11,217 petitions to the Commissioner
(51% of them were connected with releasing prisoners of war from captivity and searching the missing military; 16% — searching for civilians (civilian hostages) who were missing or were illegally detained; 21% — protecting rights of military servants and their family members; 12% — protecting rights of persons with the status of military service and security and defence service veterans);

282 legal and normative acts processed and proposals submitted

44 proceedings instituted by the Commissioner

45 proceedings completed

67 monitoring visits made

70 acts of response and letters to the public authorities, institutions and organisations sent, including **66** regarding the observance of rights of military servants, police officers, veterans and other persons, and **4** regarding former Ukrainian prisoners of war

Key events, challenges and tendencies

The most pressing problems in the field of human rights protection in the security and defence sector are majorly associated with effects of the broad-scale armed aggression against Ukraine, which started on 24 February 2022. With account of these circumstances, the Commissioner paid a lot of attention to exercise of rights and freedoms of military servants, prisoners of war, civilians who had been illegally detained (hereinafter the "civilian hostages') as well persons missing due to special circumstances and their family members in the context of the armed aggression against Ukraine[1].

The material factor that causes a large number of violations of rights is the fact that the RF as the state that has launched unprovoked armed aggression against Ukraine fails to respect international humanitarian law in respect of the Ukrainian prisoners of war and civilians who are held in the RF or temporarily occupied territory of Ukraine, their exchange or return.

The Ukrainian civilians who have been illegally deprived of their liberty as a result of the armed aggression of Russia against Ukraine are not the most unprotected category of persons in terms of their release and return in Ukraine as well as further social and legal protection. Against the background of the growing social dissatisfaction among the civilian hostages' relatives and families, there is an acute need to determine the efficient mechanism for working to release our citizens from the Russian captivity, the designated authorities and administrative and legal tools to be used etc. In this regard, the process of creating the group with respective functions as a part of the **Coordination Headquarters for the Treatment of Prisoners of War**[2] is under way: it is an auxiliary authority of the Cabinet of Ministers of Ukraine that exercises powers to ensure transfer of captured prisoners of war to the aggressor state and

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release the defenders of Ukraine who have been captured by the aggressor state; ensures compliance with international humanitarian law during interrogation of prisoners of war by the authorised bodies; determines ways and methods to resolve problems associated with treatment of prisoners of war.

The significant event in the field of protection of rights of prisoners of war, civilian hostages, persons prosecuted by the occupying authorities for political reasons is adoption of the Law of Ukraine "On Social and Legal Protection of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members" in January 2022 (it entered into force on 19 November 2022). This Law regulates matters of social and legal protection of the persons who were recognised as deprived of personal liberty due to the armed aggression against Ukraine, and their family members. It particular, it deals with protection of prisoners of war and civilians protected by the Convention Related to the Protection of Civilian Persons in Time of War of 1949 who have been deprived of personal liberty due to the armed aggression against Ukraine by the aggressor state (civilian hostages).

The positive changes in the field of observance of rights of the personnel in the security and defence sector in comparison with the previous years are better funding, namely monetary and material support of military servants, provision of modern military equipment necessary for efficient defence of the state, advanced military qualifications during hostilities and with the support of partnering countries abroad as well as rehabilitation in foreign healthcare institutions.

However, there are negative factors as well: mistakes made during the mobilisation (inadequate medical examination of those liable for military service by military medical commissions, conscription of the persons who have a deferment pursuant to the effective legislation), poor supply of military equipment to certain military units etc.

There are still problems in observance of rights of war veterans, in the first place, combatants, military service veterans and their family members as well as family members of the war veterans who have been killed (have died) and family members of the Defenders who have been killed (died). Despite a considerably increase in their number, the situation associated with observance of rights of this category of persons has not changed cardinally in comparison with previous years. At the same time, the role of oblast military administrations and local self-government bodies that are actively involved into resolution of problems of the above-mentioned categories of persons at the local level has grown considerably.

Prisoners of war

According to international humanitarian law, prisoners of war mean combatants who have fallen into the power of the enemy in time of war.

According to the Geneva Convention relative to the Treatment of Prisoners of War (1949), prisoners of war shall in all circumstances be treated humanely. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited. No prisoner of war may be subjected to physical mutilation. The Detaining Power shall provide medical assistance. The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies.

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During the international armed conflict, which has been going on in Ukraine since 2014, and the unprovoked broad-scale armed aggression against Ukraine, which started on 24 February 2022, prisoners of war were captured by both adverse parties during military actions. However, there is a material difference in conditions for detention of prisoners of war by Ukraine and Russia.

Thus, according to the confidential interviews of the Ukrainian military servants released from captivity, the aggressor state has not created special camps contrary to the Geneva Convention, so the prisoners of war are mostly detained in the custodial facilities of the penitentiary system of the RF, practically as ordinary prisoners. The administration and staff of these facilities treat the Ukrainian prisoners of war worse than the convicts. The Ukrainian military servants released from the Russian captivity **give testimony of cruel treatment and inform of facts of torture, physical and psychological violence.**

The temperature conditions of detention facilities are not met: according to the released captives, there was minimum heating only in December 2022. The cells are very damp, which results in wearing damp clothes all the time. The prisoners of war had almost no access to toilet facilities since it required permission by the officer on duty. Moreover, the released captives informed of the cases when buckets were placed at the non-residential premises (garages) where the captives were held, instead of toilet facilities.

In all the detention facilities, the prisoners of war were held in overcrowded cells, for instance, 31 to 35 persons in a cell where 6 people stood waiting for their turn to wait because there were no other options: the prisoners of war had to sleep on wooden pallets and cover themselves with cardboard and material similar to artificial leather (faux leather). Warm clothing was not provided until December 2022. No blankets or other cover items were given.

Sanitary and hygienic conditions were terrible in most custodial facilities. There were no conditions for washing up. To wash their clothes, the captives had to share one bowl of water for 300 persons.

According to the former female prisoners of war, they were kept in separate premises in the same prisons as men in June to August 2022. Then they were transferred to women's prisoners, where they were held in the regime conditions of deprivation of liberty for criminal offences.

The prisoners of war **are not provided with the minimum food rations necessary to keep them in good health**, and no access to food is used as a way of torture (they are starved out for several days). Lack of adequate medical support is a standard violation of the right to necessary primary medical aid to prisoners of war. The health condition of practically all the captives who have returned is poor, and most of them have lost a lot of weight as a result of bad nutrition and cruel treatment in captivity.

Those who have minor injuries are held together with the other prisoners of war. Those who have major injuries and severe diseases are held in military or civil hospitals. According to the release captives, the conditions there are satisfactory, but the treatment is only supportive.

The prisoners of war are not provided permanent treatment, such as hormonal therapy, antiretroviral therapy, tuberculosis therapy, which results in high risks of poor health, changes in the phase of the disease for the worse and, as a result, infection of other persons.

The Coordination Headquarters (CH) are taking measures to provide the Ukrainian prisoners of war with

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necessary items and seasonal shoes as well as medicines. However, this initiative is not of a regular nature now due to the stance of the Russian side.

The Russian side deliberately disregards international humanitarian law, the mandate of the ICRC and UN representatives for the powers under the Geneva Conventions, namely in terms of attendance of the facilities where the Ukrainian prisoners of war and civilian hostages are held, both in the RF and temporarily occupied territories of Ukraine.

Despite the statements by the ICRC about the allegedly well-established process of attendance of the Ukrainian combatants in the Russian prisoners by its representatives, these statements have not been verified. On the contrary, according to the Ukrainian prisoners of war who were held in custodial facilities (pre-trial detention centres, prison camps, prisons located mostly on the regions of the RF bordering Ukraine and in the TOT), they were never visited by representatives of the ICRC during their captivity, and no actions were taken to control conditions for their detention or medical assistance.

On the other hand, according to the requirements of the Geneva Convention, Ukraine has established the special camp for the Russian prisoners of war with adequate detention conditions, which include provision of seasonal clothes and shoes, labour conditions and pay, 3 meals a day, correspondence with families, medical examination and, where necessary, treatment etc. While they are relocated to the camp, prisoners of war are temporarily kept in the designated sites at the custodial facilities of the penitentiary system of Ukraine separately arrested/convicted persons.

According to the Minister of Justice of Ukraine, UAH 3,000 are necessary monthly for meals, personal hygiene products and utility services per prisoner of war (without expenses for medical equipment, medicines, salaries for the staff etc.)[3].

The adequate conditions and nature of detention and treatment of the Russian prisoners of war, conformity thereof to the standards and requirements of international humanitarian law were confirmed during the monitoring visits made in 2022 by the Commissioner's Secretariat.

