



# NOT A PRIVATE MATTER

**DOMESTIC AND SEXUAL VIOLENCE AGAINST WOMEN  
IN EASTERN UKRAINE**

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**Cover image:** "Mum, someone is screaming". The image refers to one of the instances of domestic violence documented by Amnesty International: "It happened at around 6pm. The window was open. My kids were saying "Mum, someone is screaming". I thought some kids had got into a fight, because the voice was so thin. So, I went to the woods. I was walking along the path and saw this woman sitting on the ground, and I could see that she was pregnant".

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# GLOSSARY

WORD	DESCRIPTION
<b>GENDER-BASED VIOLENCE AGAINST WOMEN</b>	is violence which is directed against a woman because she is a woman or that affects women disproportionately. Such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty. <sup>1</sup>
<b>GENDER</b>	refers to the socially constructed expectations, attributes, roles, behaviours, and activities that a given society places on and considers appropriate for men and women. <sup>2</sup>
<b>DOMESTIC VIOLENCE</b>	can be defined as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”. <sup>3</sup>
<b>CONFLICT-RELATED SEXUAL VIOLENCE</b>	“refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys <sup>4</sup> that is directly or indirectly linked to a conflict”. <sup>5</sup>
<b>SEXUAL VIOLENCE</b>	“involves singular, multiple, continuous, or intermittent acts which, in context, are perceived by the victim, the perpetrator, and/or their respective communities as sexual in nature. Such acts are to be characterised as sexually violent if they violate a person’s sexual autonomy or sexual integrity”. <sup>6</sup> Sexual violence includes (but is not limited to) rape, marital rape, attempted rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual exploitation, sexual enslavement, forced circumcision, castration and forced nudity. Other forms of sexual violence have been interpreted to include a wide range of acts, including repeated acts of “sexually harassing someone by

<sup>1</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 35 on gender-based violence against women, UN Doc. CEDAW/C/GC/35, paras 1 and 14 (hereinafter: CEDAW GR 35).

<sup>2</sup> See Article 3 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter: Istanbul Convention). Also see ILGA, Glossary, available at [www.ilga-europe.org/resources/glossary/letter\\_g](http://www.ilga-europe.org/resources/glossary/letter_g) (accessed 19 September 2019).

<sup>3</sup> Article 3 of the Istanbul Convention.

<sup>4</sup> Amnesty International uses the UN definition of conflict-related sexual violence while acknowledging that it can affect all people, including those whose identities fall beyond the man/woman and girl/boy binaries.

<sup>5</sup> Conflict related sexual violence, Report of the United Nations Secretary-General, 2019, available at <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/04/report/s-2019-280/Annual-report-2018.pdf>, p.3.

<sup>6</sup> Civil Society Declaration on Sexual Violence, 2019, available at [www.4genderjustice.org/wp-content/uploads/2019/09/Civil-Society-Declaration-on-Sexual-Violence.pdf](http://www.4genderjustice.org/wp-content/uploads/2019/09/Civil-Society-Declaration-on-Sexual-Violence.pdf)

WORD	DESCRIPTION
	engaging in (repeated) unwelcome sexual conduct which can be interpreted as offensive, humiliating, or intimidating under the circumstances”. <sup>7</sup>
<b>SEXUAL HARASSMENT</b>	is “any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature”. Sexual harassment can include (but is not limited to) “demands (direct or implicit requests) for sexual favours in exchange for favourable treatment; the use of crude or obscene language or gestures; deliberate and unsolicited physical contact, including fondling or groping, or unwelcome close physical proximity; comments (verbal or written), gestures, or physical actions that are perceived as demeaning, belittling, or causing personal humiliation or embarrassment”. <sup>8</sup>
<b>PHYSICAL VIOLENCE</b>	as a form of gender-based violence refers to any actions that cause physical harm. Physical violence includes (but is not limited to) physical assault, beating, punching, kicking, biting, strangling, cutting, burning, killing (with or without weapon), forced labour, forced services, slavery, practices similar to slavery, selling and/or trading in human beings for forced sexual activities.
<b>PSYCHOLOGICAL VIOLENCE</b>	as a form of gender-based violence refers to any act, threat and/or coercion that causes short-term or long-term psychological harm, including anxiety, depression, and/or post-traumatic stress disorder. Psychological violence can take the form of abuse and humiliation, which includes name calling, insults, mocking, threats, intimidation, various non-sexual verbal abuse that is degrading and/or demeaning, compelling to engage in humiliating acts (whether in public or private). Psychological violence includes denying the abuse and blaming the victim, denying basic expenses for family survival, and confinement.
<b>ECONOMIC VIOLENCE</b>	as a form of gender-based violence is any action that causes economic harm and adverse socio-economic impact on a life of an affected person. Millions of women around the world are dependent on men for economic support and security. Men therefore can have a direct impact on the woman’s well-being by granting or withholding the means for food, clothing and other daily needs <sup>9</sup> . Economic violence includes (but is not limited to) denial of access to services, social benefits, education, health assistance, employment; prevention of the exercise and enjoyment of civil, social, economic, cultural and political rights; denial of property rights
<b>SEX WORK</b>	is the consensual exchange of sexual services between adults for some form of remuneration – money or goods – with the terms agreed between the seller and the buyer. Where consent is absent for reasons including threat or use of force, deception, fraud, and abuse of power or involvement of a child, such activity would constitute a human rights abuse which must be treated as a criminal offence. <sup>10</sup>

<sup>7</sup> Civil Society Declaration on Sexual Violence, 2019, available at [www.4genderjustice.org/wp-content/uploads/2019/09/Civil-Society-Declaration-on-Sexual-Violence.pdf](http://www.4genderjustice.org/wp-content/uploads/2019/09/Civil-Society-Declaration-on-Sexual-Violence.pdf), p. 9.

<sup>8</sup> United Nations Police, Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions, UN Doc. DPKO/CPD/DSHCPO/2003/002, p. 3.

<sup>9</sup> Amnesty International, *Women, Violence and Health* (Index: ACT 77/001/2005).

<sup>10</sup> Amnesty International, *Amnesty International Policy on state obligations to respect, protect and fulfil the human rights of sex workers* (Index: POL 30/4062/2016), pp. 3–4.

WORD	DESCRIPTION
<b>SEX WORKERS</b>	are adults (persons who are 18 years of age and older) of all genders who receive money or goods in exchange for the consensual provision of sexual services, either regularly or occasionally. For the purposes of this report, it includes those who sell sex consensually but may not necessarily identify as “sex workers”.
<b>CONSENT</b>	is the voluntary and ongoing agreement to engage in a particular sexual activity. <sup>11</sup>
<b>GENDER NORMS</b>	are “the accepted attributes and characteristics of being a woman or a man (ideas of how men and women should be and act) at a particular point in time for a specific society or community”. <sup>12</sup> Gender norms define, sustain and prescribe gender roles in a given society, formally and informally - through laws, unwritten moral rules, and taboos.
<b>LGBTI</b>	is an abbreviation that stands for lesbian, gay, bisexual, transgender people, and intersex persons.
<b>TRANSGENDER</b>	is an inclusive umbrella term that encompasses a diverse range of persons “whose gender identity and/or gender expression differ from the sex/gender they were assigned at birth”. <sup>13</sup>

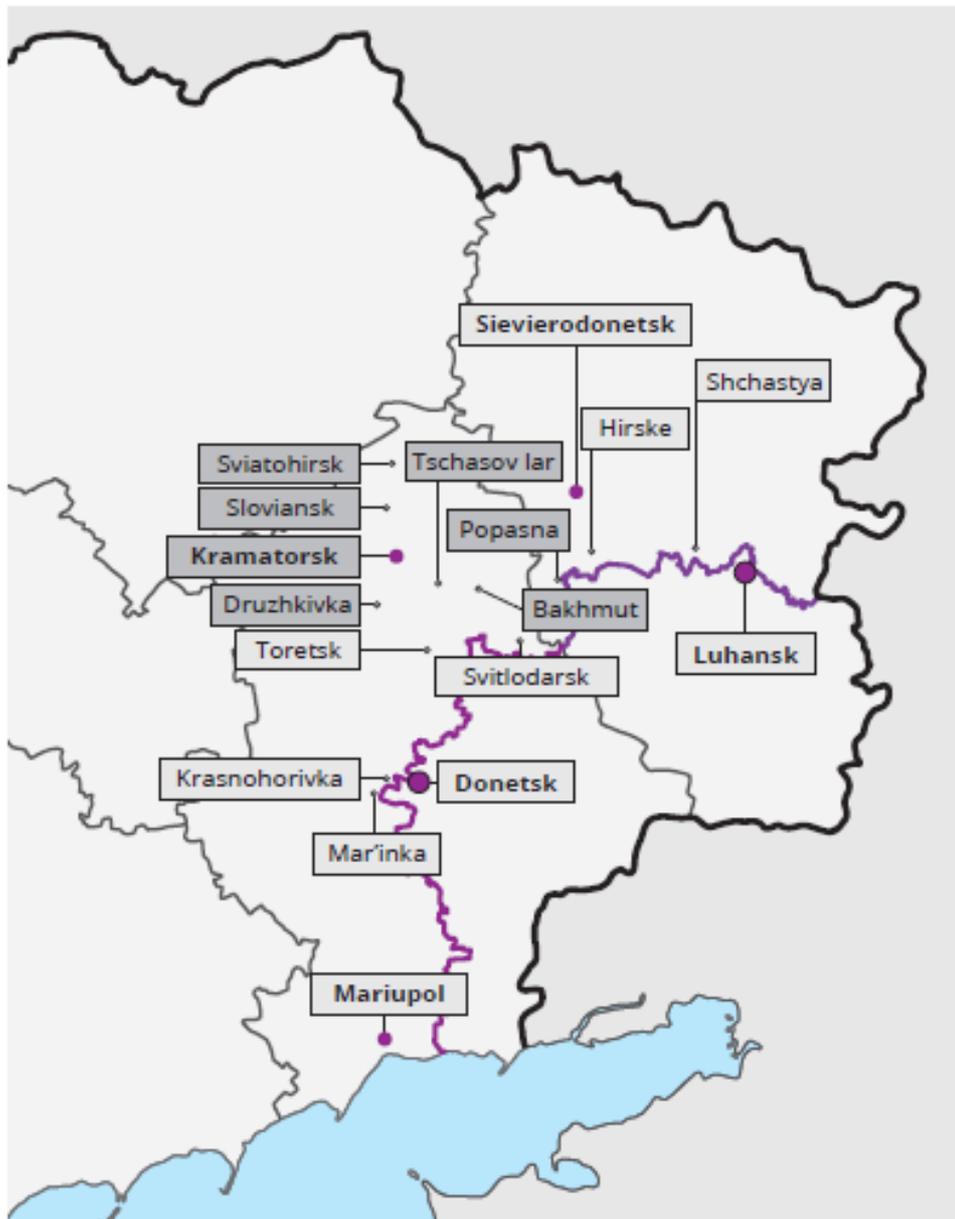
<sup>11</sup> Amnesty International, *Amnesty International Policy on state obligations to respect, protect and fulfil the human rights of sex workers* (Index: POL 30/4062/2016), p. 15.

<sup>12</sup> Gender Statistics Manual, Glossary, <https://unstats.un.org/unsd/genderstatmanual/Glossary.ashx> (accessed 19 September 2019).

<sup>13</sup> TGEU Glossary, available at [www.tgeu.org/glossary/](http://www.tgeu.org/glossary/) (accessed 1 July 2019).



-  — government-controlled territories of Donetsk and Luhansk regions
-  — non-government controlled territories of Donetsk and Luhansk regions
-  — state border of Ukraine
-  — contact line
-  — border between Donetsk and Luhansk regions



- **Donetsk** — capital cities of Luhansk and Donetsk regions located in the non-government controlled territories
- **Mariupol** — administrative centres located in the government-controlled territories of Donetsk and Luhansk regions
- **Shchastya** — cities located on the contact line under the Directive of the Cabinet of Ministers of November 7, 2014, No. 1085-r
- **Bakhmut** — locations mentioned in the report
- state border of Ukraine
- contact line
- border between Donetsk and Luhansk regions

4.1 million in Donetsk region, 2.1 million in Luhansk region

# EXECUTIVE SUMMARY

**“A police officer came and the abuser was another police officer, higher in rank, and he didn’t even open the door, he just shouted to this police officer: “I know you, off you go, all is fine here!” And this police officer had to leave. But since the call was on the call log, he reported it as a false call, so in the end, the woman had to pay a fine. Do you think she will ever call again?”**

Retired police officer interviewed by Amnesty International, Donetsk Region, May 2019

In recent years, gender-based violence against women has become a topic of much discussion in Ukraine. Grassroots movements are calling out sexual and domestic violence, sexism in media and politics, and discriminatory attitudes in Ukrainian society. National and international organizations are campaigning for stronger implementation of Ukraine’s obligations to combat domestic violence. However, despite new laws and measures to address gender-based violence, and the current media attention and debates on social media, violence against women remains a widespread yet deeply hidden phenomenon in Ukraine. While some extreme cases have made headlines, the everyday experience of many women of sexual, physical, economic and psychological violence remains largely unacknowledged and invisible. All too often, such women are simply failed by the institutions tasked with protecting them, and prosecuting their abusers.

In Ukraine, women are still underrepresented in the political domain and as a result have limited possibilities to shape laws and policies that could affect their lives. Economically, they are more disadvantaged compared to men, in jobs with lower status and pay. Deep-rooted patriarchal attitudes and discriminatory stereotypes persist in political discourse, in the media and in society. Public spaces and the media are saturated with sexualised images of women’s bodies represented as commodities.

These constraining gender norms in Ukraine shape women’s lives to a considerable degree, limiting their choices and normalising gender-based violence against women. Such violence is widespread across the country, although difficult to quantify for various reasons; one 2018 study estimated that annually over a million Ukrainian women, from a population of some 23 million adult women, suffered from physical, sexual or emotional violence in their families.

Such gender-based violence is aggravated and intensified for those living in the conflict-affected Donetsk and Luhansk regions of eastern Ukraine. Armed conflict began here in 2014, and today leaves some 2.7 million conflict-affected people living within 20 km along both sides of the so-called “contact line”, itself over 420 km long, that separates the government-controlled territories from the non-government controlled territories of Donetsk and Luhansk regions. The majority of those – 2 million – are women, children and elderly people.

Women in these conflict-affected areas are at a heightened risk of various forms of gender-based violence, which is also more frequently hidden, owing to a number of factors. These include the military presence, a lack of security, the absence or erosion of the rule of law and the pervasiveness of actual or perceived impunity for the perpetrators. The prevalence of such violence is also impacted by the economic crisis, the breakdown of existing family structures and weakening of communities, inadequate reintegration systems for veterans, multiple levels of vulnerabilities owing to displacement, persistent psychological pressure, and insufficient or non-existent infrastructure, including institutional services. From Amnesty International's research it is clear that the armed conflict in eastern Ukraine has had an across-the-board impact on the causes and forms of domestic violence, and the effectiveness of the institutional response to it in Donetsk and Luhansk regions.

This report is therefore focusing on gender-based violence in the government-controlled areas of these two regions, in particular on how domestic violence against women is aggravated by the conflict, and on sexual violence against women perpetrated by members of military forces.

The report addresses the discrepancies between the official picture on paper and the reality on the ground for women suffering violence in Donetsk and Luhansk regions. It focuses on the institutional response to violence against women and its limitations, and in some instances the failure of certain actors to implement and act upon existing laws. In addition, the report strives to offer insights into the underlying causes and effects of gender-based violence against women in conflict-affected areas.

By concentrating on these specific aspects of gender-based violence against women, this report aims to contribute to increasing the visibility of such abuse, to document institutional shortcomings, and to put forward a number of recommendations aimed at strengthening the protections for those affected.

Over the last three years, there have been significant developments in Ukraine's national legislative and institutional framework applicable to gender-based violence, developments that are overall in line with the principles and standards of international human rights law. These include a landmark 2018 Law on Prevention and Combating Domestic Violence, and the introduction of emergency protection orders and shelters.

While these are positive moves, gaps in protection remain. In the context of this report, one of the most telling is that military personnel and police officers are among those exempt from provisions under the Administrative Code which punish domestic violence. In practice this can mean that they also avoid prosecution for domestic violence as a criminal offence, as the law is often interpreted as requiring two previous convictions under the Administrative Code in order to meet the threshold of "systematic" abuse needed for a criminal prosecution.

The armed conflict not only amplifies such systemic flaws, but also erodes the institutional response to systems of protection. In this respect women in the conflict-affected areas of Donetsk and Luhansk regions describe a lack or scarcity of available and accessible services including shelters (there are only three shelters in Donetsk region with a population of around 4.1 million, and only one in Luhansk region with a population of 2.1 million), the aggravating effect of a military presence and ongoing hostilities, and harmful gender stereotypes and social attitudes both within their communities and amongst the state actors responsible for addressing sexual and gender-based violence. There is also a level of distrust with the authorities, including the police, social workers and medical professionals.

The conflict also raises further barriers to the willingness of those affected to come forward. Women generally describe obstacles such as a (misplaced) sense of shame and guilt, fear of further victimisation, a lack of financial independence, stigma within their community, and lack of awareness of how and where to seek help. Women in the conflict-affected areas additionally face a fear of reprisals exacerbated by the easy availability of weapons, they live within communities whose opinion and support is needed for survival, and there are acute confidentiality and security concerns in a context in which the survivors have to remain in the same small community where soldiers are stationed.

Many, however, are discouraged either explicitly or implicitly from filing official complaints by the military and sometimes the police: a consistent theme from Amnesty International's interviews with lawyers, affected women and local NGOs in eastern Ukraine was the tendency of police officers to be reluctant or refuse to take up a complaint. Out of 27 cases of domestic violence recorded by Amnesty International, 10 of the women did not report instances of the abuse. Most simply they did not expect an effective response from the authorities, a belief often cemented by their previous experiences of being failed by the systems which should have protected them. When women did call the police, in three cases the police officer did not register a complaint, in eight cases women had to call repeatedly, sometimes for months, to get their complaints registered, and in another three cases police officers persuaded women to withdraw their complaint after registering it.

One case reported to Amnesty International is illustrative. The woman described being beaten by her husband, at that time a soldier on active duty, while she was four months pregnant. She refused to report the abuse,

however, as she had made an earlier complaint after he had broken her nose but was then pressurized by her husband's military superiors to withdraw it - to avoid "embarrassing" the husband. The woman did not believe that anything would be different this time: "I won't write any complaint, nothing ever works. Everything is pointless, no one will be prosecuted". One of the police officers attending the latest incident remembered being on duty when the husband had broken her nose, and so the officers left without recording a complaint.

Other documented barriers to institutional protection include failure to qualify an incident as domestic violence, reluctance to issue an emergency protection order, failure to monitor compliance with a restraining order, and the ineffectiveness of the justice system. The main failure of the justice system dealing with administrative offences is that judges tend to opt for softer punishments such as a fine, an ineffectual way of combatting the problem particularly as it can end up being paid by the very woman who suffered the abuse. In some cases, the fine is so small that it defies its purpose of deterring an abuser from further violence. In one case documented, the fine imposed for physical violence was barely more than the cost of a fine for not paying the fare on public transport in the capital, Kyiv.

Research for this report also makes clear that economic hardships and the lack of economic independence are among the key reasons why women stay in abusive relationships. One case documented is that of a woman living near the contact line in Donetsk region who described how she owned no property of her own, was unable to work owing to illness, and was completely financially dependent on her son, a member of the military, who abused her physically and psychologically. After one extreme incident in early 2020 she did report her son to the police but was told her complaint "would have no prospect of investigation." Losing faith in the authorities to protect her, but unable to leave owing to her lack of income, the woman remained in her son's household.

In addition to domestic violence, Amnesty International's observations and interviews in the affected locations also indicate that women have continued to experience sexual violence from military personnel in various forms, especially in areas along the contact line. The most affected areas include Yasynovata and Marinka districts of Donetsk region and Novoaidar district of Luhansk region. Amnesty International obtained credible reports regarding rape (two incidents), attempted rape (one incident) and sexual harassment (five incidents) committed in 2017 and 2018 by members of the Ukrainian army outside the context of detention and checkpoints. All these cases occurred in locations with a high military presence in residential areas close to the contact line.

Women in conflict areas suffering such sexual violence face similar barriers to reporting, and obtaining justice, as those outlined above. Amnesty International used the available in-built search engine to check the State Register of Court Decisions for cases of sexual violence committed by military personnel between 2017 and 2019 in Donetsk and Luhansk regions – and found only one documented case which made it to court.

Amnesty International's research indicates that while state services are often inadequate or non-existent, there is a vibrant community of NGOs, grassroots initiatives and volunteer groups providing services to survivors. Local and internally displaced women build local women's networks, share their knowledge with and support other women, accompany women to the police or hospital in cases of domestic violence, and hold the local authorities accountable. The significance of the work of local women's NGOs and grassroots activism is difficult to underestimate in preventing and combatting gender-based violence against women in Ukraine.

The findings in this report draw on extensive desk research of Ukrainian legislation, relevant reports by inter-governmental agencies as well as local and international NGOs, and on six visits Amnesty International conducted between January and November 2019, involving in-depth interviews and focus group discussions in Kyiv and Donetsk and Luhansk regions. With regard to domestic violence, patterns were identified from interviews with experts and information collected on 27 specific cases, including through first-hand testimonies from survivors of abuse. Eight cases were documented to illustrate sexual violence and sexual harassment perpetrated by members of military forces against civilian women and girls, again including information directly from the woman affected or women who witnessed the violence. In geographic terms, this report focuses on the government-controlled territories of the Donetsk and Luhansk regions as, due to the changing dynamics of the conflict, Amnesty International is no longer able to access the non-government-controlled areas.

As a result of these findings Amnesty International is calling on the Ukrainian parliament to make the necessary legislative changes to ensure that every single instance of domestic violence, including the first incident, is a criminal offence under national law; that allegations and reports of domestic violence committed by military and law enforcement personnel are investigated by the police and not their seniors, and are subject to the jurisdiction of civil courts; and that the steps and initiatives to combat gender-based and domestic violence are adequately resourced, including via sufficient funding in any annual budget.

The government should express a clear and firm public commitment to prioritize work on preventing and combating gender-based and domestic violence and promote "zero tolerance" to such violence at all levels of

government and in the society at large. It should ensure that all officials responsible for preventing and combating domestic violence are aware, and have a clear understanding, of their responsibilities towards survivors, and of the relevant guidelines based on best practice and official protocols. Experts on gender-based violence, including from among civil society, should be consulted on drawing up a human-centred, clear and gender-sensitive protocol for the police in responding to cases of gender-based and domestic violence.

Those involved in the justice system should ensure all reported instances of gender-based and domestic violence are investigated thoroughly, promptly and impartially, with those reasonably suspected as responsible brought to trial in fair proceedings. Survivors of such violence should have effective access to legal remedies. There should be continuous, appropriate, systematic and mandatory training for all relevant professionals.

Ukraine must strengthen and improve protection services for survivors of gender-based and domestic violence, ensuring access is effective and affordable. The state should also create an enabling environment for women to become economically independent, promoting the entry of women into the formal economy.

# INTRODUCTION

**“We work with women and gender-based violence, and we make an invisible problem the visible one. Sometimes we get people saying – ‘there was no such problem, before you started talking about it’. The higher the visibility, the stronger reluctance, even resistance, to see the extent of the problem”**

Natalia Kirkach, director of Slavic Heart, Sviatohirsk

**“We don’t work against men, we work for women”**

Grassroots female activist, Vuhledar

In recent years, gender-based violence against women<sup>14</sup> has become a topic of much discussion in Ukraine. The IAmNotAfraidToSay movement<sup>15</sup> against sexual violence, a continuing campaign entitled “Respect against sexism in media and politics”,<sup>16</sup> and the ongoing efforts of many national and international organizations, including Amnesty International, to advocate for the ratification of a key international convention on domestic violence<sup>17</sup> are just a few examples of mobilization around violence against women, women’s rights, and discriminatory attitudes in Ukrainian society. However, despite media attention<sup>18</sup>, debates on social media, and new laws and measures to address gender-based violence being put in place,<sup>19</sup> violence against women

<sup>14</sup> In this report, gender-based violence against women, gender-based violence and violence against women are used interchangeably while relying on the definition provided in the CEDAW GR 35: see the Key Definition section.

<sup>15</sup> See openDemocracy, “I’m not afraid to say” that something’s changing in Ukraine, 2017, available at [www.opendemocracy.net/en/odr/i-m-not-afraid-to-say-something-s-changing-in-ukraine/](http://www.opendemocracy.net/en/odr/i-m-not-afraid-to-say-something-s-changing-in-ukraine/)

<sup>16</sup> See an online platform Respect (Povaha) available at [www.povaha.org.ua/](http://www.povaha.org.ua/). See also an online campaign entitled #IForgotToAskMarchenko that was a reaction to a sexist comment on how women should dress “appropriately” made by Vladislav Marchenko, a local official in Zaporizhzhia. More details available at [www.facebook.com/groups/293023491306320/permalink/436896896918978/](https://www.facebook.com/groups/293023491306320/permalink/436896896918978/) (accessed 07 August 2019).

<sup>17</sup> Istanbul Convention.

<sup>18</sup> See, for example, the following articles about domestic violence that appeared in Ukrainian media in September 2019 (all articles are in Ukrainian language): Anastasiia Ivantsiv, I will kill your son and then I will see how you’ll be able to breathe, 23 September 2019, available at

[www.lb.ua/society/2019/09/13/437190\\_ya\\_vbyu\\_tvogo\\_sina\\_i\\_potim\\_pobachimo\\_chi.html?fbclid=IwAR2TQqXYgMSmPO1P6Wik6GNeW13Xz6y\\_B\\_WSOThI2LSTEiLIP0uQ25hHkw](http://www.lb.ua/society/2019/09/13/437190_ya_vbyu_tvogo_sina_i_potim_pobachimo_chi.html?fbclid=IwAR2TQqXYgMSmPO1P6Wik6GNeW13Xz6y_B_WSOThI2LSTEiLIP0uQ25hHkw); Katerina Statsenko, Three stories about violence told by those who can’t stay silent anymore, 23 September 2019, available at [www.energodar.city/read/experience/44301/scho-robiti-yakscho-staesh-sidkom-abo-postrazhdalim-vid-domashnogonasilstva](http://www.energodar.city/read/experience/44301/scho-robiti-yakscho-staesh-sidkom-abo-postrazhdalim-vid-domashnogonasilstva); Oleksandra Gorchin’ska, “When he’ll kill you then come to us”: What the survey done by NV magazine can tell us about domestic violence, 25 September 2019, available at [www.nv.ua/ukr/ukraine/events/statistika-os-domashnye-nasilstvo-novini-ukrajini-50044260.html](http://www.nv.ua/ukr/ukraine/events/statistika-os-domashnye-nasilstvo-novini-ukrajini-50044260.html)

<sup>19</sup> See Chapter 1 in this report.

remains a widespread yet a deeply hidden phenomenon in Ukraine. While some extreme cases have made headlines, and even made it to court,<sup>20</sup> the routine everyday experience of many women of sexual, physical, economic, and psychological violence remains largely unacknowledged, invisible, and ungraspable.

While acknowledging the widespread nature of violence against women across Ukraine, women's experiences of gender-based violence are frequently exacerbated by armed conflict, which can expose existing systemic flaws and erode systems of protection. This report is therefore focusing on gender-based violence against women in the conflict-affected Donetsk and Luhansk regions in eastern Ukraine, in particular on how domestic violence against women is aggravated by the conflict, and on sexual violence against women perpetrated by members of military forces. Sexual violence against women has also been reported in detention and at checkpoints, but is beyond the scope of this current report.

This report addresses the discrepancies between the official picture on paper and the reality on the ground for women suffering violence in Donetsk and Luhansk regions. It focuses on the institutional response to violence against women and its limitations, and in some instances the failure of certain actors to implement and act upon existing laws. In addition, the report strives to offer insights into the underlying causes and effects of gender-based violence against women in conflict-affected areas.

By concentrating on these specific aspects of gender-based violence against women, this report aims to contribute to increasing the visibility of such abuse, to document institutional shortcomings, and to put forward a number of recommendations aimed at strengthening the protections for those affected.

## WHAT IS GENDER-BASED VIOLENCE AGAINST WOMEN?

This report uses the definition of gender-based violence against women by the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee). Gender-based violence against women is violence which is directed against a woman because she is a woman or that affects women disproportionately. Such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty.<sup>21</sup>

## DISCRIMINATION AGAINST WOMEN, INCLUDING GENDER BASED VIOLENCE, IN UKRAINE

In Ukraine, women are still underrepresented in the political domain and as a result have limited possibilities to shape laws and policies that could affect their lives. As of June 2019, “women account for less than a quarter of government ministers (24%) and only 12% of members of parliament”.<sup>22</sup> Economically, Ukrainian women are more disadvantaged compared to men. They are “concentrated in the less status and lower paid labour market spheres” and the pay gap between women and men remains large<sup>23</sup>. According to the Global Gender Gap report 2020<sup>24</sup>, women's estimated income in Ukraine is 61% of that of Ukrainian men (compared to 63% in 2018<sup>25</sup>). Women are often discriminated against in the process of recruitment: job advertisements explicitly prioritising men or women for certain positions are widespread, during interviews “women, particularly young women are asked personal questions about their marital status and plans regarding children” as employers are “reluctant to hire women seen as a ‘risk’”.<sup>26</sup>

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<sup>20</sup> See, for example, Tornado case, available at [www.tornadocase.tilda.ws/](http://www.tornadocase.tilda.ws/) (accessed 07 August 2019).

<sup>21</sup> CEDAW GR 35, paras 1 and 14.

<sup>22</sup> The Organization for Security and Co-operation in Europe, OSCE-led Survey on Violence against Women: Well-being and Safety of Women – Ukraine results report, 2019, p. 9, available at [www.osce.org/files/f/0/documents/1/3/440312\\_0.pdf](http://www.osce.org/files/f/0/documents/1/3/440312_0.pdf) (hereinafter: OSCE-led Survey – Ukraine report).

<sup>23</sup> T. Martsenyuk, ‘Gender equality situation in Ukraine: challenges and opportunities in gender Equality Policies and EU integration’ in Experience of Visegrad for Eastern Partnership Countries, 2016, p. 216 (hereinafter: T. Martsenyuk, Experience of Visegrad for Eastern Partnership Countries).

<sup>24</sup> World Economic Forum, Global Gender Gap Report 2020, 2020, available at [www3.weforum.org/docs/WEF\\_GGGR\\_2020.pdf](http://www3.weforum.org/docs/WEF_GGGR_2020.pdf)

<sup>25</sup> World Economic Forum, Global Gender Gap Report 2018, 2018, available at [www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf)

<sup>26</sup> T. Martsenyuk, *Experience of Visegrad for Eastern Partnership Countries*, p. 217. See also Human Rights Watch, Women's work: Discrimination against women in the Ukrainian labor force, 2003, available at [www.hrw.org/reports/2003/ukraine0803/ukraine0803full.pdf](http://www.hrw.org/reports/2003/ukraine0803/ukraine0803full.pdf)

According to UNFPA report on Men's Attitudes to Gender Stereotypes and Violence Against Women (2018), while most of the men respondents in the survey "were not biased towards women's professional skills and employment",<sup>27</sup> the majority of them, almost 70%, "believed that woman's most important role is taking care of her home and cooking for her family".<sup>28</sup> Gender roles of men are shaped by "expectations of men's dominant roles in the household decision-making and financial support of a family".<sup>29</sup> In Ukraine, public spaces and media are saturated with sexualised images of women's bodies represented as commodities. As a result, "women are widely stereotyped in the Ukrainian media as financially dependent, "beautiful dolls" or merely 'someone's wife or daughter'".<sup>30</sup>

These constraining gender norms shape women's lives to a considerable degree, limit women's choices and normalize gender-based violence against women. The Committee on the Elimination against Women in its concluding observations on the eighth periodic report on Ukraine (2017) emphasizes "the persistence in political discourse, in the media and in society of deep-rooted patriarchal attitudes and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family" and stresses that these stereotypes "perpetuate women's subordination within the family and society and are reflected in, among other things, women's educational and professional choices, their limited participation in political and public life, their unequal participation in the labour market and their unequal status in family relations".<sup>31</sup>

Research by the United Nations Population Fund (UNFPA) on men's attitudes shows that patriarchal societal norms and expectations lead to victim-blaming in instances of sexual violence with half of the men respondents "questioning the rape in case when a woman was affected by alcohol or drugs, 43% of men – in case when women had a bad reputation, one-third of men – if a woman didn't physically fight back".<sup>32</sup> The report highlights that "even in conditions of expected underreporting of the survey results, almost one-third of the interviewed men recognized that they have performed some actions related to emotional abuse against their wives or stable partners". Further, one in seven acknowledge perpetrating economic violence in their partnership, 13% of the men reported perpetrating physical violence in their marriage, and 5% of the men reported forcing their female partners to have sex.<sup>33</sup>

The exact scale of gender-based violence against women, as is common, can be difficult to quantify for a variety of reasons. A 2019 survey on violence against women led by the Organization for Co-operation and Security in Europe (OSCE)<sup>34</sup> estimates that one in five women in Ukraine has experienced economic violence from her former or current partner, one in four women has endured physical and/or sexual violence from her former or current partner, two-thirds of women have at some point in their life reported psychological violence at the hands of a partner, including controlling and abusive behaviour, and one in two women has been subjected to sexual harassment. The report emphasizes women's strong reluctance to share their experience of violence and therefore suggests that the real prevalence of violence against women is probably higher than the study was able to measure.<sup>35</sup> UNFPA estimated in 2018 that annually over 1.1 million Ukrainian women (from a population of some 23 million adult women<sup>36</sup>) suffer from physical, sexual or emotional violence in their families.<sup>37</sup>

Although gender-based violence against women in Ukraine is widespread, the reporting rate for such abuses remains low. The OSCE-led survey notes that the likelihood of serious cases being reported to the police is on average only 12%, dropping to 7% in cases where the perpetrator is a current partner (against 12% for cases

<sup>27</sup> UNFPA Ukraine, *Masculinity Today: Men's Attitudes to Gender Stereotypes and Violence Against Women*, 2018, p. 63, available at [www.promundoglobal.org/wp-content/uploads/2018/06/Masculinity-Today-Mens\\_Report.pdf](http://www.promundoglobal.org/wp-content/uploads/2018/06/Masculinity-Today-Mens_Report.pdf) (hereinafter: UNFPA Ukraine, *Masculinity Today*).

