

THEMATIC REPORT

**Protection of Civilians and their Freedom of Movement
in the Donetsk and Luhansk Regions**

6 May 2015

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1. Summary

The continuation of fighting between the Ukrainian Armed Forces (UAF) and armed groups in the East, particularly the so-called “Donetsk People’s Republic” (“DPR”) and “Luhansk People’s Republic” (“LPR”), represents a direct threat to the civilian population in the Luhansk and Donetsk regions (collectively “the Donbas”). In this context, and with the objective to address security threats related to the crisis, Ukrainian authorities adopted, *inter alia*, a series of measures intended to regulate travel into and out of the Anti-Terrorist Operation (ATO) zone in the Donbas. In particular, as a means to protect national security and public order, the Government introduced a Temporary Order requiring that all individuals, vehicles and cargo travelling into and out the conflict area within the Donbas must hold a special permit. Within the framework of its mandate, the Special Monitoring Mission to Ukraine (SMM) regularly monitored the implementation and the impact of this regulation from January to April 2015.

Although the SMM’s findings do not allow for a fully comprehensive assessment of the situation, and whilst appreciating the myriad of challenges that the Ukrainian authorities are dealing with, monitoring activities have nevertheless established that the permit system has severely limited the capacity of individuals to leave conflict-affected areas or to access safe areas and life-saving assistance, including humanitarian aid. Many features of the permit system, including complicated and cumbersome application requirements, difficulties in obtaining necessary documentation in conflict areas where state administrations and services are no longer present, inconsistent application, and impossibility of travelling to permit issuing authorities have significantly impaired the ability of civilians to leave the Donbas. These limitations have further prevented essential aid and services to be provided to those communities most in need.

Moreover, the SMM observed that restrictions on freedom of movement and the related impact of such regulations raise serious concerns for the protection of civilians. Designated locations where applications can be submitted are situated within areas of active hostilities that can only be reached through roads susceptible to shelling and crossfire. Long waiting times to submit applications at checkpoints in unsecured areas are regularly observed. Problems with the permit system leave civilians who wish to rapidly vacate conflict-affected areas with no other alternative than to embark on long detours that further expose them to increased safety risks in an unstable environment. In addition, the SMM observed that these restrictions of movement have hampered the ability of aid providers and civil society volunteer organisations to carry out evacuations of civilians from non-government controlled areas. As a result, the safety and security of the civilian population, including the elderly and persons with disabilities, have been severely impacted.

The Thematic Report is based on numerous interviews and monitoring activities conducted by the SMM during the relevant period. Interlocutors included, *inter alia*: local government officials including officials responsible for issuing and distributing permits; civil society representatives; civilians of different villages who were unable or faced difficulties to obtain a permit; and representatives of (partner) international organizations.

2. Introduction

2.1 Temporary Order on control of movement

On 11 January 2015, the Security Service of Ukraine (SBU) announced the introduction of the *Temporary Order on Control of the Movement of People, Transport Vehicles and Cargo along the Contact Line in Donetsk and Luhansk regions* (“Temporary Order”) which regulates movement into and out of the ATO zone and came into effect on 21 January 2015.¹ The Temporary Order requires all movement into and out of the ATO zone to be conducted through seven designated government controlled checkpoints located along seven main corridors.²

The Temporary Order further requires that all persons and transport vehicles entering or leaving the ATO zone possess a special government-issued permit. Permits should be issued within the established deadline of 10 days after the application has been received. Thereafter, the permit can be collected at the closest checkpoint to the contact line or district police station within government controlled territory, namely in Debaltseve/Artemivsk³, Starobilisk, Velyka Novosilka and Mariupol. Single or multiple entry permits may be issued and an application must specify the precise itinerary and period of time to be covered by the permit. Permit applications must contain detailed personal information including, but not limited to, a valid passport and documents justifying the necessity of travel.⁴