Explosion in Olenivka

At night on 29 July, the building where the Ukrainian prisoners of war, including the ones from Azovstal plant, were kept was destroyed as a result of the explosion in the territory of the former corrective colony in the occupied village of Olenivka (Volnovakha Raion, Donetsk Oblast). Several dozens of the Ukrainian prisoners of war were killed and more than a hundred were injured[4].

The explosion was a cynical terrorist attack by the RF, the military provocation the probable purpose of which was to conceal the military crimes committed by the Russian side against the Ukrainian prisoners of war. It can be claimed that ***there was organised killing of the Ukrainian prisoners of war*** in the territory of the former corrective colony. The planned nature of the crime and commitment thereof by the Russian side are proven with lots of recorded evidence: in particular, deliberate transfer of the combatants into the new premises shortly before the explosion, analysis of the nature of damage and movement of the explosive wave, intercepted telephone conversations between the militia fighters, no shelling at that location etc. Therefore, there is no doubt: the explosion in Olenivka was a Russian terrorist attack and gross violation of the international arrangements[5].

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According to the conclusions made by the MDI of the Ministry of Defence of Ukraine, in order to conceal inadequate conditions and forms of interrogation of the Ukrainian military servants (which could be an evidentiary basis in Hague), the Russian side destroyed the prisoners of war deliberately. According to the military intelligence, mines had been planted at the place where the Ukrainian combatants were kept by the combatants of Wagner Private Military Company, by means of the highly inflammable substances, which resulted in the quick spread of the fire at the premises[6].

As no access was given to the scene of the tragedy by the RF, and there were no guarantees of safety, the UN terminated the mandate of the Mission whose principal task was to establish the circumstances under which the Ukrainian prisoners of war had been killed in Olenivka[7]. UN Secretary-General António Guterres informed of establishment of the special commission supposed to investigate the terrorist attack of Russia in Olenivka during his visit to Lviv on 17 July 2022. The Mission could not obtain access to the crime scene in Olenivka for more than 5 months. On 5 January 2023, the UN Secretary-General adopted a resolution to terminate the Mission's operations, as it was informed by Spokesperson of the UN Secretary-General Stéphane Dujarric.

Thus, one of the former captives interviewed witnessed the explosion in the adjacent barrack, where the military servants from one of the NGU units, snipers, machine gun operators, marines and military servants of the Special Operations Forces of the AFU had been transferred the day before. According to him, there were 2 explosions inside the barrack at night on 29 July 2022. Each explosion was followed by a shot from Grad, and the shooting from automatic arms started. Stun grenades were thrown at the captives who tried to get out of the burning barrack. Lots of injured captives who were not provided medical assistance died of blood loss. The next day, one of the captives was forced to carry out dead bodies in order construction gloves and medical masks.

Trials of prisoners of war

In addition to detention in intolerable conditions, the occupying authorities hold so called 'trials' of the Ukrainian prisoners of war. The demonstrative example of attempts to carry out unlawful proceedings against the Ukrainian defenders was the attempt of 'trial' of the defenders from Azov, which was widely covered by the mass media[8] and prevented by the considerable international pressure[9].

After the mass media had published information that the so called 'court of DNR' had sentenced the citizens of the United Kingdom of Great Britain and Northern Ireland Shaun P. and Aiden I. to 'capital punishment' for their participation in defence of Ukraine as members of one of the marine corps of the AFU, the Commissioner proactively sent an address to the ICRC as an international humanitarian organisation with the mandate to visit prisoners of war. However, there was no response in pursuance of their powers under Geneva Convention III.

Following the consideration of the petition and meeting with the group of attorneys of the prisoners of war, the Commissioner contacted the UN High Commissioner for Human Rights regarding inadmissibility of the disregard of the standards and requirements of Geneva Convention III by the RF as Shaun P. and Aiden A. were combatants in accordance with international humanitarian law and could not be convicted for defending the country whose military servants they were. Owing to the international pressure and operations of the CH, Shaun P. and Aiden I. were released from captivity on 21 September 2022 by way of their repatriation to the Saudi Arabia.

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The events associated with conviction of the foreign volunteers by the so called ‘court of DNR’ drew response in many Ukrainian and foreign mass media. The problem of mass framing up of criminal cases against the Ukrainian prisoners of war and civilians is a common practice by the occupying authorities and one of the bright examples of violation of international humanitarian law.

Civilians deprived of personal liberty due to the armed aggression against Ukraine (civilian hostages)

Since the beginning of the international armed conflict in 2014, capture of civilians being Ukrainian citizens in the TOT by the Russian army or illegal armed groups of so called ‘LNR’ and ‘DNR’ affiliated with the RF has become a common thing. As of the beginning of 2022, there were at least 531 civilians captured in the TOT of the AR Crimea, the city of Sevastopol, and certain areas of Donetsk and Luhansk Oblasts, namely:

– 158 persons detained in the TOT of the AR Crimea and city of Sevastopol;

– 373 persons detained in the territory of Donetsk and Luhansk Oblasts.

After the broad-scale aggression against Ukraine had started, the armed forces of the RF illegally detained a large number of civilians in the territories of Ukraine temporarily occupied by the Russian forces. The victims of such illegal deprivation of liberty mostly were representatives of the local authorities, veterans of the AFU, law-enforcement authorities, volunteers, journalists, human rights defenders, i.e. everyone who could potentially oppose the occupation and support the territorial integrity of Ukraine. The Russian side classifies lots of the civilians captured as prisoners of war (former combatants of the ATO, JFO, officers of the law enforcement authorities and special services). Although most of them were young and middle-aged men, women, children and elderly people were also imprisoned.

In July 2022, the Commissioner received the petition from citizen V. acting on behalf of her sister, citizen A.

On 25.03.2022, citizen A. was abducted from her home in the village of Staryi Bykiv, Chernihiv Oblast, by the Russian soldiers for her persistent pro-Ukrainian stance. Her telephone with patriotic video and photo content was seized when she was detained. Citizen A., who needed treatment due to her health condition, was placed into Pre-Trial Detention Centre (PTDC) No. 1 in Kursk. She did not call after she had been detained and abducted. The petitioner asked the Commissioner to do his best to release her sister, who was illegally kept in the territory of the RF.

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As of the end of 2022, the CH and other competent authorities registered more than **18.4 thousand citizens** who had gone missing due to special circumstances, including **921** civilians whose detention was confirmed by the ICRC (civilian hostages) during the occupation of Donetsk, Zaporizhzhia, Kyiv, Luhansk, Sumy, Kharkiv and Kherson Oblasts.

According to the Prosecutor General's Office, 2,804 criminal proceedings were registered from 24.02.2022 until 24.01.2023 in connection with abduction of 12,731 civilians, as a result of the war crimes under Article 438 of the CrCU ("Violation of the laws and customs of war"). In particular, the following numbers of civilians were abducted by oblasts: Vinnytsia Oblast — 35, Volyn Oblast — 27, Dnipropetrovsk Oblast — 52, Donetsk Oblast — 8,495, Zhytomyr Oblast — 16, Zakarpattia Oblast — 20, Zaporizhzhia Oblast — 631, Ivano-Frankivsk Oblast — 3, city of Kyiv — 16, Kyiv Oblast — 293, Luhansk Oblast — 122, Lviv Oblast — 33, Mykolaiv Oblast — 49, Odesa Oblast — 62, Poltava Oblast — 30, Rivne Oblast — 13, Sumy Oblast — 139, Ternopil Oblast — 11, Kharkiv Oblast — 988, Kherson Oblast — 1,136, Khmelnytskyi Oblast — 60, Cherkasy Oblast — 31, Chernivtsi Oblast — 3, Chernihiv Oblast — 466 persons.

Out of the above-mentioned persons, as of 24.01.2023, 7.9 thousand persons are kept in the temporarily occupied territories, and 2.8 thousand persons — in the territory of the RF. According to the Prosecutor General's Office, location of other civilians is not known.

In 2022, the Ukrainian Parliament Commissioner for Human Rights received 710 petitions from relatives of the civilians who had gone missing and had been illegally detained (civilian hostages) regarding assistance in organisation of search.

The civilian hostages kept in the territory of the RF or TOT of Ukraine are detained *incommunicado,* and are unable to inform their family of their location and to obtain proper legal aid.