<sup>28</sup> UNFPA Ukraine, *Masculinity Today*, p. 65.

<sup>29</sup> UNFPA Ukraine, *Masculinity Today*, p. 66.

<sup>30</sup> O. Golub, head of the women's rights protection league, in openDemocracy, *We create space for freedom: battling sexism in Ukraine's media*, 18 January 2019, available at [www.opendemocracy.net/en/5050/battling-sexism-in-ukraines-media/](http://www.opendemocracy.net/en/5050/battling-sexism-in-ukraines-media/)

<sup>31</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the eighth periodic report of Ukraine*, UN Doc. CEDAW/C/UKR/CO/8, para 26 (hereinafter: CEDAW Committee, *Concluding observations on the eighth periodic report of Ukraine*).

<sup>32</sup> UNFPA Ukraine, *Masculinity Today*, p. 75.

<sup>33</sup> UNFPA Ukraine, *Masculinity Today*, p. 80.

<sup>34</sup> The Organization for Security and Co-operation in Europe, *OSCE-led Survey on Violence against Women: Well-being and Safety of Women – main report*, 2019, available at <https://www.osce.org/secretariat/413237?download=true> (hereinafter: OSCE-led Survey). The survey included a representative sample of 15,179 women aged 18–74 living in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia, Moldova and Ukraine. In Ukraine, the final sample size for the survey was 2,048 women.

<sup>35</sup> For comments on the under-reporting of violence by affected women and the unreliability of the statistics see also UN Women, *Media Guide for Reporting on Gender-Based Violence in Ukraine*, available at [www.un.org.ua/images/documents/4690/Media%20Guide%20for%20GBV%20reporting\\_UKR.pdf](http://www.un.org.ua/images/documents/4690/Media%20Guide%20for%20GBV%20reporting_UKR.pdf)

<sup>36</sup> The World Population Review 2020, *Ukraine Population 2020 (Live)*, available at [www.worldpopulationreview.com/countries/ukraine-population/](http://www.worldpopulationreview.com/countries/ukraine-population/)

<sup>37</sup> UNFPA Ukraine, *Facing domestic violence: what can be done?*, 18 December 2018, available at <https://ukraine.unfpa.org/en/GBV2> (hereinafter: UNFPA Ukraine, *Facing domestic violence: what can be done?*).

of a former partner, and 19% with a non-intimate partner). Instances of sexual harassment pass virtually unreported (a meagre 1%).<sup>38</sup> This is against a backdrop where almost all women (94% of respondents) know they can call the police, and the majority of them (63%) do not consider domestic violence to be a private matter to be handled within the family.<sup>39</sup>

Barriers to reporting in Ukraine include shame, lack of financial independence, lack of trust in institutions, and fear of repercussions from the perpetrator.<sup>40</sup> The reporting rate is also impacted by a low awareness of how and where to seek help. The OSCE-led survey noted that very few women (17%) felt well-informed about what to do after experiencing violence, and almost half (48%) had little or no idea how to proceed after a violent incident occurred. More than third of women (38%) were unaware of any organizations or service providers working with survivors of domestic and gender-based violence.<sup>41</sup>

## THE ONGOING CONFLICT IN EASTERN UKRAINE

The conflict in eastern Ukraine began in early 2014, after three months of anti-government street protests known as “EuroMaydan” in the capital, Kyiv. These lasted from November 2013 to February 2014, and eventually resulted in the ousting of then President Viktor Yanukovich, the creation of an interim government and early presidential elections. While these events were broadly welcomed in western and central Ukraine, many in Ukraine’s predominantly Russian-speaking regions in the east were less enthusiastic.<sup>42</sup> In April and May 2014, opponents of the new Kyiv government in the eastern regions of Donetsk and Luhansk occupied regional and local government buildings and law enforcement agencies in the regional capitals of Donetsk and Luhansk, as well as other towns such as Sloviansk and Kramatorsk. They captured weapons from the police and law enforcement agencies, formed armed groups, and demanded increased local autonomy or independence from Ukraine, as well as closer ties with Russia. In response the authorities in Kyiv launched what they characterized as a “counter terrorist operation” (CTO) aimed at retaking control of the area. Sustained fighting erupted in eastern Ukraine by the middle of 2014, amidst compelling evidence of Russian military involvement. The most active phase of large-scale hostilities was from 2014 to 2015. Since then the intensity of the fighting has ebbed and flowed along a so called “contact line” separating government-controlled areas from the non-government-controlled territories, styling themselves the Donetsk and Luhansk “republics”.<sup>43</sup>

The conflict in eastern Ukraine is now in its seventh year, and continues to take a heavy toll. In February 2020 the UN Office for the Coordination of Humanitarian Affairs (OCHA) noted that since the start of the conflict, more than 3,340 civilian men, women and children had been killed and another 7,000 injured.<sup>44</sup> Tens of thousands of civilian homes have been destroyed or damaged, and in a September 2019 update the UN’s refugee agency reported that some 1.5 million people had been displaced by the conflict.<sup>45</sup> Ceasefire violations continue,<sup>46</sup> and eastern Ukraine is believed to be one of the areas of the world most contaminated by landmines, affecting more than 2 million people.<sup>47</sup>

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<sup>38</sup> OSCE-led Survey – Ukraine report, see executive summary.

<sup>39</sup> OSCE-led Survey, p. 23.

<sup>40</sup> OSCE-led Survey – Ukraine report, p. 55.

<sup>41</sup> OSCE-led Survey, pp. 106–107.

<sup>42</sup> For more on the EuroMaydan protests and the beginning of the conflict see Amnesty International, *Abductions and torture in Eastern Ukraine* (Index: EUR 50/034/2014).

<sup>43</sup> Amnesty International, *Breaking bodies: Torture and summary killings in Eastern Ukraine* (Index: EUR 50/1683/2015), p. 10.

<sup>44</sup> OCHA, Ukraine Situation Report, updated 2 October 2020, available at <https://reports.unocha.org/en/country/ukraine/>

<sup>45</sup> [https://www.unhcr.org/ua/wp-content/uploads/sites/38/2019/10/2019-09-UNHCR-UKRAINE-Operational-Update\\_FINAL.pdf](https://www.unhcr.org/ua/wp-content/uploads/sites/38/2019/10/2019-09-UNHCR-UKRAINE-Operational-Update_FINAL.pdf), accessed 25 October 2019.

<sup>46</sup> See, for example, OSCE Special Monitoring Mission to Ukraine, A report of the Special Monitoring Mission to Ukraine as of 14 October 2019, available at [www.osce.org/special-monitoring-mission-to-ukraine/436385?download=true](http://www.osce.org/special-monitoring-mission-to-ukraine/436385?download=true)

<sup>47</sup> UNHCR, UNHCR says Ukraine landmine risk needs urgent action, 2 April 2019, available at [www.unhcr.org/news/briefing/2019/4/5ca31cb74/unhcr-says-ukraine-landmine-risk-needs-urgent-action.html](http://www.unhcr.org/news/briefing/2019/4/5ca31cb74/unhcr-says-ukraine-landmine-risk-needs-urgent-action.html)

# CONFLICT AND GENDER-BASED VIOLENCE

The UN has long recognized that throughout the world “civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict”.<sup>48</sup> In eastern Ukraine, there are 2.7 million conflict-affected people living within 20 km along both sides of the contact line, itself over 420 km long, that separates the government-controlled territories from the non-government controlled territories of Donetsk and Luhansk regions. The majority of those – 2 million – are women, children and elderly people.<sup>49</sup>

It is also recognized that conflict can exacerbate gender-based violence, and undermine the protections for those affected. In its concluding observations on the eighth periodic report on Ukraine (2017), the CEDAW Committee highlights that “the prevailing impunity for human rights violations and abuses committed in the context of the crisis in and around the State party, in particular some areas of the Donetsk and Luhansk regions, along with pervasive corruption, has contributed to an increase in the level of violence against women by State and non-State actors and to the reinforcement of traditional and patriarchal attitudes that limit women’s and girls’ enjoyment of their rights”.<sup>50</sup>

Research on women and the conflict in Ukraine has highlighted that gender-based violence in the conflict is prevalent and more frequently hidden owing to a number of factors: the military presence, a lack of security, the prevalence of actual or perceived impunity for the perpetrators, the economic crisis, the breakdown of existing family structures and weakening of communities, multiple levels of vulnerabilities owing to displacement, persistent psychological pressure, the absence or erosion of the rule of law, and insufficient or non-existent infrastructure, including institutional services.<sup>51</sup>

The OSCE-led survey on violence against women illustrates another stark fact - that a significant percentage of women identified as affected by conflict make the connection between the conflict and the violence they have experienced.<sup>52</sup> It found that in Ukraine, 79% of women with current partners who fought in the conflict responded that they had experienced domestic violence from the partner compared to 58% of women whose current partner didn’t fight.<sup>53</sup> Such experiences are among the compelling reasons for this report to concentrate on gender-based violence in the context of the armed conflict in eastern Ukraine, including domestic violence.

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<sup>48</sup> UN Security Council, Resolution 1325 (2000), UN Doc. S/RES/1325.

<sup>49</sup> [www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine\\_2019\\_humanitarian\\_needs\\_overview\\_en.pdf](http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_2019_humanitarian_needs_overview_en.pdf), accessed 25 October 2019.

<sup>50</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 10.

<sup>51</sup> See also B. Lucas, B. Rohwerder, and K. Tull, ‘Gender and conflict in Ukraine’ in *K4D Helpdesk Report*, 2017 (hereinafter: B. Lucas, B. Rohwerder, and K. Tull, ‘Gender and conflict in Ukraine’).

<sup>52</sup> For the definition of conflict-affected see OSCE-led Survey – Ukraine report, p. 41.

<sup>53</sup> OSCE-led Survey – Ukraine report. p. 43.

# METHODOLOGY

This report draws on extensive desk research of Ukrainian legislation, relevant reports by inter-governmental agencies as well as local and international non-governmental organizations (NGOs), and on six visits Amnesty International conducted between January and November 2019, involving in-depth interviews and focus group discussions in Kyiv and Donetsk and Luhansk regions.

Amnesty International delegates held 48 meetings in Ukraine with various organizations, groups and professionals who address gender-based violence and/or provide a wide range of services for different groups of women, including those related to gender-based violence. Sixteen meetings were organized in Kyiv with national NGOs (six), representatives of international organizations (four), grassroots activists (four) and government representatives (two) who mostly work across Ukraine and are based in Kyiv. During research missions to eastern Ukraine, Amnesty International delegates visited Kramatorsk, Sloviansk, Sviatohirsk, Sievierodonetsk, Popasna, Bakhmut, and locations closer to the contact line. During the other 32 meetings, held in eastern Ukraine, Amnesty International delegates interviewed 58 people who work with affected women in Donetsk and Luhansk regions: representatives of local NGOs providing services for different groups of women (26), international humanitarian workers (nine), medical professionals (seven), members of psychosocial support mobile teams (four), and shelter workers (two). In addition, Amnesty International delegates conducted five interviews with survivors of domestic violence, two interviews with witnesses of incidents of domestic violence, and six focus group discussions with 26 local and internally displaced women, many of them grassroots women's activists, who live within 20 km zone of the contact line. The focus group discussions aimed to identify how the conflict affected women's lives, especially with respect to gender norms, economic conditions and gender-based violence.

Amnesty International delegates conducted interviews with current and former police officers (both in Kyiv and eastern Ukraine) and visited the Sloviansk Police Department in May 2019. In addition, on 15-16 May 2019, they took part in the Forum on collaboration amongst various actors in preventing and combating gender-based and domestic violence in Donetsk region that was held in Mariupol in Donetsk region. The Forum's participants included police representatives, local authorities, representatives from the Ministry of Social Policy and the Ministry of Youths and Sport of Ukraine, and UN agencies. On 13 September 2019, in Mariupol, Amnesty International delegates had a meeting with the head of the National Police in Donetsk region, and his team. These meetings and conversations, especially with those who had recently been but were no longer part of law enforcement, contributed considerably to Amnesty International's understanding of shortcomings and challenges in the police work.

Amnesty International delegates also attended the third Judicial Forum "The administration of justice in the face of armed conflict in eastern Ukraine" on 31 October 2019 in Kyiv.<sup>54</sup>

The data gathered informed this report which is organized around two concerns:

## *1. Domestic violence against women exacerbated by the conflict*

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<sup>54</sup> The Forum was attended by more than 100 participants: judges of the first instance and appeal bodies, the Supreme Court and courts of general and administrative jurisdiction. See more about the Forum in Ukrainian and English: UNDP, Third Judicial Forum, 24 December 2019, available at [www.ua.undp.org/content/ukraine/uk/home/library/recovery-and-peacebuilding/third-judicial-forum-report-  
un-rpp.html?fbclid=IwAR3M6MhNeme\\_wfEodtK\\_H\\_UWb8rTpnj2bCeuf8osAwH-im5CJP200qH\\_Teg](http://www.ua.undp.org/content/ukraine/uk/home/library/recovery-and-peacebuilding/third-judicial-forum-report-<br/>un-rpp.html?fbclid=IwAR3M6MhNeme_wfEodtK_H_UWb8rTpnj2bCeuf8osAwH-im5CJP200qH_Teg)

This report looks specifically at the impact of the conflict on the frequency and forms of domestic violence in Donetsk and Luhansk regions. As noted above Amnesty International has identified a pattern from interviews with experts, and has in addition collected information through research missions about 27 specific cases. The documentation of five of these cases involved first-hand testimonies from the survivors of domestic violence, while 22 were documented mainly through reliable witnesses or representatives of local and international organizations. Where available, other corroborating information was identified, such as additional information from lawyers or community activists familiar with the cases. In 11 out of 27 cases, the perpetrators of domestic violence were active or former members of military forces.

## ***2. Sexual violence against women perpetrated by members of military forces***

The report also explores sexual violence and sexual harassment perpetrated by members of military forces against civilian women and girls in residential areas. This section is primarily based on interviews with numerous experts who work closely with affected women, including workers of local NGOs and representatives of UN agencies. In addition, this report references eight cases to exemplify these patterns of violence. The cases relate to sexual violence and sexual harassment committed by military personnel against civilian women and girls in residential areas of eastern Ukraine between 2016 and 2018. The cases were either reported to Amnesty International by partner organizations, or in a smaller number of cases, directly by the woman affected or by women who witnessed the violence.

In the course of research and preparation for the publication, the key findings and recommendations of the report were presented for comment to the Ukrainian authorities. All relevant responses have been included in the report.

# **CHALLENGES IN DOCUMENTING SEXUAL VIOLENCE**

Amnesty International experienced challenges in speaking directly to women affected by conflict-related violence in Ukraine. As is well-known from other situations, sexual violence is difficult to document due to persistent under-reporting. This stems from various reasons, including stigma of sexual assault, survivors' (misplaced) sense of shame, guilt and humiliation, insecurity, lack of support and protection, and lack of trust in institutions which fail to identify and prosecute perpetrators. Armed conflict makes the task of documenting and investigating sexual violence even more challenging including because of the heightened insecurity, the significant barriers to accessing justice or support in conflict situations, formal or informal transfer of authority to the military and/or armed groups, partial or full breakdown of the rule of law, and the fear of further violence when affected people live in the same communities as perpetrators.<sup>55</sup>

Based on interviews Amnesty International was able to conduct with women in Donetsk and Luhansk regions, and humanitarian workers who operate there, it is apparent that women from these conflict-affected communities rarely come forward to report cases of sexual violence committed by military personnel. The women affected continue to live in militarized zones, they live within communities whose opinion and support is needed for survival, they are raised and live in a society where women affected by gender-based and sexual violence are often blamed, shamed and victimized further, and they are discouraged (either explicitly or implicitly) to file official complaints by the military and sometimes the police. Because of the difficulties documenting cases first-hand and concerns about re-traumatizing affected women, the methodology for this section on sexual violence primarily focused on collecting evidence from other sources.

Given these challenges, and the overarching priority of protecting the identities of those women who had experienced gender-based violence, Amnesty International has also withheld any information which may help identify affected women. This includes not describing specific locations of incidents in Donetsk and Luhansk regions, which often comprise small communities; not reporting in detail some first-hand testimony which could potentially identify an affected woman or the perpetrator in the community; and in some cases, and for the same reason, withholding the names of NGOs and other humanitarian organizations which have aided Amnesty International in compiling the patterns of abuse exposed in this report. As a result, most of the

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<sup>55</sup> See S.F. Ribeiro, D.v.d.S. Ponthoz, *International protocol on the documentation and investigation of sexual violence in conflict: Best practice on the documentation of sexual violence as a crime or violation of international law*, 2017 (2<sup>nd</sup> ed).

accounts and stories have been anonymized, some of them to the point where few recognizable details can be revealed.

Further, the available statistics<sup>56</sup> on gender-based violence in Ukraine are fragmented and limited which also impacts on documentation. As of June 2020, for example, there was no unified nationwide database on gender-based and domestic violence. Amnesty International has therefore used the limited data that was available related to reports, prosecutions and convictions for gender-based violence, supplemented with additional information, while recognizing the severe limitations. Given the constraints on statistical data, the report uses such figures cautiously and provides an explanation of the data and its limitations when doing so.

## **GENDER AND GEOGRAPHIC FOCUS OF THE REPORT**

This report is focused on gender-based violence affecting women and girls. While gender-based violence is often also targeted towards men and boys in conflict contexts, particularly sexual violence which is extremely underreported, undocumented and under researched, this is beyond the scope of this current report.

In geographic terms, this report focuses on the government-controlled territories of the Donetsk and Luhansk regions as, due to the changing dynamics of the conflict, Amnesty International is no longer able to access the non-government controlled areas. Therefore, the situation with regard to violence against women in the non-government controlled areas also falls beyond the scope of the report (see accompanying map).

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<sup>56</sup> Amnesty international obtained statistics from National Police, Luhansk region (period: 2014-2019; domestic violence and sexual violence); National Police, Donetsk region (period: 2014-2019; domestic violence and sexual violence); National Police, Department of Informational and Analytical Support (sexual violence, Luhansk and Donetsk regions, 2010-2012; domestic violence, Luhansk and Donetsk regions, 2010-2018); State Court Administration (domestic and sexual violence committed by military personnel in Ukraine 2010-2018); the Prosecutor General's Office (criminal offence related to gender-based, sexual and domestic violence in Donetsk and Luhansk regions, 2013-2019); Sloviansk Police Department (POLINA Police team work, 2018- April 2019); Kramatorsk Police Department (gender-based and domestic violence related work, 2019); UNFPA/UNICEF psychosocial support mobile teams in Donetsk and Luhansk regions (reporting period: November 2015-February 2019); La Strada Ukraine national hotline for prevention of domestic violence, human trafficking and gender discrimination (for 2018).

# 1. INTERNATIONAL AND NATIONAL FRAMEWORK TO ADDRESS GENDER-BASED VIOLENCE

This section of the report outlines Ukraine's international obligations to address gender-based violence, and its current domestic legal and institutional framework aimed at preventing and combating gender-based violence. This overview also highlights gaps in protection, including where the different legal and institutional provisions on paper fail to be adequately implemented in practice.

## 1.1 UKRAINE'S INTERNATIONAL OBLIGATIONS

In 1981, Ukraine ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>57</sup> In 2011, the country signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), but the ratification of the Convention is still pending.<sup>58</sup>

CEDAW commits state parties to take immediate steps to eliminate discrimination against women and achieve substantive equality. The CEDAW Committee has affirmed that gender-based violence against women is a form of discrimination, and therefore is prohibited by the Convention. Gender-based violence is defined as “violence which is directed against a woman because she is a woman or that affects women disproportionately”, and, as such, is a violation of their human rights.<sup>59</sup>

As a state party to CEDAW, Ukraine is required to pursue by all appropriate means and without delay a policy of eliminating gender-based violence. This obligation comprises two aspects of state responsibility: for violence resulting from the actions or omissions of (a) the State party or its actors, and (b) for violence committed by non-State actors (including private individuals).

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<sup>57</sup> The optional protocol to the CEDAW Convention was ratified by Ukraine in 2003.

<sup>58</sup> Status as of 20 October 2020. This is discussed further below.

<sup>59</sup> CEDAW Committee, General recommendation No. 19: Violence against women, Contained in document A/47/38 (hereinafter: CEDAW GR 19) and CEDAW GR 35.

This means that state organs and agents (including soldiers), are prohibited from committing acts of gender-based violence.<sup>60</sup> States must have an effective and accessible legal and policy framework in place to address all forms of gender-based violence against women committed by both state and non-state agents.<sup>61</sup>

States must act to prevent gender-based violence by their own agents including through the provision of capacity building and introducing codes of conduct, by acting to investigate and prosecute acts of gender-based violence and apply appropriate legal or disciplinary sanctions, and also by providing reparation to survivors in all cases of gender-based violence against women.<sup>62</sup>

CEDAW also requires state parties to take all appropriate measures to eliminate discrimination against women by private individuals.<sup>63</sup> This obligation is frequently referred to as an obligation of “due diligence”, and requires states to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-State actors which result in gender-based violence against women.<sup>64</sup> States are required to adopt laws, and establish institutions and a system in place to address such violence, and to ensure that these function effectively in practice, and are enforced by state agents and bodies.<sup>65</sup>

## 1.2 NATIONAL LEGAL FRAMEWORK

Over the last three years, there have been significant developments in Ukraine’s national legislative and institutional framework applicable to gender-based violence, including domestic violence and sexual violence (categories that are used in the laws and often overlap). These recent developments overall are in line with the principles and standards of the international human rights law.

### National laws

On 8 January 2018, the landmark **Law on Prevention and Combating Domestic Violence**<sup>66</sup> came into force. It lays the ground for a system of measures to combat gender-based violence, including domestic violence, sexual violence, sexual harassment, forced marriage, forced sterilization, and forced abortion. On 11 January 2019, **the Criminal Code and the Criminal Procedural Code of Ukraine were amended** “with the aim of implementing the provisions of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence”<sup>67</sup>.

Since 2003, **domestic violence has been an administrative offence** under Article 173-2 of the Ukrainian Administrative Code.<sup>68</sup> The most recent version of this article covers both domestic violence and gender-based violence generally, and is punishable by a fine, public work<sup>69</sup> of up to 60 hours, or by arrest<sup>70</sup> for a period of up to 15 days.<sup>71</sup>

However, it is important to note for the purposes of this report that under Article 15 of the Ukrainian Administrative Code<sup>72</sup> military personnel on active service or in military training, as well as police officers, are among those exempted from most of the provisions of the Administrative Code, including the offence of

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<sup>60</sup> Article 2d of the Istanbul Convention.

<sup>61</sup> Articles 2 (c) and (g) of the Istanbul Convention; CEDAW GR 35, para 22.

<sup>62</sup> CEDAW GR 35, para 23.

<sup>63</sup> Article 2e of the Istanbul Convention.

<sup>64</sup> CEDAW GR 19, para 9; CEDAW GR 35, para 24 (b).

<sup>65</sup> CEDAW GR 35, para 24b.

<sup>66</sup> Law on Preventing and Counteracting Domestic Violence 2229-VIII (hereinafter: Law 2229-VIII), 2018, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/2229-19#Text>

<sup>67</sup> Under Law 2227-VIII, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/2227-19#Text>

<sup>68</sup> The Ukrainian Administrative Code in Ukrainian is available at <https://zakon.rada.gov.ua/laws/show/80731-10>

<sup>69</sup> Public work refers to a form of punishment whereby a person has to perform “socially useful” work allocated by local authorities in the person’s free time (as in outside of their working hours or study). Public work is set for a period of 60 to 240 hours and occurs no more than four hours a day. Public work cannot be applied to persons with disabilities of the first or second degree, pregnant women, persons who have reached retirement age, as well as military conscripts (Article 56 of the Ukrainian Criminal Code, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/2341-14#Text>).

<sup>70</sup> According to the Criminal Code of Ukraine, arrest refers to a form of punishment when a person can be held in isolation for up to six months. Military personnel are held within their military units. Arrest cannot be applied to persons under the age of 16, pregnant women and women who have children under the age of seven (Article 60 of the Criminal Code).

<sup>71</sup> Most recently amended under Law 2229-VIII.

<sup>72</sup> See Article 15 of the Ukrainian Administrative Code. The list of administrative offences which if committed by a member of the services/authorities mentioned will be investigated and prosecuted according to the Administrative Code is the following: violation of the rules, norms and standards related to the road traffic safety, sanitary norms, rules of hunting, fisheries and protection of fish stocks, customs regulations, offences related to corruption law related to the state secrets, violation of the procedures of the collection, use and storage of proprietary information.

domestic violence. In practice this means that such offences will be investigated and punished under the relevant Disciplinary Statutes. If no record can be made of domestic violence under the Administrative Code, this in turn means it is not possible to establish the pattern of systematic violence needed to bring a criminal charge of domestic violence - as noted below.

In January 2019, some forms of **domestic violence were criminalized** by the addition of Article 126-1 to the Ukrainian Criminal Code.<sup>73</sup> This article criminalizes cases of *systematic* physical, psychological and economic domestic violence, with the violence defined as “systematic” from the third time domestic violence (in any form) is committed. In principle, according to the commentary to the law, the previous two instances do not have to be documented in a police protocol, emergency protection order, restraining order or in any other document: the victim’s and witnesses’ statements should be enough to prove the systematic nature of the violence.<sup>74</sup> However, in practice, the law is often interpreted so that criminal charges are only brought when the perpetrator has been both charged and convicted of the administrative offence of domestic violence at least twice within the year prior to the third offence.<sup>75</sup> The criminal offence of domestic violence is punishable by public work for a period from 150 to 240 hours, arrest for up to six months, restriction of freedom<sup>76</sup> for up to five years, or imprisonment<sup>77</sup> for up to two years.

Whether a case of domestic violence is categorized as an **administrative or a criminal offence** depends both on whether it is systematic in nature, and also on the consequences for the person affected. Domestic violence is classed as an administrative offence when there (may) have been “harm” to the physical or mental health of the affected person, but this harm is not considered as amounting to “suffering”.<sup>78</sup> Domestic violence is only categorized as a criminal offence both when it is systematic, as above, and when “domestic violence leads to physical or psychological suffering, deterioration in health, disability (unemployability), emotional dependence or deterioration of the quality of life of the affected person”.<sup>79</sup>

According to the Law on Prevention and Combating Domestic Violence, domestic violence encompasses intimate partner violence and intergenerational violence within the household/family unit. It is defined as “all acts (action or failure to act) of physical, sexual, psychological or economic violence that occur in the family or in the place of residence or between relatives, or between spouses or former spouses, or between others, who live (lived) as a family, but who are not (or were not) related or married to each other, regardless of whether the person who perpetrates domestic violence lives in a place where the victim resides, and the threat of such acts”.<sup>80</sup> According to the law, domestic violence may occur between people of various forms of kinship, including spouses, ex-spouses, intimate partners, former intimate partners, siblings, parents (biological or fostered) and children (biological or adopted), grandparents and grandchildren, (former) co-habitants and their parents and/or children, uncles/aunts and nephews/nieces and so on.<sup>81</sup>

**Physical, psychological and economic forms of domestic violence** are all explicitly covered by Articles 173-2 (administrative offence) and 126-1 (criminal offence). While the law is a major advance in protecting women from domestic violence in Ukraine, not only does it fail to criminalize all acts of domestic violence as required by international human rights law, but it also fails to include in its ambit cases of domestic violence against partners or former partners who have not been married and have not lived together.<sup>82</sup>

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<sup>73</sup> Under Law 2227-VIII.

<sup>74</sup> O. Dudorov, M. Khavroniuk, *Accountability for domestic violence and gender-based violence: a practical commentary to the Criminal Code*, 2018, p. 78, available at [https://ukraine.unfpa.org/sites/default/files/pub-pdf/FNOON\\_Kommentar\\_A5.pdf?fbclid=IwAROKjsA6kJGskRU26piONKtHjvRvVocsCwDuCeoWxY4tndNPLF-Kh9xGVNw](https://ukraine.unfpa.org/sites/default/files/pub-pdf/FNOON_Kommentar_A5.pdf?fbclid=IwAROKjsA6kJGskRU26piONKtHjvRvVocsCwDuCeoWxY4tndNPLF-Kh9xGVNw)

<sup>75</sup> Valerii Mikhiei, a legal coordinator at the NGO *Slavic Heart*, correspondence from 8 April 2020; see also Articles 36-39 of the Ukrainian Administrative Code where the Article 39 states that a person who committed and was charged with an administrative offence, if having not committed any new administrative offences within a year from the date this person received an administrative punishment, deems as if the person has never received the punishment.

<sup>76</sup> Restriction of freedom refers to a form of punishment when a person is held in open type penitentiary institutions that are not isolated from the society. A person is supervised and obliged to work. This kind of punishment can be established for a period of one to five years. It cannot be applied to minors, pregnant women and women who have children under the age of fourteen, to those who have reached retirement age, military conscripts, and persons with disability of the first and second degree (Article 61 of the Criminal Code).

<sup>77</sup> Imprisonment refers to a form of punishment when a person is held in jail for a period of time (usually, between one and fifteen years – Article 63 of the Criminal Code).

<sup>78</sup> The difference between “suffering” and “harm” is open to interpretation which becomes important when consequences are assessed by the police, lawyers and/or in courts.

<sup>79</sup> Article 126-1 of the Criminal Code.

<sup>80</sup> See Article 1 of the Law 2229-VIII.

<sup>81</sup> See Article 3 of the Law 2229-VIII.

<sup>82</sup> The Istanbul Convention defines domestic violence as: all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, *whether or not the perpetrator shares or has shared the same residence with the victim* (emphasis added). Article 3.

Depending on the nature of the violence other articles in the Criminal Code can also be used in cases of premeditated murder (Article 115), intentional assault causing bodily harm of various degrees (Articles 121, 122, 123), beating (Article 126), unintentional assault causing bodily harm (Article 128), and attempted murder (Article 129).

**Sexual violence** (whether committed in the public or private domain) is a criminal offence under the Ukrainian Criminal Code. The punishable criminal offences of a sexual nature encompass rape (including marital rape, Article 152), sexual violence (Article 153), coercion to engage in sexual intercourse/sexual act (Article 154), sexual relations with a minor (Article 155), and child sexual abuse (Article 156).<sup>83</sup>

In January 2019, **the legal definition of rape** was amended in line with international standards, which require a comprehensive definition of rape (i.e. not limited to penetration of a vagina by a penis), based on an absence of freely given consent, while taking into account a wide range of coercive circumstances (in other words, as opposed to a definition based on the use of force or threat of force).<sup>84</sup> As a result, in the Ukrainian Criminal Code rape is defined as “any acts of a sexual nature that include vaginal, oral, or anal penetration by genitals or any other object without the voluntary consent of the victim”.<sup>85</sup> In addition, consent is considered “voluntary if it is given as the result of the free will of a person, considering the accompanying circumstances”.<sup>86</sup>

## 1.2.1 UNMET COMMITMENTS TO BRING NATIONAL LEGISLATION INTO LINE WITH INTERNATIONAL STANDARDS

In September 2018, Ukraine adopted a National Action Plan on the implementation of the CEDAW Concluding Observations to the eighth periodic report of Ukraine by 2021.<sup>87</sup> The plan sets out the detailed time framework and defines the key steps to be taken by the designated authorities in preventing and combating gender-based and domestic violence against women and girls in Ukraine. In particular, the document points out the need to address the gaps in legislation (including the applicability of the Administrative Code in cases of domestic violence committed by military personnel and law enforcement), to adjust existing curricula across all educational settings to include courses on the rights of women and girls, to develop gender-sensitive protocols and criteria for work of law enforcement, including the police, judges, and prosecutors, and to make sure instances of sexual violence, especially conflict-related, are documented, investigated, prosecuted and are included in transitional justice processes. The 47-page document represents a comprehensive plan put on paper with most of the activities aimed to be completed in 2019-2020. As this report shows, despite the commitments taken up by the government, very few tasks have been completed.