In order to process applications and issue permits, the Temporary Order established two new coordination structures: Coordination Groups and Coordination Centres. The Coordination Groups have been created within the administrative divisions of the Ministry of Interior in the four police districts where applications can be submitted whereas the Coordination Centres have been created within the ATO headquarters. As the Temporary Order has been approved by the ATO Operational Headquarters, which is a joint entity involving various structures, such as the Security Service of Ukraine, the Armed Forces of Ukraine, the Ministry of Internal Affairs of Ukraine, the National Guard of Ukraine, the State Border Guard Services of Ukraine and the State Fiscal Service of Ukraine, Coordination Groups are also composed of representatives of these different Government ministries and agencies. These institutions exercise separate controls in line with their respective competences.

While the Temporary Order allows for permits to be issued for personal reasons, such as a death of a relative, it does not include an option for leaving due to security reasons.⁵ Permits may be denied when a person is found to represent a threat to national security. However, there are no established criteria in the Temporary Order to assess such threats. No

¹ See <http://www.pravda.com.ua/news/2015/01/12/7054688/>.

² The checkpoints are located along the following corridors: 1) Luhansk – Shastia – Novoaidar; 2) Luhansk – Stanytsia Luhanska – Shyrokyy; 3) Fashivka – Debaltseve – Artemivsk; 4) Horlivka – Artemivsk; 5) Donetsk – Kurahove; 6) Donetsk – Mariupol (through Volnovakha); 7) Novoazovsk – Krasnoarmiisk – Talakivka – Mariupol.

³ The Coordination Group was moved from Debaltseve to Artemivsk during February 2015.

⁴ Documents may include a death certificate, ownership of real estate, proof of residence, or proof of a relatives’ illness.

⁵ The Temporary Order provides that permits may be issued in the following cases: to allow visits of close relatives or family members, including for reasons related to a death in the family; to access a place of burial or personal property; and to safeguard national interests of Ukraine or for humanitarian purposes, for international organisations to carry out their diplomatic or consular functions.

concrete administrative or legal procedure has been established affording a reasonable opportunity to appeal against the refusal to issue a permit.⁶

2.2 Applicable Law

The Government has the right to control movement on its sovereign territory to protect national security and public order. According to customary international law all sides to a conflict are requested to take steps to ensure the safety and the protection of civilians in the areas of hostilities. This includes the possibility for civilians to voluntarily and rapidly leave areas affected by violence in order to protect their lives as well as to access basic humanitarian assistance. Regulations should reflect this requirement and include provisions to protect the right of civilians to vacate areas where the intensity of fighting endangers their lives. Moreover, the right to life, liberty of movement and freedom to choose one's residence and to leave any country, including one's own, is protected by national legislation and international human rights law.⁷ Finally, Article 33 of the Constitution of Ukraine establishes that restrictions on freedom of movement may only be established by law. The SMM observes that the Temporary Order has not been registered with the Ministry of Justice of Ukraine and the exact status and nature of the order remains unclear.⁸

3. SMM Findings on the implementation of the Temporary Order and restrictions on freedom of movement

The SMM has observed three mutually reinforcing challenges related to the implementation of the Temporary Order, and in particular the permit system, which have resulted in significant restrictions on the freedom of movement of civilians in conflict-affected areas of the Donbas.

3.1 Shortcomings in the implementation of the permit system

Monitoring activities conducted by the SMM have found that the Temporary Order, and the permit system established through this order, have been inconsistently implemented which has led to restrictions on freedom of movement and general confusion over sanctioned travel across the contact line. In particular, the SMM has observed that local authorities implementing the permit system might grant passage whether or not a permit is provided or, in alternative, block passage even if the person bears a permit. For instance, on 21 January 2015, at the last checkpoint south of Hirske just before the contact line, UAF prevented civilian cars and trucks from crossing as they did not have a permit while on the same day, the SMM observed that the checkpoints between Artemivsk and Horlivka, as well as

⁶ Refusal to issue a permit can be challenged to the senior manager of the Coordination Centre of Coordination Group; or alternatively a court, whereas refusal to enter/leave the ATO zone to a court only. However, the possibility of appealing is often impracticable as individuals are unable to access government controlled courts.

