles with food. The convicts were given a very diluted soup in the morning, afternoon and evening.

The food situation started to slightly improve in 2015, but the overwhelming majority of the respondents reported the absence of the minimum food rations necessary for a human being. The convicts whose relatives have no possibility to send the food parcels are in a difficult position, those are mostly the convicts whose relatives live on the territory controlled by Ukraine.

Medical assistance. The overwhelming majority of the respondents reported an inadequate level of medical assistance — the medical units either lack the necessary medicines, or only have the most basic ones. The convicts with the chronic diseases are in a difficult situation. In the best case the relatives of the convicts are allowed to send them the necessary medicines, but if the relatives do not have the possibility to provide the convicts with medicines — then the convicts with chronic diseases do not receive an adequate treatment.

XIII. SLOVIANOSERBSK CORRECTIONAL FACILITY NO. 60

Address: 93711 Lozovske village of Slovianoserbsk district, Luhansk region.

Security level: maximum security level colony for men sentenced to life imprisonment and imprisonment for certain terms.

Occupation date: did not happen.

Production: barbed wire net shop, press and polyethylene shop.

Planned population: 830 persons.

1. Events at the start of ATO (April – November 2014)

In summer 2014 the territories around the colony underwent shelling, there were no hits to the territory of the colony. The respondents point out that in 2014, 2015 and 2016 the surrounding territories were shelled, sometimes the blast waves smashed the windows in the residential areas. The colony employees were almost absent then, they only guarded the perimeter.

In 2014–2015 the shells or shell fragments often hit the territory of the institution, namely — the fence and the building roofs. During the shelling the convicts were hiding in their barracks, there was no equipped bomb shelter on the territory of the colony then. There were no victims¹⁰⁶.

¹⁰⁶ Interview date 23.08.2017.

Almost no employees attended their work in the colony then, even the guard towers were left empty. Later some of them returned and are working even now, however, most of the colony employees are new¹⁰⁷.

2. The events after the occupation of PI (December 2014 – nowadays)

Periodic shelling of the surrounding territories was also documented in 2015. Because of that the convicts did not feel safe.

During 2014–2016, according to the persons who were there during that period, the walls of the PI were periodically approached by the military vehicles that performed the shelling of Ukrainian positions.

The enforced participation of the convicts in the IAF was not documented. In spring 2015 the colony was visited by the so-called “Cossacks”, they were wearing green balaclavas, military uniform without any insignia, armed with assault rifles and machine guns. Around 15 men. All the convicts were lined next to a wall, beaten, they shot over the convicts’ heads. Back then everybody who wished to go to war was offered to write the corresponding applications. Some of the convicts wrote such applications (almost 100 persons), but they remained to serve their sentences, they did not participate in hostilities.

3. The conditions of detention

The conditions of detention of the convicts deteriorated significantly after the colony ended up under the control of the so-called “LPR”.

In 2015 the colony was regularly, one or two times a month, visited by the so-called “OMON”. they were beating, degrading the convicts, forced them to squat and do “stretching”. There was no cause (disobedience, mutinies etc) for such raids. All convicts suffered from that beating. But most of all — those who were held in the maximum security level areas. Because of those beatings one of the convicts received a disability, his knee was damaged. In 2018 we documented a decrease in such events.

¹⁰⁷ Interview date 22.09.2017.

The power is turned on for two hours — in the morning and in the evening, the water is also turned on for two hours in the morning and two hours in the evening. The convicts use the bath once in two weeks or once a month.

Food. The food was very bad in 2014–2015, the convicts had to gather money for food, the money was provided by their relatives. Later the wheat was bought for that money, it was crushed, boiled and eaten. They were effectively caring for themselves.

Later the food improved but it was worse than when the colony was under the control of Ukraine.

Medical assistance. All the respondents report the deterioration of the medical assistance in the colony. The medical unit does not have the medicines. Often the prescribed medicines had to be bought by the relatives. According to one of the respondents, if the relatives buy and sent the medicines, the barracks are often searched, the medicines are taken during the searches¹⁰⁸.

In 2015 the people with HIV did not receive the ART-therapy for some time.¹⁰⁹

XIV. CHERVONOPERTIZANSK CORRECTIONAL FACILITY NO. 68

Address: 94830, Chervonopartizansk town, Sverdlovsk, Luhansk region.

Security level: medium security level colony for women.

Evacuation date: 28 June 2014.

Occupation date: did not happen.

Production: sewing production, insulation manufacture.

Planned population: 171 person.