In February 2016, Ukraine adopted a revised National Action Plan on UN Security Council Resolution 1325 (SCR1325) on Women, Peace and Security.<sup>88</sup> In November 2018, the Deputy Prime Minister on Europe and Euro-Atlantic Integration endorsed a national “Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine” which was developed with the assistance of the Office of the UN’s High Commissioner for Human Rights (OHCHR) and UN Women.<sup>89</sup> The Strategy provides “strategic, technical and policy advice to support institutions of the Government of Ukraine to understand and integrate better measures within existing mechanisms as well as through new mechanism if required”<sup>90</sup> to address conflict-related sexual violence (CRSV), including prevention, monitoring, documenting and investigation. The Strategy focuses on four areas: understanding CRSV and gathering information, prevention, protection and access to justice. While many aspects of the plan would mark a positive step forward, Amnesty International is also concerned that much of the plan is yet to be implemented.

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<sup>83</sup> The penalty for crimes under Articles 152 and 153 is three to 15 years of imprisonment. The Article 154 provides for a penalty or the so-called restriction of freedom for up to three years or imprisonment for up to three years. For the difference between restriction of freedom and imprisonment see Articles 61 and 63 of the Criminal Code. The crimes under Articles 155 and 156 are punishable with up to 5 year of the restriction of freedom or up to 8 years of imprisonment.

<sup>84</sup> See, for example, Article 8 (2) (b) (xxii)-1 of Elements of Crimes to the Rome Statute of the International Criminal Court; CEDAW GR 35, para 33; Article 36 of the Istanbul Convention.

<sup>85</sup> Article 152 (paragraph 1) of the Ukrainian Criminal Code.

<sup>86</sup> The note to the Article 152 of the Ukrainian Criminal Code.

<sup>87</sup> Available in Ukrainian at <https://zakon.rada.gov.ua/laws/main/634-2018-%D1%80>

<sup>88</sup> Available in Ukrainian at [www.kmu.gov.ua/npas/248861725](http://www.kmu.gov.ua/npas/248861725)

<sup>89</sup> UN Women, Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine, 2018, available at <https://eca.unwomen.org/en/digital-library/publications/2019/04/the-strategy-for-prevention-of-and-response-to-the-conflict-related-sexual-violence-in-ukraine>

<sup>90</sup> UN Women, Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine, 2018, p. 11, available at <https://eca.unwomen.org/en/digital-library/publications/2019/04/the-strategy-for-prevention-of-and-response-to-the-conflict-related-sexual-violence-in-ukraine>

## 1.3 INSTITUTIONAL AND POLICY FRAMEWORK

The main actors in the institutional framework and the protocols for response to gender-based violence include the police, shelters, psychosocial support mobile teams, courts, the Centres for Family, Children and Youth, Free Legal Aid Centres and Bureaus, and medical professionals.<sup>91</sup>

**The police** are one of the first points of contact, responsible for assessing and qualifying what has happened according to the available legislation, filing a police report and registering a complaint if the woman wants to do so. Their course of action is determined by whether the offence is administrative or criminal and, for the particular purposes of this report, whether the accused is a civilian or a member of the military on active duty.

In the case of domestic violence allegedly committed by a civilian the police protocol is as follows:

In the case of **an administrative offence of domestic violence** under Article 172-3, the police officer files a police report,<sup>92</sup> which is followed by gathering relevant evidence. This is done by the National Police and can be overseen by a prosecutor.<sup>93</sup> After the necessary evidence has been collected, the case is heard by a general court<sup>94</sup> where a judge rules on guilt or innocence, and decides any punitive measures. According to the Administrative Code, a police protocol must be completed not later than 24 hours since an alleged offender was identified by a police officer.<sup>95</sup> The Administrative Code stipulates that such cases must be heard and ruled upon within 24 hours after the protocol and any other accompanying documents are received by a relevant authority (general court).<sup>96</sup>

If domestic violence is systematic (has been committed more than twice) and is believed to have led “to physical or psychological suffering, deterioration in health, disability (unemployability), emotional dependence or deterioration of the quality of life of the affected person”<sup>97</sup>, it amounts to **a criminal offence**. In this case, the National Police registers the complaint from the victim, investigates the incident under the prosecutor’s supervision, evaluates the evidence and either closes the case or brings charges. If charges are brought, the case following approval by the prosecutor goes before a judge in a general court.<sup>98</sup> According to the Code of Criminal Procedure, during criminal proceedings, each procedural action or procedural decision, including an investigation, “must be made or taken within a reasonable time period” which is determined by the prosecutor, judge or court.<sup>99</sup>

In the case of domestic violence allegedly committed by a member of the military on active duty the police protocol differs.

If **an administrative offence of domestic violence** is alleged against a member of the military on active duty, the police officer similarly compiles a police report,<sup>100</sup> but transfers the suspect into the custody of military law enforcement. The superior officer (usually the military unit’s commander) decides whether to open an investigation. If ordered, an investigation can be undertaken either by the commander or delegated to another officer of superior rank to the suspect.<sup>101</sup> As of June 2020, a military prosecutor can oversee the investigation (although the military prosecutor’s office itself is set to be dissolved).<sup>102</sup> After the investigation is concluded, if

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<sup>91</sup> The report focuses on these actors, while acknowledging that there are other institutions that can be involved in cases of gender-based and domestic violence, such as various support and service centres for children, centres for social services for families, children, and youth, educational institutions, centres for socio-psychological support, social centres for mothers and children etc.

<sup>92</sup> Article 255 of the Ukrainian Administrative Code.

<sup>93</sup> Article 250 of the Ukrainian Administrative Code.

<sup>94</sup> General courts in Ukraine deal with cases falling under Civil Law, Criminal Law and Administrative Law. In general courts, there is a specialization of judges such as civil cases and criminal/administrative cases.

<sup>95</sup> Article 254 of the Ukrainian Administrative Code.

<sup>96</sup> Article 277 of the Ukrainian Administrative Code.

<sup>97</sup> Article 126-1 of the Ukrainian Criminal Code.

<sup>98</sup> See the Code of Criminal Procedure, available in Ukrainian at <https://zakon.rada.gov.ua/laws/show/4651-17#n622>

<sup>99</sup> Article 28 of the Code of Criminal Procedure.

<sup>100</sup> The report can also be filed by military law enforcement without the national police involvement.

<sup>101</sup> Article 85 of the Disciplinary Statute of Armed Forces of Ukraine, available in Ukrainian at [http://search.ligazakon.ua/l\\_doc2.nsf/link1/T990551.html](http://search.ligazakon.ua/l_doc2.nsf/link1/T990551.html)

<sup>102</sup> The reform is ongoing with a plan to be implemented by the end of 2021. See the law “On amendments to legislative acts of Ukraine on priority measures to reform the prosecution authorities”, 2019, para 21, available in Ukrainian at [https://zakon.rada.gov.ua/laws/show/113-20?fbclid=IwAR2gazAl84u0TFmKOUS6aUKzjiv\\_secf6kdDCXd9glwBr6Lx-TnwRjW00fU](https://zakon.rada.gov.ua/laws/show/113-20?fbclid=IwAR2gazAl84u0TFmKOUS6aUKzjiv_secf6kdDCXd9glwBr6Lx-TnwRjW00fU)

guilt is proven, the commander determines the type of disciplinary action to be taken according to the Disciplinary Statute of the Armed Forces of Ukraine.<sup>103</sup>

If an incident when domestic violence is believed to amount to a **criminal offence**, in principle, the same procedure is applicable regardless of whether the alleged perpetrator is a civilian or a member of the military on active duty (or in military training). The alleged perpetrator – as is case with any other criminal offence – is to be tried in a general civil court.

However, as explained earlier, Article 15 of the Administrative Code explicitly exempts military personnel, along with other law enforcement, from the applicability of the Administrative Code in most administrative offence cases, including domestic violence cases. Therefore, military personnel cannot be charged with and convicted of administrative offence of domestic violence (article 172-3 of Administrative Code). It appears that there is no way for the civilian framework to record the instances of administrative offences of domestic violence and hence to prove the systematic nature of domestic violence committed by a member of military on active duty. In cases of physical and/or sexual domestic violence there is a possibility to bring other criminal charges for example, premeditated murder (Article 115), intentional assault causing bodily harm of various degrees (Articles 121, 122, 123), beating (Article 126), unintentional assault causing bodily harm (Article 128), and attempted murder (Article 129). However, there is no legal way to bring specifically criminal domestic violence related charges against military personnel.

In addition to bringing an administrative or criminal offence, since August 2018 the police have been able to issue an **emergency protection order**,<sup>104</sup> which provides emergency protection to a victim of domestic violence. It can be issued by a police officer on the spot, comes into effect immediately and is valid for up to 10 days. The emergency protection order can legally (1) oblige an abuser to leave the premises where a victim resides, (2) prohibit them from entering and staying on the premises where a victim resides, and (3) prohibit contact with a victim via any means. The order can enforce one, two or all three of the above restrictions.

The order may be issued at the request of the victim, or without such a request if a police officer deems the situation dangerous and unsafe. To this end, since April 2019 the police have been provided with a template for **risk of domestic violence assessment sheet**.<sup>105</sup> The police can further refer a survivor of violence to a shelter or any other services available.

**Shelters and crisis centres** can provide women<sup>106</sup> and their children with a safe space (usually for up to three months) while also offering psychological support and legal assistance.<sup>107</sup> According to the Ministry of Social Policy, as of 01 April 2020, there are 26 shelters for victims of domestic violence nationwide.<sup>108</sup> As of 14 April 2020, 160 people lived in these 26 shelters. Compared to 2015, when Ukraine had a mere two shelters,<sup>109</sup> it is a significant improvement. However, given the population of Ukraine of almost 42 million,<sup>110</sup> the number of available shelters is far from being sufficient by the international standards which should be “one family place per 10 000 head of population”.<sup>111</sup>

In addition, **the general court** can issue a **restraining order**, adjudicate an administrative or civil complaint, impose a penalty and refer the offender to the Domestic Violence Perpetrator Model Programme. A restraining order can be issued by a court for a period of between one and six months. In addition to provisions mentioned for the emergency protection order, the court can restrict communication with a child/children, instruct the abuser to stay at a certain distance away from the victim (or victims), their home, workplace, school and/or

<sup>103</sup> The Disciplinary Statute of Armed Forces of Ukraine, available in Ukrainian at [www.search.ligazakon.ua/l\\_doc2.nsf/link1/T990551.html](http://www.search.ligazakon.ua/l_doc2.nsf/link1/T990551.html)

<sup>104</sup> Under Decree 654 from 01 August 2018, Ministry of Internal Affairs, available at <https://zakon.rada.gov.ua/laws/show/z0965-18#Text>. The decree contains a template of a protection order.

<sup>105</sup> Under Decree 369/180 from 13 March 2019, the Ministry of Social Policy and the Ministry of Interior, available at <https://zakon.rada.gov.ua/laws/show/z0333-19>. The decree provides a template of a risk assessment sheet and regulate the conduction of the assessment.

<sup>106</sup> As it will be explained later in the report, there are no shelters/crisis centres for men.

<sup>107</sup> UNFPA, Report on Establishment and Maintenance of Shelters for Persons Affected by Domestic Violence, 2020, available at [https://ukraine.unfpa.org/sites/default/files/pub-pdf/%D0%A1%D1%82%D0%B2%D0%BE%D1%80%D0%B5%D0%BD%D1%8F%20%D0%BF%D1%80%D0%B8%D1%82%D1%83%D0%BB%D0%BA%D1%96%D0%B2\\_%D1%84%D1%96%D0%BD%D1%96%D1%88\\_%D0%BD%D0%B0%20%D0%B4%D1%80%D1%83%D0%BA%20%D1%96%20%D0%BD%D0%B0%20%D1%81%D0%B0%D0%B9%D1%82.pdf](https://ukraine.unfpa.org/sites/default/files/pub-pdf/%D0%A1%D1%82%D0%B2%D0%BE%D1%80%D0%B5%D0%BD%D1%8F%20%D0%BF%D1%80%D0%B8%D1%82%D1%83%D0%BB%D0%BA%D1%96%D0%B2_%D1%84%D1%96%D0%BD%D1%96%D1%88_%D0%BD%D0%B0%20%D0%B4%D1%80%D1%83%D0%BA%20%D1%96%20%D0%BD%D0%B0%20%D1%81%D0%B0%D0%B9%D1%82.pdf) (hereinafter: UNFPA report (2020)).

<sup>108</sup> Letter from the Ministry of Social Policy, 22 April 2020, N14/0/163-20/474.

<sup>109</sup> WAVE, Report on the Role of Specialist Women’s Support Services in Europe, 2015, p. 94, available at [www.wave-network.org/wp-content/uploads/WAVE\\_Report\\_2015.pdf](http://www.wave-network.org/wp-content/uploads/WAVE_Report_2015.pdf)

<sup>110</sup> Ukraine Population, available at [www.countrymeters.info/en/Ukraine](http://www.countrymeters.info/en/Ukraine) (accessed 29 June 2020).

<sup>111</sup> The explanatory report of the Istanbul Convention Article 23 “recommends safe accommodation in specialised women’s shelters, available in every region, with one family place per 10 000 head of population”. It further stipulates that “the number of shelter places should depend on the actual need”. See: Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 201.

other places which they frequent, and prohibit them from seeking contact and/or meeting with the victim(s) and/or trying to find where this person is staying.

**The Domestic Violence Model programmes** are developed and delivered by the local authorities (regionally, and often in each new administrative unit known as a hromada<sup>112</sup>) using a template and regulations provided by the Ministry of Social Policy.<sup>113</sup> Offenders are either referred by courts (in which case they must comply with the court decision) or can access the programmes through self-referrals. The decree provides a provisional template for the Domestic Violence Perpetrator programme. This type of programme is essentially counselling for perpetrators of domestic and gender-based violence to help them change their attitudes, values and behaviour and, ideally, to prevent them from committing violence in the future.<sup>114</sup>

In 2015, the United Nations Population Fund (UNFPA) launched **psychosocial support mobile teams** as a humanitarian response to the unfolding conflict in eastern Ukraine and an additional mechanism to combat gender-based violence in five regions affected by the conflict - Donetsk, Luhansk, Kharkiv, Zaporizhzhia, and Dnipropetrovsk regions<sup>115</sup>. Since 2015, 49 psychosocial support mobile teams funded by international organizations have been working across 12 regions of Ukraine.<sup>116</sup> These teams are funded by UNFPA in 10 regions and by UNICEF in Donetsk and Luhansk regions. Following this model, the state has supported state-funded psychosocial support mobile teams. The Ministry of Social Policy claims that as of the end of 2019 the state supports 339 such teams across Ukraine.<sup>117</sup> According to UNFPA, as of May 2020, there are 15 psychosocial support mobile teams in Donetsk region (six funded by UNICEF and nine state-funded) and 10 in Luhansk region (six supported by UNICEF and four by the state).<sup>118</sup>

Contact details for the mobile team can be found either in local social service centres or online<sup>119</sup>. As a rule, a mobile team consist of two social workers and a psychologist. They may devise a safety/security plan for an affected person and refer the person to the police and other services.<sup>120</sup>

The teams under the UNFPA and UNICEF umbrella gather data from their work on a gender-based violence information management system<sup>121</sup> which they maintain for their own purpose. This system, kept since 2015, is not a centralised register and is separate from the statistics the police gather.<sup>122</sup>

The psychological support mobile teams identify survivors of gender-based violence through self-referrals (emergency response), scheduled outreach visits (proactive work) and referrals from **the Centres for Family, Children and Youth**. The mobile teams are often based in and have strong ties to the Centres for Family, Children and Youth which are part of the Ministry of Social Policy. The Centres aim to “deliver social services to families, children and youth who live in a difficult life circumstances and need an external assistance”. The local authorities are responsible for establishing Centres on a regional level, in cities (covering different districts within a city), in towns and villages.<sup>123</sup>

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<sup>112</sup> A hromada or community is a new administrative unite created with the aim of political decentralization. See the Law on Voluntary Self-organisation into Hromadas, available at <https://zakon.rada.gov.ua/laws/show/157-19>

<sup>113</sup> In accordance with Decree 1434 from 1 October 2018, available at <https://zakon.rada.gov.ua/laws/show/z1222-18#Text>

<sup>114</sup> The programme's template includes 6 diagnostical sessions, 18 group therapy sessions and 14 individual sessions. Sessions suggested to run between 1 and 1.5 hours with the desired frequency of one session per week. The provisional program suggests a thematic plan which includes, amongst others, sessions on domestic and gender-based violence, motivation and life planning, anger and fear management, self-control and self-regulation, constructive communication strategies and conflict resolution. See the Decree 1434 from 1 October 2018, available at <https://zakon.rada.gov.ua/laws/show/z1222-18#Text>

<sup>115</sup> The same regions were taken up for the UNFPA research: see UNFPA, Ukrainian Centre for Social Reforms. Gender-based violence in the conflict-affected regions of Ukraine, Analytical report, 2015, available at [https://ukraine.unfpa.org/sites/default/files/pub-pdf/gbv%20in%20the%20conflict-affected%20regions%20of%20Ukraine\\_eng.pdf](https://ukraine.unfpa.org/sites/default/files/pub-pdf/gbv%20in%20the%20conflict-affected%20regions%20of%20Ukraine_eng.pdf) (hereinafter: UNFPA report (2015)). The contact line goes through Donetsk and Luhansk regions. Both these regions and three adjacent to them - Kharkiv, Zaporizhzhia, and Dnipropetrovsk regions - “host the main influx of internally displaced persons” (UNFPA report (2015), p. 5).

<sup>116</sup> Amnesty International, an interview with Oksana Nesterova, National Coordinator at UNICEF/Health Rights International Ukraine, Kyiv, March 2019.

<sup>117</sup> The Ministry of Social Policy's letter to Amnesty International Ukraine from 16 April 2020.

<sup>118</sup> Amnesty International, a Skype interview with UNFPA representatives, 14 May 2020.

<sup>119</sup> See Rozirvy Kolo (English: Break the Circle), available at [www.rozirvykolo.org/](http://www.rozirvykolo.org/) (accessed 26 August 2019).

<sup>120</sup> UNFPA report (2020), pp. 63-64.

<sup>121</sup> UNFPA used the gender-based violence information management system (available at [www.gbvims.com/](http://www.gbvims.com/)), while translating and adjusting relevant forms to Ukrainian realities (Amnesty International, correspondence with Oksana Nesterova, National Coordinator at UNICEF/Health Rights International Ukraine, August 2019). An example of the original (unadjusted) intake form available at [www.gbvims.com/gbvims-tools/intake-form/](http://www.gbvims.com/gbvims-tools/intake-form/) (accessed 02 October 2019).

<sup>122</sup> Amnesty International, an interview with Oksana Nesterova, National Coordinator at UNICEF/Health Right International Ukraine, Kyiv, March 2019.

<sup>123</sup> See the Regulation from 24 September 2004, available at [www.kmu.gov.ua/npas/8192840](http://www.kmu.gov.ua/npas/8192840)

In March 2019, the Ministry of Social Policy announced its plan **to develop a national centralised register of gender-based and domestic violence**.<sup>124</sup> However, as of June 2020, the national register had yet to be launched.

**Free Legal Aid Centres and Bureaus** work under the Ministry of Justice and provide free legal aid to victims of domestic violence under the Law of Ukraine on Free Legal Aid.<sup>125</sup> They often represent cases of domestic violence victims in courts. According to the law, in cases of domestic and gender-based violence all women irrespective of their socio-economic status have the right to receive primary and secondary free legal aid.<sup>126</sup>

On 22 August 2018, the Cabinet of Ministers of Ukraine issued and signed three separate decrees to improve the work of support services for victims of gender-based violence. The decrees aim to standardize the work of shelters (Decree 655<sup>127</sup>) and psychosocial support mobile teams (Decree 654<sup>128</sup>), and to regulate intersectional collaboration amongst various governmental as well as non-governmental actors in their responses to gender-based and domestic violence (Decree 658<sup>129</sup>).

Decree 278 of the Ministry of Health from 1 February 2019<sup>130</sup> approved **the procedure for conducting a medical examination of victims of domestic violence**, documenting the results of the examination and providing those affected with medical assistance. The procedure established a protocol for medical professionals conducting a medical examination and providing assistance to victims of domestic violence. Amongst other things, the decree defines clinical symptoms and types of behaviour that may indicate that a person has been subjected to domestic violence, with attention to different types of violence (sexual, physical and psychological in particular). The protocol is gender- and age-sensitive and focuses on the dignity and rights of an affected person. The decree also paves the way for the provision of necessary training for medical professionals.

## 1.4 GAPS IN PROTECTION

The legislation and framework outlined above are part of moves, on paper at least, to provide a more comprehensive set of protections against gender-based and domestic violence in line with Ukraine's international obligations and domestic laws. There remain, however, a number of gaps in this protection. These include (but are not necessarily limited to) the following:

At the international level, although Ukraine has signed the Istanbul Convention, it has yet to ratify it. While a signature requires a State to refrain from any acts that would run counter to the provisions of the convention, by failing to ratify this treaty Ukraine has not yet consented actually to be bound by its provisions.<sup>131</sup>

At the national level, the division of domestic violence into administrative and criminal offences also provides for gaps in protection. In the context of this report, one of the most significant gaps is the interpretation of the systematic nature of domestic violence which leads to an instance being treated as a criminal offence. In practice, the law is often interpreted so that a perpetrator is required to be charged and convicted of two previous domestic violence offences under the administrative code before a subsequent offence can be considered as *systematic* violence, and therefore potentially falling under the criminal code which carries higher penalties. Military personnel who commit offences of domestic violence that would fall under the Administrative Code are dealt with under military procedures and not tried by the general courts. Effectively, in practice, it appears that there is no way for the civilian framework to record the necessary instances to

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<sup>124</sup> Under Decree 234 from 20 March 2019, Cabinet of Ministers of Ukraine, available at <https://zakon.rada.gov.ua/laws/show/234-2019-%D0%BF#Text>

<sup>125</sup> See the Law on Free Legal Aid, available at <https://zakon.rada.gov.ua/laws/show/3460-17#Text>

<sup>126</sup> See Article 14, part 13 of the Law on Free Legal Aid. The primary legal aid includes the provision of legal information, consultation, preparation of applications, complaints and other legal documents, as well as assistance in accessing the secondary legal aid (Article 7). The secondary legal aid includes defence, representation in courts, other State bodies and local authorities, and preparation of the procedural documents (Article 13).

<sup>127</sup> The Decree 655, available at <https://zakon.rada.gov.ua/laws/show/655-2018-n>

<sup>128</sup> The Decree 654, available at <https://zakon.rada.gov.ua/laws/show/654-2018-n>

<sup>129</sup> The Decree 658, available at <https://zakon.rada.gov.ua/laws/show/658-2018-n>

<sup>130</sup> The Decree 278, available at <https://zakon.rada.gov.ua/laws/show/z0262-19>

<sup>131</sup> Art. 10 and 18 of the Vienna Convention on the Law of Treaties 1969 states, "the signature is subject to ratification, acceptance or approval, the signature does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process. The signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty" ([https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)). More on the difference between the signature and ratification see at UN, What is the difference between signing, ratification and accession of UN treaties? <http://ask.un.org/faq/14594> (accessed 30 September 2019).

demonstrate that the violence is systematic. While military personnel in some instances of physical and sexual forms of domestic violence can be tried under the Criminal Code (making use of other unrelated to domestic violence articles), many cases of domestic violence, such as psychological and economic domestic violence, effectively fall through the cracks of the current legal framework. As a result, military personnel cannot be prosecuted specifically for domestic violence under the Criminal Code.

Further, there are no additional articles that criminalize non-systematic forms of domestic violence which do not meet the threshold of a third offence, meaning that actions which do not reach that level in law are not punishable as criminal offences, unless they fall under other articles of the criminal Code.<sup>132</sup>

In addition, there are differences between the administrative and criminal offences of domestic violence in terms of the consequences for those affected. Domestic violence is classed as an administrative offence when there (may) have been “harm” to the physical or mental health of the affected person, but can be a criminal offence if it leads to “suffering”. The differences between “harm” and “suffering” are open to interpretation, which is an important factor when consequences are assessed by the police, lawyers and/or the courts. Importantly, domestic violence is only categorized as a criminal offence both when it is systematic, as above, and when “domestic violence leads to physical or psychological suffering, deterioration in health, disability (unemployability), emotional dependence or deterioration of the quality of life of the affected person”.<sup>133</sup> This reform therefore falls short of the standards set out in international human rights law, which require the State to criminalize all forms of domestic violence.<sup>134</sup>

Finally, there are significant gaps in Ukraine’s obligations to collect data on gender-based and domestic violence, with no unified nationwide database as of June 2020.

At present figures from police departments, courts and mobile teams vary as they use different classifications, means of gathering information and reporting procedures. Thus, these sets of data are almost impossible to compare and compile in a comprehensive manner. In some local police departments for example, the data is disaggregated by sex and age of the victims and perpetrators, but there is no disaggregation by the type of violence or by the relationships between the victim and the perpetrator. This makes impossible to assess the type of violence reported and the dynamics of domestic violence in these locations. Even though domestic violence became a criminal offence in 2018, available statistics may not be representative when cases are registered or re-qualified as other punishable criminal offences (for example, bodily harm). There are no clear statistical data to indicate when murder, attempted murder or bodily harm may be in fact part of domestic violence.

As a result, official statistics relating to gender-based and sexual violence are absent, incomplete, inaccurate, and often misleading. A lack of comprehensive, accurate statistics negatively impacts on the ability of the authorities to understand the scale and nature of the challenges, and thereby in turn to craft and finance effective responses.

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<sup>132</sup> Such as, for example, premeditated murder (Article 115), intentional assault causing bodily harm of various degrees (Articles 121, 122, 123), beating (Article 126), unintentional assault causing bodily harm (Article 128), attempted murder (Article 129), rape (Article 152), sexual violence (Article 153), coercion to engage in sexual intercourse/sexual act (Article 154), sexual relations with a minor (Article 155), and child sexual abuse (Article 156).

<sup>133</sup> Article 126-1 of the Ukrainian Criminal Code.

<sup>134</sup> The CEDAW Committee has stated that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual, or psychological integrity, must be criminalized and that States must introduce, without delay, or strengthen legal sanctions commensurate with the gravity of the offence as well as civil remedies. CEDAW GR 35, para 29.

# 2. DOMESTIC VIOLENCE AGAINST WOMEN IN CONFLICT-AFFECTED AREAS IN DONETSK AND LUHANSK REGIONS

## 2.1 IMPACT OF THE CONFLICT ON DOMESTIC VIOLENCE

Armed conflict, irrespective of its character, duration and actors involved, is known to “exacerbate existing gender inequalities, placing women at a heightened risk of various forms of gender-based violence by both State and non-State actors”.<sup>135</sup> Amnesty International’s field research and reports by local and international organizations suggest that the armed conflict in eastern Ukraine has had an across-the-board impact on the causes and forms of domestic violence, and the effectiveness of the institutional response to it in Donetsk and Luhansk regions.

In 2015, in the ninth periodic report on the human rights situation in Ukraine, OHCHR emphasized that there had been an “increased risk of domestic violence, as servicemen return from the conflict area without receiving proper social and psychological services”.<sup>136</sup> The 2017 War Without Rules research highlighted that families of those involved in the “counter-terrorist operation” (CTO) were at heightened risk of suffering gender-based violence and that “violence in a veteran’s family occurs, first of all, if it had happened before the war, though this time it is more frequent and intensive”.<sup>137</sup>

In 2016, *La Strada Ukraine*, a national hotline for prevention of domestic violence, human trafficking and gender discrimination, received over 38,500 calls with a majority of them (90%) related to gender-based and

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<sup>135</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situation, UN Doc. CEDAW/C/GC/30, para 34 (hereinafter: CEDAW GC 30).

<sup>136</sup> OHCHR, Report on the human rights situation in Ukraine, 15 February 2015, p. 16, available at [www.ohchr.org/Documents/Countries/UA/9thOHCHRreportUkraine.pdf](http://www.ohchr.org/Documents/Countries/UA/9thOHCHRreportUkraine.pdf) (hereinafter: OHCHR, Report on the human rights situation in Ukraine, 15 February 2015).

<sup>137</sup> Eastern-Ukrainian Centre for Civic Initiatives, *War without rules: Gender-Based violence in the context of the armed conflict in Eastern Ukraine* (V. Shcherbachenko, H. Yanova eds), 2017, p. 99, available at [www.jfp.org.ua/system/reports/files/110/en/gon\\_eng\\_220818\\_web.pdf](http://www.jfp.org.ua/system/reports/files/110/en/gon_eng_220818_web.pdf) (English version) and [www.jfp.org.ua/system/reports/files/110/uk/gon\\_151117.compressed.pdf](http://www.jfp.org.ua/system/reports/files/110/uk/gon_151117.compressed.pdf) (Ukrainian version) (hereinafter: *War without rules*).

domestic violence. Alona Kryvuliak, coordinator of the national hotline, indicates that in 2016 there was “a record number of calls from Donetsk and Luhansk regions, comparing to previous years (3,500 and 1,500 respectively)”.<sup>138</sup> A little more than 1% of all calls were directly related to the CTO, with one in five being about domestic violence. Anna Sayenko, a consultant of the national hotline, highlights that most of these women found themselves in a situation of domestic violence for the first time after their husbands and partners were demobilized and returned home, in some cases bringing with them weapons from the CTO zone.<sup>139</sup> In 2018, the national hotline received 25,107 calls, with 97.8% of them related to domestic violence. While the percentage of CTO-related calls stayed the same (around 1%), almost half of those calls were about domestic violence – more than a two-fold increase compared to 2016.<sup>140</sup>

The 2019 OSCE report on violence against women estimated that “lifetime current partner physical violence” was indicated more than twice as often by those women whose partners had fought in the armed conflict in eastern Ukraine than by those whose partners had not. The OSCE survey shows “four in five women whose partners have fought in an armed conflict say they have experienced psychological violence, compared with 58% of those whose partners have not fought in an armed conflict”.<sup>141</sup>

Based on their research, in 2019 the *Save the Children* organization in Ukraine indicated an increase in domestic violence in families living along the contact line since the start of the conflict (mainly psychological and physical violence). They stressed that the violence was reported “to be taking on more violent and severe forms, due to the ease of access to weapons.”<sup>142</sup> Perpetrators of domestic violence were overwhelmingly men.<sup>143</sup>

Seven local NGOs – in Bakhmut, Sloviansk, Kramatorsk, and Sviatohirsk – and five grassroots women’s initiatives in smaller towns and villages along the contact line reported to Amnesty International that the ongoing conflict has had an effect on the occurrence of domestic violence. Economic hardship, internal displacement, psychological stress and use of alcohol were mentioned amongst the contributing factors.

A member of the Bakhmut office of the Smile of a Child noted:

*There is no doubt that the conflict complicated the situation [regarding domestic violence]. The military conflict strained family relationships. There are new conditions and challenges now for families whether they are IDPs [internally displaced people] or locals. There is a lack of support networks, problems with housing and living arrangements for IDPs. The experience of being exposed to shootings and being displaced also contributed to mental health [issues]. People are not used to getting or seeking psychological help and there are no specialists on the ground.*<sup>144</sup>

A psychologist who works with local and internally displaced women and children in Kramatorsk and Sviatohirsk shared with Amnesty International:

*I could say with certainty that domestic violence has got worse because of the conflict and because of the economic conditions [of living]. Overall, the quality of life is getting worse and people, men especially, start using alcohol to cope with the stress.*<sup>145</sup>

Representatives of *Nasha Dapamoha*, an organization based in Sloviansk and working with people who use drugs and people living with HIV, noted:

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<sup>138</sup> Ukraine Crisis Media Centre, The National hotline for prevention of violence received four times more calls than in previous year – “La Strada Ukraine”, 2017, available at [www.uacrisis.org/53474-la-strada-ukrayina](http://www.uacrisis.org/53474-la-strada-ukrayina)

<sup>139</sup> Nikolay Mirny, Irina Vyrtsu, Violence in the families of ATO participants: new challenges for society or neglected problems?, available at [www.dt.ua/SOCIUM/nasilstvo-u-sim-yah-uchasnikiv-ato-novi-vikliki-dlya-suspilstva-chi-zadavneni-problemi-.html](http://www.dt.ua/SOCIUM/nasilstvo-u-sim-yah-uchasnikiv-ato-novi-vikliki-dlya-suspilstva-chi-zadavneni-problemi-.html)

<sup>140</sup> Statistics for 2018 provided by La Strada Ukraine (hard copy) during a meeting with Amnesty International on 22 January 2019 in Kyiv.

<sup>141</sup> OSCE-led Survey – Ukraine report, p. 43. The report notes: “In the qualitative research, psychological violence against women was said to be very common both within and outside relationships. The women who took part in the research said that, within relationships, psychological violence included highly controlling behaviour (such as women being told who they could socialize with), as well as being held captive and not being allowed food or drink. Participants also said that women were commonly subjected to threats from their partners, including with a weapon.” Indeed see also OSCE-led Survey, p. 83.