According to the witnesses, the conditions in which the civilian hostages are kept have been inhumane: they were held by force in basements of district police departments, administrative buildings, enterprises, workshops, plants, and PTDC. The people did not have proper illumination and were rarely taken outdoors, sometimes for half an hour a day; there was no hot running water, there were unable to wash up, and food and water were provided in limited quantities insufficient for all the captives. The civilian hostages kept in unsatisfactory conditions have been unable to obtain adequate medical assistance, with no medicines and doctors, and they have to treat themselves with available means and also make injections, when necessary. The civilian hostages rarely contact their families; the ICRC sometimes helps transfer letters from the civilian hostages kept in the territory of the RF and prisoners of war to their relatives.

The detainees are subject to torture to get a confession and to subsequent forced transfer to the RF for trial and serving a sentence there in violation of international humanitarian law, namely the rules of the Geneva Convention (IV) relative to the Protection of Civilian Persons: prohibition of taking hostages (Article 34); prohibition of pillage (Article 33); prohibition of any measure of such a character as to cause the physical suffering or extermination of protected persons in their hand (Article 32); prohibition of intimidation and terrorism (Article 33); prohibition of physical or moral coercion against protected persons, in particular to obtain information from them or from third parties (Article 31); prohibition of arrest, prosecution or conviction of protected persons for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof (Article 70) etc.

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In November 2022, the Commissioner received the petition for searching for the Ukrainian citizens abducted by the Russian military servants in August 2022, who had been forcibly kept in the command post in Vasylivka, Kherson Oblast. Those Ukrainian citizens were not served any official charges, there was no 'litigation', but the wife of one of the detained Ukrainian citizens informed the Commissioner that the civilian hostages had been released by the Ukrainian military servants in December 2022, after they had been unreasonably held by the enemy for almost half a year.

The civilian hostages are deprived of adequate medical assistance, including regular one (replacement supportive therapy, hormonal therapy, antiretroviral therapy, tuberculosis therapy) which results in high risks of poor health, changes in the phase of the disease for the worse and, as a result, infection of other persons.

In pursuance of point 7 of Moscow Document of 1991, on 11 June 2022, the OSCE Office for Democratic Institutions and Human Rights submitted to the Delegation of the OSCE participating States the Conclusions of the mission of experts established under the Moscow Mechanism, invoked by 45 OSCE participating States following bilateral consultations with Ukraine, where it was noted that "some of the mayors Russia removed, as well as local pro-Ukrainian 'activists', journalists and 'volunteers' have been 'abducted', i.e. arrested and made to forcibly disappear, without respecting any of the procedures IHL prescribes in case of deprivation of liberty and in most cases without informing their family. Other inhabitants have often been arrested for some suspicions (often for information found on their phones). The HRMMU has documented 24 cases of arbitrary detention and enforced disappearance of local officials in regions under the control of Russian forces, 13 of whom have been subsequently released. It has also documented the arbitrary detention and enforced disappearance of 21 journalists and civil society activists who vocally opposed the invasion in Kyiv, Kherson, Luhansk, and Zaporizhzhia Oblasts."[10]

Moreover, in its analysis of the testimony by the women released from the Russian captivity, the human rights defence SCO "Media Initiative for Human Rights" notes that the large portion of the detained civilians is women of different age, including the ones with major health issues and pregnant ones. Information on inadequate and cruel treatment of such captives emerged at once. Some women were kept in the same cells as men and were not provided with food, drinking water and personal hygiene products; they were threatened with torture and tortured. The conditions in which captured women are kept are almost the same as the conditions for detaining men. The civilian hostages in the villages in the temporarily occupied territories of Ukraine were brought to schools and other buildings, placed into the basement; more than 360 civilian men, women, children and elderly people were kept in the small premises[11].

In July 2022, the Commissioner was approached by citizen N. who asked to return her mother, citizen K., who was illegally detained in the TOT of Luhansk Oblast. Citizen K. had volunteered in Rubizhne (Luhansk Oblast), had been helping the Ukrainian military and her son, who was also in the army, in the east of Ukraine for 8 years, and making camouflage nets for them, but she was abducted by the representatives of so called 'Ministry of State Security of LNR' on 2 April 2022 after the illegal search in her apartment, and connection with her was lost. Citizen K. last contacted her daughter on 1 April 2022. Citizen K. was returned on 17 October 2022 during the exchange. The woman had been held captive for

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more than 7 months.

According to the report of the Independent International Commission of Inquiry on Ukraine, submitted in accordance with paragraph 11 (f) of Human Rights Council resolution 49/1, on the situation of human rights in Ukraine stemming from the Russian aggression[12], presented on 18 October 2022 by the UN Secretary-General, unlawful confinement was often the precursor to execution, sexual violence, torture and ill-treatment. The Commission has documented many cases of torture and ill-treatment committed by Russian armed forces, which is a violation of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment and a war crime. According to the report, Russian armed forces inflicted severe physical and mental pain and suffering upon the victims during detention in Ukraine. Some of the treatments administered included tying of hands or handcuffing, tying of legs, blindfolding with cloth, tape or bags placed on heads, severe and prolonged beatings with rifle butts or batons, electric shocks with tasers, threats of execution or mock executions and prolonged exposure to cold.

Detention of civilian captives and prosecution in the territory of temporarily occupied Crimea

After the full-scale invasion of Ukraine by the RF, occupied Crimea is used by the Russian authorities to keep the Ukrainian citizens abducted in the territories that were occupied after 24 February 2022, namely Kherson and Zaporizhzhia Oblasts. People are abducted in these territories by the Russian military, the Russian Guard or the Federal Security Service of the RF, and then they are held in detention facilities for some time and subjected to torture and inhuman treatment. Some of them are then taken to Crimea and tortured by officers of the Federal Security Service of the RF as well[13].

According to the human rights defenders, more than 110 persons were kept in PTDC No. 2 (Simferopol) as of the end of 2022. Most of them are civilians from the territories of Ukraine occupied after 24 February 2022 and include civil activists, volunteers and representatives of the local authorities.

In particular, Pavlo Zaporozhets, a resident of Kherson, an ATO participant, who was abducted in May and taken to Crimea after 3 months of captivity and torture, is kept in PTDC No. 2. The proceedings were instituted against him under paragraph 3 of Article 30 (criminal attempt) and paragraph 1 of Article 361 (act of international terrorism) of the Criminal Code of the RF. According to the human rights defenders, Pavlo Zaporozhets is now in the psychoneurologic dispensary undergoing the involuntary psychiatric expert examination.

In June, the Russian military abducted the Ukrainian volunteer Yaroslav Zhuk in occupied Melitopol. He was carried to Crimea and accused of a criminal offence under paragraph 1 of Article 361 (act of international terrorism) of the Criminal Code of the RF.

Politically based prosecution of the Ukrainian citizens who reside in the territory of the AR Crimea is also continued. The ‘law enforcement authorities’ of the RF perform unjustified searches and arrests, bring politically motivated framed-up criminal and administrative charges. The Ukrainian citizens detained are subject to torture to get a forced confession, they are forcibly transferred to the Russian Federation for trial and serving a sentence there in violation of international humanitarian law.

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Thus, the activist Bohdan Ziza, who had poured yellow and blue paint at the doors of the 'city administration', was detained in Yevpatoriia by the representatives of the Federal Security Service of the RF on 16 May 2022. Bohdan Ziza protested against the Russian aggression in Ukraine that way. Bohdan Ziza was kept in the PTDC in Simferopol, and he might be imprisoned for 15 years for his pro-Ukrainian stance.

In order to respond to numerous violations of human rights in occupied Crimea, the UN General Assembly adopted the updated resolution called "Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine" in December 2022.[14]. The updated document condemns the use of Crimea by Russia for the purpose of aggression against Ukraine and to support the attempted illegal annexation of Kherson and Zaporizhzhia Oblasts. Moreover, the Resolution condemns "the incitement of hatred against Ukraine and Ukrainians as well as the dissemination of disinformation justifying the aggression against Ukraine by the Russian Federation, including through the education system". The General Assembly also condemns "the new unprecedented wave of arbitrary detentions in Crimea, the forcible transfers to and from Crimea, the continuing impunity in reported cases of enforced disappearances, as well as the so-called filtration procedures, in particular in relation to displaced persons". It is also emphasised that the occupation of Crimea became a blueprint for a grave human rights crisis in other territories of Ukraine under temporary military control by the Russian Federation.

Release of prisoners of war and civilian hostages

Release of prisoners of war and civilians from illegal confinement is one of the priorities in the Commissioner's activity.