1. Events at the start of ATO (April – November 2014)

The conflict on the location aggravated in June 2014, when illegal armed formations started using high-caliber artillery (in particular, the autonomous

¹⁰⁸ Interview date 30.08.2017.

¹⁰⁹ Interview date 04.09.2017.

artillery systems “Grad” and mortars). The convicted women saw the military planes flying over the colony. During the daytime the helicopters of MIA of Russia also circled over the territory of the colony. Such flights were particularly frequent during the checks, when all the convicts were lined outside and their number could be seen clearly. The paratroopers were landing beyond the colony gates.

The IAF placed a tank right next to the colony gates, but it did not shoot. The APCs, barriers made of buses and tires were located nearby. The women saw the Cossacks training to assemble and disassemble the assault rifles. When they were leaving the colony they noticed many broken military vehicles and the traces of tank tracks. Some of the women pointed out that the Cossacks settled on the territory of the colony — in the headquarters, where they placed their training base. However, other convicts did not support that information.

At the same time, the first shells fell on the territory of the institution. A direct hit of a shell destroyed the first checkpoint. The archive burnt down, as well as a part of the building for the visits, the second level of industrial area in the colony was damaged, it contained the production of tile and insulation brick (ABK shop) and the bath and laundry facility. The explosions cracked the glass window blocks; the shards damaged the walls of the colony buildings. Later the colony gates were also destroyed.

2. The conditions of detention

Because of the penitentiary institution’s location on the very line of demarcation its territory was constantly shelled. The colony was surrounded by snipers. They were shooting aiming at legs when some of the convicts went outside — to gather water (the colony does not have the centralized water supply) or to the restroom (the restrooms were also outside). However, nobody was wounded — The snipers only did it for intimidation. The shells were also constantly flying over the colony, the shelling was almost every day. However, for a long time the women attended work and adhered to a changed schedule: they worked at night with the covered windows. The women and the colony administration took off their uniforms to not become

a target for the snipers. They were bringing the most important items with them because they knew they could leave the colony anytime.

According to the convicts, at the time the conditions of detention in the colony worsened, but not significantly. The colony head provided the convicts with food and water. The colony had the electricity and water supply. The women were able to receive the parcels from their relatives — the colony employees visited the postal office to get the parcels even during the powerful shelling. Physical force was not used against women, they were not threatened, there were no illegal searches. The women were not forced to participate in hostilities.

To protect the life and health of the convicts the head of the colony brought them to the basement settlement. The convicts spent time there during the most powerful shelling. The alarm went off before every shelling.

3. The process of evacuation of the convicts

The head of Chervonopartizansk correctional facility took active measures to evacuate the convicts. In particular, he called and wrote to the State Penitentiary Service of Ukraine. However, for a long time it did not believe that the colony is really in danger. They started to discuss the evacuation only when the first checkpoint was destroyed.

In late June 2014 the colony was visited by the representatives of illegal armed formations with video camera. They visited the colony during the night and forced the convicts to film the video “for the office of Security Service in Luhansk region”. They asked to state the date of the video shooting as if to prove that there were still people in the colony and it should not be shelled. They also documented the destructions in the colony.

The evacuation started in the end of June 2014. The convicts worked in the production area when they were once again taken after the alarm and brought to the building of sewing production “Gloria”. It turned out that a shell hit the first checkpoint that day which burnt down completely. In the basement the women were ordered to lie down on the floor. They heard the explosions behind the colony walls. They remained in the basement without food

and water for several hours, they could not go outside to visit the restroom. They started to be brought out only after several hours. That entire time the convicts were on the brink of nervous breakdown.

When the shelling calmed down a bit, the minibuses arrived to the colony, the convicts were placed there and brought to Sverdlovsk correctional facility no. 38. The convicts could not take their possessions because they could not return to the colony buildings due to the shelling. They went in the clothes that were on them. They had only the thermos with water and food. On the way the convicts were accompanied by the employees of Chervonopartizansk correctional facility.

XV. WESTERN CORRECTIONAL FACILITY NO. 97

Address: 86121, Donetsk region, Makiivka town, Toreza Street, building. 62-1.

Security level: medium security level colony for men who had served their sentence in the form of imprisonment before.

Occupation date: summer 2014.

Production: metal processing, machines and equipment manufacture, manufacturing of hinged equipment for agricultural and communal machinery, boiler equipment. various metal products.

Planned population: 1264 persons.

1. Events at the start of ATO (April – November 2014)

Since 13 April 2014 the forceful occupation of power started on the territory of Makiivka town, Donetsk region. The town started holding rallies, the administrative buildings were assaulted and the turnover of weapons was uncontrolled.