<sup>142</sup> Save the Children, Listen to us: Boys’ and girls’ gendered experiences of the conflict in eastern Ukraine, 2019, p. 30, available at [https://resourcecentre.savethechildren.net/node/18080/pdf/listen\\_to\\_us\\_ukraine\\_full\\_report\\_eng.pdf](https://resourcecentre.savethechildren.net/node/18080/pdf/listen_to_us_ukraine_full_report_eng.pdf) (hereinafter: Save the Children, Listen to us).

<sup>143</sup> As of 13 May 2019, in Kramatorsk Police Station there are 264 registered offenders: 248 of them are men (Kramatorsk Police Station, Report note, a hard copy provided by the Kramatorsk Police Station during the Forum on collaboration amongst various actors in preventing and combating gender-based and domestic violence in Donetsk region in Mariupol, 15-16 May 2019). Sloviansk Police Station provides similar figures: as of 30 April 2019, in Sloviansk police register, there are 214 people who committed domestic violence related offences, 200 of them are men (Sloviansk Police Department, Analytical note from 30 April 2019 on work on prevention of domestic violence in Sloviansk Police Department. The Analytical note was provided by the Sloviansk Police Department during a meeting and an interview with Amnesty International in May 2019).

<sup>144</sup> Amnesty International, an interview with an *Smile of a Child*, Bakhmut, 28 March 2019.

<sup>145</sup> Amnesty International, an interview with a psychologist, Sviatohirsk, 14 May 2019.

*The conflict aggravates the situation [with domestic violence]. The family and support networks have been broken. Many IDPs lost their contacts with relatives, they lost their homes and they don't have sustainable living here. Local people as well as IDPs are also chronically distressed. Overall, there is a sense of aggressiveness in the air.*<sup>146</sup>

This evidence of the conflict's impact on the increase in domestic violence itself is also accompanied by reports that indicate an increase in public awareness of the issue and in reporting rates.

In December 2018, *Slavic Heart*, an NGO based in Sviatohirsk, Donetsk region, launched a local hotline to provide information and support for survivors of gender-based and domestic violence. As of November 2019, the hotline was receiving an average of 15 calls a day, most from women contacting *Slavic Heart* for the first time.<sup>147</sup> The NGO has also seen a steady increase in the number of cases requiring provision of support and legal counselling.<sup>148</sup>

Police statistics – even with their shortcomings as outlined earlier – echo this development and show a spike of registered cases related to domestic violence (under article 173-2 of the Administrative Code): in 2018, in Donetsk region there was 76% increase and in Luhansk region 158% increase in numbers of such cases compared to an average for the previous three years.<sup>149</sup>

There are several developments which may have contributed to this: the introduction of the new laws, including the 2018 landmark Law on Prevention and Combating Domestic Violence, and the subsequent rise in awareness of domestic violence (including through media coverage); the tireless work of local non-governmental organizations;<sup>150</sup> grassroots women's mobilization; successful collaboration in some places between NGOs, the police and local authorities; and in some cases pressure from authorities on the police to deliver results after the laws were adopted (leading to a rise in registered complaints).

The continuing conflict is a factor in the increase of domestic violence and its severity. The conflict can also pose challenges in implementation of preventive and protective measures. However, under the CEDAW Convention, Ukraine has the obligation “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women”.<sup>151</sup> This obligation is of an immediate nature and “a delay cannot be justified on any grounds, including political, social, cultural, religious, recourse or other considerations or constraints within the state”.<sup>152</sup> The CEDAW Committee in its concluding observations on Ukraine's eighth periodic report emphasizes that “the implementation of the Convention, especially during times of conflict, is the most effective safeguard to ensure full respect for, and the enjoyment of, women's rights”,<sup>153</sup> including the rights to life, health, liberty and security of the person, equality and equal protection within the family, freedom from torture, cruel, inhumane or degrading treatment.<sup>154</sup>

## 2.2 CHANGE OF FAMILY STRUCTURE AND ECONOMIC HARDSHIP

Many of Amnesty International's interlocutors indicate that, due to the conflict, a large number of men in Donetsk and Luhansk regions have lost their jobs and thus they are often unable to act in a traditional role of breadwinners in the household. Some of the men (especially amongst those displaced by the conflict) have been unable and/or unwilling to get another qualification, effectively staying jobless. In the mining industry, which is the backbone of the local economy in eastern Ukraine, the salaries are systematically delayed which aggravates the financial pressure on families. Financial hardships exacerbated by the conflict affect the whole

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<sup>146</sup> Amnesty International, an interview with *Nasha Dapamoha*, Sloviansk, 29 March 2019.

<sup>147</sup> Amnesty International, an interview with Katerina Khaneva, a gender-based violence coordinator at *Slavic Heart*, Kyiv, 10 November 2019.

<sup>148</sup> Amnesty International, an interview with Valerii Mikhiei, a legal coordinator at *Slavic Heart*, 21 November 2019.

<sup>149</sup> The figures for Donetsk regions are: 2224 for 2014, 2822 for 2016, 2943 for 2017, and 4688 for 2018; the numbers for Luhansk regions for the same period are: 431 for 2015, 759 for 2016, 715 for 2017, and 1640 for 2018. The figures were provided by the National Police's Department of Informational and Analytical Support, letter to Amnesty Ukraine from 26 March 2019.

<sup>150</sup> For example, *Slavic Heart*'s outreach programmes aimed at locations close to the contact line.

<sup>151</sup> CEDAW GC 35, para 21.

<sup>152</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, UN Doc. CEDAW/C/GC/28, para 29 (hereinafter: CEDAW GC 28).

<sup>153</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 2.

<sup>154</sup> CEDAW GC 35, para 15.

family, including men who struggle to provide for families and whose sense of masculinity may therefore be affected. As a local grassroots activist noted:

*There is also an economic factor to domestic violence because, for example, salaries for miners are not paid on time. So, families live in strained financial situations when expenses have increased, when the psychosocial situation is dire and there is also psychological pressure on IDPs, including men who feel that they have to provide for their families and they might not be able to do so. So, there is a possibility for them to take out their frustration on women and children. And, of course, there is a high level of gender stereotypes in the society, let's not forget that.*<sup>155</sup>

Men who held highly-skilled positions but fled what are now territories outside government control have often had to opt for less skilled and less prestigious jobs. Sometimes, women have become breadwinners to support their children and husbands/partners.<sup>156</sup> Even if a woman earns a living, her salary as well as child benefits may be controlled by her partner/husband, which, based on accounts of women Amnesty International delegates talked to, is a common practice.<sup>157</sup>

The ongoing conflict also affects the cost of living and accessibility of goods. Unemployment is rampant and there is a gender gap in salaries and occupation. Women from a small location on the contact line explain:

*Before the war people were more well off, people would buy cars and go for holidays. The war changed that... Now, there is nowhere to work apart from a mine, a school, a hospital and a children's home. Agriculture is in decline because of the taxes but importantly because of the shelling. The soil is infertile where a shell falls... We are under fire, and on top of that we have to deal with the lack of services and with the insanity of prices... We often go to Sievierodonetsk to buy clothes etc. But in Sievierodonetsk the prices are higher than in Kyiv. You could easily pay 3,000-3,500 hryvnas [around US\$ 112-131] for a pair of jeans and a shirt. Here to buy a shirt for your child to go to school would cost you 500 hryvnas [US\$ 18.71] and jeans – 600 hryvnas [US\$ 22.48]. And on average, men earn 5,000 [around US\$ 187] and women 2,500-3,000 hryvnas [around US\$ 93-112] per month.*<sup>158</sup>

In the bigger cities, the cost of renting a flat (for example, in Kramatorsk or Sievierodonetsk) is 5,000 – 6,000 hryvnas [US\$ 187-224], when on average a woman earns 2,500 – 4,000 hryvnas [US\$ 93-149] per month (up to 6,000 hryvnas [US\$ 224] for a teacher or a doctor) compared to 3,500-9,000 hryvnas [US\$ 131-337] earned by men.<sup>159</sup>

In Ukraine, the gender gap in all sectors is wide and increasing, the occupational segregation in the labour market persists and women are concentrated in low-paid jobs, in both the formal and informal sectors.<sup>160</sup> Governmental reports on the “gender profile” of the regions indicate that in 2017 (the latest data available) the gender pay gaps in Donetsk and Luhansk regions were amongst the highest in Ukraine – 35% and 29.09% respectively.<sup>161</sup> The labour market that exists in these regions tends to be gender segregated: men work in mines and the police, and the work of fixers/drivers in Kramatorsk and Sloviansk (which is a sought-after earning opportunity prompted by the presence of international visitors in the conflict-affected area) consists almost entirely of local men.<sup>162</sup> Women, however, are relegated to low-paid jobs: nurses, teachers, social workers, shop assistants, waitresses.<sup>163</sup> For many women their income may not be sufficient for an independent living and opportunities for employment and professional development are scarce.

As the CEDAW Committee notes, conflict settings present particular challenges with regards to employment and reintegration to rural women, “widows, women with disabilities, older women, single women without family support and female-headed households [who are] especially vulnerable to increased economic hardship owing to their disadvantaged situation, and often lack employment and means and opportunities for economic survival”<sup>164</sup>.

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<sup>155</sup> Amnesty International, an interview with a local grassroots activist, a town close to the contact line, May 2019.

<sup>156</sup> Amnesty International, an interview with *Smile of a Child*, Bakhmut, March 2019; focus group discussions with women in two locations in Donetsk region within 10 km of the contact line, April 2019 and May 2019.

<sup>157</sup> Amnesty International, focus group discussions with women, a small town in Donetsk region (May 2019) and a village in Luhansk region (May 2019) – both locations are close to the contact line.

<sup>158</sup> Amnesty International, an interview with two local grassroots activists, a location in Luhansk region on the contact line, May 2019.

<sup>159</sup> Amnesty International, interviews with local activists in a location in Donetsk region and a location in Luhansk region, May 2019.

<sup>160</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 36a.

<sup>161</sup> See all the reports on Gender Profile: available at [www.eu-ua.org/genderni-profilii-25-oblastey-ukrayiny](http://www.eu-ua.org/genderni-profilii-25-oblastey-ukrayiny); Donetsk region available at [www.eu-ua.org/sites/default/files/inline/files/donecka.pdf](http://www.eu-ua.org/sites/default/files/inline/files/donecka.pdf), and Luhansk region available at [www.eu-ua.org/sites/default/files/inline/files/lugansk.pdf](http://www.eu-ua.org/sites/default/files/inline/files/lugansk.pdf)

<sup>162</sup> Amnesty International, an interview with a fixer in March 2019 and with another one on May 2019.

<sup>163</sup> Amnesty International, focus group discussions with women in two locations in Donetsk region within 10 km of the contact line in April 2019 and May 2019, with women in a small town in Donetsk region in May 2019 and in a village in Luhansk region in May 2019 within 20 km of the contact line, a focus group discussion with women in Sviatohirsk in March 2019.

<sup>164</sup> CEDAW GC 30, para 51.

From Amnesty International's research for this report, it is clear that economic hardships and the lack of economic independence are among the key reasons why women stay in abusive relationships.<sup>165</sup> Even if a woman is in control of her earnings, this income may not be enough to sustain herself and a child (or children) if she decides to leave an abuser.<sup>166</sup> And even if women do dare to leave, they often return to their husbands/partners after spending a month (or several months) at relatives and/or in a shelter.<sup>167</sup>

For example, one woman living near the contact line in Donetsk region described how she owned no property of her own, was unable to work due to illness, and was completely financially dependent on her son, a member of the military, who abused her physically and psychologically. The woman described her son as showing no signs of aggression towards her before he began his service in the military. After one extreme incident in early 2020 she did report her son to the police but was told her complaint "would have no prospect of investigation". Losing faith in the authorities to protect her, but unable to leave owing to her lack of income, the woman remained in her son's household.<sup>168</sup>

To prevent and protect women from gender-based violence, including domestic violence, the state has to enhance the level of women's economic rights and effectively address barriers to the equitable participation of women in the labour market. In line with the CEDAW Committee's recommendations to Ukraine, Amnesty International highlights the importance of creation of "an enabling environment for women to become economically independent" and the promotion of "the entry of women into the formal economy, including through the provision of vocational and technical training".<sup>169</sup> It is also vital that Ukraine "effectively guarantee[s] the principle of equal pay for work of equal value"<sup>170</sup> and "provide[s] women affected by conflict, including women with disabilities, widows and women heads of household, with sustainable economic opportunities".<sup>171</sup>

## 2.3 HOUSEHOLDS WITH RETURNING VETERANS AND MILITARY PERSONNEL ON DUTY

The ongoing conflict has taken its mental toll on men and women in service (or those returning home). Reasons identified by international government agencies and NGOs for increased domestic/intimate partner violence after the perpetrator has been involved in the fighting in eastern Ukraine include the impact of post-traumatic stress disorder (PTSD) and inadequate re-integration systems.

As far back as 2015, the OHCHR had highlighted an "increased risk of domestic violence, as servicemen return from the conflict area without receiving proper social and psychological services".<sup>172</sup> More recently, the 2019 UN Women report *Invisible Battalion 2.0: Women veterans returning to peaceful life*, notes that "it is very difficult to access reintegration services for veterans due to existing hardships in receiving combat participant status, excessive bureaucracy, corruption, and lack of coordination between departments and institutions, that are engaged in the provision of reintegration services."<sup>173</sup> In 2020, the Committee on Economic, Social and Cultural Rights underlined in its concluding observations on the seventh periodic report of Ukraine that while the provision of rehabilitation services and psychological assistance to war veterans and other conflict-affected populations have been put in place, "those persons still have limited access to mental health care and psychological support, including due to a lack of medical personnel and facilities".<sup>174</sup>

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<sup>165</sup> See also CEDAW GR 19, para 23

<sup>166</sup> It is important to take into account that often a woman and her partner/husband co-own a property they live in (or the property is own by a husband/partner or they live with parents-in-law), in which case "leaving" also involves finding a new place and spending money on rent.

<sup>167</sup> Amnesty International, an interview with a shelter representative, Sloviansk, 29 March 2019; an interview with *Smile of a Child*, Bakhmut, 28 March 2019; focus group discussions with women in Sviatohirsk, March and May 2019; interviews with Ekaterina Khaneva and Natalia Kirkach from *Slavic Heart* on 2 April and 14 May 2019.

<sup>168</sup> Information from a partner NGO, March 2020.

<sup>169</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 37a.

<sup>170</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 37 b.

<sup>171</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 37 f.

<sup>172</sup> OHCHR, Report on the human rights situation in Ukraine, 15 February 2015, p. 16.

<sup>173</sup> UN Women and The Institute of Gender Programs, *Invisible Battalion 2.0: Women Veterans Returning to Peaceful Life*, 2019, p. 8, available at [www.womenua.today/UWC-library/unwomen/43-Invisible\\_Battalion\\_2.0\\_ENG.pdf](http://www.womenua.today/UWC-library/unwomen/43-Invisible_Battalion_2.0_ENG.pdf)

<sup>174</sup> UN Committee on Economic, Social and Cultural Rights, Concluding observations on the seventh report of Ukraine, UN. Doc. E/C.12/UKR/CO/7, para 40.

This lack of support is particularly troubling in respect of those returning veterans as well as serving military personnel who suffer from PTSD, a factor which exacerbates the situation regarding domestic violence not only in Donetsk and Luhansk regions, but across the whole of Ukraine.<sup>175</sup>

In 11 out of the 27 cases of domestic violence recorded by Amnesty International delegates, perpetrators have been active or former members of military forces.<sup>176</sup> Eight out of these 11 cases were reported to the police. In two, women succeeded in obtaining restraining orders from the courts. In these two cases criminal investigations, although not on charges of domestic violence, are ongoing.<sup>177</sup> In other two cases charges again were not qualified as domestic violence but registered as “hooliganism”<sup>178</sup> and “bodily harm”<sup>179</sup> and no restraining or emergency protection orders were issued. One case was closed due to “lack of evidence” despite documented physical injuries; in this case the woman’s account of being raped by her husband was disregarded by a police officer.<sup>180</sup> In three cases the women withdrew their complaints – one after pressure from the perpetrator and two after being persuaded by police officers.<sup>181</sup> After withdrawing complaints the women ceased their efforts to obtain justice and did not report further violent incidents.

Three cases were not reported to the police. One older woman decided to protect her son<sup>182</sup> and another her grandson.<sup>183</sup> In the third case, a woman refused to report further instances of abuse by her husband, at that time a soldier on active duty, because she had been pressurized by her husband’s military superiors to withdraw a complaint she had filed earlier and she did not believe that this time would be different.<sup>184</sup> What follows below is an account by a witness to this latter incident, who described how it took place in a forest outside a town with a low military presence some distance away from the contact line. The woman was pregnant at the time with her second child. This is how the witness recalled the incident which took place in December 2018:

*It happened at around 6pm. The window was open. My kids were saying “Mum, someone is screaming”. I thought some kids had got into a fight, because the voice was so thin. So, I went to the woods. I was walking along the path and saw this woman sitting on the ground, and I could see that she was pregnant. She was wearing a short jacket and she was without a hat and I thought how cold it was. This man was roaming around, yelling at her “Go home! Nothing happened!” She said to me that he was her husband and that he had beaten her and that she was four months pregnant. I told her to stand up as it was cold to sit on the ground. She said to me “I don’t want to live, what is the point of it all? Let me freeze to death.*

*He left, but she stayed sitting on the ground. She told me that this physical abuse was there from the very beginning [of their relationship]. He broke her nose once. She said that he would verbally abuse her, humiliate her, and then force her to sleep with him. I asked, “Don’t you want to leave him?” She said, “I have tried, but I returned because I’m financially dependent on him, and because I love him”.*

*Finally, the police arrived. Somebody must have called them. The police asked her about the incident, but she answered, “I won’t write any complaint, nothing ever works. Everything is pointless, no one will be prosecuted”. It turned out that she had already filed a complaint against him, when he broke her nose. Then she got a call from the army and was asked to revoke the complaint, so that her husband wouldn’t be embarrassed. One of the police officers who arrived that day remembered that he was on duty the day when her husband broke her nose. So, the police left, without the complaint.<sup>185</sup>*

One of the cases that was registered and investigated by the police happened in the first half of 2019 in a village close to the contact line and involved the husband, a former military personnel who fought in the conflict. The man became extremely violent towards his wife and children upon returning from active duty. Two witnesses provided an account of this case. One told Amnesty International:

*Her husband was fine but then he was concussed while in the [counter-terrorism operation] zone and he began drinking when he came back and began to beat her... Finally, one day she came over and told me about his beatings. It was hard*

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<sup>175</sup> Amnesty International, interviews with *La Strada* and *Women’s Perspectives*, Kyiv, January 2019.

<sup>176</sup> Amnesty International, focus group discussions and interviews in locations close to contact line in Donetsk and Luhansk regions as well as in Sloviansk, Kramatorsk and Svatohirsk, between 28 March and 29 November 2019. Five additional cases received from a partner organization in February 2020.

<sup>177</sup> Amnesty International, an interview with a survivor, November 2019, Kramatorsk; and an account provided by a partner organization in February 2020.

<sup>178</sup> A report by an international organization, February 2020.

<sup>179</sup> Amnesty International, an interview with a witness in a location close to the contact line, Luhansk region, May 2019.

<sup>180</sup> An account provided by a partner organization in February 2020.

<sup>181</sup> Accounts provided by a partner organization in February 2020.

<sup>182</sup> Amnesty International, an interview with *HelpAge Ukraine*, Sloviansk, 29 March 2019.

<sup>183</sup> Amnesty International, an interview with a representative of the hospice for older people in Donetsk region, 30 March 2019.

<sup>184</sup> Amnesty International, an interview with a witness in a location close to the conflict line, Donetsk region, May 2019.

<sup>185</sup> Amnesty International, an interview with a witness in the case on condition of anonymity, a location close to the conflict line in Donetsk region, May 2019.

*to see the injuries, because her body was covered in psoriasis due to stress. She said, “try my head” and I could feel that her head was covered in scars... One day she ran into my house. He had beaten her and wanted to stab her, but then went to get some more alcohol [...] When we arrived with the police, he had already locked himself in the house and was shouting. He was holding one of the children and threatened the other with an axe. He was drunk and out of his mind.*<sup>186</sup>

The child later told the police that her father tossed her to the floor, where she fell flat, cutting her lip, and after that he kicked her. The police finally arrested the man and opened a criminal case into bodily harm caused to a child. They persuaded the woman that there was a little prospect of success for domestic violence charges. However, the case was closed shortly afterwards due to the untimely death of the abuser.<sup>187</sup>

Another case reported to Amnesty International by a partner NGO involved an internally displaced family currently living in Donetsk region. The husband is a former combatant, and his wife describes how his violence against her – psychological, physical and economic – began with the conflict and his subsequent alcohol abuse. Last year (in 2019) he forbade his wife from working, took her phone away from her, and at one point threatened to force her into sex work. The woman did not report his abuse to the police as she had no faith that he would be prosecuted, and feared for the life and health of her and her children. Eventually the woman borrowed a phone from someone on the street to call a family member, and was put in touch with legal aid and a psychosocial mobile team. A restraining order was issued against the husband, against whom a criminal investigation was also opened.<sup>188</sup>

One of the ongoing cases was related to Amnesty International delegates in November 2019 by a survivor. She lives in one of the bigger cities in Donetsk region. She told Amnesty International that at that time she and her baby were in hiding from her partner, a member of the military on active duty. She reported violent incidents to the police five times (starting summer 2019), also conveying to the police his repeated threats.

*He threatened me numerous times. He said, “if you utter a word about this or you try to leave me, I will throw a grenade at you and I will kill you. And when I’ll be going back to the conflict zone, I will take your body and my fellows will help me to bury it, no one will find your body.*<sup>189</sup>

The police were unable to circumvent Article 15 of the Administrative Code that prevents them from applying any available administrative measures to military personnel. As of mid-April 2020, the woman told Amnesty International that criminal charges (under Article 126-1) had been brought against the soldier and the investigation was ongoing.<sup>190</sup> As of 31 March 2020, a restraining order had been issued until the end of April 2020. However, according to the woman, no disciplinary measures under the Military Disciplinary Code had been taken by the military against the abuser.<sup>191</sup>

The prestige accorded to the military during the conflict may contribute to under-reporting and under-investigation of domestic violence. The situation is exacerbated with regard to administrative cases due to the limited jurisdiction of the police over the military.

It is paramount that Ukraine review the legislative framework and amend and/or repeal provisions that create barriers for women and girls to access justice such as Article 15 of the Administrative Code.<sup>192</sup> In addition, to prevent and combat domestic violence it is important to ensure that disarmament, demobilization and reintegration programmes as well as mental health services are available and accessible for conflict-affected populations, gender-sensitive and gender responsive. They must be implemented at both national and regional levels.<sup>193</sup>

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<sup>186</sup> Amnesty International, an interview with a witness in the case, a location near the contact, Luhansk region, May 2019.

<sup>187</sup> Amnesty International, an interview with a witness in the case, a location near the contact, Luhansk region, May 2019.

<sup>188</sup> An account provided by a partner organization in March 2020. All details anonymised.

<sup>189</sup> Amnesty International, an interview with a survivor, a city in Donetsk region, November 2019.

<sup>190</sup> Amnesty International requested further information regarding the ongoing investigation from the Prosecutor General's Office on 10 February 2020, but had not received a response by the time of publication.

<sup>191</sup> Amnesty International, an interview with a survivor, a city in Donetsk region, November 2019.

<sup>192</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 33 on women's access to justice, UN Doc. CEDAW/GC/33, see paras 21, 22, 23 (hereinafter: CEDAW GC 33).

<sup>193</sup> CEDAW GC 30, see para 69. See also Committee on Economic, Social and Cultural Rights, Concluding observations on the seventh report of Ukraine, UN Doc. E/C.12/UKR/CO/7, para 41.

## 2.4 PHYSICAL, ECONOMIC AND PSYCHOLOGICAL FORMS OF DOMESTIC VIOLENCE

Domestic violence is described by women in Ukraine as persistent and routine,<sup>194</sup> and various forms of domestic violence (sexual, physical, psychological and economic) are interconnected. Physical violence remains the most recognizable form of domestic violence – both by affected women and the authorities (namely, the police). Stories shared by women, local women’s initiatives and local NGOs show that in almost all cases physical violence is interwoven with economic and psychological violence. The most common form of physical violence is beating. In cases recorded by Amnesty international delegates this violence is directed against conflict-affected women across generations: at wives, former wives, intimate partners, daughters and older women - mothers and grandmothers.

Based on women’s accounts given, and available to Amnesty International, economic violence takes the form of appropriating financial means (including a pension in case of older women), control over financial resources, withholding the means to buy food, clothing and other daily necessities. Psychological violence described in the women’s accounts manifests itself through non-sexual verbal abuse, humiliation, insults, mocking, denying basic expenses for family survival, restrictions on moving freely, threats and intimidation.

Physical violence is one of the forms that usually gets reported. However, even with this “obvious” form of violence, it can take months and even years for women to come forward. Sometimes, a woman reports (or tries to report) an instance of violence only when her child’s life is at risk and/or when violence reaches the tipping point and becomes too severe to bear. Below is a case summary drawn from an account given to Amnesty International by a woman named “Olga”,<sup>195</sup> and which exemplifies the interconnectedness of economic, psychological and physical violence:

*Olga is in her 20s. She met a man from a well-off family. She was from a small village and he was from a city. She was poor (her mother constantly referred to themselves as “peasants”). At the time when they met, he was using drugs, but then claimed to give up within two months because of the relationship with Olga. Within half a year of living together she got pregnant. They lived with his parents in a city. She took part in their family business run by her partner and his parents, and she was involved in the management and operation of the business. She did not receive a salary for this. All the funds were controlled by her mother-in-law. Olga was given a sum of 500-700 hryvna a week [US\$ 18-26]. Her mother-in-law would take her to the market and pick out and buy clothes for her (Olga said “I have my tastes, and she had her own, and she dressed me according to hers”). During this period, when she was pregnant, he began to beat her. She stopped eating and started losing weight as she was repeatedly bullied by her husband and his mother: they told her how badly she cooked and that she was not good enough for him. It lasted for about two years. In the beginning of 2019, during an argument, he injured her and left her with a broken coccyx and a head injury (which left her bleeding and fractured her skull). After the incident, she wiped up the blood and hid all traces of the fight and called an ambulance. She said that she had fallen down the stairs. She did not call the police at that point. She registered the complaint with the police later and she had to explain why she did not have a medical record of beatings when that happened.<sup>196</sup>*

As the ongoing conflict provides an access to weaponry, in some cases it affects the severity of domestic violence. In one of the reported cases, in a town close to the contact line, a husband tried to throw a grenade into a flat to which his wife and children had moved after leaving him due to his longstanding physical abuse. The grenade landed on a roof of a shop located below the flat and caused minor damage. The case was at first qualified as “hooliganism”. After pressure from local women’s groups, it was re-qualified and tried as “intentional destruction or damage of property committed by arson, explosion, or other general manner, or that resulted in property damage in particularly large quantities or caused the loss of live(s) or other grave consequences” (article 194-2, Criminal Code). On 6 May 2020, the offender was sentenced to four years in jail. No charges of domestic violence were brought by the police. As of July 2020, he has appealed the decision and has not started serving his sentence as the police have not received the court decision.<sup>197</sup> Similar cases where weaponry like a grenade was used in an argument have also been reported in the media.<sup>198</sup>

<sup>194</sup> See, for example, OSCE-led Survey – Ukraine report, p. iii, “Most women are concerned about the issue of violence against women in Ukraine, with 64% saying it is a common occurrence. Two-thirds (67%) of women state that they have experienced psychological, physical or sexual violence at the hands of a partner or non-partner since the age of 15.”

<sup>195</sup> The account has been anonymised to protect the woman’s identity.

<sup>196</sup> This account is based on Amnesty International’s interview with Olga (the name has been changed) on conditions of anonymity, undisclosed location, March 2019.

<sup>197</sup> According to the police response received by a local NGO; Amnesty International, correspondence with an NGO’s coordinator, 9 July 2020.

<sup>198</sup> See incidents in Artemivsk (now Bakhmut) in 2016: In Artemivsk, a man detonated a grenade in a house, a woman and a child were injured, 24 January 2016, available at [www.rbc.ua/ukr/news/artemovske-muzhchina-podorval-granatu-dome-1453634600.html](http://www.rbc.ua/ukr/news/artemovske-muzhchina-podorval-granatu-dome-1453634600.html);

To ensure that laws, institutions and a system to address domestic and gender-based violence function effectively in practice all state agents and bodies, amongst other things, have to recognize that domestic violence as a form of gender-based violence “manifests itself on a continuum of multiple, interrelated and recurring forms”.<sup>199</sup> In addition, in the situation of ongoing conflict and heightened insecurity, the state has to strengthen its effort to control the availability and accessibility of firearms as this is one of the factors that heightens the risk to women of exposure to serious forms of gender-based violence.<sup>200</sup>

## 2.5 SEXUAL DIMENSIONS OF DOMESTIC VIOLENCE

Sexual violence remains a highly taboo, invisible and unspoken topic in Ukrainian society. Marital rape as a form of domestic sexual violence is tolerated across Ukraine: it is not seen as a form of violence and it is normalized when it occurs. The OCSE-led research into violence against women asserts that in Ukraine every fifth woman could justify sex without consent “in a marriage or among partners who live together”.<sup>201</sup> In an anonymous survey conducted by the online platform EdEra and NV studio in 2019, amongst 2,500 respondents (87.7% of whom were women) 34.2% fully or partly agreed that in a marriage a partner has a duty to satisfy the sexual need of another partner, 26.2% found this question difficult to answer and 39.4% disagreed with this statement.<sup>202</sup> The 2019 UNFPA research on societal attitudes towards gender-based and domestic violence in Ukraine states that only 52% of respondents (50% of men and 54% of women) agree that women can experience sexual violence from her male partner (either her husband or boyfriend).<sup>203</sup>

Staff members working with *Women’s Perspective*, an NGO based in Lviv, a city in western Ukraine, which provides, amongst other things, legal advice and support to women, confirm that in Ukraine sexual violence by intimate partners is often not recognized as violence and they are aware of very few cases when a woman reported domestic violence of sexual nature.<sup>204</sup> In one of the cases shared with Amnesty International by a local partner organization, a woman was raped by her husband, a soldier on active duty, after she tried to file a domestic violence complaint against him. This happened in 2019 in a location within 10 km of the contact line in Donetsk region. The woman reported to the organization that when she left the police station where she reported her husband for physical violence her husband beat her and raped her. After sexually assaulting her the husband said that she would not be able to prove or do anything since she was “his legal wife”. After the incident, while giving evidence related to her first complaint, the woman informed the police about the rape that happened after she left the police station. The investigator suggested she not report the rape since, as he explained to her, “the husband promised to leave and never show up again”. The case against the husband (physical violence) was soon closed due to “lack of evidence”.<sup>205</sup>

A humanitarian worker who at the time of an interview worked in villages along the contact line and ran community outreach programmes, shared that neither men nor women with whom she had been working saw coerced sex within marriage as problematic.<sup>206</sup>

In Ukraine, the definition of rape has been amended in line with the international standards.<sup>207</sup> According to the law, sexual assault and rape includes marital rape. It is based on the lack of freely given consent and

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and more recent cases in Troitske in June 2019: A man was killed and a woman was injured in a grenade blast in Troitske, 6 June 2019, available at [https://ukr.lb.ua/society/2019/06/06/428934\\_vid\\_vibuhu\\_granati\\_troitskomu.html](https://ukr.lb.ua/society/2019/06/06/428934_vid_vibuhu_granati_troitskomu.html), and in Kurakhove, Mar’insk district, in October 2019: In Donetsk region, a jealous husband blew up himself and his wife with a grenade, 6 October 2019, available at [www.aif.ua/incidents/v\\_doneckoy\\_oblasti\\_revnivyy\\_muzh\\_podorval\\_na\\_granate\\_sebya\\_i\\_zhenu](http://www.aif.ua/incidents/v_doneckoy_oblasti_revnivyy_muzh_podorval_na_granate_sebya_i_zhenu)

<sup>199</sup> CEDAW GC 35, para 6.

<sup>200</sup> CEDAW GC 35, para 31 c.

<sup>201</sup> OSCE-led Survey – Ukraine Report, p. 18.

<sup>202</sup> “When they’ll kill – then come to us”. What is evidenced by NV’s survey on domestic violence, 25 September, 2019, available at [www.nv.ua/ukr/ukraine/events/statistika-os-domashnye-nasilstvo-novini-ukrajini-50044260.html](http://www.nv.ua/ukr/ukraine/events/statistika-os-domashnye-nasilstvo-novini-ukrajini-50044260.html)

<sup>203</sup> Overall, 1000 respondents across Ukraine (except the Crimea and non-government controlled territories) were interviewed. See Info Sapiens, Citizens’ attitudes towards gender-based and domestic violence, 2019, available at

<https://ukraine.unfpa.org/sites/default/files/pub-pdf/%D0%9E%D0%BC%D0%BD%D1%96%D0%B1%D1%83%D1%81%20%D0%BF%D1%80%D0%B5%D0%B7%D0%B5%D0%BD%D1%82%D0%B0%D1%86%D1%96%D1%8F.pdf>

<sup>204</sup> Amnesty International, an interview with representatives from *Women’s Perspective*, Kyiv, January 2019. Their aims are listed as implementing gender policy in Ukraine; combating violence against women and domestic violence; increasing the competitiveness of women on the labour market; and promoting women’s participation in decision-making processes in Ukraine.