⁷ International Covenant on Civil and Political Rights (ICCPR), 999 U.N.T.S. 171, Article 6 and 12 (ratified by the Ukrainian Soviet Socialist Republic in November 1973); European Convention on Human Rights (ECHR),(ETS 5; 213 U.N.T.S. 221, Art. 2 (ratified by Ukraine in September 1997) and Art. 2 of the Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms securing certain rights freedoms other than those already included in the Convention and in the First Protocol thereto.

⁸ Despite the fact that several websites provide online access to the Temporary Order, as of 15 April 2015 the full text has not been officially promulgated.

Krasnoarmiisk and Donetsk city, allowed people to pass without permits. After a refusal to allow passage, on 27 January 2015, the Commander of a government controlled checkpoint located between Lysychansk and Myrna Dolyna informed the SMM that the new regulation had not yet been implemented at his location. On 26 February 2015, while civilians who were not holding permits attempted to cross to and from territory not controlled by the Government in Kondrashivka area, the SMM was informed that access had been denied, including for the purpose of going to markets and shops. In some cases, UAF allowed passage only by foot. As a consequence, the amount of supplies to be physically transported was limited. In the same region, on 12 March 2015, the SMM observed that UAF staffing the Stanytsia Luhanska checkpoint allowed passage to one family (composed of a woman, a man and three children) although they did not have a permit.

The SMM also witnessed instances in which valid permit holders were denied passage without any justification. For example, on 20 February 2015, local residents with valid travel permits were prevented by UAF from passing through Novoaidar towards Luhansk city, via the Stanytsia Luhanska Bridge. No explanation for the refusal was provided.⁹ The SMM has also been informed that persons without permits have been turned away at checkpoints, but after waiting a short period and returning, they were granted passage through the checkpoint. For instance, on 1 March 2015, at a designated checkpoint in the Luhansk region, UAF stated they were ordered to deny passage in either direction of the checkpoint. Similarly, at a checkpoint in Vynohradne village, UAF refused passage to residents of Kominternove municipality¹⁰, located between government controlled and “DPR”-controlled areas, based on instructions that villagers from this area were not allowed to pass through this specific checkpoint despite the fact that there was no other safe route to leave the village.¹¹ Exceptions were made by UAF only for relatives or parents of people with specific medical needs (e.g. chronically sick patients in need of insulin).

SMM monitoring teams have also experienced freedom of movement issues related to special permits.¹² For instance, on 21 January 2015, an SMM patrol exiting Luhansk city was asked to show a special permit to pass through Krasna Talivka. In addition, on 15 February 2015, the right of an SMM language assistant to cross the contact line without a special permit was questioned near Volnovakha. On both occasions, the teams were eventually authorized to proceed.¹³

⁹ On 4 April 2015, the SMM was informed at checkpoint 12, north of Mariupol, by an interlocutor that he attempted for the third time to obtain a travel permit, as the first two attempts were rejected without explanation. Another interlocutor informed the SMM that while he and his son were able to obtain a travel permit, his wife was refused without explanation.

¹⁰ It is listed in the Cabinet of Ministry Resolution 1085 “On approving the list of municipalities on the territories of which the Ukrainian authorities temporarily do not carry out their duties or undertake their duties not in full extent” of 7 November 2014.

¹¹ See section 4.2 Isolated communities in this report.

¹² The SMM’s access and freedom of movement has been challenged continuously during the reporting period, including by “DPR” and “LPR”. See SMM daily reports of 5 March 2015 onwards.

¹³ The Temporary Order also applies to foreigners and stateless individuals who faced similar restrictions on freedom of movement. For instance, on 5 February 2015, the SMM was informed by the Embassy of the Socialist Republic of Vietnam in Ukraine that around 150 persons were recently displaced to other government controlled territories, while about 250 persons still living in the Donbas were reportedly unable to cross Ukrainian checkpoints as they did not have the proper permit.