The active hostilities started in the direct vicinity of the colony in the second half of 2014. There are the waste heaps near the colony from which often came the shelling by heavy weaponry. The explosions constantly sounded near the colony, the shells were flying over the colony, the shots from various weapons could be heard.

The convicts pointed out multiple hits of various caliber shells to the territory of the colony and the destructions, but there were no reports about fatalities. During the shelling the convicts were able to hide in the bomb shelter on the territory of the institution.

2. Events after the capture of PI (December 2014 – nowadays)

Periodical shelling of the colony and the surrounding territories lasted in 2015 and 2016. In that period there were several hits to the territory of the colony. There were no deaths of the convicts, the buildings on the territory of the institution were partially damaged.

The last mention about the functioning of the colony on the resource of the State Criminal-Executive Service of Ukraine is dated 17.06.2014. No news about the colony were published after that date.¹¹⁰

Many colony employees left. The remaining operatives told the convicts that they are transferred under the control of “DPR”. Later some of the colony employees returned, they wore the uniform without the chevrons. Some did not return, the new ones replaced them. However, most of the colony employees stayed to work for the so-called “DPR”.¹¹¹

In 2015 the cases of the convicts whose sentences were delivered by Ukrainian courts started to be reviewed, bringing them in accordance with the criminal code of the so-called “DPR”. The convicts’ articles were changed according to that CC, some had their regime of detention changed, the term of punishment remained mostly the same. In some cases the term of the punishment was changed to a greater or a smaller one.

The colony started receiving the convicts from other colonies whose regime of detention changed, also the convicts whose regime of detention after the review of their cases did not correspond to the regime of Western correctional facility no. 97 started to be transferred to other colonies. Currently the

¹¹⁰ <http://www.kvs.gov.ua/peniten/control/don/uk/publish/article/90231;jsessionid=E2FDF19D363EEF21223848D49F70981D>

¹¹¹ Interview of 22.06.2017.

institution also holds the persons who were convicted by the courts of the so-called “DPR”.

There were no documented cases of enforced participation in hostilities.

3. The conditions of detention

Most of the convicts reported a significant worsening of the conditions of detention in the colony. Since late 2014 the rooms were cold and damp. There were documented cases when the temperature in the barracks dropped to 4 Celsius degrees below zero. The water was dripping from the ceiling. There were documented cases when the convicts were forced to stay in open air in the cold season without the correspondent clothes or necessity. There were troubles with washing the clothes, the convicts gave the clothes to be washed in the bath, but they were not washed there. There were troubles with water. The electricity was only turned on in the morning and in the evening, for several hours. There were also documented significant violations of the personal hygiene and the absence of the first necessity items. Due to unsatisfactory detention conditions in the first years of the conflict more cases of tuberculosis disease were documented.

There are no reports about any enforced physical labor. At the same time, the convicts reported that they could work and receive tiny rewards.

Food. The situation with food was critically dangerous, most of the convicts reported the absence of the minimum rations necessary for a human being. The situation was especially difficult for those convicts whose relatives could not help them with the parcels. Since October 2014 the food quality became very low. The relatives could not bring products because of the shelling. The convicts starved. The locals were in a slightly better position, their relatives were sending them products. Some of the convicts’ abdomens and legs were swollen due to starvation. There were cases when some of the convicts were falling from hunger while running to the bomb shelter or going to the diner. They were brought to interregional hospital, to Donetsk correctional facility no. 124.

According to the persons who were in Western CF no. 97 then, between October 2014 and March 2015

near 15 people died of hunger, but the administration stated the heart failure as the cause of their death.

Medical assistance. The overwhelming majority of the respondents reported an inadequate level of medical assistance – the medical units lacked the medicines, there were no doctors of some of the specialties. The relatives of the convicts have to provide them with the necessary medicines.

XVI. DONETSK CORRECTIONAL FACILITY NO. 124

Address: 83036, Donetsk region, Donetsk city, block 883 “A”.

Security level: medium security level colony for men who had served the punishment in the form of imprisonment before.

Occupation date: August 2014.

Production: 2 shops that produce (slag blocks, pavement tile, ferroconcrete hatches, f/c filling), there is electrode production shop, chain link fence production area, one-time orders production area, trash containers manufacture area, “yegoza” production area, cattle chain production area, monument manufacture area, souvenirs manufacture area, trolley frames manufacture area, granite cobblestone production area, wood processing shop, wide assortment of wire net, wide assortment of sewing production, roofing materials shop, metal construction shop.