<sup>205</sup> An account of a survivor written down and reported to Amnesty International by a local partner organization in February 2020.

<sup>206</sup> Amnesty International, an interview with a humanitarian worker, Kyiv, January 2019.

<sup>207</sup> “Ensure that sexual assault, including rape, is characterized as a crime against the right to personal security and physical, sexual and psychological integrity and that the definition of sexual crimes, including marital and acquaintance or date rape, is based on the lack of freely given consent and takes into account coercive circumstances”: CEDAW GC 35, para 29 (e).

prompts the state bodies to take into account the circumstances.<sup>208</sup> Amnesty International is concerned that the state bodies, specifically police, fail to ensure that in cases of sexual domestic violence the rule of law is enforced in accordance with available legal framework and that justice is delivered efficiently, without delay and with a gender-sensitive approach.<sup>209</sup>

Gender stereotypes and patriarchal cultural norms contribute to the normalization of domestic sexual violence, which has a detrimental impact on the ability of women to gain access to justice in these instances. Under article 5 (a) of the CEDAW, states parties “have an obligation to expose and remove the underlying social and cultural barriers, including gender stereotypes, that prevent women from exercising and claiming their rights and impede their access to effective remedies”.<sup>210</sup> It is important that the state “eliminate[s] discriminatory stereotypes and patriarchal attitudes concerning the roles and responsibilities of women and men in the family and in society” through, amongst other means, the introduction and implementation of “a comprehensive strategy, with proactive and sustained measures targeting women and men at all levels of society”.<sup>211</sup>

## 2.6 PARTICULARLY MARGINALIZED GROUPS

Although children and their experiences of domestic violence are not the primary focus of this report, it is vital to keep in mind that **children** are profoundly affected by domestic violence. In all domestic violence cases recorded by Amnesty International, the women had children and these children were either witnesses to ongoing violence or direct victims of it.

Domestic violence impacts on children regardless of their gender. In fact, according to *La Strada Ukraine*, amongst calls they received in 2018 regarding domestic violence against children, 60% of those affected were boys (856 from 1418 cases).<sup>212</sup> The EdEra and NV survey showed that more than a third of their respondents (38.56%) had experienced domestic violence as children from parents or older relatives.

Often concern over their child’s wellbeing is a driving force behind a woman’s willingness and readiness to seek assistance and/or report violence. Katerina Khaneva, a gender-based violence coordinator at *Slavic Heart*, clarified that most women calling their hotline are prompted to do so because their children are suffering directly from violence, by witnessing it and/or adopting violent behaviours.<sup>213</sup>

Women as well as girls are not a homogenous group. Their experiences of gender-based and domestic violence are shaped and aggravated by intersecting forms of discrimination. Grounds for intersectional discrimination may include ethnicity/race, minority status, socio-economic status, language, religion, marital and/or maternal status, age, urban/rural location, health status, disability, property ownership, sexual orientation and gender identity. Armed conflict, internal displacement, widowhood, female headed households, living with HIV/AIDS, criminalization of sex work, and geographical remoteness are amongst many factors that make it harder for women to access justice.<sup>214</sup> The intersections of women’s marginalizations contribute to higher risks of exposure to gender-based violence. Below are some of these intersections noted during Amnesty International’s research related to conflict-affected women.

The CEDAW committee in its concluding observations on the eighth periodic report on Ukraine expressed concern over the lack of access to health care and to protection from violence and abuse many **older women** face in the country.<sup>215</sup> *HelpAge Ukraine*,<sup>216</sup> an NGO working with older people and people with disabilities and protecting their rights specifically in Luhansk and Donetsk regions, emphasized that due to shorter life expectancy amongst men, older women<sup>217</sup> make up around 75% of their constituency.<sup>218</sup> Their baseline

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<sup>208</sup> In the Ukrainian Criminal Code rape is defined as “any acts of a sexual nature that include vaginal, oral, or anal penetration by genitals or any other object without the voluntary consent of the victim” (Article 152 (paragraph 1) of the Ukrainian Criminal Code). In addition, consent is considered “voluntary if it is given as the result of the free will of a person, considering the accompanying circumstances” (the note to the Article 152 of the Ukrainian Criminal Code).

<sup>209</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 11 a, b.

<sup>210</sup> CEDAW GC 33, paras 7 and 8.

<sup>211</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 27 (a) and (b).

<sup>212</sup> The statistics were shared by Maryna Legenka, *La Strada Ukraine*, September 2019.

<sup>213</sup> Amnesty International, an interview with Katerina Khaneva from *Slavic Heart*, Kyiv, 10 November 2019.

<sup>214</sup> CEDAW GC 33, para 9.

<sup>215</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 43.

<sup>216</sup> *HelpAge Ukraine*, Baseline report: Emergency Protection-based Support to Conflict Affected Older Women and Men in The GCAs Locations of Donetsk and Luhansk regions, July 2018, p. 15, available at

[www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/helpage\\_baseline\\_report\\_usaid\\_echo\\_july\\_2018.pdf](http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/helpage_baseline_report_usaid_echo_july_2018.pdf) (hereinafter: *HelpAge Ukraine*, Baseline report). See more about *HelpAge* work: [www.helpage.org/tags/ukraine/](http://www.helpage.org/tags/ukraine/).

<sup>217</sup> Older women here are women aged 60+

<sup>218</sup> Amnesty International, an interview with Viktoriya Panchenko, *HelpAge Ukraine*, Sloviansk, March 2019.

report claims that “due to a number of factors, including but not limited to their age, gender, disability, place of origin, marital status or class [...] 20.5% of older people (75.9% women) were subjected to at least one type of violence and abuse.”<sup>219</sup> Most of the cases (96.9%) reported constitute emotional/psychological abuse.<sup>220</sup>

Other actors in the field, including a non-governmental hospice for older people in Tschasov Iar, the NGO Proliska and the Kyiv-based women’s rights centre *La Strada Ukraine*, drew attention to the fact that older people are very reluctant to report physical abuse (let alone sexual abuse if it occurs) out of loyalty to their families. During their research Amnesty International delegates were given information about three occasions when older women were physically abused - in two cases by sons and in one by a grandson, and all three abusers were military personnel in active duty at that time.<sup>221</sup> In two cases women refused to report this to the police, and in one the woman withdrew her complaint persuaded by police officer, but also because she was afraid of her son and financially dependent on him.

The CEDAW Committee also highlights the lack of public policies and measures to protect the rights of **women and girls with disabilities** in Ukraine, including “the absence of mechanisms to protect women and girls with disabilities from intersecting forms of discrimination and from violence and abuse”.<sup>222</sup> Viktoria Panchenko from *HelpAge Ukraine* also pointed out to Amnesty International delegates that “people with disabilities are usually confined to their homes so family member who are caretakers have power over them and often can abuse them, neglect them and violate their rights without fear of being discovered”.<sup>223</sup>

**Internally displaced women** are at risk of being subjected to sexual violence and sexual exploitation since they “face the exacerbation of the already difficult living conditions and difficulties with regard to access to registration as internally displaced persons and to freedom of movement, as well as limited employment opportunities”.<sup>224</sup> Alona Kryvuliak, head of *La Strada Ukraine’s* national hotline, reported that in recent years there has been a spike of calls to their hotlines from internally displaced women related to domestic violence.<sup>225</sup> Many NGOs in eastern Ukraine, including *Smile of a Child*, *Nasha Dapamoha* and *Slavic Heart* highlighted to Amnesty International delegates that internal displacement leaves affected women and children more vulnerable in cases of domestic violence. Their support networks often are disrupted or disappeared altogether, their housing and living arrangement are insecure and their emotional and financial dependency on their abusive partners can be stronger in a situation of mental and economic toll of displacement.<sup>226</sup>

Katerina Khaneva at *Slavic Heart* emphasized the challenges that Roma women and girls can face while accessing services for survivors of gender-based and domestic violence. Often, they lack the necessary documentation to be admitted to a shelter. In addition, they face a widespread societal prejudice towards Roma communities which narrows their options for gender and culturally sensitive assistance.<sup>227</sup> The Committee on Economic, Social and Cultural rights in its concluding observations on Ukraine’s seventh periodic report stresses the particularly disadvantaged situation of Roma women and Roma people with disability, pointing out that a high proportion of Roma in Ukraine lack identity documents, and the lack of legal knowledge as well as financial means create further difficulties in accessing justice.<sup>228</sup>

Staff working at *Nasha Dapamoha*, an NGO in Sloviansk that defends the rights of people using drugs, noted the challenges **women who use drugs** face in cases of domestic violence:

*Women we work with usually report physical violence, no one talks about sexual violence, economical violence is not properly understood, and psychological violence is beyond understanding. Women who use drugs often don’t understand that what is happening is violence at all. Also because of a social stigma and self-stigmatization, there are high levels of tolerance towards violence and ostracism in the family and the wider society...<sup>229</sup>*

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<sup>219</sup> See *HelpAge Ukraine*, Baseline report, p. 15.

<sup>220</sup> See *HelpAge Ukraine*, Baseline report.

<sup>221</sup> Amnesty International, interviews with *HelpAge Ukraine* (Sloviansk, 29 March 2019) and a charitable non-government hospice for older people (Donetsk region, 30 March 2019); a report by a local partner organization, February 2020.

<sup>222</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 43.

<sup>223</sup> Amnesty International, an interview with Viktoria Panchenko, *HelpAge Ukraine*, Sloviansk, March 2019.

<sup>224</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 16.

<sup>225</sup> Amnesty International, an interview with Aliona Krivuliak, *La Strada Ukraine*, Kyiv, January 2019.

<sup>226</sup> Amnesty International, an interview with an NGO *Smile of a Child*, Bakhmut, 28 March 2019; an interview with *Nasha Dapamoha*, Sloviansk, 29 March 2019; an interview with *Slavic Heart*, Sviatohirsk, 30 March 2019; a focus group discussion with local and internally displaced women, Sviatohirsk, 30 March 2019.

<sup>227</sup> Amnesty International, an interview with Katerina Khaneva, a gender-based violence coordinator at *Slavic Heart*, Sviatohirsk, May 2019.

<sup>228</sup> UN Committee on Economic, Social and Cultural Rights, Concluding observations on the seventh report of Ukraine, UN Doc. E/C.12/UKR/CO/7, para 14 (hereinafter: CESCR, Concluding observations on the seventh report of Ukraine).

<sup>229</sup> Amnesty International, an interview with *Nasha Dapamoha*, Sloviansk, March 2019.

A report by the NGO *Svitanok* in 2019<sup>230</sup> provides useful insights into the dynamics of domestic and gender-based violence in cases of women using drugs in Donetsk and Luhansk regions. Along with struggling with prevalent gender norms, they face heightened social stigma and the consequences of punitive drug policies and the criminalization of HIV transmission. According to the *Svitanok* report, a third of women using drugs (35,33%) who participated in the survey experienced physical violence and 14% - sexual violence from their intimate partners. More than half of the women (52.67%) **live with HIV** and suffer from associated stigma.

According to Article 130 of the Criminal Code, “the transmission of HIV or other incurable infectious disease”, including “consciously putting a person in danger of contracting HIV”, is a criminal offence punishable by up to 10 years of imprisonment.<sup>231</sup> Article 309 of the Criminal Code criminalizes “illegal production, manufacture, purchase, storage, transportation or mailing of drugs, psychotropic substances or their analogues without the purpose of sales”.<sup>232</sup> This article effectively criminalizes the possession and cultivation of drugs for personal use and make it punishable by up to five years of imprisonment. These punitive laws contribute to structural sources of vulnerability, stigma and discrimination that affect people, especially women, who use drugs and who live with HIV. They prevent women from gaining access to the necessary treatments for fear of criminalization<sup>233</sup> and discourage these women from seeking any assistance from police in case of violence, including gender-based and domestic violence, for fear that their HIV status and/or their use of drug will become known and will lead to criminal charges.

Women from groups affected by intersectional discrimination usually face difficulties in gaining access to justice: when they lodge complaints, “the authorities frequently fail to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies”.<sup>234</sup> The CEDAW Committee emphasizes that “intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2”. Under the CEDAW obligations, states parties “must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them”. They also have an obligation “to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures”.<sup>235</sup>

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<sup>230</sup> Charity Svitanok, The report on research into the access women using drugs have to sexual and reproductive health services and HIV- and drug related treatment, 2019, available at [www.ewna.org/wp-content/uploads/2019/05/Svitanok\\_WUD-Survey-Report\\_rus.pdf](http://www.ewna.org/wp-content/uploads/2019/05/Svitanok_WUD-Survey-Report_rus.pdf)

<sup>231</sup> Article 130 of the Criminal Code.

<sup>232</sup> Article 309 of the Criminal Code.

<sup>233</sup> CESCR, Concluding observations on the seventh report of Ukraine, para 42.

<sup>234</sup> CESCR, Concluding observations on the seventh report of Ukraine, para 10.

<sup>235</sup> CEDAW GC 28, para 18, see also para 26.

# 3. INSTITUTIONAL RESPONSE TO DOMESTIC VIOLENCE AGAINST WOMEN AND ITS LIMITATIONS

The newly adopted laws and practical measures that have been put in place in recent years, including the landmark 2018 Law on Prevention and Combating Domestic Violence and the introduction of emergency protection orders and shelters, are positive moves forward in terms of an institutional response. However, there remain significant barriers to implementation in Ukraine, and these are amplified for women in the conflict-affected areas of Donetsk and Luhansk regions.

Women in these areas describe a lack or scarcity of available and accessible services, the aggravating effect of a military presence and ongoing hostilities, and harmful gender stereotypes and social attitudes both within their communities and amongst the state actors responsible for addressing sexual and gender-based violence. Further, there is a level of distrust with the authorities, including the police, social workers and medical professionals. Out of 27 cases recorded by Amnesty International, in 10 cases the women did not report instances of violence. In most of these cases women simply did not expect an effective response from the authorities, a belief often cemented by their previous experiences of being failed by the systems which should have protected them. When women did call the police, in three cases the police officer did not register a complaint, in eight cases women had to call repeatedly to get their complaints registered, and in three other cases police officers persuaded women to withdraw their complaint after registering it.

This section of the report reviews the institutional response to domestic violence, highlights its limitations and points out state failures of its due diligence obligations<sup>236</sup> for acts and omissions of state<sup>237</sup> and non-state actors in the areas of prevention, protection, prosecution and punishment, redress, and data collection in relation to gender-based and domestic violence.

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<sup>236</sup> “Under the obligation of due diligence, States parties must adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors, including having laws, institutions and a system in place to address such violence and ensuring that they function effectively in practice and are supported by all State agents and bodies who diligently enforce the laws”. CEDAW GC 35, Para 24 (b).

<sup>237</sup> Under the Istanbul Convention and general international law, “a State party is responsible for acts or omissions of its organs and agents that constitute gender-based violence against women, which include the acts or omissions of officials in its executive, legislative and judicial branches”, CEDAW GC 35, para 22.

## 3.1 POLICE

According to UNFPA, between November 2015 and February 2019 the psychosocial support mobile teams supported by UNFPA and UNICEF responded to 22,290 cases of gender-based violence in the eastern regions: 10,346 cases in Luhansk region and 11,954 cases in Donetsk region. In the majority of cases – 68% in Luhansk region and 54% in Donetsk region - survivors did not report cases, either to the police or to other services.<sup>238</sup> The latest data available to Amnesty International from UNFPA for the reporting period from April till June 2019 replicate these figures for the whole of Ukraine, with 63% of survivors attended by psychosocial support mobile teams not reporting domestic violence anywhere else. Amongst those who do decide to report abuse, they are most likely to call the police.<sup>239</sup>

Some specialist police units have been set up to deal with domestic violence. In 2018, six police groups were specially trained to counter domestic violence and started working as a pilot project under the a police anti-domestic violence network named POLINA.<sup>240</sup> In September 2019, according to an assistant to the Head of the National Police of Ukraine, 45 more groups, trained and equipped by UNFPA, started operating under the POLINA network across Ukraine (being represented in every regional centre).<sup>241</sup>

As of April 2020, the police have also had at their disposal an emergency protection order as a tool to prevent and/or intervene in domestic violence. This tool is available to every police officer irrespective of their affiliation with a POLINA unit. The legal categorization developed allows a police officer to qualify cases as “domestic violence”, register the complaints accordingly and investigate them.

However, to have any real impact laws and protocols need to be implemented effectively, and the work of the police shows a number of shortcomings in this respect.

### 3.1.1 GENDER STEREOTYPES IN THE POLICE

There remains a high level of gender stereotyping by police officers, who also lack a gender-sensitive understanding of the dynamics of domestic violence. As an assistant to the Head of National Police in Ukraine aptly noted, “police officers come from the same society we live in, so they hold the same [gender] stereotypes”.<sup>242</sup>

According to the 2017 DCAF/La Strada report on criminal justice and violence against women in Ukraine, 39% of police officers surveyed saw domestic violence as a private matter, 58% agreed with the statement that “victims of rape are sometimes responsible for what happened to them”, 59% regarded the majority of cases of domestic violence as false, and an overwhelming majority (81%) agreed that “the reconciliation of partners should always be the priority in cases of domestic violence”.<sup>243</sup>

According to a police officer from Kyiv, the stereotypical perception of domestic violence incidents as just “family quarrels” contributes to them not being taken seriously, the prioritization/protection of the male perpetrator, and to the reluctance of police officers to attend to such calls diligently as they require time to be spent on the scene and often involve paperwork to register a complaint and issue an emergency protection order. Additionally, a police officer can be pressured by superiors to move on to attend to other “more serious” incidents and prioritize them.<sup>244</sup>

Another important gendered dimension of the handling of domestic violence cases lies in the lack of representation of women in law enforcement and particularly in patrol units. Female police officers are rarely part of patrol police units who are at the forefront of reactive work.<sup>245</sup> For example, in Donetsk region, only

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<sup>238</sup> Amnesty International received the hard copy of the statistics from an UNFPA representative during the interview on 2 April 2019 in Kramatorsk, Donetsk region.

<sup>239</sup> UNFPA printout with statistics, received from UNFPA representative, May 2019.

<sup>240</sup> The word POLINA is abbreviated from a phrase “police against violence” in Ukrainian – “POLItsija proti NASilstva”.

<sup>241</sup> Amnesty International, a conversation with an assistant to the Head of the National Police of Ukraine, Sviatohirsk, September 2019; followed up by e-correspondence on 2 October 2019. See also UNFPA Ukraine, Facing domestic violence: what can be done?

<sup>242</sup> Amnesty International, a conversation with an assistant to the Head of the National Police of Ukraine, Sviatohirsk, September 2019.

<sup>243</sup> 388 police officers took part in the study. See report by DCAF (Geneva Centre for the Democratic Control of Armed Forces) and La Strada, Criminal Justice Practice and Violence Against Women, 2017, available at [www.dcaf.ch/criminal-justice-practice-and-violence-against-women](http://www.dcaf.ch/criminal-justice-practice-and-violence-against-women), pp. 44-46 (hereinafter: DCAF and La Strada Report 2017).

<sup>244</sup> Amnesty International, an interview with a police officer, Kyiv, 6 September 2019.

<sup>245</sup> Amnesty International, a conversation with an assistant to the Head of the National Police of Ukraine, Sviatohirsk, September 2019.

27% of the police staff are female. Most of them are either investigators or hold administrative positions.<sup>246</sup> An assistant to the Head of the National Police of Ukraine reported to Amnesty International's delegates that this was a serious concern, as an affected woman facing police officers, especially if they are male police officers, "can be reserved and have a sense of distrust, can be reluctant to provide the full information and thus the possibilities for an effective reactive work can be significantly lessened".<sup>247</sup>

Gender stereotypes and bias of prosecutors, law enforcement officials and other actors can compromise the impartiality and integrity of the justice system which in turn impedes women's full enjoyment of their human rights. Stereotypes can influence investigations and trials, lead to miscarriages of justice, undermine the claims of survivors and thus cause the revictimization of survivors and even "support the defences advanced by the alleged perpetrator".<sup>248</sup> Amnesty International is concerned that the state of Ukraine fails to fulfil its obligation to provide effective access to justice for women, to ensure the impartiality, integrity and credibility of the judiciary<sup>249</sup> and "to expose and remove the underlying social and cultural barriers, including gender stereotypes, that prevent women from exercising their rights and impede their access to effective remedies".<sup>250</sup>

### 3.1.2 REFUSAL OR RELUCTANCE BY POLICE TO REGISTER A COMPLAINT

A consistent theme from Amnesty International's interviews with lawyers, affected women and local NGOs in eastern Ukraine was the tendency of police officers to be reluctant or refuse to take up a complaint. As noted above, in more than third of the cases recorded by Amnesty International the women did not report instances of violence to the police. These instances included sexual and physical violence within the family, abuse by a current or former member of the military or man holding a position of power, and violence against the older generation of family members. Of 17 out of 27 women who did call the police, only three succeeded in getting their complaints registered at the first call. Eight women had to insist, sometimes for months, on their complaints being taken up. In six cases women made an attempt to report instances of violence and after a failure of the police to act upon their calls – by refusing to register a complaint (three) or persuading the women to withdraw a registered complaint (three) - they ceased further efforts to obtain justice and/or report further violent incidents.

In several cases documented by Amnesty International, affected women reported that police officers who arrived at the scene framed situations of domestic violence as "family quarrels" and therefore as a personal matter to be resolved by those involved.<sup>251</sup> In one case, a police officer is described as overtly stating: "you'll take this complaint back anyway"<sup>252</sup> and in another: "you'll make up, and then we will have to change all the paperwork".<sup>253</sup>

Amnesty International has also been told by retired and current police officers<sup>254</sup> and local women's activists<sup>255</sup> that, while attending to a call, police officers can have difficulty in identifying economic and psychological violence as forms of intimate partner violence, and are cautious to act upon instances of such violence as the criteria are not clear to them and they are afraid of being reprimanded by their superiors.

As the examples below indicate, women from smaller locations where people know each other well have indicated to Amnesty International that familiarity with an abuser can deter a police officer from acting when called to an incident.<sup>256</sup> This reluctance can stem from a previous connection between a police officer and an abuser when an abuser is a co-worker, neighbour, friend, superior, and/or someone who did a favour.

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<sup>246</sup> Amnesty International, a meeting with the head of the National Police in Donetsk region, and his team, Mariupol, 13 September 2019.

<sup>247</sup> Amnesty International, a conversation with an assistant to the Head of the National Police of Ukraine, Sviatohirsk, September 2019.

<sup>248</sup> CEDAW GC 33, paras 26 and 27.

<sup>249</sup> CEDAW GC 33, para 1.

<sup>250</sup> CEDAW GC 33, para 7.

<sup>251</sup> Amnesty International, an interview with a survivor, an IDP woman, a town in Donetsk region, May 2019; an interview with a survivor, a local woman, a town in Donetsk region, June 2019.

<sup>252</sup> Amnesty International, an interview with an IDP woman with three children who had experienced physical violence from her then husband, a town in Donetsk region, May 2019. The complaint was never taken up by the police.

<sup>253</sup> The case of a woman with a disability; she and her two children had endured psychological and physical violence from her husband in a location close to the contact line. The complaint was taken up by the police after pressure from the woman's female friends. Amnesty International, an interview with witnesses to the case, a town near the contact line, Luhansk region, May 2019.

<sup>254</sup> Amnesty International, an interview with a police officer, Kyiv, 6 September 2019; an interview with a retired police officer in a town close to the contact line, Donetsk region, May 2019.

<sup>255</sup> Amnesty International, an interview with a lawyer working on domestic violence cases in eastern regions, September 2019; an interview with Ekaterina Khaneva, a gender-based violence coordinator at *Slavic Heart*, Sviatohirsk, March 2019.

<sup>256</sup> Amnesty International, an interview with grassroots women's activists in a town close to the conflict line in Donetsk region, May 2019; an interview with a retired police officer in a different location within 10 km to the contact line in Donetsk region, May 2019.

In 2018 and 2019, Oksana Mamchenko from Kramatorsk (Donetsk region), a divorcee with 12 children, attempted several times to lodge a complaint of physical and verbal abuse against her former husband with a local police officer.

*My husband managed to get the district police officer on his side. As I learnt later, he fixed the water and sewage system for this police officer for free. Throughout all of 2018, up until the winter 2019, this district officer protected my husband. He didn't take up my complaint. He would smile and say, "Go to your husband, you will make it up." I said, "He hurts the kids, don't you understand?" He said, "Your husband is fine, I have talked to him". I played him audio recordings, I showed him video recordings. He only laughed. Sometimes he wouldn't want to see it. He would say "Don't show it to me". It was only when he saw me [being beaten] that he stopped laughing.<sup>257</sup>*

Oksana's case was taken up only when she reported the inaction of local police to the authorities in Kyiv. After that her complaint was finally registered and as a result, she was able to obtain restraining order against her abuser. Between January 2019 and January 2020, she obtained three restraining orders and one emergency protection order against her ex-husband and lodged multiple complaints with the police. The offences were qualified as "bodily harm" (Article 125-1, Criminal Code), "failure to comply with restraining order" (Article 390-1, Criminal Code), and the "criminal offence of domestic violence" (Article 126-1, Criminal Code).<sup>258</sup>

A former police officer from a town close to the contact line provided an example of a man escaping prosecution through his own position as a senior police officer:

*There was a case when a police officer came and an abuser was another police officer, higher in rank, and he didn't even open the door, he just shouted to this police officer – like "I know you, off you go, all is fine here!". And this police officer had to leave. But since the call was on the call log, he reported it as a false call, so in the end, the woman had to pay a fine. Do you think she will call ever again?<sup>259</sup>*

To ensure that the rule of law is enforced, and that justice is efficiently delivered, it is paramount that the state not only adopt efficient and adequate measures to address gender-based and domestic violence but ensure their practical realization. In this respect, the police in Ukraine fail to ensure that women are able to make complaints about violations of their rights and thus that they have access to effective remedies.<sup>260</sup> This omission leads to the state's failure to protect women from gender-based and domestic violence, prevent its reoccurrence and "take effective measures to protect women against secondary victimization in their interactions with law enforcement and judicial authorities".<sup>261</sup>

Amnesty International underlines that under article 2 (d) of the CEDAW Convention "the States parties, and their organs and agents, are to refrain from engaging in any act or practice of direct or indirect discrimination against women<sup>262</sup> and ensure that public authorities and institutions act in conformity with that obligation".<sup>263</sup> The state is obliged to "eliminate the institutional practices and individual conduct and behaviour of public officials that constitute gender-based violence against women, or tolerate such violence, and that provide a context for lack of a response or for a negligent response".<sup>264</sup> This obligation, amongst other things, entails "adequate investigation of and sanctions for inefficiency, complicity and negligence by public authorities responsible for the registration, prevention or investigation of such violence or for providing services to victims/survivors".<sup>265</sup>

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<sup>257</sup> Amnesty International, an interview with Oksana, Kramatorsk, June 2019.

<sup>258</sup> However, when the case finally got to the court in spring 2020, the justice system failed her: her abuser received a punishment in a form of a meagre fine for bodily harm and a suspended one-year sentence for "failure to comply with restraining order" (see more details in the section on courts).

<sup>259</sup> Amnesty International, an interview with a retired police officer, a location within 10 km to the contact line, Donetsk region, May 2019.

<sup>260</sup> CEDAW GC 28, para 36.

<sup>261</sup> CEDAW GC 33, 51 (c).

<sup>262</sup> Gender based discrimination under the CEDAW convention is defined as "any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms is discrimination, even where discrimination was not intended": CEDAW GC 28, para 5.

<sup>263</sup> CEDAW GC 35, para 22.

<sup>264</sup> CEDAW GC 35, para 26 (b).

<sup>265</sup> CEDAW GC 35, para 26 (b).

### 3.1.3 FAILURE TO QUALIFY AN INCIDENT AS “DOMESTIC VIOLENCE”

Only four out of 27 cases of domestic violence reported to Amnesty International during research missions were qualified and have been investigated as administrative offences of domestic violence, and in three of them women were able to obtain an emergency protection order.

Valerii Mikhiei, a legal coordinator at *Slavic Heart*, notes that an incident of domestic violence can often be qualified by a police officer under a different category, for example, as “disorderly conduct”, “parental neglect” (in case of domestic violence against children) or “bodily harm”.<sup>266</sup>

This mis-categorization leads to a different charge and sentence, including one with a lower level of protection measures, because as outlined earlier a criminal charge of domestic violence is in practice often only brought in cases where the systematic nature of the violence has been demonstrated, that is when a suspect has previously been charged with domestic violence at least twice under the Administrative Code within a year. In addition, mis-categorization can lead to the inability to obtain protective measures and services such as an emergency protection order and free legal aid.<sup>267</sup> Mis-categorization of offences can also mask the extent of domestic violence in the statistical record.<sup>268</sup>

In addition, the new Law on Social Services<sup>269</sup> can potentially contribute to the further mis-categorization of instances of “domestic violence” by classifying them as “difficult life circumstances”. This is an official term defined in the law as “circumstances that adversely affect life, health and development of an individual, and functioning of the family, which the person/family cannot overcome independently”.<sup>270</sup> “Difficult life circumstances”, according to the law, may be caused and sustained by a variety of factors. Domestic violence, gender-based violence, child abuse, and human trafficking are all included in this category, along with other circumstances, such as old age, disability, homelessness, unemployment, low income, incurable diseases, mental illnesses, substance abuse and others.

While the inclusion of gender-based violence (in its different forms) in the Law on Social Services is important, conflating diverse, often interrelated, factors under one broad category may lead to the overuse of “difficult life circumstances” as an euphemism for domestic and gender-based violence and the possibility for an abuser to avoid administrative and/or criminal accountability for domestic violence altogether. The cases falling under “difficult living circumstances” are monitored by social services and are regulated by a different set of laws.<sup>271</sup> For example, social workers can monitor the situation in a family and offer mediation. As a result, there may be no police involvement at all in such cases.

The practice of mis-categorization of domestic violence offences by the police and social services adversely affects access of women and girls survivors of gender-based and domestic violence to available and adequate mechanisms to prevent, report and receive protection from gender-based and domestic violence - such as an emergency protection orders, restraining orders, shelters, free legal aid and so on. This mis-categorization also impedes women’s and girls’ access to effective justice.

Amnesty International emphasizes that the state and state actors must “ensure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedures”,<sup>272</sup> including mediation and conciliation.<sup>273</sup>

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<sup>266</sup> Amnesty International, an interview with Valerii Mikhiei, September 2019.

<sup>267</sup> According to the law, in cases of domestic and gender-based violence all women irrespective of their socio-economic status have the right to receive primary and secondary free legal aid. If the case is not qualified as domestic violence, a person who seeks free legal assistance should prove she qualifies for it based on her insufficient income. See the Law on Free Legal Aid.

<sup>268</sup> Amnesty International obtained statistics from National Police, State Court Administration, Prosecutor General’s Office, Sloviansk and Kramatorsk Police Departments. Namely, National Police, Luhansk region (period: 2014-2019; domestic violence and sexual violence); National Police, Donetsk region (period: 2014-2019; domestic violence and sexual violence); National Police, Department of Informational and Analytical Support (sexual violence, Luhansk and Donetsk regions, 2010-2012; domestic violence, Luhansk and Donetsk regions, 2010-2018); State Court Administration (domestic and sexual violence committed by military personnel in Ukraine 2010-2018); Prosecutor General’s Office (criminal offence related to gender-based, sexual and domestic violence in Donetsk and Luhansk regions, 2013-2019); Sloviansk Police Department (POLINA Police team work, 2018- April 2019); Kramatorsk Police Department (gender-based and domestic violence related work, 2019).

<sup>269</sup> The Law of Ukraine on Social Services came into force on the 1<sup>st</sup> of January 2020, available at <https://zakon.rada.gov.ua/laws/show/2671-19>

<sup>270</sup> See the Law of Ukraine on Social Services.

<sup>271</sup> Amnesty International, an interview with Valerii Mikhiei, a legal coordinator at *Slavic Heart*, September 2019.

<sup>272</sup> CEDAW GC 33, 58c.

<sup>273</sup> “The use of those procedures should be strictly regulated and allowed only when a previous evaluation by a specialized team ensures the free and informed consent of victims/survivors and that there are no indicators of further risks to the victims/survivors or their family members. Procedures should empower the victims/survivors and be provided by professionals specially trained to understand and adequately intervene in cases of gender-based violence against women, ensuring adequate protection of the rights of

The mis-categorization of domestic violence offences can also lead to the masking of domestic violence in statistical data. While conducting research regarding eastern Ukraine, Amnesty International delegates time and again heard social workers, medical professionals and police officers to refer to cases of domestic violence as “difficult life circumstances” to divert the conversation from domestic violence, and/or conceal the lack of statistics.