In September 2022, the Commissioner was approached by citizen R. (as a part of the collective petition) whose wife, a military officer, had been captured in May 2022 during the evacuation from Azovstal plant (Mariupol, Donetsk Oblast). Then prisoner of war R. was kept in former corrective colony No. 120 (urban-type settlement of Olenivka, Donetsk Oblast), where she was subjected to cruel treatment, and the detention conditions were inconsistent with the requirements of the Geneva Convention relative to the Treatment of Prisoners of War. The Commissioner's Secretariat gave citizen R. and other petitioners detailed explanations on their further actions, and also updated data on the prisoners of war, including military servant R., which were used in operations of the CH.

As a result of the actions taken, military servant R. was released from captivity on 21.09.2022. While citizen R. was in a healthcare institution, she was interviewed and granted aid regarding the needs and necessary complete rehabilitation and reintegration assistance, recovery and medical assistance for the persons released from captivity etc.

On 17.10.2022, there was a first meeting between the Ukrainian Parliament Commissioner for Human Rights with T. Moskalkova, the Ombudsman of the RF, during the exchange of prisoners of war[15]. They discussed the problem of returning civilians; possible ways of attendance of prisoners of war, monitoring visits to places of detention of prisoners of war both in the territory of the RF, the TOT of Ukraine

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(including former corrective colony No. 120 in the urban-type settlement of Olenivka, Donetsk Oblast) and in the territory controlled by the Government of Ukraine; exercise of the right of the prisoners of war to call their family; search for those who had gone missing; family reunion; re-issue of documents and so on. The sides agreed upon correspondence in order to perform their human rights protection tasks.

In general, the Commissioner and staff of the Commissioner's Secretariat took part in the activities conducted to return the military servants as well as civilian hostages from the RF to Ukraine in 2022. As a result, 1,596 persons were returned from the Russian captivity in 2022, including: 1,468 military servants (163 women) and 128 civilians (25 women).

In July 2022, the Commissioner received the petitions from citizens R. and A. for assistance in releasing their family members from the Russian captivity: their father and son, citizens R. and O. had been captured in March 2022 as members of the voluntary unit of the territorial community in Slavutych, Kyiv Oblast.

According to the petitioners, one of the prisoners was severely injured and needed urgent medical aid, which was not granted despite the requirements of international humanitarian law. Those data as well as information furnished by the petitioners (in particular, regarding official confirmation of captivity by the Russian side) within that matter of assistance in release were sent to the CH and other competent authorities. As a result of the actions taken, citizens R. and O. were released from captivity on 31.12.2022. Their further rehabilitation and provision of all the social protection are under the Commissioner's control.

The military servants returned as a result of the exchanges tell about persistent violation of the rules of the Geneva Convention relative to the Treatment of Prisoners of War by the aggressor. The Commissioner's Secretariat has often drawn the international organisations' attention to the need to ensure that the aggressor state observes rights of prisoners of war.

As the aggressor state fails to observe rights of the prisoners of war, it is important to progress in the matter of determining the **country neutral in the international armed conflict.** In the first place, it will allow repatriating the sick and severely injured prisoners of war to the protection of the neutral country in accordance with international humanitarian law. Another problem is the most prompt resolution of the issue of a protecting power, which will perform consular functions for Ukraine as there are no diplomatic relations with the RF.

An example of the considerable contribution into return of the Ukrainian citizens from the Russian captivity was participation of Turkey and Saudi Arabia in releasing the defenders of Mariupol in September 2022[16]. As a result of the measures taken, 215 defenders of Ukraine were returned from the Russian captivity. It was agreed that 5 released commanders of Azovstal under personal protection by President of Turkey R. Erdoğan would stay in the territory of the country until the war was over.

After the RF had refused to assign corresponding functions to the Swiss Confederation[17], that theme practically disappeared from the international information space. Therefore, the Commissioner's

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Secretariat has often raised the issue of the need to designate an intermediary and a protecting power as promptly as possible at the state level. In particular, corresponding letters have been sent to the MFA of Ukraine. Also, that issue was discussed with the senior executives of the Office of the President of Ukraine at the Commissioner's initiative.

Against the background of no consular relations between the RF and Ukraine, a considerable portion of the functions, which used to be performed by the consular staff, for instance, visits to the Ukrainian citizens at the custodial facilities in the territory of Ukraine, could be performed by the International Committee of the Red Cross pursuant to its international mandate since, according to points 3 and 4 of Article 5 of the Protocol Additional to the Geneva Convention relative to the Treatment of Prisoners of War of 1949 (Protocol I) of 1977, if a Protecting Power has not been designated or accepted from the beginning of armed conflict, the International Committee of the Red Cross "shall offer its good offices to the Parties to the conflict with a view to the designation without delay of a Protecting Power to which the Parties to the conflict consent". In 2022, the ICRC did not contact the MFA of Ukraine regarding the initiative of offer its good services with a view to the designation of a protective power in the context of the armed conflict between Russia and Ukraine and the proposals regarding the Committee's functions of a substitute protective power.

At the same time, numerous addresses of the Commissioner's Secretariat to the heads of the ICRC regarding the need to exercise its international mandate in full scope have not resulted in major positive changes and visits to the Ukrainian prisoners of war and illegally detained civilians in the territory of the RF and TOT of Ukraine and, therefore, control over observance of rights of these categories of persons.

With due consideration of the above, the low performance of the ICRC has been in the focus of heightened attention and concern of the international organisations (in particular, OSCE Office for Democratic Institutions and Human Rights), Ukrainian human rights defence civil society organisation and public authorities of Ukraine.

In general, it is extremely difficult to return civilians from captivity because the aggressor state violates international humanitarian law via their illegal detention, lack of international legal mechanisms for influencing the RF, efficient mechanism for such return as well as complexity of establishing contacts with the authorities of the RF. This issue is now on the agenda of the negotiation between the Ukrainian Ombudsman and Human Rights Commissioner of the RF T. Moskalkova. In addition to the negotiation on releasing the civilians captured after the start of the broad-scale armed aggression against Ukraine, there is regular negotiation to release the persons captured after 2014, when the armed aggression of the RF against Ukraine started.

The Commissioner received numerous petitions to release citizen Z., who had been illegally detained by the officers of so called 'police of Donetsk Main Department of the MIA of DNR' at Olenivka checkpoint in 2017. During the illegal search of Z., the product for replacement supportive therapy Buprenorfin, which she had legally received by the prescription in Vinnytsia Oblast Narcological Dispensary, was found. On 24.12.2019, so called 'Supreme Court of DNR' convicted citizen Z. for smuggling drugs.

The letters of response were numerously sent for the benefit of citizen Z. to the designated competent authorities in order to take actions for her release; also, letters were sent to the ICRC Delegation asking to ensure her immediate admission to hospital and medical aid. Another letter was sent to the Operational Coordinator of the Humanitarian Work Group within the Trilateral Contact Group. Citizen

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Z. was returned home on 17.10.2022 with coordination of the Office of the President of Ukraine, direct participation of the Commissioner and competent public authorities.

Support of the released. Rehabilitation and social support of the released

After the exchange, the military servants released from captivity are immediately provided with food packages, warm clothing and mobile telephones to call their family[18]. Then they are taken to respective facilities for a set of actions aimed at further adaptation, reintegration and rehabilitation, under supervision of psychologists. First medical aid is granted to the military servants in need as soon as they arrive at such facilities. Medical sorting is conducted in the very beginning; medical examination is performed, and necessary deeper tests and treatment are prescribed.

At the same time, certain defects in the field of adaptation, recovery, rehabilitation, reintegration and post-isolation support were detected after the first exchanges within the framework of the parliamentary control by the Commissioner over observance of rights of the military servants released from captivity.

Some of those problems was caused by lack of clear action algorithms and deadlines for specific activities conducted for the purpose of rehabilitation and socialisation of the military servants released from captivity by the Ministry of Defence, the MIA, the MoH, the Ministry of Reintegration and other central and local self-government authorities. It was established during the repeated monitoring that most of the issues had been resolved by the responsible authorities (MIA, NGU etc.).

When the monitoring group members communicated with some of the released military servants, there were complaints against commanders of some units in connection with lack of due payments for the period of captivity and treatment (rehabilitation); no communication with officials of their units and lack of psychological support of these military servants, and with necessary explanations on further actions.

In this context, it should be noted that, with account of the persistent nature of such violations, in December 2022 the Minister of Defence of Ukraine gave the instruction to the respective units of the Ministry of Defence according to which the military servants of the AFU and the State Special Transport Service would retain their monthly payment in the amounts due for their last positions, following the release from captivity until the day of assumption of new offices or until the day of resignation from the AFU (State Special Transport Service).