3.2 Lack of information

SMM's interlocutors have also highlighted difficulties in accessing information on the relevant procedure to travel across the contact line, including people living in conflict-affected areas. Hotlines providing information on the procedure are often non-functioning or impossible to reach.¹⁴ Persons seeking permits are also unable to reach ATO Coordination Groups by phone, as the lines are often busy, non-operational or there is simply no response. For instance, at the end of February 2015 a female resident of a government controlled village in the Luhansk region requested SMM's assistance to obtain a permit to travel to Donetsk city in order to visit her 80 year-old mother in urgent need of food and medication. The Coordination Group in Donetsk region was allegedly impossible to reach via telephone and electronic mail which prevented individuals from gaining access to information on the application procedure. It also prevented those waiting for the issuance of a permit from acquiring information about their application unless they travelled to a centre in person.

In addition, service for two of the three mobile phone providers is intermittent ("Kyivstar" and "MTS") while the third operator ("Life"), which provides more stable coverage, is less available in some regions (e.g. Kharkiv), resulting in further difficulties in obtaining information about the permit system. Information about the application procedure and requirements are available online but it is not accessible for persons without internet access, as is often the case for persons in conflict areas. Inhabitants of some villages without internet access also must rely on the heads of the village councils for such information. Even when people are able to access available information some requirements remain unknown. For instance, the copies of the documents to be submitted with the application must contain the handwritten phrase "certified as true copy" and be signed, but none of the official sources specify this requirement.

3.3 Local capacity constraints and payments

Despite the fact that senior government officials of Ukraine, including President Poroshenko,¹⁵ have publicly expressed the need to simplify the permit system to ensure efficiency, and although some local municipalities took some measures to facilitate the processing of applications,¹⁶ the permit application process remains extremely problematic.

The SMM has observed that civilians who wish to leave conflict-affected areas may wait up to 45-50 days before being able to obtain a permit. In this regard, during monitoring activities, the SMM found that a significant backlog had developed in the processing and issuance of permits with a very limited capacity to process them in a short time frame,

¹⁴ SMM confirmed these reports through direct attempts to contact hotlines.

¹⁵ As reported by *Unian* on 4 March 2015, President Poroshenko stated that project "Cyber Ukraine" shall be used, *inter alia*, for simplifying the procedure for civilians to cross the contact line in the Donbas region. Poroshenko further expressed his disappointment that the passes are paper based and approximately 70 per cent are counterfeit. Moreover, he noted that it takes up to a month and a half to obtain a permit and individuals often need to travel numerous times to collect the pass. Poroshenko has raised the issue with the National Security and Defence Council and is advocating for documents to be issued in a simpler fashion and with more modern, electronic technology. The President also mentioned that law enforcement officers shall carry out screenings of individuals who apply for a pass to determine those who have been affiliated with illegal activities. See <http://www.unian.ua/politics/1051796-poroshenko-proponue-sprostiti-propusk-v-zonu-ato.html>.

¹⁶ For instance, additional offices were opened in Volnovaha (the office in Volovakha was closed in early March, SMM confirmed this with local authorities and observed the office closed) and Ordzonikidze and lists were introduced to invite individuals on predetermined days with a maximum number of persons seen each day.

particularly during the first two weeks of implementation of the Temporary Order. For example, according to an official of Starobilsk, the number of applicants more than doubled, passing from 2,000 on 21 January 2015 to 4,100 on 5 February 2015.¹⁷ However, only 156 and 1,700 permits respectively were issued. On 15 February 2015, approximately 10,000 people were waiting for their permit.¹⁸ Similar situations have been experienced at the checkpoint in Stanytsia Luhanska. On 5 February 2015, officials informed the SMM that out of 400 applications received, 300 were still being processed and 100 had been returned to applicants for further documentation.¹⁹ In Donetsk region, on 22 April 2015 a police officer of Velyka Novosilka indicated to SMM that since the implementation of this regulation, the Coordination Group received more than 90,000 applications of which, around 50,000 permits were issued.