Ukraine fails to monitor and collect reliable data<sup>274</sup> in order to be able to analyze it and “enable the identification of failures in protection” and “improve and further develop preventive measures”.<sup>275</sup> Consequently, it is failing in its obligation under article 2 of the CEDAW Convention “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”.<sup>276</sup> The CEDAW Committee elaborates on this obligation and indicates that the emphasis in this respect “is on movement forward: from the evaluation of the situation to the formulation and initial adoption of a comprehensive range of measures, to building on those measures continuously in the light of their effectiveness and new or emerging issues, in order to achieve the Convention’s goals”.<sup>277</sup>

### 3.1.4 RELUCTANCE TO ISSUE EMERGENCY PROTECTION ORDER

During meetings with Amnesty International delegates the police openly stressed the need in some severe cases to be able to isolate an alleged perpetrator of domestic violence/intimate partner violence immediately. The police can hold an alleged perpetrator of an administrative offence in the police station for up to three hours.<sup>278</sup> They can refer a victim (or victims) to a shelter but the way shelters operate precludes the possibility of offering a place to an affected woman immediately.<sup>279</sup> The situation is even more difficult for those in the conflict affected areas, as there are not enough places in the only three available shelters in Donetsk region and one in Luhansk region.<sup>280</sup> This reflects the overall scarcity of shelters in Ukraine. As was mentioned earlier, as of 01 April 2020, there were 26 shelters for victims of domestic violence nationwide for a population of almost 42 million. In these circumstances, the use of emergency protection orders is one vital tool remaining for police to act to protect those at risk.

However, based on conversations with affected women and local service providers, police officers in the conflict-affected areas are often reluctant to issue an emergency protection order.<sup>281</sup> One of the reasons is a lack of understanding of the procedure – how it works and why it is important. As an official from an international organization working in the affected regions aptly notes:

*It is also worth noting that issuance of an EPO [emergency protection order] should be a matter of prioritization by the police. It is a new and rather cumbersome procedure when one has to first fill out the risk assessment sheet and it’s several pages long and requires some effort. I was told by a fellow humanitarian recently that stats on EPOs in other, non-conflict affected regions are much higher. When it comes to Donetsk and Luhansk [regions] the police would just say, off the record of course, that they have more important cases to deal with than regular fights between the spouses who in 99% of cases ‘will make it up anyway’.*<sup>282</sup>

A police officer from a location in Donetsk region<sup>283</sup> shared with Amnesty International delegates:

*We have been working for six months now [specifically focusing on domestic violence incidents], starting from September 2019 and, gradually, it is getting off. At first, we were filling out 25 protocols per month and now this figure is 60 per month. But in my personal opinion, the use of emergency protection orders is not sufficient. For example, we have*

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women and children and that interventions are conducted with no stereotyping or revictimization of women. Alternative dispute resolution procedures should not constitute an obstacle to women’s access to formal justice”, CEDAW/C/GC/35, 32 b.

<sup>274</sup> See also CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 29 e.

<sup>275</sup> CEDAW GC 35, 34 b.

<sup>276</sup> The Istanbul Convention.

<sup>277</sup> CEDAW GC 28, para 24.

<sup>278</sup> Article 263 of the Administrative Code.

<sup>279</sup> See analysis later in this chapter on shelters in Donetsk and Luhansk regions.

<sup>280</sup> The first (and only) shelter in Luhansk region was opened in Rubizhne on 16 September 2020: <https://www.msp.gov.ua/news/19071.html> (accessed 06 October 2020). For more on the limitations in the work of shelters see the subsection below.

<sup>281</sup> Amnesty international, focus group discussions with women in two locations in Donetsk region within 10 km of the contact line in April 2019 and May 2019, with women in a small town in Donetsk region, May 2019, and in a village in Luhansk region, May 2019, within 20 km of the contact line. Amnesty international, an interview with two local grassroots activists, a location in Luhansk region on the contact line, May 2019 and a focus group discussion with women in Sviatohirsk in March 2019; interviews with *Slavic Heart* in March 2019 and September 2019.

<sup>282</sup> Amnesty International, an official from an international organization, an e-correspondence, October 2019.

<sup>283</sup> An account was anonymised per request of a police officer; Amnesty International, an interview with a police officer working in a location in Donetsk region, April 2020.

*registered 170 complaints since the beginning of 2020, while issuing only 70 protection orders. I think this number should be at least 30% higher.*

There is confusion and uncertainty amongst police officers about how to assess a situation of domestic violence and the risks involved. Despite the sheet for this assessment being available since April 2019,<sup>284</sup> the assessment still requires a rather high level of gender sensitivity and understanding of patterns and dynamics of gender-based and domestic violence. The sheet contains 27 questions to be filled out by a police officer based on a conversation with an affected person. It is possible to indicate in the questionnaire that the woman did not provide an answer (which can happen for various reasons, including fear, shock and distrust) in which case, as well as in the case when the situation cannot be covered by the 27 questions, the police officer has to use their own judgment while assessing the level of danger and the need to issue an emergency protection order.

In one of the cases reported to Amnesty International in September 2019 by a survivor, the woman shared that over spring and summer 2019 she repeatedly called a local police officer and explained to him that physical violence against her by her civil partner fell under the definition of “domestic violence” and that she urgently needed the police to issue an emergency protection order. It took her four months to persuade the police authorities to issue the order and, in the end, she wrote down the necessary information into the protection order herself since the police officer did not know how to fill the order out.<sup>285</sup>

Challenges that can arise for victims when police fail to issue an emergency protection order are also illustrated by the following case, already mentioned earlier. The account was reported to Amnesty International by a witness to the case.

#### **IRINA'S CASE<sup>286</sup>**

Irina's husband, an ex-combatant who fought in the conflict, locked himself in the house, yelled, grabbed the older child and threatened both children with an axe. When the police arrived, they said “We don't have the right to enter the home. When there is a dead body, then we will have the right. If we break down the door, we'll injure ourselves”. This was Irina's house, where she was living at that time, her permission was enough to enter the house. Irina and her two female friends called a different police patrol [from the nearest town]. That police patrol arrived, reacted quickly and pulled the husband out of the window.

Friends accompanied Irina to the police station. Ksenia, Irina's friend, described the situation in the police station as follows: “The husband was very familiar with the law. “You may keep me for three hours then you will have to release me”, he was saying, and he was throwing things at the police officer. The police began to consider taking away the children. They said to us “Let us take the kids” and we asked them “What do you mean by “take them”? They are well-dressed and fed, better to take away her husband”. They began discussing what article to use to prosecute the husband and I remember the police officer saying that “on the domestic violence charge there'll be no movement in the case, better try child abuse”.

Irina had learning difficulties, so her friends asked the police officer to speak in “simple language” so that she would understand. But the police officer did not account for that and her friends had to “translate” questions for Irina. One of the children had a cut lip. The child told the police that her father grabbed her by the head and tossed her to the floor, she fell flat, cut her lip and after that he kicked her. The police officer did not give them a referral [to a medical professional], but they went to the district hospital anyway to assess the child's injuries. The doctor did not examine the child properly, just looked at her superficially and said that “she had cuts on her nose and lips”. Irina was not given any papers or statements since there was no referral from the police. By the time Irina visited the police and then hospital it was very late in the evening. Her friends had to place Irina with her relatives, as by the time they got back, her husband had already been released and since the emergency protection order was not issued, he had gone home. The incident happened when the emergency protection order was already available for police officers as a tool and could have been issued to prevent an abuser from entering and staying in the house.

Another reason reported to Amnesty International behind the failure to issue emergency protection orders was police sympathy with alleged perpetrators. One of interlocutors from a local women's initiative group shared

<sup>284</sup> See the Decree 369/180 from 13 March 2019, the Ministry of Social Policy and the Ministry of Interior, available at <https://zakon.rada.gov.ua/laws/show/z0333-19>. The decree provides a template of a risk assessment sheet and regulate the conduction of the assessment.

<sup>285</sup> Amnesty International, an interview with an affected woman, a location within 20 km from the contact line, Donetsk region, September 2019.

<sup>286</sup> The account is anonymised. Amnesty International, an interview with a witness, a town near the contact line, Luhansk region, May 2019.

her experience of talking to a police officer and arguing with him that it was his duty to issue an emergency protection order in some cases of domestic violence:

*He said something like – ‘Poor guy, where will he go? What if he will freeze to death somewhere on the street. We can’t do this to him. We’ll be infringing his human rights.’ And I am always thinking – ‘What about the human rights of women who are abused and have nowhere to go?’<sup>287</sup>*

This sentiment was echoed by police officers of various ranks during formal and informal talks with Amnesty International’s delegates<sup>288</sup> where they expressed their fear of infringing on the human rights of an abuser by issuing an emergency protection order, therefore failing to recognize their obligations under the law to protect those at risk. In 2018, the police in Donetsk region reacted to 1,066 calls qualified as domestic violence incidents: they issued 89 emergency protection orders and opened 88 administrative cases.<sup>289</sup>

While issuing an emergency protection order, a police officer can legally (1) oblige an abuser to leave the premises where a victim resides, (2) prohibit them from entering and staying on the premises where a victim resides, and (3) prohibit contact with a victim via any means. The order can enforce one, two or all three of the above restrictions. Statistics from the POLINA network in Kramatorsk (Donetsk region) for October 2019 show that of 105 calls related to alleged incidents of domestic violence, 44 incidents were registered as such with only 18 qualified as an administrative offence (under Article 173-2) and just four protection orders issued. In three cases reported to Amnesty International where protection orders were issued, they used the third restriction only, that is prohibiting contact with the victim while allowing an abuser to stay in the shared premises.

Under the CEDAW Convention the state has “to ensure that the measures adopted make a real difference in women’s lives in practice”.<sup>290</sup> While mechanisms to prevent and protect women from gender-based and domestic violence such as risk assessment and the issuance of emergency protection orders have been put in place in Ukraine, the state actors fail to effectively implement them which leads to the infringement of women’s and children’s human rights to life and physical, sexual and psychological integrity. The state must fulfil its obligation to “take appropriate measures to create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal justice processes; and take measures to prevent retaliation against women seeking recourse in justice”.<sup>291</sup> It is also essential that all police actors use a gender-sensitive and confidential approach during all legal proceedings to avoid stigmatization and retraumatization of women and girls, survivors of gender-based and domestic violence.<sup>292</sup>

Amnesty International notes that “the rights or claims of perpetrators or alleged perpetrators during and after judicial proceedings, including with respect to property, privacy, child custody, access, contact and visitation, should be determined in the light of women’s and children’s human rights to life and physical, sexual and psychological integrity and guided by the principle of the best interests of the child”.<sup>293</sup>

As one of the measures to address its failure, the state should provide and enhance mandatory capacity-building programmes for law enforcement officials on the strict application of available legislation and on gender sensitive procedures to deal with women and girls who are victims of violence.<sup>294</sup> Amnesty International underscores that when the state agents and actors fail take all appropriate measures to prevent, investigate, prosecute, punish and provide reparations for gender-based violence, these state agents and actors must be held responsible for their acts of omissions.<sup>295</sup>

### 3.1.5 FAILURE TO MONITOR COMPLIANCE WITH RESTRAINING ORDERS

According to women’s rights activists and some of the cases reported to Amnesty International, in those few cases when a restraining order is issued by a court, there is a consistent problem with monitoring whether a

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<sup>287</sup> Amnesty International, an interview with a local activist, a location within 20 km from the contact line, Donetsk region, May 2019.

<sup>288</sup> Notes by Amnesty International delegates from the Forum on collaboration amongst various actors in preventing and combating gender-based and domestic violence in Donetsk regions that was held in Mariupol on 15-16 May 2019. Amnesty International, an interview with a police officer, Kyiv; a discussion during an official meeting with the head of the National Police in Donetsk region and his team, Mariupol, 13 September 2019.

<sup>289</sup> Amnesty International, a discussion during an official meeting with the head of the National Police in Donetsk region, and his team, Mariupol, 13 September 2019

<sup>290</sup> CEDAW GC 28, para 36.

<sup>291</sup> CEDAW GC 33, para 51 c.

<sup>292</sup> CEDAW GC 33, para 51 g.

<sup>293</sup> CEDAW GC 35, para 31 (a,ii).

<sup>294</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 29 c.

<sup>295</sup> CEDAW GC 35, 2b.

perpetrator adheres to it. As such, the restraining order may not function as an efficient preventive mechanism even though technically it can be put in place.

An example is the case of Oksana Mamchenko from Kramatorsk, who divorced her husband in 2018 after 20 years of abuse. She and her 12 children continued living in the same house with her ex-husband, however, as they did not have the means or government support to move away from him, and he had not been made to leave. Between January 2019 and January 2020, the police issued an emergency protection order and the court issued three restraining orders, ordering the man to move out and prohibiting him from approaching his former wife and the children. He ignored all of them. Oksana called the police numerous times, when her and her children's life and safety were at risk, but the police have failed to enforce the court orders. The fact that the man has been charged with several criminal offences (including with "domestic violence", and "failure to comply with a court decision"), made no difference.<sup>296</sup> Based on conversations with Oksana and NGOs familiar with her case, there appear to be two major problems preventing her from accessing safety and justice. The first is the lack of a clear and effective procedure for serving perpetrators with a restraining order and ensuring the order is received. The second is a reluctance on behalf of the police to take their duty to enforce the restraining order seriously.<sup>297</sup>

Amnesty International is concerned that the state bodies, specifically police, fail to ensure that the rule of law is enforced in accordance with the available legal framework and to implement some protective mechanisms, namely the monitoring of protection and restraining orders and as consequence the adequate and effective sanctions for non-compliance.<sup>298</sup>

### 3.1.6 LACK OF INSTITUTIONAL CAPACITY

A general lack of institutional capacity is exacerbated in conflict affected areas, where there is a shortage of police personnel due to low salaries and the danger associated with the conflict. Donetsk and Luhansk regions are amongst the worst affected by shortage of personnel. According to statistics provided by the National Police,<sup>299</sup> Donetsk region has a 20% shortage of police personnel making it the second most understaffed region after Cherkasy region (22%). Luhansk region with its 15% shortage follows closely Kyiv region (18%) and the city of Kyiv and Zakarpattia region (both 17%).

In some stations, for example, Vuhledar, Donetsk region, the staff shortage may be over 40%.<sup>300</sup> As a result, police officers are overworked. As a representative from an international organization notes:

*In some locations they are lacking up to 40-50% of personnel. They say people resign as they have to work in high risk areas due to shelling and mines/unexploded ordnance risks and they do not receive any extra money for the risks taken so why care? They just leave the calls unanswered after dark when there are more risks of shelling/shooting.*<sup>301</sup>

Due to the administrative reforms of 2014 aimed at decentralization,<sup>302</sup> and the de facto redrawing of the borders of Donetsk and Luhansk regions owing to the conflict, some police stations have to provide services for considerably large areas. For example, Sloviansk Police Station covers an area of 220 km<sup>2</sup> which includes the city of Sloviansk (160km<sup>2</sup>) as well as Sloviansk region (60 km<sup>2</sup> square km).<sup>303</sup> A police officer from Sloviansk Police Station describes the police work as follows:

*We are understaffed. We have 57 posts and only 45 people, so we are short of 12 police officers. There are only five women amongst us. They stay in the office and answer calls, so they are not going out on calls... There are five district police officers and they have six districts to cover, and they are not simultaneously on duty. Each district is at least 14 km<sup>2</sup>. We*

<sup>296</sup> Amnesty International, an interview with Oksana Mamchenko, Kramatorsk, July 2019.

<sup>297</sup> Amnesty International, an interview with Valerii Mikhiei, a legal coordinator at *Slavic Heart*, 21 November 2019.

<sup>298</sup> See CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 11a, b and CEDAW GC 35, para 31a, ii.

<sup>299</sup> Letter to Amnesty International from 22 April 2020.

<sup>300</sup> See reports for 2018 for Donetsk region: Reports of the heads of territorial police bodies to the population, available at <https://dn.npu.gov.ua/activity/zviti/zviti-nachalnikiv-teritorialnix-organiv-policziji-pered-naselennyam.html>

<sup>301</sup> Amnesty International, a representative from an international organization, an e-correspondence, October 2019.

<sup>302</sup> Since 2014, Ukraine has been conducting an administrative-territorial reform aimed at political decentralization. "This reform of local governance implies a devolution and delegation of power from the national to the municipal level (and, to a lesser degree, to the regional and upper subregional levels). Decentralization is being effected not through federalization, but through an amalgamation of small municipalities and a reallocation of political, administrative and financial competencies to these merged and enlarged local communities (hromady)" (Valentyna Romanova and Andreas Umland. Ukraine's decentralisation reforms since 2014: Initial achievements and future challenges, Chatham House, Ukraine's Forum, September 2019, Research Paper, [www.chathamhouse.org/sites/default/files/2019-09-24-UkraineDecentralization.pdf](http://www.chathamhouse.org/sites/default/files/2019-09-24-UkraineDecentralization.pdf), p. 2 (accessed 27 September 2019). A hromada is a new administrative unit created with the aim of political decentralization.

<sup>303</sup> Sloviansk Police Station, report note 6996/303/07.2019 from 11 May 2019.

*cover a big area. So, it is a considerable workload. Sometimes everything is happening all at once and we do not have the capacity or time to give attention to each case to the extent we should.*<sup>304</sup>

In some areas, especially closer to the contact line, there is a shortage of police cars, and given the deteriorating state of some roads, this prevents police officers from reaching out to remote locations.<sup>305</sup> Due to the scarcity of human and material resources in the zone within 20 km of the contact line the police are very slow to react to calls – an activist from the NGO *Slavic Heart* told Amnesty International that “they can come in one hour – if at all”<sup>306</sup> – and police may struggle to efficiently monitor registered offenders and those under restraining orders. Additionally, the police have no other mechanisms that would allow them to monitor the latter. For example, they do not have electronic bracelets for monitoring purposes.<sup>307</sup>

Being under-resourced is one of the reasons the provisional POLINA units work limited hours. In May 2019, the POLINA unit of Sloviansk Police Station was on call between 4pm and 8pm. When Amnesty International delegates asked why this specific time was chosen, a police officer said that according to their statistics that is when domestic violence usually happens.<sup>308</sup> This, however, does not appear to be based on evidence. The *La Strada* national hotline report for 2016-2019 indicates that they received 64% of calls during their night shifts.<sup>309</sup> UNFPA reports similar numbers, emphasizing that “The National Hotline works 24/7 [and] 7 out of 10 calls are received during evenings or at nights”.<sup>310</sup>

As police officials, including the head of National Police in Donetsk region, stressed during a meeting at the regional police headquarters in Mariupol in September 2019, the legal and institutional developments regarding gender-based and domestic violence in Ukraine were new and their implementation required time.<sup>311</sup> At the same time, most of the police representatives Amnesty International interviewed mention the lack or scarcity of proper gender-sensitive training and/or training that would explain the new legislation around gender-based and domestic violence and provide guidance about its practical application.<sup>312</sup>

It is worth noting that Amnesty International delegates encountered examples of good practice and successful collaboration between local NGOs and the police. However, most of these were the result of personal contacts that local activists have forged with the police and/or a gender-sensitive approach adopted by local heads of police stations.<sup>313</sup>

Amnesty International is concerned that Ukraine is failing to allocate appropriate human and financial resources at the national, regional and local levels (including hromadas) to effectively implement existing laws and policies for the prevention of all forms of gender-based violence against women.<sup>314</sup> It is important to emphasize that the decentralization of power, including through devolution, “does not in any way negate or reduce the direct responsibility of the State party’s national or federal Government to fulfil its obligations to all women within its jurisdiction”.<sup>315</sup>

## 3.2 COURTS

As research by DCAF/La Strada has shown, gender stereotypes and lack of awareness are high amongst prosecutorial and judicial authorities. According to their report based on research conducted from April 2016 to February 2017 across Ukraine, of 106 prosecutors and 169 judges who participated in the survey the majority (77% of prosecutors and 84% of judges) believed that the reconciliation of partners should always be the priority in cases of domestic violence. More than half of criminal justice practitioners believed that most

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<sup>304</sup> Amnesty International, an interview with a police officer, Sloviansk Police Station, Sloviansk, May 2019.

<sup>305</sup> Amnesty International, an interview with a police officer, Sloviansk Police Station, Sloviansk, May 2019.

<sup>306</sup> Amnesty International, an interview with an employee of *Slavic Heart*, Sviatohirsk, May 2019.

<sup>307</sup> Amnesty International, a humanitarian liaison officer on IDP issues, Kramatorsk, May 2019.

<sup>308</sup> Amnesty International, an interview with a representative of the Sloviansk Police Department, Sloviansk, May 2019.

<sup>309</sup> Printouts provided by UNFPA representative during Amnesty International research mission in March-April 2019.

<sup>310</sup> See UNFPA Ukraine, Facing domestic violence: what can be done?

<sup>311</sup> Amnesty International, a meeting with the head of the National Police in Donetsk region, and his team, Mariupol, 13 September 2019.

<sup>312</sup> Research notes of Amnesty International delegates from the Forum on collaboration amongst various actors in preventing and combating gender-based and domestic violence in Donetsk region, Mariupol on 15-16 May 2019. Amnesty International, an interview with a police officer, Kyiv, September 2019; an interview with a police officer, Sloviansk Police Station, Sloviansk, May 2019.

<sup>313</sup> Amnesty International, interviews with local activists in Sloviansk and Vuhledar, Donetsk region, March and May 2019.

<sup>314</sup> CEDAW GC 35, para 34 (f).

<sup>315</sup> CEDAW GC 28, para 39.

cases of domestic violence were false reports (58% of prosecutors and 55% of judges), and agreed that victims of rape were sometimes responsible for what happened to them (61% of prosecutors and 62% of judges).<sup>316</sup>

Underreporting is, in part, an indication and a consequence of the ineffectiveness of the justice system. The DCAF/La Strada report stresses that many reported cases (which are already a small fraction of the actual instances of domestic and gender-based violence) are discontinued, and even if they make it to court the conviction rate is very low.<sup>317</sup> When it comes to administrative offences (article 173-2), the main failure of the justice system is that judges tend to opt for softer punishments (a fine) thus failing to deter perpetrators from further violence. For example, as of 13 May 2019, since the beginning of that year, police officers of Kramatorsk Police Department in Donetsk region had filed 202 reports related to domestic violence (as an administrative offence). Based on the filed report, the court had handed down 36 fines and only 12 orders for public work.<sup>318</sup>

Oksana Mamchenko's case, mentioned earlier, is indicative of a failure of the justice system to serve justice. After suffering abuse for almost 20 years, Oksana Mamchenko was finally able to register multiple complaints against her (at that point) ex-husband between January and July 2019. In spring 2020, when the case finally reached court, her ex-husband was tried under the articles 125-1 and 390-1 of the Criminal Code ("bodily harm" to his ex-wife and his children and "failure to comply with restraining order"). He was convicted on 21 May 2020, but in its decision the court also stated that it believed the perpetrator could "correct his behaviour without being isolated from the society". As a result, he received a suspended sentence of one year for failure to comply with the restraining order (article 390-1) and a fine of 850 hryvnas (around US\$ 31) for bodily harm to his ex-wife and children.<sup>319</sup> As of July 2020, he continued to live in the property and Oksana and her children had to use support from an international organization to relocate to a different flat and live safely at least until the end of 2020. As of July 2020, the Prosecutor General's Office had filed an appeal considering the sentencing too soft while the perpetrator filed an appeal of his own seeing his sentence as too harsh. Further court developments had yet to be announced as of the time of writing.

Fines are a very ineffectual way of preventing domestic violence. The police themselves acknowledged this during the Forum in Mariupol in May 2019. Very often, the fine is paid by the whole family or by the very woman who suffered the domestic abuse.<sup>320</sup> A police officer from a town in Donetsk region stressed that in his experience most of women call the police when domestic violence had been perpetrated for years and "in 95% cases they are disappointed because what they get for their bravery to come forward is a fine being issued".<sup>321</sup>

Amnesty International was, for example, informed of a case by a local women's rights activist who told researchers that in a town close to the contact line an older internally displaced woman had been repeatedly beaten by her son. He lived in a different town in a territory outside government-controlled territories, and the incidents occurred when he occasionally visited her. She filed a complaint with the police, he was charged with an administrative offence of domestic violence and ordered by the court to pay a fine. In the end, she had to pay the fine herself in order to stop the police from coming to her house in an attempt to enforce the court order.<sup>322</sup> In some cases, the fine is so small that it defies its purpose of deterring an abuser from further violence. In one case, the fine imposed for physical violence was 170 hryvnas [US\$ 6], barely more than the 160 hryvnas cost of a fine for not paying the fare on public transport in Kyiv.

Another hindrance in cases of domestic violence is how slowly they can be processed by the courts. According to the law, an administrative offence of domestic violence must be heard and ruled upon within 24 hours after the protocol and any other accompanying documents are received by a relevant authority (general court).<sup>323</sup> A police officer working in one of the police stations in Donetsk region pointed out that there is a backlog of protocols in the Office of Administrative Affairs that can wait to be processed, registered, and distributed amongst judges to be heard in court. Even when the case makes it to court, there are instances when a judge does not recognize the urgency of the case and can postpone the hearing.

*A judge once told me – "I don't have time now, let's do it later, I will let you know when to bring [a perpetrator] before court". This means that instead of reacting to a new call a police officer will at some point go and fetch this perpetrator*

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<sup>316</sup> DCAF and La Strada Report 2017, pp. 44-46; also see their methodology on pp. 6-7.

<sup>317</sup> See DCAF and La Strada Report 2017.

<sup>318</sup> Kramatorsk Police Department, Report note (as a response on a Amnesty International's request N4278 from 10 May 2019).

<sup>319</sup> A copy of the court decision from 21 May 2020 (case N 234/4722/20), provided by Oksana Mamchenko.

<sup>320</sup> Amnesty International, an interview with a retired police officer, a town within 10km of the contact line, Donetsk region, May 2019; informal discussions with police officers during the Forum in Mariupol in May 2019.

<sup>321</sup> Amnesty International, an interview with a police officer, a location in Donetsk region, April 2020.

<sup>322</sup> Amnesty International, an interview with local activist, a location within 20 km from the contact line, Donetsk region, May 2019.

<sup>323</sup> Article 277 of the Ukrainian Administrative Code.

*and deliver him to court when, in fact, this police officer who is on his/her 24 hour shift may have all necessary documents at hand now and the case easily can be decided upon.*<sup>324</sup>

There are no statistics available that would indicate how often courts order perpetrators to undergo a Domestic Violence Perpetrator Model Programme (see below).<sup>325</sup> Local authorities mostly report that courts do not refer offenders to this programme, the provision of which exists almost entirely on paper.

Amnesty International is concerned that prosecutorial and judicial authorities in Ukraine fail to ensure that complaints from victims are promptly, thoroughly and impartially investigated, and that the perpetrators are prosecuted and, if found guilty, punished with appropriate and effective penalties. This failure of the State and the recommendation to address it are indicated in the latest concluding recommendations on Ukraine by the Committee against Torture<sup>326</sup> and the CEDAW committee.<sup>327</sup>

Under the CEDAW obligations, to ensure access to justice for women and girls, Ukraine must ensure the justiciability<sup>328</sup>, availability<sup>329</sup>, accessibility<sup>330</sup>, good-quality<sup>331</sup>, and accountability of its justice system<sup>332</sup>, and the provision of remedies<sup>333</sup>, meaning “the ability of women to receive from justice systems viable protection and meaningful redress for any harm that they may suffer”.<sup>334</sup> The failure to provide “adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered” reparations impedes the state’s obligation of the satisfaction and guarantees of non-repetition.<sup>335</sup>

In additional, Ukraine is failing to ensure that available protective measure “avoid imposing an undue financial, bureaucratic or personal burden on women who are victims/survivors”.<sup>336</sup>

Ukraine also fails to ensure that “all legal procedures in cases involving allegations of gender-based violence against women are impartial, fair and unaffected by gender stereotypes”,<sup>337</sup> that a justice system is free from harmful gender stereotypes and myths and that judiciary impartiality is not compromised by a biased assumption about what constitutes gender-based violence against women and how women respond and experience such violence<sup>338</sup>. Amnesty International underlines that the state “is responsible for acts or omissions of its organs and actors that constitute gender-based violence against women, which include the acts and omissions of officials in its executive, legislative, and juridical branches”.<sup>339</sup>

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<sup>324</sup> Amnesty International, an interview with a police officer, a location in Donetsk region, April 2020.

<sup>325</sup> A letter from the State Court Administration from 16 August 2019.

<sup>326</sup> UN Committee against torture, Concluding observations on the sixth periodic report of Ukraine, UN Doc. CAT/C/UKR/CO/6, para 14 (b).

<sup>327</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 29 (b).

<sup>328</sup> “Justiciability requires the unhindered access by women to justice as well as their ability and empowerment to claim their rights under the Convention as legal entitlements” (CEDAW GC 33, para 14 (a)).

<sup>329</sup> “Availability requires the establishment of courts and other quasi-judicial or other bodies across the State Party in both urban, rural and remote areas, as well as their maintenance and funding” (CEDAW GC 33, para 14 (b)).

<sup>330</sup> “Accessibility requires that all justice systems, both formal and quasijudicial systems, are secure, affordable and physically accessible to women, and are adapted and appropriate to the needs of women including those who face intersectional or compounded forms of discrimination” (CEDAW GC 33, para 14 (c)).

<sup>331</sup> “Good quality of justice systems requires that all components of the system adhere to international standards of competence, efficiency, independence and impartiality and provide, in a timely fashion, appropriate and effective remedies that are enforced and that lead to sustainable gender-sensitive dispute resolution for all women. It also requires that justice systems are contextualized, dynamic, participatory, open to innovative practical measures, gender-sensitive, and take account of the increasing demands for justice by women” (CEDAW GC 33, para 14 (d)).

<sup>332</sup> “Accountability of justice systems is ensured through the monitoring of the functioning of justice systems to guarantee that they are in accordance with the principles of justiciability, availability, accessibility, good quality and provision of remedies. The accountability of justice systems also refers to the monitoring of the actions of justice system professionals and of their legal responsibility in cases in which they violate the law” (CEDAW GC 33, para 14 (f)).

<sup>333</sup> “Remedies should include different forms of reparation, such as monetary compensation, restitution, rehabilitation and reinstatement; measures of satisfaction, such as public apologies, public memorials and guarantees of non-repetition; changes in relevant laws and practices; and bringing to justice the perpetrators of violations of human rights of women” (CEDAW GC 28, para 32).

<sup>334</sup> CEDAW GC 33, para 14(e).

<sup>335</sup> CEDAW GC 35, para 33a.

<sup>336</sup> CEDAW GC 35, para 31 (a,ii).

<sup>337</sup> CEDAW GC 35, para 26 (c).

<sup>338</sup> See CEDAW GC 33, para 26-28 and CEDAW GC 35, para 26 (c).

<sup>339</sup> CEDAW GC 35, para 22.

### 3.3 NEAR-TOTAL ABSENCE OF PROGRAMMES FOR PERPETRATORS

In October 2018, as part of the implementation of the new Law on Prevention and Combatting Domestic violence the Ministry of Social Policy issued a decree that regulates provision of a Domestic Violence Perpetrator Model Programme.<sup>340</sup>

As it was explained earlier, the Domestic Violence Model Programmes are developed and delivered by the local authorities (regionally, and often in each new administrative unit known as a hromada<sup>341</sup>) using a template and regulations provided by the Ministry of Social Policy.<sup>342</sup> Offenders are either referred by courts (in which case they must comply with the court decision) or can access the programmes through self-referrals. According to the decree, these programmes should be carried out by “specialists who have undergone relevant training”. The decree delegates the development and implementation of such programmes, including providing required training to specialists, to local authorities (regions, districts, and hromadas).

If a perpetrator is referred to the Domestic Violence Model programmes by a court but does not attend, the specialist responsible for the programme must report this to the police in writing within three days “so the police may take appropriate measures”. However, there is no provision in the decree for specific measures the police should take if a perpetrator does not attend the programme.<sup>343</sup>

In many conversations, local women’s organizations highlighted the need to work with all people affected by violence – those who experience it and those who commit it – thus tackling both the consequences and the roots of the violence.<sup>344</sup>

Written answers from authorities in Donetsk and Luhansk regions to Amnesty International’s request regarding the availability and accessibility of these programmes reveal that they are almost non-existent in these regions. The main reason indicated by most of local authorities (at district level) in Luhansk region is a lack of specialists, namely psychologists and social workers with the required expertise and/or special training. The letter from Bilokurakinsk District Administration (Luhansk region) from 6 August 2019 sums up the challenges local authorities face:

*In Bilokurakinski district, there are 40 registered cases of (domestic) violence. Two families have social workers working with instances of psychological violence. The local specialists work closely with these families. However, there is a need to have a specialist who would have acquired a special knowledge of work with offenders.*

The 2014 cuts to the state budget reduced the number of social workers across Ukraine from 17,000 to 3,500 which has inevitably and profoundly affected available resources to address social issues, including domestic violence. There has been a further steady “decline in the share of public funds allocated to social services, from 29.8 per cent in 2016 to 24.4 per cent in 2018”<sup>345</sup>. As a letter from Stanitsa Luhanska District Administration (Luhansk region) states:

*Until 2014, Stanitsa Luhanska district centre for social services for families, children and youth had a specialist with the appropriate qualification who could provide and implement programmes for offenders. Since 2014, there are no specialists who have or could have opted for the required qualifications. Therefore, currently Stanitsa Luhanska district cannot implement programmes for offenders due to lack of specialists. The district administration is in the process of tackling this problem.*<sup>346</sup>

With regard to these programmes, the process of administrative decentralization means that while the law is devised and issued on the national level, actual implementation, including funding this implementation, is devolved to local authorities. They often have little human and/or financial resources, especially in conflict-affected areas, and their allocation of these resources may not prioritize work on gender-based and domestic

<sup>340</sup> The Decree 1434 from 1 October 2018, Ministry of Social Politics, available at <https://zakon.rada.gov.ua/laws/show/z1222-18#Text>

<sup>341</sup> A hromada or community is a new administrative unite created with the aim of political decentralization. See the Law on Voluntary Self-organisation into Hromadas.