However, there is a problem of respective payments to the police officers. Contrary to the family members of the military servants who are paid their relative’s salary in accordance with the legislation, family members of the police officers (from November 2015) did not receive such payments since after the Law of Ukraine “On the National Police of Ukraine” had entered into force and the Law of Ukraine “On the Police” had ceased to be in force, the police officers who had been captured, taken hostage or had gone missing ceased to receive due payments, and payments to their family members were terminated.

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As of the end of 2022, the MIA had not responded to the numerous requests of the Commissioner to restore the violated rights of these categories of persons.

Another important aspects of reintegration of military servants is re-issue of documents and issue of certificates of the health damage inflicted during the captivity. According to the international standards, the latter shall be issued by the country that has held captive. However, the RF does not do it, thus violating Article 68 of Geneva Convention relative to the Treatment of Prisoners of War. The Ukrainian defenders who return home are referred to the military medical commission, which issues a health condition certificate.

They are also issued a certificate of the National Information Bureau to re-issue their personal documents: a passport, a driving licence, which are ordered by the former captives after the rehabilitation on their own. The State Migration Service of Ukraine accepts documents for a passport of a citizen of Ukraine or a foreign travel passport of a citizen of Ukraine. In other words, the military servants who are released from captivity are re-issued only military documents on a centralised basis whereas personal civil documents must be ordered on their own. The Coordination Headquarters for the Treatment of Prisoners of War is now resolving this matter so that the released defenders will also be issued civil documents on a centralised basis, and they will not lose their time waiting for their passport or driving licence to be re-issued.

In this context, it should be noted that a positive stage of the exercise of rights of military servants, civilian hostages released from captivity is Resolution of the Cabinet of Ministers of Ukraine No. 1210 of 28.10.2022 “Certain Matters of Top Priority Actions for Social Protection of the Released”. This legal and normative act defines the top-priority actions to be taken to protect the persons who have been held in captivity, namely organisation of their meeting with family, medical examination followed by medical and rehabilitation aid, free primary legal aid, re-issue of documents etc. However, Resolution No. 1210 establishes only the general directions for the top-priority actions for social protection of the released.

Another important response by the state in this field was the draft Law of Ukraine “On Amending Certain Laws of Ukraine to Grant the Right to Resign from the Military Service and Conscription Deferment during Mobilisation to the Persons Released from Captivity” submitted to the Verkhovna Rada of Ukraine for consideration (registration No. 8061). This draft law proposes amendments to Article 26 of the Law of Ukraine “On General Military Duty and Military Service”, which will grant the right to resign from military service to the military servants who have returned from captivity, with account of their moral and psychological condition or health. The draft law was proposed to be approved in principle following its consideration in the Parliament in principle by the resolution of the specialised Committee of the VRU on national security, defence and intelligence of 14.11.2022.

The problematic issue, which is gaining more and more relevance, is ***rehabilitation of the Ukrainian defenders, including former prisoners of war, civilians who were recognised as deprived of personal liberty due to the armed aggression against Ukraine.*** Against the background of the ongoing hostilities, the number of our defenders in acute need of rehabilitation services has considerably grown in comparison with the ATO/JFO period. At the same time, the state rehabilitation and readaptation service system is still being developed.

As there are no procedures for providing social, medical, psychological, rehabilitation and other assistance as prescribed by the Law of Ukraine “On Social and Legal Protection of Persons Who Were

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Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members", these persons and their family members may not receive these types of assistance.

In its turn, the Ministry of Reintegration has not developed and approved the procedure for duly entering information into the Unified Register of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine (hereinafter the "Unified Register"). So the Unified Register does not properly function now.

Moreover, the Ministry of Reintegration has not approved the form of an extract from the Unified Register. It should be noted that an extract from the Unified Register is the document that is supposed to certify that the person has been deprived of personal liberty, and it has compulsory details, namely regarding the period of deprivation of personal liberty, so it is necessary to exercise the rights under the law, namely labour rights, pension coverage rights, rights to compulsory state social insurance etc. Therefore, failure of the Ministry of Reintegration to take the above-mentioned actions prevents the hostages from exercising their rights in accordance with the Ukrainian legislation.

Although a number of legal and normative acts on the principal aspects of rehabilitation services were adopted at the end of 2022 in pursuance of the Law of Ukraine "On Rehabilitation in the Field of Healthcare", this system needs to be improved and brought in line with the international standards. The actions in this field are now taken by several agencies, namely the MoH, the Ministry of Defence, the MVA, the Ministry of Social Policy etc. This situation causes absence of the unified state concept of rehabilitation and readaptation and requires establishment of the Inter-Agency Centre (similar to the Coordination Headquarters for the Treatment of Prisoners of War), which is supposed to coordinate actions by all the interested authorities in this field.

Persons who have gone missing in the context of the armed conflict

One of the effects of the broad-scale armed aggression against Ukraine has been rapid growth of the number of people who have gone missing in the temporarily occupied territories and areas of hostilities.

According to the Main Investigative Directorate of the National Police of Ukraine, from 24.02.2022 until 21.01.2023, the investigators of the National Police instituted 13,410 criminal proceedings (including 11,977 of them before 31.12.2022) regarding persons missing due to special circumstances; 16,393 (including 14,884 before 31.12.2022) military servants and representatives of other paramilitary groups of Ukraine, 2,666 criminal proceedings (including 2,624 before 31.12.2022) instituted based on the facts of enforced disappearance and captivity of 2,952 (including 2,900 before 31.12.2022) military servants and representatives of other paramilitary groups of Ukraine.

Moreover, from 24.02.2022 until 21.01.2023, the investigators of the National Police instituted 6,635 criminal proceedings regarding 9,118 civilians who had gone missing due to special circumstances and 1,527 criminal proceedings regarding enforced disappearance or captivity of 7,330 civilians.

In 2018, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On the Legal Status of Missing

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Persons" (hereinafter the "Law"). That Law defined the legal status of missing persons and ensured legal regulation of relationships regarding the identification and registration, search for and social protection of the persons concerned and their relatives.

In April 2022, the Law was amended: on the one hand, the regulation was focused on the legal status of persons missing due to special circumstances, i.e. in the context of the armed conflict, military actions, temporary occupation of the part of the territory of Ukraine, an emergency of a natural or man-made nature. On the other hand, the format of coordination of search for persons missing due to special circumstances by the state was changed: the non-functional Commission on the Persons Missing due to Special Circumstances was replaced by the Commissioner for Persons Missing due to Special Circumstances, who was an official of the Ministry of Reintegration mandated to coordinate the search for persons missing due to special circumstances and to resolve other related issues.

However, a number of the rules of the clauses of the Law have not been implemented. The Ministry of Internal Affairs still has not introduced the Unified Register of Persons Missing due to Special Circumstances (hereinafter the "Register"). According to the Regulation[19], the Register is a functional sub-system of the unified information system of the MIA of Ukraine, which ensures its operation. At the end of 2022, the MIA of Ukraine informed the Commissioner that during the second half of 2022 the administrator of the Register had performed the works to design architectural solutions, technological processes of filling the Register and organising information interaction of its subjects, and that the "prototype model of the Register presented on 2 December 2022 to the Office of the Commissioner for Persons Missing due to Special Circumstances had been developed". Moreover, it was noted that "according to the Law of Ukraine 'On Protection of Information in Information and Communication Systems', the Register could only be introduced if the complex information protection system with the certified conformity was used". It was also noted that "the Register is now developed with the administrator's own resources and needs additional funding". In other words, the prototype model of the Register is being tested for possible vulnerabilities and will be commissioned after this process is completed.

The Register is of critical importance for the legal status of a person missing due to special circumstances as, according to Article 4 of the above-mentioned Law, a person acquires the status of a person missing due to special circumstances from the moment of entering information about him/her contained in the missing person report into the Register. Therefore, the mechanism for social protection of family members of persons missing due to special circumstances is not implemented since if a person goes missing, his or her family members acquire the right to pension payments a month after the respective information is entered into the Unified Register of Persons Missing due to Special Circumstances, but it has not been established. Moreover, the rules of the Law of Ukraine "On the Legal Status of Persons Missing due to Special Circumstances" that workplace and position shall be reserved for a person missing due to special circumstances, until the person concerned is recognised as missing or declared dead.

Lack of the Register affects the search as well since there is no registration, accumulation and centralisation of data and information on the persons missing due to special circumstances.