The SMM noted that the difficulty to process all requests in a timely fashion and therefore to allow civilians affected by the conflict to move to government controlled areas has been reflected in the statistics of registered Internally Displaced Persons (IDPs). In particular, when SMM monitored a significant increase in shelling and other violent attacks on civilian areas throughout the Donbas in January and early February, in both government controlled and non-government controlled areas,²⁰ the flow of IDPs from Eastern Ukraine has significantly increased during the month of January 2015 reaching 942,745 registered IDPs on 30 January (from 633,523 on 8 January 2015).²¹ Only from 14 to 21 January 2015, 47,878 new IDPs were registered.²² The following week (since the enforcement of the Temporary Order) however, from 22 to 26 January 2015, newly registered IDPs totalled 21,108 constituting a decrease of over 50% from the prior week.²³ Similar indicators were given by an official in Sloviansk, who told the SMM that the number of IDP registrations had dropped since 21 January 2015, from as many as 800 a day in December 2014 to below 100 a day during the last week of January 2015.²⁴

While there are significant backlogs in the processing of permits, according to SMM's official interlocutors in the Donbas, the number of denied requests to obtain a permit have

¹⁷ On 27 March 2015, 4,900 permits were pending out of 17,900 applications while 509 have been refused. In the Donetsk region, on 22 February, officials of the Coordination Center informed SMM that they are able to process an average of 600-700 applications per day out of an average of 1,000 daily received applications, noting that it takes about 17 days to deliver a permit instead of the stipulated 10 days.

¹⁸ By 21 February 2015, the total applications for individual permits received reached 6,654 (4,717 approved) with 1,522 vehicle permits received, of which 1,203 were approved and the remaining 300 rejected.

¹⁹ On 27 March 2015, an official of Starobilsk informed SMM that the permit applications cannot longer be submitted to the Stanytsia Luhanska checkpoint, but only to Starobilsk. No further explanation has been provided in this regard.

²⁰ The OSCE Special Monitoring Mission reported on numerous incidents concerning the use of heavy weapons and shelling incidents in densely populated areas during this period, including in Kramatorsk, Volnovakha, Donetsk city, Mariupol and Luhansk city. See OSCE SMM spot reports: 10 February 2015 at <http://www.osce.org/ukraine-smm/139836>; 14 January 2015 at <http://www.osce.org/ukraine-smm/134636>; 22 January 2015 at <http://www.osce.org/ukraine-smm/135786>; 31 January 2015 at <http://www.osce.org/ukraine-smm/138326>; 6 February 2015 at <http://www.osce.org/ukraine-smm/139406>; 24 January 2015 at <http://www.osce.org/ukraine-smm/136061>; 3 February 2015 at <http://www.osce.org/ukraine-smm/138906>.

²¹ According to the Ministry of Social Policy statistics, the number of IDPs fleeing from the East reached 633,523 as of 8 January 2015 and 1,131,700 as of 11 March 2015.

²² See OCHA Situation Report No 24 as of 23 January at <http://reliefweb.int/sites/reliefweb.int/files/resources/Ukraine%20Situation%20Report%20-%20final.pdf>

²³ See OCHA Situation report No 25 as of 30 January 2015 at <http://www.humanitarianresponse.info/system/files/documents/files/Ukraine%20Sitrep%2025%20-%20Final.pdf>

²⁴ In Kharkiv region, the Labour and Social Protection Department in Balakliiskiyi, Barvinkivskiyi, Izyumskiyi and Kievskiyi believe that the Temporary Order contributed to a decrease of incoming IDPs.

been limited. According to these interlocutors, the rejection of applications is normally due to procedural problems such as an inconsistency between the application and supporting documents. When an application is not approved, it is generally returned for complementary information such as personal identification documents, vehicle registration documents, etc. On the basis of SMM's findings, there are almost no cases of applications for single entry, except for urgent needs such as attending a funeral or visiting a relative. Permits are mainly issued for multi-entry use.