<sup>342</sup> In accordance with the Decree 1434 from 1 October 2018.

<sup>343</sup> The Decree 1434 from 1 October 2018.

<sup>344</sup> Amnesty international, focus group discussions with women in two locations in Donetsk region within 10 km of the contact line in April 2019 and May 2019; an interview with two local grassroots activists, a location in Luhansk region on the contact line, May 2019, and a focus group discussion with women In Sviatohirsk in March 2019. Interviews with *Slavic Heart* in March 2019 and September 2019.

<sup>345</sup> CESCR, Concluding observations on the seventh report of Ukraine, para 4b.

<sup>346</sup> A letter from Stanitsa Luhanska District Administration from 8 August 2019.

violence.<sup>347</sup> Based on responses from 14 district authorities in Luhansk region, it appears that the local authorities' collaboration with the non-governmental sector can play a role in successful attempts to establish a coherent programme for offenders. As of September 2019, there were two programmes for offenders in Luhansk regions – in Troitske and Novopskov. As of August 2019, in Troitske, 20 people had completed the programme with four still ongoing. The programme was run by the local psychosocial support mobile team.<sup>348</sup> In Novopskov, one person had completed the programme and two were on their way to completion (as of August 2019). The programme here is implemented by the NGO *Centre of Hromada Support*.<sup>349</sup>

Amnesty International, as mentioned earlier, emphasizes that in any processes of devolution and decentralization, the state is responsible for ensuring that the local authorities have the necessary financial, human and other resources to effectively and fully implement the state's obligations under the CEDAW Convention. Moreover, "there must be safeguards to ensure that decentralization or devolution does not lead to discrimination with regard to the enjoyment of rights by women in different regions".<sup>350</sup> In April 2020, The Committee on Economic, Social and Cultural Rights indicated its concern that in Ukraine "insufficient measures have been taken to safeguard against the risk that ongoing decentralization reforms may have the effect of making the enjoyment of Covenant rights at the local level dependent on the financial resources of local communities, and therefore widen regional disparities".<sup>351</sup>

## 3.4 SHELTERS

Shelters provide a safe space and time for victims of domestic violence to recuperate (physically and mentally), to receive assistance (legal, psychological, social) and possibly find a way out of the ongoing cycle of violence.

In conflict-affected regions, however, the number of shelters is limited. There are only three shelters in Donetsk region (Mariupol, Druzhkivka and Sloviansk), with a population of around 4.1 million<sup>352</sup>, and only one in Luhansk region<sup>353</sup> with a population of 2.1 million.<sup>354</sup>

As there are very few shelters and they tend to be in (or near) bigger cities, women from smaller towns, villages or from locations further away from shelters may not be able to relocate if they are working or have childcare arrangements close to where they live.<sup>355</sup>

The capacity of shelters is limited, up to 10 people. Over the course of 2018, the shelter in Sloviansk accommodated 46 women and 22 children.<sup>356</sup> From November 2017 until August 2019, Mariupol shelter has accommodated 50 women.<sup>357</sup> The scale of the challenge is clear when such capacity is set against police statistics on the occurrence of domestic violence, even given the limitations on such figures outlined earlier. According to the National Police of Donetsk region, for example, in 2018 they registered 119 cases of sexual violence, 606 criminal offences related to domestic violence and gender-based violence, and 4,691 cases of administrative offences related to domestic violence.<sup>358</sup> The Office of Family and Youth Affairs in Donetsk region indicated that "every year around 5,000 people are suffering from domestic violence in Donetsk region with 80% of them being women".<sup>359</sup>

There is also a limit on the length of time women can stay in a shelter: in Sloviansk shelter this is one month, and in Druzhkivka and Mariupol it is up to three months (although it can be up to six months in exceptional

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<sup>347</sup> Amnesty International, an informal conversation with police officers and representatives of local authorities during the Forum in Mariupol in May 2019.

<sup>348</sup> A letter from Troitske District administration from 6 August 2019.

<sup>349</sup> A letter from Novopsovka Village Rada of Novopsovka District from 2 August 2019.

<sup>350</sup> CEDAW GC 28, para 39.

<sup>351</sup> CESCR, Concluding observations on the seventh report of Ukraine, para 6.

<sup>352</sup> See Population in Donetsk region in 2020, available at [www.index.minfin.com.ua/reference/people/doneckaya/](http://www.index.minfin.com.ua/reference/people/doneckaya/)

<sup>353</sup> The first (and only) shelter in Luhansk region was opened in Rubizhne on 16 September 2020: <https://www.msp.gov.ua/news/19071.html> (accessed 06 October 2020). For more on the limitations in the work of shelters see the subsection below.

<sup>354</sup> Population in Luhansk region in 2020, available at [www.index.minfin.com.ua/reference/people/luganskaya/](http://www.index.minfin.com.ua/reference/people/luganskaya/)

<sup>355</sup> Amnesty International, an interview with *Smile of a Child*, Bakhmut, 28 March 2019; an interview with a representative of a shelter in Sloviansk, Sloviansk, 29 March 2019.

<sup>356</sup> Amnesty International, an interview with a representative of a shelter in Sloviansk, Sloviansk, March 2019.

<sup>357</sup> Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2).

<sup>358</sup> The letter to Amnesty International from the Head Office of the National Police of Donetsk region (Investigator Department) from 18 March 2019.

<sup>359</sup> Letter to Amnesty International from the Office of Family and Youth Affairs of the Donetsk region to Amnesty Ukraine from 6 August 2019.

cases).<sup>360</sup> The shorter the stay the less time a woman has for finding work and/or accommodation so when she has to leave she usually goes back ‘home’ where the cycle of violence may continue.<sup>361</sup>

Some shelters have gender-specific age restrictions for children who can join their mothers: for example, boys over 14 years of age are not allowed into Sloviansk shelter.<sup>362</sup> Therefore, women may choose not to go a shelter if they do not want to leave their teenage sons behind with an abusive partner.

The procedures for admission to a shelter may be lengthy and bureaucratic. To be able to apply for a place a woman must be referred by the police, a psychosocial support mobile team or social services.<sup>363</sup> If for any reason (distrust or lack of knowledge) she does not report the instance of violence she cannot be placed in a shelter independently. An affected woman must also have copies of her and her children’s documents (passport and birth certificate).<sup>364</sup> If for any reason she does not have these (an abuser can withhold these documents, and some Roma women may have no documents at all<sup>365</sup>), access to a shelter for her and children can be complicated.

There are also restrictions on admission into shelters of women with some health conditions. The shelter in Mariupol provides the following list of those who cannot qualify for a place in the shelter: “(1) women under the influence of alcohol or drugs, (2) women with mental health issues, (3) women who have infection, women with chronic illnesses if their chronic conditions are aggravated; (4) those with injuries or burns can be accepted upon recovering.”<sup>366</sup>

Although the shelter employees, who Amnesty International delegates spoke to and corresponded with, stated that they had no cases where women had been denied access to a shelter,<sup>367</sup> international humanitarian workers told Amnesty International that they were aware of such instances, involving women who shelter staff believed to be sex workers.<sup>368</sup> Importantly, there are no shelters for men who experience domestic violence and the inclusivity of shelters when it comes to LGBTI people is questionable. For example, Mariupol shelter accepts “persons of female sex (proved by a passport)”<sup>369</sup> which excludes many transgender women.

To fulfil its obligation to provide adequate redress, assistance and protection to women and girls who are victims of gender-based and domestic violence, the state, amongst other protective measures, has to provide “sufficient numbers of safe and adequately equipped crisis, support and referral centres and adequate shelters for women, their children and other family members, as required”.<sup>370</sup> Nationwide and specifically in Donetsk and Luhansk regions the state fails to provide sufficient number of shelters.<sup>371</sup> The Council of Europe sets out minimum standards for number of shelter and requires one place per 10,000 population in the states where shelters are the predominant or only form of service provision and one family place per 10,000 women where shelters form part of a community strategy with intervention projects.<sup>372</sup> It is important that shelters are established in rural areas and not only in big cities and that the state enhances its cooperation with NGOs providing shelters and rehabilitation to survivors.<sup>373</sup>

## 3.5 PSYCHOSOCIAL SUPPORT MOBILE TEAMS

Calling a psychosocial support mobile team is one pathway to assistance for those affected by domestic violence.

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<sup>360</sup> Amnesty International, an interview with a representative of a shelter in Sloviansk, Sloviansk, 29 March 2019; Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2); an interview with Ekatarina Khaneva, *Slavic Heart*, Sviatohirsk, March 2019.

<sup>361</sup> Amnesty International, an interview with a representative of a shelter in Sloviansk, Sloviansk, 29 March 2019.

<sup>362</sup> Amnesty International, an interview with a representative of a shelter in Sloviansk, Sloviansk, 29 March 2019.

<sup>363</sup> Amnesty International, an interview with a representative of a shelter in Sloviansk, Sloviansk, 29 March 2019; Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2).

<sup>364</sup> Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2).

<sup>365</sup> Amnesty International, an interview with Ekatarina Khaneva, *Slavic Heart*, Sviatohirsk, May 2019.

<sup>366</sup> Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2).

<sup>367</sup> Amnesty International, an interview with a representative of a shelter in Sloviansk, Sloviansk, 29 March 2019; Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2).

<sup>368</sup> Amnesty International, an interview with an international humanitarian worker, March 2019.

<sup>369</sup> Letter from Mariupol Shelter to Amnesty International from 9 August 2019 (Letter N43-21277-43.2).

<sup>370</sup> CEDAW GC 35, para 31 (a, iii).

<sup>371</sup> See also CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 28 (b).

<sup>372</sup> Directorate General of Human Rights and Legal Affairs Council of Europe, Combating violence against women: minimum standards for support services, 2008, p. 38, available at [www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF\(2007\)Study%20rev.en.pdf](http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF(2007)Study%20rev.en.pdf)

<sup>373</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 29 (d).

According to UNFPA, as of May 2020, there were 15 psychosocial support mobile teams in Donetsk region (six funded by UNICEF and nine state-funded) and 10 in Luhansk region (six supported by UNICEF and four by the state).<sup>374</sup> As mentioned earlier, in 2019, following the model offered by UNFPA in 2015,<sup>375</sup> the state started launching state-funded psychosocial support mobile teams. The Ministry of Social Policy claims that as of the end of 2019 the state supported 339 such teams across Ukraine<sup>376</sup>. However, the gap in protection is still partially filled by local and international NGOs.

The mobile teams are usually reactive in their response – they go out in response to a call, which precludes situations when a woman does not know where to call or does not recognize abuse as gender-based/domestic violence.

One NGO told Amnesty International that mobile teams often do not go close to the contact line<sup>377</sup> – either because it is too dangerous or simply because people there have limited means of communication (including poor mobile coverage) so they cannot call even if they may know the phone numbers of support mobile teams. UNFPA indirectly acknowledges this, noting that: “If one wants to receive help from the mobile team, it is best if it’s nearby his or her locality. Otherwise, UNFPA experts recommend calling either the National Police or the La Strada National Hotline. Especially, if it’s a remote location, which is not easy to reach”.<sup>378</sup>

At a multi-agency forum attended by Amnesty International delegates in Mariupol in 2019, police representatives present were unclear about the procedures for collaborating with the mobile teams, and so they tended to refer victims to shelters rather than the mobile teams therefore not making use of available resources and overwhelming the few existing shelters.<sup>379</sup>

## 3.6 LIMITED ACCESS TO QUALITY HEALTHCARE AND SUPPORT SERVICES FOR WOMEN SURVIVORS OF VIOLENCE

According to the UNFPA survey’s results, women rarely seek psychological, legal, or medical assistance for intimate partner violence due to fear, mistrust in the authorities and lack of awareness of the services available.<sup>380</sup> Amnesty International’s findings<sup>381</sup> are in line with UNFPA<sup>382</sup>: women prefer to seek support from close friends and sometimes relatives.

According to women living in locations within the 20 km zone along the contact line, there is also a scarcity of specialists in these locations which leads to limited (or the complete lack of) access to medical services, including basic ones such as general practitioners (GP) and gynaecologists.<sup>383</sup> A woman living along the contact line told Amnesty International:

*Young specialists, they don’t want to come here, they are afraid, and it is understandable, it is us who got used to shelling, but people don’t want to come and put their lives at risk when salaries are meagre. There is no gynaecologist. As for me, I go to [the nearest city], but I have a car and I can travel there, others may not have this possibility.*<sup>384</sup>

<sup>374</sup> Amnesty International, a Skype interview with UNFPA representatives, 14 May 2020.

<sup>375</sup> Since 2015, 49 psychosocial mobile teams funded by international organizations have been working across 12 regions of Ukraine (Amnesty International, an interview with Oksana Nesterova, National Coordinator at UNICEF/Health Rights International Ukraine, Kyiv, March 2019).

<sup>376</sup> The Ministry of Social Policy’s letter to Amnesty International from 16 April 2020.

<sup>377</sup> Amnesty International, an interview with *Slavic Heart*, Sviatohirsk, March 2019.

<sup>378</sup> See UNFPA Ukraine, Facing domestic violence: what can be done?

<sup>379</sup> Research notes by Amnesty International delegates from the Forum on collaboration amongst various actors in preventing and combating gender-based and domestic violence in Donetsk regions that was held in Mariupol on 15-16 May 2019; an interview with a police officer, Kyiv, September 2019; an interview with a police officer, Sloviansk Police Station, Sloviansk, May 2019.

<sup>380</sup> UNFPA and Ukrainian Centre for Social Reforms, Gender-based violence in the conflict-affected regions of Ukraine, 2015, p. 5, available at [www.reliefweb.int/sites/reliefweb.int/files/resources/gbv\\_study\\_2015\\_final\\_eng.pdf](http://www.reliefweb.int/sites/reliefweb.int/files/resources/gbv_study_2015_final_eng.pdf)

<sup>381</sup> Amnesty International, focus group discussions with women in two locations in Donetsk region within 10 km of the contact line in April 2019 and May 2019, with women in a small town in Donetsk region, May 2019, and in a village in Luhansk region, May 2019, within 20 km of the contact line.

<sup>382</sup> UNFPA and Ukrainian Centre for Social Reforms, Gender-based violence in the conflict-affected regions of Ukraine, 2015, p. 5, available at [www.reliefweb.int/sites/reliefweb.int/files/resources/gbv\\_study\\_2015\\_final\\_eng.pdf](http://www.reliefweb.int/sites/reliefweb.int/files/resources/gbv_study_2015_final_eng.pdf)

<sup>383</sup> Amnesty International, a focus group discussion with women, a location within 5 km to the conflict line, Donetsk region, May 2019.

<sup>384</sup> Amnesty International, a focus group discussion with women, a location within 5 km to the conflict line, Donetsk region, May 2019.

Support services for women, including psychologists, are not readily available. In many small towns a school psychologist is the only available specialist.<sup>385</sup> In locations along the contact line, Amnesty International delegates were repeatedly told about the need for consistent continuous psychological assistance related to trauma induced by the ongoing conflict and gender-based violence.

Transportation to access services can also be challenging, as the quote below indicates. Irina Pavlyk, a protection associate from UNHCR comments:

*In some locations there is one bus per day or in several days and if you go to see a doctor you may not have the means to return in one day and taxi services along the contact line are expensive and not affordable. It is also worth noting that there is a number of locations (NGO Proliska estimated 64 such locations) with no access or with limited access to and from due to conduct of the military operation by the Joint Forces. No police, doctors, ambulances, fire brigade would get there. There are many risks.*<sup>386</sup>

There are also concerns over confidentiality, particularly in small communities. As one of the women who lives in a small town close to the contact line in Donetsk region stated:

*We do have a gynaecologist who comes every week, but I go to [another town]. Because you sit in this queue here and you can learn everything from people talking in the queue, gossiping – who had an abortion and all these private things.*<sup>387</sup>

Amnesty International's research indicates that while state services are often inadequate or non-existent, there is a vibrant community of NGOs, grassroots initiatives and volunteer groups providing services to survivors. Local and internally displaced women build local women's networks, share their knowledge with and support other women, accompany women when they go to the police or hospital in cases of domestic violence, and hold the local authorities accountable. The significance of the work of local women's NGOs and grassroots activism is difficult to underestimate in preventing and combatting gender-based violence against women.

However, Amnesty International research shows the state's failure to provide effective access to health care information and affordable, accessible high-quality health care and health-related services, including mental health care and psychological support. The state must "develop and implement a targeted policy to address the needs of conflict-affected populations, including by collecting statistical data in this regard", and ensure that conflict-affected populations including children living close to the contact line have adequate access to health care, including mental health care and psychological support.<sup>388</sup> The state also must to improve infrastructure in rural areas and ensure appropriate budget allocation for social services and health services.<sup>389</sup>

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<sup>385</sup> Amnesty International, two interviews with grassroots women's activists, locations close to the contact line in Donetsk and Luhansk regions, May 2019.

<sup>386</sup> Amnesty International, a correspondence with Irina Pavlyk, a protection associate from UNHCR, October 2019.

<sup>387</sup> Amnesty International, an interview with a woman living in a location on the contact line, Donetsk region, May 2019.

<sup>388</sup> CESCR, Concluding observations on the seventh report of Ukraine, paras 40, 41c.

<sup>389</sup> See paras 38, 39, 42 in CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine.

# 4. CONFLICT-RELATED SEXUAL VIOLENCE AND HARASSMENT IN DONETSK AND LUHANSK REGIONS

## 4.1 PATTERNS OF SEXUAL VIOLENCE DOCUMENTED BY INTERNATIONAL AND NATIONAL ORGANIZATIONS BETWEEN 2014 AND 2016

It is difficult to assess the prevalence of conflict-related sexual violence in Ukraine.<sup>390</sup> As noted in the methodology and previous sections, official statistics on gender-based and sexual violence do not accurately reflect the reality and are often absent, incomplete, and misleading.<sup>391</sup> The data gathered by international and local organizations is fragmented. This is for a good reason. Often, those compiling reports note that numbers of cases presented account for a small number of survivors and witnesses, rather than the full scope of those affected by abuses and violations, as fear of reprisals, shame, and stigma within the community have been among the factors impacting on the willingness of those affected to come forward.

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<sup>390</sup> The term “conflict-related sexual violence”, as used in the present report, refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. See: <https://www.un.org/en/events/elimination-of-sexual-violence-in-conflict/pdf/1494280398.pdf>. For more information see the glossary.

<sup>391</sup> For example, the State Court Administration states that between 2014 and 2018 no military personnel was convicted on criminal charges related to sexual violence (A letter to Amnesty International from the State Court Administration to Amnesty from 26 March 2019, N238-19 and 239-19/327/19). At the same time, the Prosecutor General’s Office indicates that they do not segregate statistics of criminal offences by the military/civilian status of victims and perpetrators (A letter to Amnesty International from the Prosecutor General’s Office from 16 July 2020, No 27/3-3214). Therefore, the lack of convictions and statistics in this respect can hardly speak to the actual prevalence of sexual violence committed by military personnel. According to State Court Administration, “military personnel” was not even a separate category for statistical purposes in cases for administrative offence of domestic violence until 2018. According to the statistics provided by the State Court Administration, among 2526 people charged with administrative offence of domestic violence in Donetsk region there were only two military personnel and there was only one such case in Luhansk region out of 1055 for the same period. In all statistics obtained by Amnesty International, former military personnel do not appear as a separate category at all allowing the link between the violence and the conflict remain even more hidden (A letter to Amnesty International from the State Court Administration to Amnesty from 26 March 2019, N238-19 and 239-19/327/19).

Since the beginning of the armed conflict in eastern Ukraine in April 2014, several international organizations have conducted monitoring of and reporting on gender-based violence in the conflict-affected regions, including the OSCE Special Monitoring Mission to Ukraine,<sup>392</sup> the United Nations Population Fund (UNFPA),<sup>393</sup> and The Office of the United Nations High Commissioner for Human Rights (OHCHR).<sup>394</sup> Amongst local non-governmental actors, the only relatively comprehensive study that Amnesty International is aware of was conducted by the Eastern Ukrainian Centre for Civic Initiatives (EUCCI) in cooperation with partner organizations from the Justice for Peace in Donbas Coalition which culminated in a report – *War Without Rules* – published in 2017.<sup>395</sup>

The OHCHR<sup>396</sup> and the EUCCI reports analyse patterns and trends in conflict-related sexual violence in Ukraine between 2014 and 2017. Both reports predominantly focus on various forms of sexual violence used against men and women in the context of deprivation of liberty as a method of torture and other ill-treatment both by the Ukrainian forces and armed groups in the non-government-controlled areas of Luhansk and Donetsk regions. The most frequent forms of sexual violence documented in the reports were identified as rape, attempts and/or threat of rape, forced nudity, beating and electrocution of genitals.<sup>397</sup> Instances of sexual violence at checkpoints and in residential areas were also noted, but to a lesser degree.

Most of documented cases and alleged incidents of sexual violence in the available reports date back to the active phase of large-scale hostilities in 2014-2015 with fewer cases documented in 2016.<sup>398</sup> Since 2017, when the intensity of the fighting has ebbed, Amnesty International is not aware of any comprehensive or substantive study on conflict-related sexual violence that has been undertaken or published.

Amnesty International references some of these publications below, as background from previous years. According to Amnesty International's own research, however, focused on residential areas, sexual violence committed by the military has continued to be an issue of concern since 2017.

## 4.2 SEXUAL VIOLENCE AND HARASSMENT BY MILITARY PERSONNEL AGAINST WOMEN IN RESIDENTIAL AREAS IN DONETSK AND LUHANSK REGIONS

The armed conflict in the Donetsk and Luhansk regions is often fought in residential areas, as the contact line snakes around and often through small cities and villages. While acknowledging all the challenges in obtaining accurate statistics, the reports noted above indicate a possible decrease in sexual violence against women in such residential areas in parallel with the conflict moving to a less active phase. *War Without Rules* report, for example, notes a significant increase in rapes committed by the armed forces with the start of active hostilities, followed by a decrease after the situation stabilized in 2015.<sup>399</sup> However, in March 2017, the Committee on the Elimination of Discrimination against Women in its concluding observations on the eighth periodic report of Ukraine in the section on the conflict-related sexual violence expresses concern that “notwithstanding the

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<sup>392</sup> OSCE SMM in Ukraine, Gender Dimensions of SMM's Monitoring: One Year of Progress, 2015, SEC.FR/514/15, available at [www.osce.org/ukraine-smm/165806?download=true](http://www.osce.org/ukraine-smm/165806?download=true)

<sup>393</sup> UNFPA, Ukrainian Centre for Social Reforms, Gender-based violence in the conflict-affected regions of Ukraine, Analytical report, 2015, available at [https://ukraine.unfpa.org/sites/default/files/pub-pdf/gbv%20in%20the%20conflict-affected%20regions%20of%20Ukraine\\_eng.pdf](https://ukraine.unfpa.org/sites/default/files/pub-pdf/gbv%20in%20the%20conflict-affected%20regions%20of%20Ukraine_eng.pdf)

<sup>394</sup> High Commissioner for Human Rights (OHCHR), Conflict-related sexual violence in Ukraine: 14 March 2014 – 31 January 2017, 2017, available at [www.ohchr.org/Documents/Countries/UA/ReportCRSV\\_EN.pdf](http://www.ohchr.org/Documents/Countries/UA/ReportCRSV_EN.pdf) (hereinafter: OHCHR, Conflict-related sexual violence in Ukraine 2017).

<sup>395</sup> *War without Rules*.

<sup>396</sup> Including periodic reports: Ukraine - OHCHR Reports, available at [www.ohchr.org/EN/Countries/ENACARRegion/Pages/UAReports.aspx](http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/UAReports.aspx)

<sup>397</sup> See OHCHR, Conflict-related sexual violence in Ukraine 2017, p. 14, also see cases in pp. 15-18 and *War without Rules*, p. 86, also see testimonies in pp. 38-77, accessed 21 November 2019.

<sup>398</sup> The reports differ in their assessment of the gravity and scale of the violations committed. The OHCHR notes that “there are no grounds to believe that sexual violence has been used for strategic or tactical ends” while acknowledging that monitors had a limited access to places in territory controlled by armed groups (OHCHR 2017, p.3). The *War Without Rules* report uses the ratio between the estimated number of victims of sexual violence and the number of casualties and asserts that sexual violence was “systematic and widespread” (pp. 80-82). it may be considered a tool of war and may “constitute war crimes and crimes against humanity under the Rome Statute” (*War Without Rules*, p. 113).

<sup>399</sup> *War without Rules*, p. 96.

underreporting of cases of sexual violence as a result of stigma and fear of reprisals, amongst other reasons, there is evidence of many cases of sexual violence in the conflict-affected areas".<sup>400</sup>

According to Amnesty International's observations and interviews in the affected locations, women have continued to experience sexual violence from military personnel in various forms, especially in areas along the contact line. The most affected areas include Yasynovata and Mar'inka districts of Donetsk region and Novoaidar district of Luhansk region.

During research missions in 2019, Amnesty International delegates obtained eight credible reports regarding rape (two incidents), attempted rape (one incident) and sexual harassment (five incidents) committed in 2017 and 2018 by members of the Ukrainian army outside the context of detention and checkpoints. All these cases occurred in locations with a high military presence in residential areas close to the contact line. These incidents were reported to Amnesty International by affected women (two incidents) and by international (two incidents) and local (four incidents) organizations.

In May 2019, during a focus group discussion Amnesty International held at a location near the conflict line in Donetsk region, one of the women participating mentioned an older soldier who for a long time had tried to persuade her to date him. After she gave him a firm negative answer ("I told him that nothing will come out of it"), she said the soldier came to her house and shot at her windows to intimidate her. When Amnesty International delegates asked how this situation was resolved, the woman stated that she did not report the case and waited until the soldier was rotated with his unit to a different location.<sup>401</sup>

This case resonated with another incident reported to Amnesty International delegates by a humanitarian worker a few days earlier. The incident involved a Ukrainian soldier who used threats of physical violence and shooting at windows as a form of intimidation and to show he would not take "no" for an answer after a woman dared to resist his unwanted sexual advances. The incident happened in 2018 in a different location along the contact line in Donetsk region. The woman did not report the incident to the police for fear of reprisal.<sup>402</sup>

Information about complaints of sexual violence perpetrated by military personnel in residential areas that are registered with the authorities, are virtually non-existent. They may however become known when/if a woman registers a complaint and the case goes to a general court, where there is a chance of learning about the case from a Unified State Register of Court Decisions.<sup>403</sup> Even in these cases, the court hearings are often closed with no possibility of monitoring them.

Amnesty International used the available in-built search engine to check the register for cases of sexual violence committed by military personnel between 2017 and 2019 in Donetsk and Luhansk regions. Amnesty International found only one documented case of sexual violence committed by military personnel against a woman in a residential area, which made it to the court. The case happened in 2017 in Novomykhailivka (Mar'inka district, Donetsk region). What follows is Amnesty International's summary of the case from the court register, which records details from the initial hearing:

On 6 February 2017, around 13.30, a soldier passing a grocery store in Novomykhailivka saw a woman with whom he had previously been acquainted. During their conversation the soldier (a member of military personnel PP V2950) offered to walk her home and she agreed. When they arrived, he asked for a cup of coffee and was allowed into the house. He was intoxicated with alcohol. Around 17.00 he grabbed her hair and dragged her to the bedroom. There, he forced her onto her knees and physically assaulted her whilst also threatening to physically assault her children, who at the time were in the same house. He forced her to have oral sex with him. Then, around 17.30 the soldier threw the woman onto the couch, punched her, forcibly removed her clothes and lingerie and raped her again (this time through forced vaginal penetration). He continued raping her until 23.30. The next day the woman reported the sexual assault to the Mar'inka police department.

The court recognised that the woman was put under massive pressure to change her statement, and that she had received SMS and phone calls from the soldier already in an effort to sway her. The court register noted that the Military Prosecutor's Office was aware of the case.<sup>404</sup>

<sup>400</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 14.

<sup>401</sup> Amnesty International, a focus group discussion, residential area near the contact line, Donetsk region, May 2019.

<sup>402</sup> Amnesty International, an interview with a local humanitarian organization in Kramatorsk, March 2019.

<sup>403</sup> Available at <http://reyestr.court.gov.ua/>; the Unified State Register of Court Decisions has a geo-restricted access and can be accessed from Ukraine (with Ukraine VPN) only.

<sup>404</sup> Summary adapted from case 237/600/17, see the court register available at <http://reyestr.court.gov.ua/Review/65257958>, (accessed 02 August 2019) (accessible from Ukraine only).

As of April 2020, there was no information available in the open register about the sentencing of the perpetrator which indicates that the investigation is likely to be ongoing.

Amnesty International is aware of one case of an attempted rape that happened in 2017 and was reported to an international organization, and a case of a gang rape that occurred in 2018 and was documented by a local humanitarian organization. They both took place in locations within 10 km of the contact line in Donetsk region. In both cases authorities (in one case the police and in another the military) were informed but no charges were brought against the military personnel involved and no one was held accountable.<sup>405</sup>

In general, women affected by violence, and officials working in humanitarian organizations, told Amnesty International that where women did face sexual violence from soldiers along the contact line, they often faced overwhelming barriers to reporting to the police.<sup>406</sup> These include shame due to the stigma, confidentiality and security concerns in a context in which the survivors have to remain in the same small community where soldiers (possibly the perpetrator himself/themselves or colleagues) are stationed; and lack of trust that the authorities would help and protect them.

In the previous chapters, the gaps in protection and failures of states parties to prevent, investigate, prosecute, punish and provide reparations to survivors of domestic violence in Luhansk and Donetsk regions were outlined. In light of this, Amnesty International is concerned that instances of conflict-related sexual violence are further exacerbated by impunity for such abuses as they go unreported or when they are reported but remain unpunished. The Committee on the Elimination of Discrimination against Women stresses:

*The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women in cases in which its authorities are aware or should be aware of the risk of such violence, or the failure to investigate, to prosecute and punish perpetrators and to provide reparations to victims/survivors of such acts, provides tacit permission or encouragement to perpetrate acts of gender-based violence against women. Such failures or omissions constitute human rights violations.*<sup>407</sup>

In March 2017, the Committee in its concluding observations on the country's eighth periodic report urged Ukraine to enhance the capacity of law enforcement officials and the judiciary to investigate, document and prosecute sexual violence cases in accordance with international protocols, to ensure women's and girls' access to justice as well as access to timely and comprehensive assistance in such cases, to provide victims with transformative reparation measures taking into account their needs, and to ensure that conflict-related sexual violence is comprehensively addressed in any future transitional justice processes.<sup>408</sup> The Committee specifically called on Ukraine "to reject demands for amnesty to be given to those persons suspected, accused or convicted of war crimes, crimes against humanity or gross violations of human rights, including conflict-related sexual violence".<sup>409</sup>

## 4.3 SEXUAL HARASSMENT OF ADOLESCENT GIRLS

In addition to reports of sexual violence and harassment against women in the conflict areas, there have also been reports of sexual harassment of adolescent girls by soldiers. As pointed out by the CEDAW Committee, girls are at greater risk of discrimination in such areas as they are exposed to maltreatment, exploitation and violence. These situations of violence are aggravated when the victims are adolescents.<sup>410</sup> Adolescent girls under the age of 18 are also entitled to special protection from sexual coercion and violence as children.<sup>411</sup>

In 2019, the NGO *Save the Children* published a report on boys' and girls' gendered experiences of the conflict in eastern Ukraine.<sup>412</sup> The research is based on an analysis of primary data collected from 107 children aged between three and 17 living near the contact line, as well as on an analysis of interviews with caregivers, teachers, social workers, local authorities, NGOs and UN agencies working near the contact line.<sup>413</sup>

<sup>405</sup> Due to confidentiality and security concerns Amnesty International cannot provide detailed specifics for these cases in a public report but we keep details of the cases on file.

<sup>406</sup> Amnesty International, an interview with an international humanitarian worker, Kramatorsk, March 2019; an interview with local humanitarian workers in Kramatorsk and Svatohirsk, May and September 2019.

<sup>407</sup> CEDAW GC 35, para 24 (b).

<sup>408</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 15 (b).

<sup>409</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, para 11 (d).

<sup>410</sup> CEDAW GC 28, para 21.

<sup>411</sup> Article 19 of the Convention on the Rights of the Child; See also UN Committee on the Rights of the Child (CRC), General comment No. 13 (2011): The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13.

<sup>412</sup> Save the Children, Listen to us.