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Mobilised persons and military servants

Another problem to be resolved is **failure to observe citizens' rights during the mobilisation declared in Ukraine**. Although there are lots of citizens experienced in military operations who volunteered to be mobilised for their military service, the officials of the territorial recruitment and social support centres of the AFU have often violated the rights of the citizens who are not subject to conscription during mobilisation in accordance with Article 23 of the Law of Ukraine "On Mobilisation Training and Mobilisation". In breach of the requirements of this Law of Ukraine, the persons liable for military service who have 3 or more children younger than 18 or are duly recognised to be persons with disabilities as well as students obtaining pre-higher and higher education who study full-time are conscripted during mobilisation for the special period, without their consent (which is confirmed with the complaints).

The letters have been sent regarding the matters claimed by the petitioners to the Ministry of Defence, the General Staff of the AFU and the Military Law Enforcement Service. As a result, the Ministry of Defence initiated the amendments to the legislation via the deputies of the Verkhovna Rada of Ukraine (which have been processed and affirmed without any comments by the Commissioner's Secretariat) that provide for possible resignation of the persons with 3 or more children younger than 18 during the martial law. On 20 September 2022, the Law of Ukraine "On Amending Article 26 of the Law of Ukraine No. 2599-IX 'On General Military Duty and Military Service'" regarding possible resignation from the military service by the persons who have 3 or more children under 18 during the martial law was adopted.

Also, the draft Law of Ukraine "On Amending Article 26 of the Law of Ukraine 'On General Military Duty and Military Service'" (registration No. 8177) regarding possible resignation of the mobilised persons who study in pre-higher and higher education institutions full time from the military service has been registered with the Verkhovna Rada of Ukraine. This draft law is now being processed by the Committee.

The territorial recruitment and social support centres fail to fully comply with the requirements of the law that only the citizens with adequate health have to be conscripted. Thus, medical examination has sometimes been performed on a formalised basis, without necessary healthcare professionals and without account of medical records of the person liable for military service on his health. As a result, the citizens with severe infectious diseases, including the AIDS, and oncological diseases as well as persons with disabilities are recognised to be suitable for military service based on their health.

Attention should also be paid to **observance of rights of the parents doing their military service in the AFU to participate in upbringing of their children.** Around 60 thousand, including 41 thousand military servants and almost 19 thousand of civil workers do their service in the AFU[20]. Both parents are military servants in many cases. This year, the fathers being military servants have been granted new rights and opportunities to take care and raise a child and to combine military service with their family duties. In particular, the issue of granting the fathers being military servants a child care leave until the age of 3 and in case a child requires child care provided that both parents are military servants: such leave will be granted on one of the parents by their joint decision[21].

There have been frequent **violations of military servants' rights to timely and full accrual and payment of their financial support as well as additional remuneration** as prescribed by the effective

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legislation[22]. In particular, the additional monetary remuneration prescribed by Resolution of the CMU No. 168 of 28.02.2022 (UAH 30,000 and 100,000) is not paid in the corresponding amount. The problem is caused by the complex accrual mechanism, which is not understood by most military servants (the payment is only based on the quantity of days in a month during which the military servant has been under shelling or in a combat engagement). Such periods must be specified in combat reports, which often fails to be done. It results in minor payments.

Moreover, the facts of failure to pay the additional monetary remuneration under Resolution of the CMU No. 168 of 28.02.2022 for the period of the military servant's treatment after the combat injury have been established. Delays in payment of additional financial support upon the military servant's resignation from the military service (one-time monetary assistance upon resignation) and of compensation for the leaves that have not been used during the martial law (granting of which has been suspended for the period of the martial law) have been established.

Another problem is delays of military units in provision of the documents necessary to receive the one-time monetary assistance for the deceased to families of the deceased military servants. There have also been cases of untimely payment of funds which the military servant failed to receive before being killed as well as burial assistance.

The Commissioner was approached by citizen S., mother of the military servant killed as a result of the full-scale armed aggression of Russia against Ukraine, regarding non-receipt of the payments due to her son and the burial assistance from the military unit. Following the Commissioner's response, the military unit transferred the funds due to the military servant's mother and sent the documents necessary for the Ministry of Defence to designate and pay the one-time monetary assistance in case of the military servant's death.

One more problem is **to return bodies of the deceased military servants**.

Thus, it is often impossible to return bodies of the deceased defenders from the TOT Ukraine, which results from the Russia side disregarding the respective collection, storage, registration and transfer of remains of the Ukrainian military servants killed/deceased for further identification and burial as prescribed by international humanitarian law. Also, when it comes to burial, it was done by mass burial without body identification (as military servants or civilians), without specification of the quantity of bodies and with seizure of all the identification documents.

As there is no DNA database (it is being developed) of all the defenders of Ukraine, small numbers of the specialists who perform forensic examination and shortage of equipment and facilities, identification of remains of the deceased defenders of Ukraine is complicated. Even identification of bodies of the deceased whose DNA samples have been drawn for comparison with the DNA samples of their family members is a long process.

Difficulties families of the deceased military servants have registering the fact of their death are also concerning. It happens due to absence of bodies of the deceased and the need to establish the fact of death

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in court, which adjourns receipt of the death certificate as prescribed by the legislation, designation and payment of the one-time monetary assistance upon the military servant's death as well as designation of social payments to dependants of the deceased, namely the survivor's pension.

Veterans

As the number of war veterans, in the first place, combatants, and family members of the killed (deceased) war veterans, families of the deceased Defenders[23] has considerably grown since the beginning of the broad-scale aggression against Ukraine, the pressing issues of observance of rights of these categories of persons is assignment of the corresponding status, receipt of payments, namely one-time monetary assistance in case of disability or for the deceased military servant, respective medical and rehabilitation services, adequate pension coverage of the persons dismissed from military service etc.

The legal framework for social protection of veterans includes the laws of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection", "On the Status of Military Service Veterans, Veterans of Authorities of Internal Affairs and Some Other Persons, and Their Social Protection", "On Pension Coverage of the Persons Dismissed from Military Service, and Some Other Persons".

The Law of Ukraine "On the Status of Veterans of War and Guarantees of Their Social Protection" now contains more than 40 benefits that are granted by different public authorities, but access thereto is difficult due to red-tape procedures. Moreover, some of the benefits are obsolete, for instance, special stores for war veterans, which makes it difficult to implement these rules today.

A separate category must also be allocated among veterans: military service veterans. This status is granted to the persons who have been doing their military service for more than 25 years, regardless of participating in hostilities. This status is regulated by the Law of Ukraine "On the Status of Military Service Veterans of, Veterans of Authorities of Internal Affairs, Veterans of the National Police of Ukraine and Some Other Persons and Their Social Protection". Certain legal and normative acts that regulate the matter of social protection of this category of veterans increase the red-tape chaos and add complexity to getting guaranteed benefits and reintegration into peaceful life (especially if a person has the concurrent right to several beneficial statuses). Moreover, the military service veterans who have benefits and social guarantees prescribed by the legislation are sometimes unable to exercise this right in practice.

It was established during the proceedings instituted in 2022 based on the petition of the NGU veteran that the matter of beneficial rehabilitation and health resort treatment in healthcare institutions of the Ministry of Internal Affairs of Ukraine was actually not regulated for military servants, military service veterans of the NGU, war veterans and pensioners recognised to be persons with disabilities as a result of the disease associated with their military service in the NGU, and their family members.

The Commissioner sent his request to the Ministry of Internal Affairs of Ukraine and proposed to instruct the responsible officials to take immediate efficient measures, including regulatory and legal ones, to

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restore the violated rights of veterans and their family members by developing the respective agency order and ensuring strict adherence to the legislation on rights of military service veterans by the officials of the MIA and NGU.

At the end of 2022, in pursuance of the order of the MIA, the Main Directorate of the NGU drafted the order of the MIA "On Certain Matters of Health Resort Treatment and Rest in the National Guard of Ukraine".

The draft order is now being processed to be approved by the respective structural subdivisions of the MIA.

Another relevant matter in this field is proper pension coverage of the persons dismissed from the military service.

According to Article 63 of the Law of Ukraine No. 2262 of 9 April 1992 "On Pension Coverage of the Persons Dismissed from Military Service, and Some Other Persons" (hereinafter "Law No. 2262"), all the pensions granted under this Law are to be recalculated in connection with the increase in the financial support for respective categories of military servants, persons eligible for the pension under this Law, under the conditions, in accordance with the procedure and in the amounts prescribed by the Cabinet of Ministers of Ukraine.

In response to the Commissioner's requests to the Ministry of Social Policy of Ukraine as drafter of the laws and other legal and normative acts on pension coverage, the Ministry of Social Policy informed that Law No. 2262 had to be amended in terms of the conditions, procedure and further recalculation of pensions in order to resolve matters of regular recalculation of pensions for the persons dismissed from the military service.