As a result of these delays, the SMM has also been frequently approached by several civilians in the Donbas voicing their grievances about the application procedure which is perceived as slow and highly bureaucratic. SMM received frequent allegations of bribes ranging from 200 to 1,000 UAH at checkpoints to allow access without the permit. At the beginning of March 2015, SMM received allegations of sales of permits in the Donetsk region costing between 500 and 800 UAH.²⁵ The SMM has not been able to independently corroborate these claims, although the allegations seem credible.

While recent attempts to introduce an electronic permit system are being implemented in eastern Ukraine²⁶, interlocutors have reported to the SMM that the application process remains inefficient and challenging and, in many instances, the electronic system simply does not work for many civilians in conflict-affected areas due to external, uncontrollable circumstances. For example, on 3 April 2015, the SMM was informed by individuals at a checkpoint close to Mariupol that they did not note any speed up in the procedure despite the recent implementation of the electronic system. This was reaffirmed by interlocutors in Volnovakha, near Mariupol, on 15 April 2015. Moreover, the SMM has observed that civilians who are most at risk often face situations of power outage, rendering an electronic system inappropriate to provide viable solutions to people in need, including elderly and persons with disabilities. The limited access to power was also confirmed on 22 April 2014 by local authorities in charge of the registration procedure for permit applications in Velyka Novosilka where permits are issued manually due to the lack of internet connection since the introduction of the Temporary Order.

4. Specific challenges for the civilian population

The SMM observed that restrictions on freedom of movement which result in civilians being delayed or in some cases trapped in conflict-affected areas represent serious concerns for the protection of civilians. The restrictions on freedom of movement outlined in this report not only impact the daily life of individuals, but subject them to the inherent dangers represented by ongoing hostilities in the region.

4.1 Increased exposure to ongoing hostilities

The SMM has repeatedly observed that checkpoints and Coordination Centres where applications can be submitted are located within areas of active hostilities and can only be

²⁵ On 10 March 2015, SBU reported that the overall number of counterfeit permits in the ATO zone had increased with counterfeit permits offered for 1,600 UAH. It is also said that too many civilians are easily deceived. See <http://www.unian.ua/society/1053835-sbu-fiksue-zrostannya-kilkosti-pidroblenih-perepustok-v-okremi-rayoni-zoni-ato.html>

²⁶ The SBU launched the e-system in test mode on 20 March 2015 and its official launching has been announced before Eastern holidays. See <http://www.unian.ua/society/1065115-v-sbu-obitsyayut-zapustiti-elektronnu-sistemu-perepustok-v-zoni-ato-do-svyat.html>

reached through roads prone to shelling and crossfire, such as the route exiting from Horlivka or those leading to Velyka Novosilka from Mariupol and from Donetsk. Road conditions are often poor leading to lengthy travel times to reach these locations. The security situation on these roads is also tense, despite the ongoing implementation of the ceasefire. In order to mitigate security threats such as shelling, civil society organisations that help evacuate civilians use smaller means of transport, rather than minivans and buses, in order to decrease the likelihood of the vehicle being struck by a shell or other projectile. From the week preceding the enforcement of the Temporary Order through mid-February and the beginning of the implementation of the ceasefire, the SMM reported numerous shelling incidents, including in three locations defining (according to the Temporary Order) one of the designated corridors for movement within the ATO zone, namely in Volnovakha, Donetsk city and Mariupol.

In addition to the risks of travelling within the conflict area, in general, waiting times at checkpoints to submit applications and receive permits are excessive in areas subject to possible shelling and crossfire.²⁷ For example, on 23 January 2015, the Fashchivka checkpoint was shelled which resulted in several casualties. On numerous occasions, the SMM observed civilians queuing on checkpoints for many hours.²⁸ On 6 March 2015, the SMM observed approximately 100 applicants (coming from Horlivka and Debaltseve) queuing at the Artemivsk Coordination Centre.²⁹ A similar episode was noted at the Mariinka checkpoint on 8 March 2015. There are reports of separate multiple day queues to submit applications and pick up permits.³⁰ Therefore, persons seeking to travel in or out of the ATO zone have to leave after submitting their application. Then, several days later, these persons have to travel back and forth through areas subject to ongoing hostilities without knowing if and when their permits are going to be issued. According to different statements, civilians wishing to cross the checkpoint in Hnutove waited four or five hours, even when holding the permit.