<sup>413</sup> As the Save the Children's report 'Listen to us' indicates, "data collection tools were specifically tailored to the ages of children participating, with different tools used for the 3-5, 6-9 and 10-17 age groups". Specifically, in case of 3-5-year old children

Adolescent girls reported to *Save the Children* that “they face harassment from military men, who catcall them in the street” and sometimes “the military stop their cars close to girls in the street and try to touch them.”<sup>414</sup> Younger girls (aged 10-13) “reported that military men talk to them and try to make the girls go with them; they also felt that there was a risk that soldiers could drag girls somewhere in the evening”.<sup>415</sup> *Save the Children* also recorded reports by underage girls “engaging in transactional sex” with soldiers in order to meet financial needs.<sup>416</sup>

Through their own research, Amnesty International delegates received information about four instances of sexual harassment of adolescent girls. In the first instance, local women, living in a location in Luhansk region close to the contact line with a high military presence, told Amnesty International researchers about an incident that occurred in 2018 when two drunken soldiers harassed two teenage girls near a school making sexualized comments and trying to pressure the girls to go with them. The soldiers ended up in a fight with local teenage boys who attempted to prevent the harassment. The soldiers were reprimanded by their military superiors for the fight with the local boys (but not for the harassment of the girls).<sup>417</sup>

In three other instances, humanitarian workers from two different local NGOs reported cases of soldiers offering money or alcohol in exchange for sex to girls as young as 13 or 14.<sup>418</sup> In one of the cases, which happened in 2018 in a location in Donetsk region, when the girl declined the unwanted sexual advances, a soldier was described as shooting in the air to threaten the girl. To the knowledge of a local humanitarian worker, the case was not reported either to the police or to the military command.

The term “sexual harassment” in this report is used as per the definition provided in the Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions to mean “any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature”. Sexual harassment can include (but is not limited to) “demands (direct or implicit requests) for sexual favours in exchange for favourable treatment; the use of crude or obscene language or gestures; deliberate and unsolicited physical contact, including fondling or groping, or unwelcome close physical proximity; comments (verbal or written), gestures, or physical actions that are perceived as demeaning, belittling, or causing personal humiliation or embarrassment”.<sup>419</sup>

In the Ukrainian law on ensuring equal rights and opportunities for women and men sexual harassment is defined as “actions of a sexual nature expressed verbally (threats, intimidation, obscene remarks) or physically (touching, tapping) which humiliate or insult persons who are in business, service material or other subordination.”<sup>420</sup> This definition is limited and limiting in understanding of settings where sexual harassment can occur and its forms. According to the existing national legal framework “a victim of sexual harassment may claim compensation for civil damages through court, but the offence is not penalized as a criminal offence”<sup>421</sup> and is not a subject to other appropriate legal sanctions.

The lack of comprehensive definition of sexual harassment and the failure to qualify, investigate and punish such instances as serious offences undermine the experiences of women and girls, especially in conflict-affected settings. Moreover, it impairs or nullifies their right not to be subject to degrading treatment, the right to liberty and security and to equal protection under the law, and the right to the highest standard attainable of physical and mental health.

The impunity for and normalization of sexual harassment legitimize men’s power over women and girls, solidify traditional gender attitudes and perpetuate degrading treatment of women and girls. As the Committee on the

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facilitators used individual expressive drawing, when children drew a picture about their lives and “a series of simple child-friendly questions were then used to discuss the drawing, and how what the child has drawn makes them feel”. With 6-9-year olds researchers used the puppet walk activity when children created a puppet which would be of the same age and gender as them and who would live in the same place as them. The researchers then “take the children and their puppets on a walk through a “day in the life” of the puppet, asking questions to understand what the puppets do, where they go, and how they feel”. Older children (10-17-year olds) created a timeline about their life in their community “from birth, through today and looking into the future”. Using these lines of live children “discussed how the events make them feel, and what differences they think there would be in the lines of life for children of the other gender”. (*Save the Children, Listen to us*, p. 12).

<sup>414</sup> *Save the Children, Listen to us*, p. 21.

<sup>415</sup> *Save the Children, Listen to us*, p. 21.

<sup>416</sup> *Save the Children, Listen to us*, p. 8.

<sup>417</sup> Amnesty International, an interview with local women, a location near contact line, Luhansk region, May 2019.

<sup>418</sup> Amnesty International, an interview with a local humanitarian NGOs in Kramatorsk (March 2019) and Sviatohirsk (May 2019).

<sup>419</sup> United Nations Police, Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions, UN Doc. DPKO/CPD/DSHCPO/2003/002, p. 3.

<sup>420</sup> Article 1 of the law of Ukraine On ensuring equal rights and opportunities for women and men, available at [www.twinning-ombudsman.org/wp-content/uploads/2017/03/EN\\_Law-of-Ukraine-On-Ensuring-Equal-Rights-of-Women-and-Men.pdf](http://www.twinning-ombudsman.org/wp-content/uploads/2017/03/EN_Law-of-Ukraine-On-Ensuring-Equal-Rights-of-Women-and-Men.pdf)

<sup>421</sup> See also UN Women and United Nations Human Rights Monitoring Mission in Ukraine, Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine, 2018, p. 30, available at [www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/country/ukraine/crsv%20strategy%20en.pdf?la=en&vs=2115](http://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/country/ukraine/crsv%20strategy%20en.pdf?la=en&vs=2115)

Elimination of Discrimination against Women points out, gender-based violence against women is rooted in such gender-related factors, including “the ideology of men’s entitlement and privilege over women, social norms regarding masculinity, and the need to assert male control or power”.<sup>422</sup> And these factors “contribute to the explicit or implicit social acceptance of gender-based violence against women, often still considered a private matter, and to the widespread impunity in that regard”.<sup>423</sup> Therefore, the state’s failure to protect women and girls from sexual harassment leads to its failure to prevent other instances of gender-based violence too.

Under the CEDAW Convention, all states parties in particular are obliged to promote the equal rights of girls<sup>424</sup> and to ensure that independent, safe, effective, accessible and child-sensitive complaint and reporting mechanisms are available to girls.<sup>425</sup> In line with the General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situation, Ukraine has to take measures to prevent the occurrence of attacks and threats, including instances of sexual harassment and sexual violence, against women and girls and to “ensure that perpetrators of such acts of violence are promptly investigated, prosecuted and punished”.<sup>426</sup>

## 4.4 SEX WORKERS FACING VIOLENCE

Several reports have highlighted how the conflict and displacement crisis in eastern Ukraine have transformed the lives of women and undermined their ability to obtain basic goods and services needed for survival.<sup>427</sup> Many families have been transformed into female-headed households, and women have also struggled to access jobs, services, social protections, and humanitarian assistance.<sup>428</sup> As early into the conflict as 2015-2016, UNFPA highlighted that “women living in conflict zones as well as [internally displaced people] are at risk of increasingly resorting to trading sex as a means of providing the most basic needs for their families” and that the majority of the incidents “are associated with military and law enforcement personnel”.<sup>429</sup>

As noted above women have faced increased poverty and challenges accessing employment opportunities as a result of the conflict. NGOs and activists reported to Amnesty International that in these constrained circumstances, some women were relying on selling sex to support themselves and their families. They also raised concerns that the risk of violence and barriers to justice may be particularly increased for women sex workers.<sup>430</sup> Amnesty International found that women selling sex in contexts of poverty, displacement and conflict in eastern Ukraine may be at risk of violence by soldiers and further human rights abuses due to failures of the authorities to ensure access to justice in cases of sexual violence. In addition to sexual violence, Amnesty International is also concerned that some women who sell sex may be at risk of sexual exploitation and abuse.<sup>431</sup>

The term “sex work” is used in this report to describe situations where **adults** who are engaging in commercial sex have **consented to do so**.<sup>432</sup> Where consent is absent for reasons including threat or use of force, deception, fraud, and abuse of power or involvement of a child, such activity would constitute a human rights abuse which must be treated as a criminal offence. Where consent is given, it is conditional and can be withdrawn at any time.<sup>433</sup>

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<sup>422</sup> CEDAW GC 35, para 19.

<sup>423</sup> CEDAW GC 35, para 19.

<sup>424</sup> CEDAW GC 28, para 21.

<sup>425</sup> CEDAW GC 33, para 25 (b).

<sup>426</sup> CEDAW GC 30, para 52 (a).

<sup>427</sup> Organization for Security and Co-operation in Europe, Special Monitoring Mission to Ukraine, Conflict-related displacement in Ukraine: Increased vulnerabilities of affected populations and triggers of tension within communities, Thematic report, 2016: [www.osce.org/ukraine-smm/261176?download=true](http://www.osce.org/ukraine-smm/261176?download=true), accessed 25 October 2019. B. Lucas, B. Rohwerder, and K. Tull, ‘Gender and conflict in Ukraine’.

<sup>428</sup> See, for example, Organization for Security and Co-operation in Europe, Special Monitoring Mission to Ukraine, Conflict-related displacement in Ukraine: Increased vulnerabilities of affected populations and triggers of tension within communities, Thematic report, 2016, p. 10, available at [www.osce.org/ukraine-smm/261176?download=true](http://www.osce.org/ukraine-smm/261176?download=true)

<sup>429</sup> Quoted in B. Lucas, B. Rohwerder, and K. Tull, ‘Gender and conflict in Ukraine’, p. 3.

<sup>430</sup> Amnesty International, Interviews with *Proliska*’s local gender focus points working with women and girls along the contact line (Sviatohirsk, September 2019), interviews with representatives of *Slavic Heart* (Sviatohirsk, March, May and September 2019), interviews with local activists in two locations within 10 km of the contact line, Donetsk region, May 2019.

<sup>431</sup> This is an area for further research; it was beyond the scope of the current report.

<sup>432</sup> For the purposes of this report, the term “sex work” is used to mean the exchange of sexual services (involving sexual acts) between consenting adults for some form of remuneration, with the terms agreed between the seller and the buyer. Amnesty International has called for sex work to be fully decriminalized.

<sup>433</sup> For further information see Amnesty International, *Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers* (Index: POL 30/4063/2016), pp. 26-28.

Amnesty International recognizes the diverse reasons for people entering sex work. Globally, some sex workers make the decision to engage in sex work as a matter of preference: it can offer more flexibility and control over working hours or a higher rate of pay than other options available to them. For many, the decision to engage in sex work is a reflection of limited livelihood options. Other individuals may turn to sex work as a means to address immediate needs because of poverty.

It is important that the state takes appropriate measures to realize the economic, social and cultural rights of all people so that no person enters sex work against their will or is compelled to rely on it as their only means of survival, and to ensure that people are able to stop sex work if and when they choose.

Amnesty International is concerned that authorities have failed to take adequate steps to ensure women have access to social protection and humanitarian assistance, including for women who have lost bread-winners and livelihood opportunities in the conflict.<sup>434</sup> In April 2020, the Committee on Economic, Social and Cultural Rights indicated that levels of absolute poverty in Ukraine remain high and highlighted that internally displaced women are twice as likely as men to live in poverty.<sup>435</sup> The CEDAW Committee, in March 2017, called attention to the poverty amongst rural women and the precarious situation of rural women who live in conflict-affected areas “because their rights to productivity, livelihood and access to land are regularly violated”.<sup>436</sup>

During a meeting in Kyiv, the director of the NGO *Legalife Ukraine* affirmed that the conflict increased the possibility of women, including internally displaced women, resorting to sex work due to lack of other means of earning money in conflict-affected areas.<sup>437</sup> Likewise, in September 2019, a local activist shared with Amnesty International delegates an example scenario of a woman engaging in sex work in locations along the contact line:

*It is a typical situation in these villages that a woman is unemployed with one or more children without a husband or someone to support her. Many of them are single mothers who are divorced or separated. They have to survive, to feed their children. I know a woman who is divorced and has two children. Her monthly income is 4,000 hryvnas [around US\$142] and she cannot survive on that. Her mother does not qualify for a pension as she was not officially employed for long enough working on her own land. They live very close to where soldiers are stationed. She would get a call and she would go there [to sell sex] since she needs to provide for her children. She will get food and some money.<sup>438</sup>*

Sex work is criminalized<sup>439</sup> in Ukraine under an administrative offence which carries a penalty of a fine<sup>440</sup> and “pimping or involving a person into prostitution” is a criminal offence punishable by imprisonment up to 15 years.<sup>441</sup> Local and international NGOs emphasized that the criminalization and stigmatization of sex work prevents sex workers from seeking medical, legal or any other assistance in case of violence.<sup>442</sup> The director of one NGO explained that if a person is known to be a sex worker their chances of obtaining help from the police are significantly affected. The police were also reported to often dismiss reports of domestic violence if a woman has a record of administrative protocols as a sex worker or is known to be a sex worker<sup>443</sup>.

Amnesty International’s research globally has found that the criminalization of sex work acts as a major barrier to police protection and access to justice for sex workers who experience sexual violence.<sup>444</sup> Furthermore, all forms of criminalization of sex work results in disproportionate harm to sex workers and that state responses to sex work that seek to criminalize or penalize involvement in sex work actively disempower sex workers, entrench stigma, discrimination and social inequalities, and support a culture of impunity for human rights

<sup>434</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) outlines states’ responsibilities to realize the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (Article 11 of the International Covenant on Economic, Social and Cultural Rights).

<sup>435</sup> CESCR, Concluding observations on the seventh report of Ukraine, para 4 and 12.

<sup>436</sup> CEDAW Committee, Concluding observations on the eighth periodic report of Ukraine, paras 40–41.

<sup>437</sup> Amnesty International, an interview with the director of the NGO *Legalife Ukraine*, Kyiv, 18 January 2019.

<sup>438</sup> Amnesty International, an interview with an activist who covers villages along the contact line in Mar’inka area, September 2019.

<sup>439</sup> For the purposes of this report “criminalization” of sex work, refers to the process of prohibiting consensual adult sex work and attaching punishments in law, see further Amnesty International, *Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers* (Index: POL 30/4063/2016), p. 4.

<sup>440</sup> Article 181-1 of the Ukrainian Administrative Code with a penalty of a fine.

<sup>441</sup> Article 303 of the Ukrainian Criminal Code.

<sup>442</sup> Amnesty International, an interview with an UNHCR representative (Kramatorsk, March 2019), an interview with a local NGO representing sex workers (January 2019 and April 2020), an interview with a local NGO working with women who use drugs and women who live with HIV (Sloviansk, March 2019).

<sup>443</sup> Amnesty International, an interview with the director of the NGO *Legalife Ukraine* on 18 January 2019 (Kyiv) and on 10 April 2020 (via zoom; with the director and a researcher of *Legalife Ukraine*).

<sup>444</sup> See further Amnesty International, *Sex Workers at Risk, A Research Summary on Human Rights Abuses Against Sex Workers* (Index: POL 40/4061/2016); Amnesty International, *Outlawed and abused: Criminalizing sex work in Papua New Guinea* (Index: ASA 34/4030/2016); Amnesty International, “*What I’m doing is not a crime*”: *The human cost of criminalizing sex work in the City of Buenos Aires, Argentina* (Index: AMR 13/4042/2016); Our 2010 report on Violence Against Women in Uganda where we highlighted the cases of women who were told that because they were selling sex they were “asking for it”, that “a prostitute can’t be raped”: Amnesty International, *Uganda: “I Can’t Afford Justice”: Violence against Women in Uganda Continues Unchecked and Unpunished* (Index: AFR 59/001/2010).

abuses against them.<sup>445</sup> The organization's research has also found that criminalizing sex work compounds and perpetuates gender inequality. Women who sell sex are frequently subjected to harmful gender stereotypes and abuse on account of being perceived to transgress traditional notions of what is acceptable sexual behaviour for women.<sup>446</sup>

Research from Ukraine has documented widespread abuse of sex workers. The 2019 study on the impact of armed conflict in eastern Ukraine on female sex workers, conducted by *Legalife Ukraine* and supported by the Ukrainian Helsinki Rights Union, highlighted the exploitation of sex workers who provide services to civilians and military personnel in urban areas in Donetsk and Luhansk regions.<sup>447</sup> The research also found that four in five respondents indicated that the conditions for sex work were much worse than expected by and/or promised to them. Three in four sex workers claimed that they did not receive the agreed remuneration for sex work. More than half the women interviewed (55.7%) reported instances of being forced to provide sexual services against their will. In addition, many sex workers did not have any services available which would assist them to leave sex work: more than half (55.7%) expressed a desire to leave sex work and the impossibility of doing it.<sup>448</sup> The report also documented that women's decision to enter sex work had been influenced by several interlinked factors such as the lack of basic income, rampant unemployment, relatively low salaries for unskilled jobs, and the detrimental effect of armed conflict on the socio-economic situation in the eastern Ukraine.<sup>449</sup>

It is vital that authorities ensure the protection of social and economic rights that allow voluntary exit from sex work and that there are effective frameworks and services that allow people to leave sex work if and when they choose.

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<sup>445</sup> Amnesty International has consistently documented that sex workers are at particularly high risk of human rights violations, including: rape, violence, extortion, arbitrary arrest and detention, forced eviction from their homes, harassment, discrimination, exclusion from health services, and lack of legal redress. See Amnesty International, *Sex Work at Risk: A Research Summary on Human Rights Abuses Against Sex Workers* (Index: POL 40/4061/2016).

<sup>446</sup> See for example, Amnesty International's 2015 report on Tunisia which detailed how sex workers are vulnerable to sexual exploitation, blackmail and extortion primarily by police: Amnesty International, *Tunisia: Assaulted and Accused: Sexual and Gender-Based Violence in Tunisia*, (Index: MDE 30/2814/2015); and Amnesty International's report on Violence Against Women in Uganda where we highlighted the cases of women who were told that because they were selling sex they were "asking for it", that "a prostitute can't be raped": Amnesty International, *Uganda: "I Can't Afford Justice": Violence against Women in Uganda Continues Unchecked and Unpunished* (Index: AFR 59/001/2010).

<sup>447</sup> Note that the study did not show the rise in sexual or physical violence towards sex workers committed by military personnel, at least in the researched urban areas with low military presence and far from the contact line. The study was carried out by *Legalife Ukraine* in January-February 2019 in cities on the territory controlled by Ukrainian government. They interviewed 61 sex workers, aged 21 to 48 years old, from six locations: Mariupol, Sloviansk, Sievierodonetsk, Lisichansk, Rubizhne and Kramatorsk. The study was supported by the Documentation Centre of Ukrainian Helsinki Human Rights Union (UHHRU). See the report: UHHRU, *The impact of the armed conflict in eastern Ukraine on sex workers*, 2019, available at [www.helsinki.org.ua/wp-content/uploads/2020/01/BOOK\\_07.pdf](http://www.helsinki.org.ua/wp-content/uploads/2020/01/BOOK_07.pdf) (hereinafter: the UHHRU report 2019).

<sup>448</sup> The UHHRU report 2019, p. 31.

<sup>449</sup> The UHHRU report 2019, p. 33.

# 5. RECOMMENDATIONS

## TO THE VERKHOVNA RADA (PARLIAMENT) OF UKRAINE

- Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) with no further delays.
- Make necessary legislative changes to ensure that every single instance of domestic violence, including the first incident, is a criminal offence under national law, and remove the requirement of proving its “systematic nature” by amending accordingly Article 126-1 of the Criminal Code, in line with international law and standards.
- As a matter of urgency, amend Article 15 of the Code of Administrative Offences, and address the underlying conflict of interest, to ensure that allegations and reports of domestic violence committed by military and law enforcement personnel are investigated by the police and not their seniors, and are subject to the jurisdiction of civil courts.
- Adopt a comprehensive definition of sexual harassment and make necessary legislative changes to ensure that sexual harassment is subject to criminal or other legal sanction.
- Legislate to ensure that the necessary steps and initiatives are adequately resourced, including via sufficient funding in any annual budget.

## TO THE GOVERNMENT OF UKRAINE

- Express a clear and firm public commitment to prioritize work on preventing and combating gender-based and domestic violence and promote “zero tolerance” to such violence at all levels of government and in the society at large. Communicate this commitment clearly to the public.
- In consultation with civil society organizations, put in place an effective and transparent mechanism to regularly assess the effectiveness of the national legislation and practice on preventing and combating gender-based and domestic violence. Ensure that the mechanism has the authority to initiate legislative changes in order to propose necessary amendments to the laws, put in place necessary by-laws and develop and implement required protocols and guidelines.
- Develop a unified centralized system for data collection on gender-based and domestic violence that will allow the compilation of reliable and accurate statistics disaggregated by region; sex and age of survivor(s) and perpetrator(s); types of violence in accordance with the national legislation; use of weapons; relationship between the survivor(s) and perpetrator(s); and in relation to intersecting forms of discrimination against women and other relevant sociodemographic characteristics. The system should include the information on the number of complaints about all forms of gender-based violence, the number of protection and restraining orders issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction, the amount of time taken for the disposal of cases, the sentences imposed on perpetrators and the reparations provided to victims. Ensure that the process of gathering and preserving the data on the system complies with international standards, including safeguards and legislation on data protection.

- Ensure that all officials responsible for preventing and combating domestic and gender-based violence are aware, and have a clear understanding of, their responsibilities towards survivors, and of the relevant guidelines based on best practice and of official protocols. Put in place effective mechanisms to hold officials accountable for neglecting their duties and responsibilities, or for failing to follow the guidelines and official protocols.
- Include – comprehensively, transparently and unequivocally – matters related to conflict-related sexual violence in any future transitional justice processes, encompassing the full range of juridical and non-juridical measures, with a focus on accountability for perpetrators, reparations programmes, and institutional reforms as appropriate.
- Ensure that women and children, especially in remote areas, rural areas and areas directly affected by the conflict, have access to basic services and goods, and where necessary to adequate sustainable humanitarian assistance. Empower women and assist them in securing employment and/or provide necessary support (such as necessary training and micro-crediting) for them to establish small businesses to improve their financial independence and socio-economic circumstances.
- Ensure authorities comply with their obligations with respect to all people’s economic, social and cultural rights, in particular guaranteeing access for all to education and employment options and social security to prevent any person from having to rely on selling sex as a means of survival due to poverty or discrimination.
- Repeal existing laws and refrain from introducing new laws that criminalize or penalize directly or in practice the consensual exchange of sexual services between adults for remuneration.
- Ensure that there are effective frameworks and services that allow people to leave sex work if and when they choose.
- Ensure that sex workers have equal access to justice, health care, and other public services, and to equal protection under the law.
- Ensure that survivors of gender-based and domestic violence are provided with effective reparations from the state including restitution, appropriate medical care and rehabilitation when necessary, and adequate guarantees of non-repetition.
- Nominate an appropriate agency and task them with development and implementation of standards of documentation and instructions on how to investigate cases of conflict-related sexual violence in accordance with the International protocol on the Documentation and Investigation of Sexual Violence in Conflict and the Istanbul Protocol. The agency must also develop and implement a safe, effective and confidential reporting system for survivors of gender-based violence where military personnel are involved.

## **TO POLICE, STATE BUREAU OF INVESTIGATION AND THE PROSECUTOR GENERAL’S OFFICE**

- Promptly, impartially and thoroughly investigate all reported instances of gender-based and domestic violence.
- Identify and bring to account any person, be it civilian or military, reasonably suspected of having perpetrated, or being complicit in, incidents of gender-based and domestic violence, in fair trial proceedings.
- Ensure that survivors of gender-based and domestic violence have effective access to legal remedies, in particular, ensure that they are able to report cases, and to seek appropriate redress, without fear of reprisals from the perpetrators and without any obstruction or discouragement from relevant police and other officials.
- Provide - and where exist improve its provision - appropriate, systematic, mandatory, initial, as well as continuous training for the relevant professionals (such as police and other law enforcement officials, prosecutors, judges and victim’s counsel lawyers) working with sexual violence survivors in prevention and detection of sexual violence, gender equality and intersectional discrimination, rape myths and stereotypes, with a view to preventing secondary victimization, and eradicating discriminatory practices and the application of gender stereotypes at all stages of the legal process.

## **TO THE MINISTRY OF INTERNAL AFFAIRS**

- In close cooperation with experts on gender-based violence, including from among competent civil society organizations, develop a human-centered, solid, clear and gender-sensitive protocol for the police on responding to cases of gender-based and domestic violence. In the protocol, include clear guidelines on how to recognize and support survivors of domestic and gender-based violence, how to qualify/register these cases according to the national legal framework on domestic and gender-based violence, how to use a risk of domestic violence assessment sheet, how and when to issue the emergency protection order, and how to enforce the emergency protection order and monitor restraining orders issued by courts. Ensure that the protocol is put in place and adequately and consistently implemented.
- Ensure, as part of the protocol, that police officers do not use mediation as a technique to resolve the conflict in situations of reported domestic violence or where they suspect domestic violence, and introduce clear guidelines and penalties for any intentional attempts by police officers to circumvent the protocol.
- Provide mandatory regular trainings and capacity-building programmes for the police officers (not limited to POLINA units) responsible for preventing and combatting domestic and gender-based violence on existing legislation (laws and by-laws), focusing on gender-sensitive protocols and practices for their implementation. Ensure that training and capacity-building programmes acknowledge and respect human rights, principles of equality and gender, sexual and ethnic diversity, and deconstruct stereotypes and myths around gender-based violence and victims/survivors of gender-based violence.

## **TO JUDICIARY OF UKRAINE**

- Provide regular mandatory gender awareness training for judges related to gender-based and domestic violence. The training must include a range of topics from broad gender awareness, gender equality and non-discrimination to specific training on the intricacies of dealing with various types of gender-based and domestic violence cases and deconstructing stereotypes and myths around gender-based violence and victims/survivors of gender-based violence. Civil society organizations and service providers must be consulted in the process of training development.
- End the practice of imposing fines on perpetrators of domestic violence, as this negatively impacts the entire family including the survivors and reinforces the idea that domestic violence is not a serious crime. Ensure appropriate and effective penalties for the perpetrators of gender-based and domestic violence.

## **TO THE MINISTRY OF SOCIAL POLICY**

- In consultation with civil society organizations, comprehensively and periodically assess available services for survivors of gender-based and domestic violence across the country, particularly in conflict-affected areas: their availability, accessibility, affordability and the quality of services provided.
- Based on the assessment, strengthen and improve protection services for survivors of gender-based and domestic violence, especially in remote and conflict-affected areas. These protection services must include access to appropriate free medical and legal services, gender-sensitive psychosocial counselling, and safe shelters available in all parts of the country. The services must cover all regions and be equally distributed through the country, as in being accessible for dwellers of large and small villages.
- Allocate secure, long-term government funding, or actively seek sustainable donor funding, to ensure that a sufficient number of safe and appropriate shelters are set up across the country in collaboration with non-governmental organizations experienced in working to protect women and children from domestic violence. Ensure that these shelters are available and accessible to all women

irrespective of their place of residence, citizenship, occupation, state of health and addictions, and sexual orientations and gender identity, among others, and ensure that they have inclusive explicit anti-discriminatory regulations in place to provide services for all persons in vulnerable situations.

- In collaboration with civil society organizations, the Ministry of Health and other relevant ministries, develop clear, comprehensive, survivor-centred, gender-sensitive guidelines for service providers – including free access to legal aid specialists, social workers, psychologists, practitioners in educational and medical settings, other officials and professionals responsible for preventing and combatting domestic and gender-based violence – on actions related to survivors and perpetrators in cases of domestic and gender-based violence: how to recognize and support survivors of domestic and gender-based violence, how to deal with such cases, particularly in conflict-affected areas. Ensure implementation of these guidelines by service providers.
- Adapt existing policies and develop support and guidelines targeted at the groups most at risk, such as women living in remote areas, conflict-affected women (both living in conflict-affected areas and involved in armed conflict as combatants), internally displaced women and children, women and girls with physical and intellectual disabilities, other marginalised groups of women and girls such as those affected by discrimination on account of their ethnicity (such as Roma), older women, sex workers, women using drugs and/or alcohol, women living with HIV, lesbians and transgender women, among others.
- In collaboration with civil society organizations, the Ministry of Health and other relevant ministries, develop and conduct mandatory regular high-quality training and capacity-building programmes on gender-based and domestic violence for services providers, including free legal aid specialists, social workers, psychologists, practitioners in educational and medical settings, other officials and professionals responsible for preventing and combatting domestic and gender-based violence.
- The training and capacity building programmes must focus on the implementation of existing national legislation (laws and by-laws) related to gender-based and domestic violence and gender-sensitive procedures and practices in dealing with survivors. The specialists must be trained on how to recognize and support survivors of domestic and gender-based violence, and how to deal with such cases, particularly in conflict-affected areas. The training programmes and curricula must pay particular attention to the needs of the most marginalised groups mentioned above. Ensure that trainings acknowledge and respect human rights, principles of equality and gender, sexual and ethnic diversity, and deconstruct stereotypes and myths around gender-based violence and victims/survivors of gender-based violence.
- Ensure regular exchanges between all relevant actors responsible for preventing and combating domestic and gender-based violence with the aim of discussing challenges and best practices and of strengthening cooperation between the actors.
- Improve the working conditions of services providers working with survivors of domestic and gender-based violence – free legal aid specialists, social workers, psychologists, and educational and medical personnel. Ensure that they are appropriately remunerated for their work and adequately resourced to provide their services to the best standard possible.
- Ensure that the programmes working with perpetrators are established and implemented in each territorial community across the country. Provide adequate gender-sensitive training for specialists to implement such programmes. Allocate government funding for such programmes to be established and realized.
- Develop and launch outreach and educational campaigns across the country to raise awareness about gender-based and domestic violence, its causes and consequences, and ways to prevent and combat violence against women and children. These campaigns must: de-normalize violence against women and children, remove the stigma from survivors of gender-based and domestic violence, encourage survivors to seek redress, provide information on the existing legal and institutional mechanisms of protection and available support services, promote human rights, equality and diversity. The campaigns must target all demographics and include the key actors in addressing gender-based and domestic violence, community leaders, municipal politicians, the media and civil society. Engage and target also men and boys in the campaigns.

## **TO THE MINISTRY OF DEFENCE**

- In collaboration with civil society organizations, and specifically women's organizations, develop a disciplinary policy for all members of the Armed Forces on sexual violence, including sexual harassment, sexual abuse and sexual exploitation, in accordance with international standards, namely the International protocol on the Documentation and Investigation of Sexual Violence in Conflict and the Istanbul Protocol, and consistently and strictly implement it.
- Develop, implement and strengthen the existing programmes of psychosocial support for former and current combatants, and extend provisions to their families. Make rehabilitation programmes gender-sensitive and widely accessible to military personnel – men and women. These programmes must address the war trauma and risks of post-traumatic stress disorder and focus on de-normalization of violence and specifically on the prevention of domestic and gender-based violence.
- Promote zero tolerance towards gender-based violence including bullying, sexual harassment and stalking in schools and in an educational setting.
- Provide - and where exist improve its provision - mandatory, comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality and relationship education to pupils and students of all genders at all levels of education and outside the education system. These should include education about consent, bodily and sexual autonomy and the right to bodily integrity, and promote gender equality and zero tolerance towards violence (based on sex, gender, sexual orientation, ethnic origin, faith and other characteristics) through the curriculum and extracurricular activities in school and other educational settings.
- Ensure that teachers are appropriately trained and equipped to deliver such education. The courses must, amongst other things, address the harmful gender stereotypes in society and actively promote human rights, gender diversity, dignity and equality. They must teach about equal rights and dignity for minority groups, including such groups as Roma, internally displaced people, and people with disabilities.
- Develop and offer, in educational settings, courses on non-violent communication. The courses must explain the nature and types of violence, including gender-based and domestic violence, and ways to recognize and address it. They also must promote non-discrimination, non-violence and respect for dignity and human rights of all. These courses must be free of harmful gender stereotypes and overtly empower women and girls.

## **TO THE MINISTRY OF HEALTH**

- In collaboration with the Ministry of Social Policy and civil society organizations, develop and conduct high-quality training on gender-based and domestic violence for health professionals, especially those providing services in remote and/or conflict-affected areas.
- Ensure that victims of gender-based and domestic violence have access to appropriate, affordable and quality medical services, which take into account their specific needs, including those related to collecting forensic samples, in line with the standards set out by the World Health Organization guidelines.
- In collaboration with the Ministry of Education improve sexuality education in schools and other educational settings.

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## DOMESTIC AND SEXUAL VIOLENCE AGAINST WOMEN IN EASTERN UKRAINE

Gender-based violence is a serious human rights issue in Ukraine that touches on the lives of many people, but disproportionately affects women and girls. Gender inequality, implicit cultural and societal norms and attitudes, as well as gaps in protection and lack of adequate response from the government – all contribute to high levels of gender-based violence against women in the country. The armed conflict in eastern Ukraine between the government forces and Russia-backed separatists has had an across-the-board impact on the causes and forms of domestic and gender-based violence, and the effectiveness of the institutional response to it in Donetsk and Luhansk regions. This report is focusing on gender-based violence in the government-controlled areas of these two regions, in particular on how domestic violence against women is aggravated by the conflict, and on sexual violence against women perpetrated by members of military forces. The report addresses the discrepancies between the official picture on paper and the reality on the ground for women suffering violence in Donetsk and Luhansk regions. It focuses on the institutional response to violence against women and its limitations, and in some instances the failure of certain actors to implement and act upon existing laws. In addition, the report strives to offer insights into the underlying causes and effects of gender-based violence against women in conflict-affected areas.

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