Lack of the applicable legal and normative act results in numerous claims filed by this category of people to court to defend their rights to decent pension coverage.

Thus, according to the Ministry of Social Policy, as of 01.01.2023, 186,763 court decisions that have entered into force are now registered in connection with recalculation of the pensions granted under Law No. 2262. This quantity of court decisions is a considerably burden for the State Budget of Ukraine in terms of compensation for court costs, which is intolerable during the martial law.

As for repayment of the debt based on the court decisions delivered in favour of the pensioners, the Commissioner's Secretariat sent the respective request to the PFU, which informed that, according to Article 8 of Law No. 2262, payment of pensions, including additional payments, extra payments and surcharges, compensatory payments prescribe by the legislation for the military servants dismissed from the military servants, the persons eligible for pensions under Law No. 2262, and their family members was ensured from the State Budget of Ukraine.

In this context, it should be noted that, in order to resolve issues in the field of pension coverage of pensioners of the authorities in the security and defence sector and in pursuance of the instruction of the

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Prime Minister of Ukraine, the Cabinet of Ministers of Ukraine adopted Resolution No. 1166 “On Establishing the Interdepartmental Working Group on Monetary and Pension Coverage of Military Servants and Some Other Persons” at the end of 2022. The principal tasks of this working group are to determine the ways, mechanisms and methods to resolve the problems associated with pension coverage of the persons dismissed from the military service and some other persons, and to develop proposals on improving the applicable legal and normative acts, including as to recalculation of pensions. However, as the martial law was imposed in Ukraine in February 2022, the work of the Interdepartmental Working Group was suspended.

The Ukrainian Parliament Commissioner for Human Rights is working with the interested authorities to resume operations of the Interdepartmental Working Group.

Response to violations of human and civil rights

In 2022, the Commissioner’s Secretariat received 11,217 petitions for protection of human rights in the field of security and defence, including 6,656 oral petitions to the hot line and 4,561 written ones.

In 2022, the majority of petitions received by the Commissioner’s Secretariat by e-mail and hot line were connected with the military servants who had been taken captive or had gone missing due to special circumstances. The information received from the petitioners was forwarded to the competent authorities (NIB, the Unified Centre for Searching and Releasing Captives of the Security Service of Ukraine, the ICRC, the Coordination Headquarters for the Treatment of Prisoners of War).

Oral petitions are mostly distributed as follows: military servants (956), illegally detained civilians (5,012), and active military servants and law enforcement officers (534).

As for the written petitions, out of 4,561 written petitions received by the Department for Monitoring Observance of Rights in the Defence Sector and Rights of Veterans, Military Servants, Captives and Their Family Members of the Commissioner’s Secretariat, most (51%) of them were connected with releasing prisoners of war from captivity and searching the missing military; 16% — searching for civilians (civilian hostages) who were missing or were illegally detained; 21% — protecting rights of military servants and their family members; 12% — protecting rights of persons with the status of military service and security and defence service veterans.

As it has been described in detail above, the priority field of activity of the Commissioner’s Secretariat is release of the Ukrainian prisoners of war, civilian hostages and their social and legal protection after they are released.

The important field of activity of the Commissioner’s Secretariat is protection of rights of military servants and their family members, in particular: to mobilisation deferment for those liable for military service, to timely and full payment of the financial support and its elements, to provision of food and personal effects, military service conditions, right to rest and leaves, right to health care and medical aid as well as payment of the one-time monetary assistance and dismissal from the military service in accordance with the effective legislation.

The Commissioner received the collective petition from the personnel of one of the military units of the Kyiv Oblast territorial defence regarding incomplete payments of their financial support and additional

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remuneration as prescribed by Resolution of the CMU No. 168 of 28.02.2022 "Matters of Certain Payments to Military Servants, Junior and Senior Personnel, Police Officers and Their Families during the Martial Law".

It was stated in the petition that the military servants had been doing their military service in the combat areas and had taken a direct part in the hostilities and activities to ensure national security and defence, to repel and deter the armed aggression by the occupying country, but they had not received the above-mentioned remuneration in full since June 2022.

Following the Commissioner's response, the rights of the personnel of the military unit to the full payment of their financial support and additional remuneration during the martial law were restored.

Moreover, as the number of war veterans, in the first place, combatants, and family members of the killed (deceased), war veterans, and families of the killed (deceased) Defenders has considerably grown, the priority direction is parliamentary control over observance of rights of these categories of persons to assignment of the corresponding status and receipt of payments due, namely one-time monetary assistance, medical and rehabilitation services, benefits and social guarantees, adequate pension coverage of the persons dismissed from military service etc.

In 2022, the Commissioner received numerous petitions with complaints against the social protection authorities that had refused to grant the respective status of the family members of the deceased Defenders of Ukraine who were unable to or did manage to obtain the combatant's status while they were alive.

After new point 5 had been added to Article 10^{-1} of the Law of Ukraine "On the Status of Veterans of War and Guarantees of Their Social Protection", families of the killed (deceased) Defenders of Ukraine started to include without limitation families of military servants (reservists, those liable for military service, those who voluntarily joined the Territorial Defence Forces) of the Armed Forces of Ukraine who protected independence, sovereignty and territorial integrity of Ukraine and took a direct part in the activities necessary to ensure defence of Ukraine, protection of public safety and interests of the state in connection with the armed aggression of the Russian Federation against Ukraine, and died (went missing) while they were in the areas and during the period of such activities, during their immediate participation in the activities necessary to ensure defence of Ukraine, protection of public safety and interests of the state in connection with the armed aggression of the Russian Federation against Ukraine.

However, the Government did not establish the procedure for granting the status.

With the support of the Commissioner's Secretariat (the matter was discussed during the work consultations with the representatives of the respective ministries as regards drafting of the resolution of the Government), the CMU adopted Resolution No. 783 of 01.07.2022 "On Amending Certain Resolutions of the Cabinet of Ministers of Ukraine regarding the Status of a Family Member of the Killed (Deceased) Defender of Ukraine". It enabled restoring the rights of that category of the Ukrainian citizens.

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It was also established during the parliamentary control over observance of rights of family members of the deceased military servants that some territorial bodies of the Pension Fund of Ukraine had unreasonably refused to grant the survivor's pension or granted pensions to the family members of the deceased military servants in a smaller amount due to absence of the documents submitted by the territorial recruitment and social support centres, opinions of the military medical commissions on the causal relation of the military servants' death. The respective request was sent to the Pension Fund of Ukraine in order to restore the violated rights of this category of persons.

The senior executives of the Pension Fund of Ukraine fulfilled the Commissioner's requests and sent applicable explanations to the territorial bodies of the PFU.

The Commissioner was approached by citizen V. acting on behalf of her minor child, whose father was the deceased Defender of Ukraine, regarding delays by the territorial recruitment and social support centre in execution and submission of documents for granting and payment of the one-time monetary assistance to the son of the deceased as prescribed by Resolution of the CMU No. 168 of 28.02.2022 "Matters of Certain Payments to Military Servants, Junior and Senior Personnel, Police Officers and Their Families during the Martial Law".

Following the Commissioner's response within the framework of the parliamentary control over observance of constitutional human and civil rights and freedoms, the head of the oblast territorial recruitment and social support centre informed that the Commission of the Ministry of Defence of Ukraine in charge of the issues related to granting and payment of the one-time monetary assistance and compensations had resolved to grant the one-time monetary assistance to the son of the deceased military servant. The funds due for the one-time monetary assistance were transferred to the petitioner's personal account for the benefit of her minor son.

Also, based on the analysis of the petitions received from the military servants of the SBGS and their family members, the Commissioner's representative sent a letter to the MIA of Ukraine to ensure social and legal protection of these categories of persons. The Ministry took the actions to regulate the matter of granting and payment of the one-time monetary assistance in the State Border Guard Service of Ukraine during the martial law *(order of the MIA of Ukraine No. 383 of 22.06.2022).*

Recommendations

The Cabinet of Ministers of Ukraine should:

- amend Resolution of the Cabinet of Ministers of Ukraine No. 257 of 11.03.2022 in order to include the Secretariat of the Ukrainian Parliament Commissioner into the Coordination Headquarters for the Treatment of Prisoners of War in order to ensure adequate operation of the working group responsible for protecting rights of freedoms of the civilians who are illegally detained by the aggressor state;

- adopt draft Resolution of the Cabinet of Ministers of Ukraine "On Designating the Authority Competent to Issue Certificates of the Amount of Monetary Support for Recalculation of Pensions to the Junior and

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Senior Personnel of Tax Police, and Preparing and Submitting Necessary Documents to the Pension Granting Authorities", which is prepared by the Ministry of Finance of Ukraine and submitted to the Government for consideration in accordance with the established procedure.