Planned population: 1300 persons.

1. Events at the start of ATO (April – November 2014)

The colony is situated in Kirov district of Donetsk. In spring 2014 the colony was visited by armed people, they disarmed the colony employees, took the weapons from the weapon room. At first the colony employees did not dare, but gradually they decided to serve the so-called “DPR”. In autumn 2014 the colony was completely controlled by the so-called “DPR”.

The shelling of the surrounding territories started in early summer 2014. There are waste heaps

not far from the colony, the military positions of the so-called “militia” were equipped there, they performed the shelling from there and the return fire was directed there. The shells were flying over the colony almost every day, they were falling nearby, the shell fragments were constantly falling on the territory of the institution.

On 10 August 2014 a shell hit a residential building on the territory of the colony. One convict died then, between 5 and 10 (according to various data) were wounded. The deceased, Grits or Gritsenko, he was around 40–41 years old.



More than 100 convicts escaped during that shelling, most of them later returned, the fate of the rest of them is unknown.

The first shell hit at 10 am. it hit the metal construction shop area. Later, at 08:30 pm, the shelling resumed, around 5 shells hit the territory of the colony. One of them hit the residential barracks no. 8/9 (old number, later the numbers of the barracks were changed), others – the residential area. One convict died, around 5 more were injured.

Because of the fear the convicts broke the gates, near 120 convicts escaped. Some of the convicts left the territory of the colony but did not escape. In around 40 minutes the men from “DPR” arrived. They started to shout and shoot aiming near the feet, they allegedly even wounded somebody, they were bringing the convicts back.¹¹²

Some of the convicts were able to go to Mariupol, and they were returned to colony no. 124 from Mariupol SIZO. Near 100 of the escaped convicts returned. Several men went to war, the fate of the others is unknown. They may be hiding, some of them could have exploded on the tripwires.¹¹³

Those who escaped were later tried in the so-called “DPR”. There was a case when a convict first received a sentence from a court of “DPR” for his escape, but later the sentence was cancelled because it was decided that he was saving himself.¹¹⁴

After the shells hit, the basement of the hospital situated on the territory of the institution was equipped to become a bomb shelter. That bomb shelter could not contain all the convicts, therefore during the shells many people remained in their barracks.

2. Events after the capture of PI (December 2014 – nowadays)

The intensive shelling of the surrounding territories lasted until February 2015. (until the moment of signing of the Complex of measures for implementation of Minsk agreement, signed on 11–12 February 2015.)¹¹⁵ Later, the intensity of the shelling decreased, but because of their placement next to the line of demarcation the convicts constantly heard the sound of explosions, gunfire, because of the shelling the walls sometimes tremble in the buildings. It lasts even now because the military positions are placed nearby (they are situated near 1 km away). There were no more hits to the territory of Donetsk correctional facility no. 124, but the con-

¹¹² Interview date 27.12.2017.

¹¹³ Interview date 27.12.2017.

¹¹⁴ Interview date 27.12.2017.

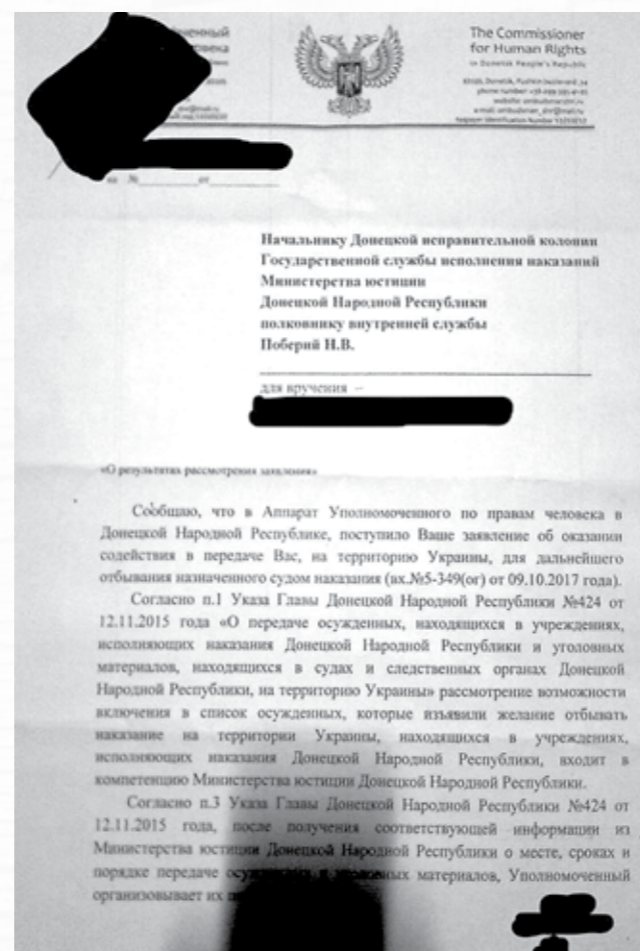
¹¹⁵ The agreement provides for the regime of full cease-fire since 00 am Kyiv time 15.02.2015. [https://uk.wikipedia.org/wiki/Мінські_домовленості_\(2015\)](https://uk.wikipedia.org/wiki/Мінські_домовленості_(2015))