The Ministry of Defence of Ukraine should:

- prepare and submit to the Cabinet of Ministers of Ukraine for consideration, in accordance with the established procedure, the draft Law on dismissal of the military servants who are illegally conscripted as a part of mobilisation during the martial law and are students at pre-higher and higher education institutions on a full-time basis;

- regulate activities of the military medical commissions, bring the premises where medical examination of military servants, including the ones who return from captivity and have severe injuries, in line with the requirements. Ensure adequate control over medical examination of the persons conscripted during the mobilisation by the military medical commissions.

The Ministry of Health of Ukraine should:

- immediately develop draft Procedures for medical, rehabilitation and psychological aid and submit them for public hearing; consider proposals made by representatives of the civil society and approve the procedure.

The Ministry of Defence of Ukraine, Ministry of Health of Ukraine should, with account of the applicable requirements of the Ministry of Defence of Ukraine for meals for injured (sick) military servants, prepare and duly approve the amendments to Order of the Ministry of Health of Ukraine No. 931 of 29.10.2013, which approves the Procedure for Organising the System of Therapeutic Meals for Patients in Healthcare Institutions, in order to determine individual nutritional standards for inured (sick) military servants released from captivity who undergo treatment or rehabilitation in civil healthcare institutions.

The Ministry of Social Policy of Ukraine should ensure the following:

- resumption of the work by the Interdepartmental Working Group on monetary and pension coverage of military servants;

- full-scale implementation of Resolution of the Cabinet of Ministers of Ukraine No. 144 of 23.02.2022 "On Recalculating Pensions to the Persons Released from the Intelligence Authorities" by submitting the draft Resolution of the Cabinet of Ministers of Ukraine "On Amending Resolution of the CMU No. 144 of 23 February 2022" to the Government for approval;

- immediate development and submission to the Cabinet of Ministers of Ukraine for consideration draft procedures for social and professional adaptation, social services and other types of support under the Law of Ukraine "On Social and Legal Protection of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members".

The Ministry of Internal Affairs of Ukraine should:

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- ensure maintenance of the Unified Register of Persons Missing due to Special Circumstances;

- develop and submit to the Cabinet of Ministers of Ukraine for consideration amendments to the Law of Ukraine "On Social and Legal Protection of Military Servants and Their Family Members" regarding grounds for payment of one-time monetary assistance upon dismissal;

- approve and have duly registered with the Ministry of Justice of Ukraine the draft Order of the MIA "On Certain Matters of Health Resort Treatment and Rest in the National Guard of Ukraine".

The Ministry of Foreign Affairs of Ukraine should:

- ensure that actions are taken to determine the protective power for humanitarian functions as prescribed by the Geneva Conventions of 1949 and I Protocol of 1977, and also determine (explain) the mechanism for Ukraine to perform its consular functions in the territory of the aggressor state in order to keep protecting rights and interests of Ukrainians in Russia, in the first place, regarding their return to Ukraine.

The Ministry of Reintegration of Temporarily Occupied Territories of Ukraine should:

- ensure maintenance of the Unified Register of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and approve the form of an extract from the Unified Register of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine.

1 With due consideration of the security situation and the continued martial law in Ukraine, data on the numbers of the military servants and other representatives of security units who have been killed and injured are restrictive information, so it is not disclosed and will not be published in the Annual Report on the Observance and Protection of Human Rights and Freedoms of Citizens of Ukraine for 2022.

2 Established pursuant to Resolution of the Cabinet of Ministers of Ukraine No. 257 of 11.03.2022.

3 Denys Maliuska: Prisoners of war of the RF are kept in the conditions prescribed by the Geneva Convention in Ukraine as it is a civilised country. Available at: https://minjust.gov.ua/news/ministry/denis-malyuska-viyskovopoloneni-rf-v-ukraini-yak-kraini-tsivilizovaniy-utrimuyutsya-v-umovah-vidpovidno-do-jenevskoi-konventsii

4 OHCHR Report on the human rights situation in Ukraine, 1 February to 31 July 2022. Available at: https://www.ohchr.org/sites/default/files/documents/countries/ua/2022-09-23/ReportUkraine-1Feb-31Jul2022-ua.pdf

5 Joint statement on the mass killing of the Ukrainian prisoners of war on 29 July 2022 in the urban-type settlement of Olenivka in the temporarily occupied territory of Donetsk Oblast. Available at: https://ssu.gov.ua/novyny/spilna-zaiava-shchodo-masovoho-vbyvstva-ukrainskykh-viiskovopolonenykh-29-lypnia-2022-roku-u-smt-olenivka-na-tymchasovo-okupovanii-terytorii-donetskoi-oblasti

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6 Statement of the MDI of the Ministry of Defence of Ukraine on individual facts of the killing of the Ukrainian prisoners of war. Available at: https://gur.gov.ua/content/shchodo-okremykh-faktiv-vbyvstva-ukrainskykh-viiskovopolonenykh.html

7 https://media.un.org/en/asset/k1l/k1lv6pzze6

8 https://www.radiosvoboda.org/a/novyny-pryazovya-mariupol-zakhysnyky-azovstal-sud/32002177.html

9 Request for urgent measures concerning Ukrainian prisoners of war. ECHR 256 (2022). URL: https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7411153-10142112&filename=Request%20for%20urgent%20measures%20concerning%20Ukrainian%20prisoners%20of%20war.pdf

10 Conclusions of the mission of experts established under the Moscow Mechanism, invoked by 45 OSCE participating States following bilateral consultations with Ukraine, No. 132/2022, 12.04.2022, p. 24-25. Available at: https://www.osce.org/files/f/documents/5/2/517815.pdf

11 Female captives. Analysis of testimony by the women released from the Russian captivity. Media Initiative for Human Rights. Available at: https://mipl.org.ua/wp-content/uploads/2022/09/Бранки.-Аналіз-свідчень-жінок-звільнених-з-російського-полону.pdf

12 Independent International Commission of Inquiry on Ukraine - Note by the Secretary-General. URL: https://www.ohchr.org/en/documents/reports/a77533-independent-international-commission-inquiry-ukraine-note-secretary

13 Overview of observance of human rights and rules of international humanitarian law in occupied Crimea for 2022, Crimean Human Rights Group, https://crimeahrg.org/wp-content/uploads/2023/01/2022_bookua_blok.pdf

14 Resolution by the UN General Assembly “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine”. Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/764/92/PDF/N2276492.pdf?OpenElement

15 Dmytro Lubinets meets Tatyana Moskalkova, the Ombudsman of the RF. Available at: https://www.ombudsman.gov.ua/news_details/dmitro-lubinec-zustrivsya-z-ombudsmenom-rf-tetyanoyu-moskalkovoyu

16 Successful release of the Russian captives with the help of active participation of Ukraine’s international partners, — Head of the Office of the President. Available at: https://www.president.gov.ua/news/uspihu-operaciyi-zi-zvilnennya-lyudej-iz-rosijskogo-polonu-s-77945

17 Briefing by Deputy Director of the Information and Press Department of the MFA of Russia I. I. Nechaev, Moscow, 11 August 2022. Available at: https://www.mid.ru/ru/foreign_policy/news/1825841/#17

18 Order of the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine No. 95 of 18.05.2022 “On Approving the List of Items to Cover the Principal (Basic) Needs of the Released”

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19 Regulation on the Unified Register of Persons Missing due to Special Circumstances approved by Order of the MIA of Ukraine No. 53 of 29.08.2022

20 101 female military servants have died, and 50 have gone missing since the beginning of the war, — Reznikov. Available at: https://www.ukrinform.ua/rubric-ato/3623578-iz-pocatku-vijni-zaginula-101-zinkavijskova-50-znikli-bezvisti-reznikov.html

21 Law of Ukraine "On Amending Article 10^{-1} of the Law of Ukraine 'On Social and Legal Protection of Military Servants and Their Family Members' as regards Equal Child Care Opportunities of Military Mothers and Fathers during the Special Period"

22 Resolution of the Cabinet of Ministers of Ukraine No. 168 of 28.02.2022 "Matters of Certain Payments to Military Servants, Junior and Senior Personnel, Police Officers and Their Families during the Martial Law"

23 The term "Defenders" is used in accordance with Article 1-1 of the Law of Ukraine "On War Veterans and Guarantees of Their Social Protection", families of the killed (deceased) war veterans, family members of the killed (deceased) Defenders of Ukraine.

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