victs do not feel safe because of the constant sound of shelling.

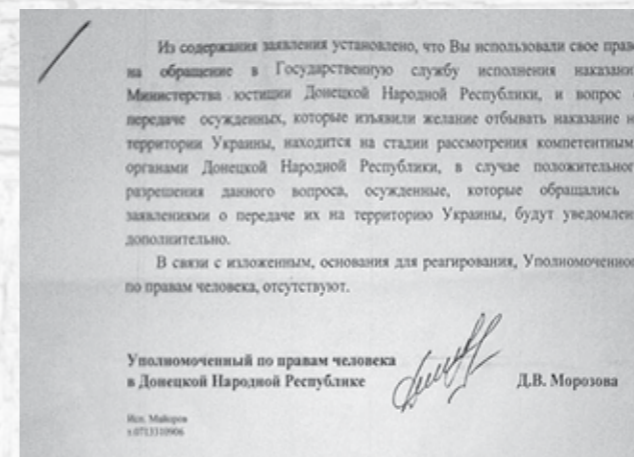
Periodically (especially often before February 2015) military vehicles approached the very walls of the colony, they carried out shelling, then the vehicles left. Thus it placed the convicts under the risk of return fire. According to the available information, it happened for the last time in summer 2016.

There was no documented enforced participation in hostilities, several respondents stated that some of the prisoners, of those who escaped during the shelling on 10 August 2014, went to war. There could have been some coercion or the offers to participate in the armed conflict by other bodies outside of the colony.

There were two documented cases of persecution for “pro-Ukrainian” ideology. In both cases the convicts were punished for “pro-Ukrainian” expressions with fines or isolator. One convict started having psychic disorders and made a suicide attempt after spending more than three months in isolator.¹¹⁶



¹¹⁶ Interview date 31.08.2017 and 31.08.2017.



3. The conditions of detention

The overwhelming majority of the respondents reported a significant worsening of the detention conditions after the colony ended up under the control of so-called “DPR”. As of today the hymns of the so-called “DPR” and Russian Federation are turned on in the colony every day.

All convicts are obliged to work. Only the diseased and the elderly convicts are free from work. The convicts are placed to disciplinary isolator if they refuse to work. There is either no salary or the convicts receive small amounts — between 5,00 and 500,00 Russian rubles, depending on the area of work.

For minor offences, such as the slack appearance, refusal to eat in the diner, minor violations of the internal order, etc., the convicts were placed in an iron cage measuring 2*2 ml. This cage is situated in the courtyard of the institution. The punished people spend several hours there in any season and any weather.

The prisoners are not provided with the necessary hygiene products. They were only given the humanitarian aid on several occasions.

Many of the convicts complain about the absence of the possibility of early release even for the working and encouraged convicts. We were notified several times about the refusal to accept the applications from the convicts asking for transfer. The colony employees refuse to accept the applications for various reasons. Several people could not have their applications accepted in four years.

Food. The overwhelming majority of the convicts pointed out the unsatisfactory food quality — the minimum food rations necessary for a human being

is absent (they are only fed with porridge). The convicts whose relatives can't send the parcels are in a difficult position. At the same time, it is possible to buy additional food in the colony, if the relatives transfer money to the number of the corresponding card or the phone number.

Medical assistance. The overwhelming majority of the respondents pointed out the inadequate level of medical assistance — the medical units lack the medicines, there are no specialized doctors. The relatives of the convicts have to provide them with the necessary medicines. Several persons told that they received the necessary medical assistance in the hospital on the territory of the colony. The conditions of detention on the territory of that colony are a bit better: there the prisoners are provided with the special diet, the rooms are warm in winter, there is water and electricity. However, on the other hand, the hospital still feels a lack of medical staff. Most of the doctors retired back in 2014, and the staff is not renewed yet. Mostly the young doctors attend work — the graduates of the local colleges who do not have the necessary work experience. The convicts also noted that the staff treated them in a rude way and that there were no necessary examinations.

XVII. SNIZHNE CORRECTIONAL FACILITY NO. 127

Address: 52406, Dnipropetrovsk region, Solonyansk district, Apollonivka village, military town 37.

Security level: minimum security level colony for women convicted to imprisonment for the first time.

Occupation date: September 2014.

Production: the enterprise of the institution manufactures a wide assortment of products for the mines of “Pavlogradvuhilya».

Planned population: 194 persons.

1. Events at the start of ATO (April – November 2014)

Snizhne correctional facility no. 127 is a minimum security level with common detention conditions for women sentenced to the deprivation of

liberty. According to the information received from the Penitentiary Service of Ukraine¹¹⁷, according to the latest data in possession of the authorities of Ukraine (before the effective loss of control over the penitentiary institutions) 194 persons were serving their sentences in Snizhnyanska colony.

In summer 2014 there were intensive hostilities near the town of Snizhne. The colony is situated in the outskirts of the town, in the urban-type settlement of Hirnytske; the sound of hostilities going on near the colony was heard clearly by the convicts. According to a respondent who was formerly a convict, in summer the convicts were forced to spend the nights on the mats in the basements of the colony for two weeks.

According to the available evidence, there was no armed occupation of the colony. The administration of the colony that was designated by Ukrainian authorities decided to recognize the “power” of the so-called “DPR”. At first there were no significant changes in the life of the colony during the change of power. The Ukrainian symbols disappeared from the public places, and later the Ukrainian chevrons disappeared from the uniform of the colony employees. Nobody explained anything to the convicts.

In 2014 the colony was visited by people armed with assault rifles and wearing military uniform. They verified the lists of the prisoners on the territory controlled by the Government of Ukraine, in particular, Priazov correctional facility no. 107 (Mariupol).

2. The conditions of detention

According to the convicts, in winter and spring 2014/2015 the convicts in the colony starved because of the termination of supply of food products. They were fed three times a day, but the food and bread “rations” were much smaller. The convicts were fed with porridge and French vegetable blends (possibly from the humanitarian aid), they gave a cup of milk for a day.

In spring 2015 the “rations” started to gradually increase at the expense of the humanitarian aid that started to come from Russia. The administration of the colony used this as an element of propaganda in favor of Russia against Ukraine.

¹¹⁷ <https://life.pravda.com.ua/society/2015/09/8/199971/>

Concerning the situation with medical assistance, the respondents note is effective absence. The medicine supply to the colony stopped. Only the simplest medicines remained, those that are not efficient. The troubles with tuberculosis started in relation to hunger. After the winter 2014/2015 and the fluorography examination 20% of the convicts were sent to the tuberculosis dispensary for treatment.

The regime requirements in the colony became stricter because of the hunger. If the convicts were found possessing the food products they could be punished, because it could cause a fight among the convicts.

The convicts were prohibited to have pens and paper, in order to limit their possibility of correspondence. The “Ukrposhta” stopped working, that made it much more difficult to receive and send the correspondence, as well as meeting the relatives from the territories controlled by Ukraine.

The respondents also point out a greater number of searches without explained reasons.

There was a significant reduction in water consumption. The convicts were given two liters of water for a day.

XVIII. VOLNOVAKHA CORRECTIONAL FACILITY NO. 120

Address: 85710 Molodizhne village of Volnovakha district, Donetsk region.

Security level: medium security level colony for men who were sentenced to deprivation of freedom for grave and particularly grave crimes for the first time.

Occupation date: September 2014.

Production:

Planned population: 1100 convicts.

1. Events at the start of ATO (April – November 2014)

The active hostilities in the direct vicinity of Volnovakha correctional facility no. 120 started in late August 2014 when the so-called “militia” attacked

the village of Olenivka¹¹⁸, situated several kilometers away from the institution. Then the period of active shelling lasted for near three months. According to one of the respondents, the soldiers could be seen from the second level windows.¹¹⁹ The shells were constantly flying over the colony, the overwhelming majority of them fell on the surrounding territories, but there were hits on the territory of the institution. It is known of at least one wounded colony employee during that period.

During the powerful shelling the representatives of the administration of the colony almost never appeared on the territory, only several workers stayed who were working without the chevrons, but with St. George’s ribbons. The colony started having significant troubles with water supply and food delivery.

No actions were taken to organize the evacuation of the convicts from Volnovakha correctional facility no. 120 or the convicts did not know about them.

2. The events after the occupation of the penitentiary institution by illegal armed formations (December 2014 – February 2018)

The respondents define the time when the colony ended up under the control of “DPR: in various ways, in autumn 2014 – early 2015. Possibly, the convicts do not assess the period when the colony was in undefined position in the same way. A great number of employees retired, the new ones came in their place.

It is known that periodic shelling of the colony and the surrounding territories was in 2015 as well as 2016. Most of our respondents told about the injured people among the convicts, no less than four people. It is unknown whether there were fatalities among the convicts.

It is known from the open sources about the injuries of two convicts during the shelling in August 2016.¹²⁰

Several persons told about the use of the warehouses and garages on the territory of the institution

¹¹⁸ https://uk.wikipedia.org/wiki/Бої_під_Докучаєвськом

¹¹⁹ Date of the interview 19.12.2017.

¹²⁰ <https://www.youtube.com/watch?v=fzIFRCgvvYs>

for keeping the military vehicles. This information is also confirmed by the investigation of international voluntary community InformNapalm.¹²¹

In 2015–2016 the cases of the persons convicted by Ukrainian courts started to be reviewed, bringing them in accordance with the criminal code of so-called “DPR”. The articles for most of the convicts were changed according to that CC, the detention regime was changed for some convicts, the term of imprisonment mostly remained the same. Because of the changes of regime of detention they started to transfer the convicts to other colonies, The people from other colonies were also brought here.

Some employees of Volnovakha colony no. 120 treated the convicts that just arrived to the colony in especially rude way. According to the respondents, they were beaten, the dogs were commanded on them, during winter they were forced into isolators naked. After two of the convicts died because of such treatment that situation became well known. According to the respondents, Olexandr Zakharchenko then visited the colony with some people. They took with them the employees who mistreated the convicts. After that the tortures of the newly arrived convicts stopped.

There was no documented enforced participation of the convicts in the hostilities, however, one of the respondents reported that some of the convicts went to war voluntarily.¹²²

The colony had the cases of using the enforced labor. The convicts were threatened with isolator if they refused to work. At the same time some of the convicts agreed to work voluntarily in exchange for more lenient regime, promised early release.

Some of the convicts wish to serve their sentence on the territory controlled by Ukraine. When the convicts ask to transfer them to the peaceful territory of Ukraine they receive a response that because of the hostilities the convicts are transferred in small groups, and the convicts who lived on the territory of Donetsk and Luhansk regions receive a refusal. There are known cases when the convicts wait for their turn to be transferred for several years already.

¹²¹ <https://informnapalm.org/21418-dokuchaevsk-artillery-shelling/>

¹²² Date of the interview 19.12.2017.

3. The conditions of detention

The conditions of detention of the convicts worsened after the colony ended up under the control of the so-called “DPR”. For the overwhelming majority of the convicts whose relatives live on the territory controlled by Ukraine, there is no possibility to see them, send and receive the letters, parcels, because they are on the other side of the line of demarcation. There were complaints about the absence of the possibility of early release.

The respondents complain the most about the lack of drinking water. The colony has no centralized water supply system, the water is brought to the institution in an insufficient amount. There is a well on the territory of the colony, but the quality of water in the well is bad.

Since 2015 the situation with food products started improving. Currently there are no complaints about the lack of food.

The overwhelming majority of the respondents pointed out an inadequate level of medical assistance — only the simplest medicines are available in the medical units.

XIX. ZHDANIVKA CORRECTIONAL FACILITY NO. 3

Address: 86397, Donetsk region, Zhdanivka town, Vilkhivka urban-type settlement.

Security level: medium security level colony for men.

Occupation date: September 2014.

Production:

Planned population: 1300 convicts.

1. Events at the start of ATO (April — November 2014)

In April — November 2014 the town of Zhdanivka was controlled by Ukrainian military, the town was periodically shelled. In September 2014 Zhdanivka ended up under the control of the so-called “DPR”.¹²³

¹²³ https://espreso.tv/news/2014/09/21/syly_ato_dlya_peredyslokaciyi_vidyshly_vid_zhdanivky__rozovky__ta_yunokomunarivska____rnbo

The persons with which we were able to talk were in other colonies during the active hostilities in the town. According to them, at the time of their arrival to that institution for treatment of tuberculosis, there were no noticeable destructions or other signs of the shell hits on the territory of the colony, there is no data about the victims of the shelling among the convicts or the employees. The information about the level of provision of the patients with food items during the active hostilities is absent.

There is no information about actions or any measures for the organization of the evacuation of the convicts from Zhdanivka correctional facility no. 3.

2. The events after the occupation of the penitentiary institutions by the representatives of illegal armed formations (December 2014 — February 2018)

The convicts who were undergoing treatment in Zhdanivka colony no. 3 since 2016 reported that in the period since 2016 the territory of the institution was not shelled. There are no noticeable consequences of the shell hits on the territory of the institution, signs of destruction or damaging of the buildings.

The open sources contain the information about at least one hit to the territory of the institution in January 2015,¹²⁴ and, in particular, a hit to the gas boiler.¹²⁵ It remains unknown whether there were several hits to the territory of the institution or there was one shelling and the colony suffered of its consequences.

The health care institution designated to treat the patients with active forms of tuberculosis, located on the territory of the colony, receives the convicts from other colonies that were left in the occupied part of Donetsk region. The number of newly arrived patients directed for the diagnostics and treatment of the disease decreases every year.

The institution also holds the convicts who have already been cured but are not transferred back to serve their sentences for various reasons. Some of them do not wish to be transferred because of slightly more lenient regime of detention in the colony and a bet-

¹²⁴ https://1-tube.ru/watch/_hDhZiHuQss

¹²⁵ <https://www.youtube.com/watch?v=X1FPGio49rA>

ter level of food provision, others are not transferred by the employees of the administration because their work specialization is needed for the colony.¹²⁶

Currently the colony holds, according to various data, between 200 and 300 persons. This number includes both the persons convicted by the courts of Ukraine, and the ones convicted by the courts of the so-called “DPR”. The living rooms are not overpopulated, for example, 18 persons live in the room intended to hold 100 persons.¹²⁷

There was no documented coercion or campaigning among the convicts to participate in illegal armed formations.

Some of the convicts detained in Zhdanivka correctional facility no. 3 wish to serve their sentence on the territory controlled by Ukraine. When the convicts turn to the colony administration asking to transfer them their applications are not accepted for various reasons, or they do not move to the further instances.

3. The conditions of detention

The conditions of detention of the convicts worsened significantly after the colony ended up under the control of the so-called “DPR”. The respondents complain about the mistreatment of prisoners by the administration of the colony, they report the facts of extortion of money and forcing the convicts to work if their specialty allows them to perform the works needed for the colony.

Regardless of the fact that Zhdanivka colony no. 3 has the status of health-care institution and the diseased people have to be detained there, the colony has a small industrial area in which some of the convicts work if they have the status of healthy or cured convicts. In most cases the convicts work voluntarily, for a more lenient detention regime or in exchange to the possibility to stay in the colony after the treatment course and not return to serve the sentence. Some of the convicts receive the salary, but it is too low, some are proposed to write

¹²⁶ Interview date 13.06.2018, 22.06.2018.

¹²⁷ Interview date 22.06.2018.

the applications requesting to involve them in unpaid voluntary work.

There is documented evidence that some of the convicts in Zhdanivka correctional facility are involved in phone fraud with the permission of the colony administration. For a monthly payment they are allowed to use the phone freely.¹²⁸

The heating system of the colony is functioning, but during the cold season the heating is inadequate. The convicts with tuberculosis have to sleep fully clothed.

The convicts whose relatives live on the territory controlled by Ukraine practically do not have the possibility to see them, send and receive the letters and parcels.

Food. Most of our respondents told us about a better level of food supply in Zhdanivka colony no. 3 comparing to other colonies. However, given that the colony treats the convicts with tuberculosis who need a special diet, the food does not correspond to the diet recommended for that disease and does not include all necessary substances to overcome the disease.

According to the respondents, there were the facts of looting and reselling of the food products and hygiene products that the colony received as humanitarian aid for patients with tuberculosis a long time.¹²⁹

Medical assistance. According to the persons who were in this institution, in 2016 there was a great percentage of deaths among the diseased convicts, in 2017 the death statistics slightly improved. The data about the number of diseased Zhdanivka colony in 2014–2015 are currently absent.

Some of our respondents believe that those people died because of improper treatment. All respondents complained about low quality of treatment in Zhdanivka colony, they told that the medicines that they were given had many side effects. There is no prophylactic treatment of those side effects or their consequences. There are no medicines against other diseases in the institution or doctors of the specialties other than tuberculosis.

¹²⁸ Interview date 22.06.2018.

¹²⁹ Interview date 13.06.2018, 22.06.2018.

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