4.2 Isolated communities

The SMM has also reported instances in which the shortcomings of the permit system have led, in part, to isolated and trapped communities. In some cases, persons who do not have travel permits or who have lost or lack the necessary personal documentation are prevented

²⁷ See OCHA situation report No. 25 of 30 January 2015 at <http://www.humanitarianresponse.info/system/files/documents/files/Ukraine%20Sitrep%2025%20-%20Final.pdf>.

²⁸ On 2-3 April 2015, the SMM observed that the waiting time at visited checkpoints in Mariupol region are around 15 minutes per vehicle, with lines at times reaching more than 60 vehicles.

²⁹ In practice, the SMM observed that in the Luhansk region applications are submitted to the Coordination Groups and checkpoints while the Coordination Centre of Starobilsk is issuing permits. On 16 March 2015, personnel staffing Stanytsia Luhanska and Makarove checkpoints explained to SMM that they take the applications to Starobilsk once a week, where the permit is issued, and they bring back permits to checkpoints for distribution. Similar information was given on 19 March by official interlocutors of Lysychansk checkpoint, who stated that approximately 80-100 applications are submitted on a daily basis and sent afterwards to Starobilsk for approval.

³⁰ According to civil society representatives, on 12 February 2015, there were approximately 250 – 300 civilians waiting at the Artemivsk Coordination Centre. A woman interviewed by a local organisation had applied for a permit two weeks before and was now back to collect her permit, only to find out that she was provided with the waiting number 814. She expected to queue several days in order to get the permit. Other civil society organisations reported at a checkpoint a 1.5 km long queue of civilians on 16 January 2015. At the Kordyumivka checkpoint, on 12 February 2015, it was reported that there were between 100 and 150 civilians queuing.

from passing in to and out of the ATO zone. In some villages, residents who were required to obtain special permits to cross checkpoints were unable to do so as the head of the local administration had left the village and, as a result, no required documents to submit the permit application to cross the relevant lines could be issued. Roads to checkpoints that issue passing permits may also be mined or otherwise are inaccessible.

An emblematic example is Kominternove municipality, located in an area not controlled by the Government or by “DPR” at 22 km east-northeast of Mariupol and 88km south of Donetsk city. On 31 January 2015, the SMM observed the overall humanitarian situation to be dire and deteriorating rapidly. Due to heavy shelling over the previous weeks the village experienced power cuts and a lack of gas supply. There were also no medical facilities, no sources of potable water and a serious shortage of basic food supplies. The situation has been aggravated by the lack of concrete possibilities to access safe areas and life-saving assistance because of the Temporary Order system. The authorized checkpoint for residents of Kominternove is located in Hnutove, approximately three hours from Mariupol. Access restrictions, including a “DPR” checkpoint which until recently was also closed to Kominternove villagers, made it exceedingly difficult to reach and cross the designated checkpoint in Hnutove. The required route added several hours of additional traveling through unsafe areas to and from Mariupol. Additionally, the closure of a nearby checkpoint in Vynohradne for traffic to and from Mariupol has created shortages of basic household items and medicines in the village. Civilians could submit the permit application either at Hnutove checkpoint or in the village of Sartana including to two additional locations that have been opened in Mariupol, but these places cannot be reached by the inhabitants of Kominternove. The presence of anti-tank mines on the road represents one of the obstacles.³¹ This impacted on the economic security and coping mechanisms as most residents of Kominternove municipality are being employed in Mariupol and were at risk of losing their livelihoods. No pensions or salaries have been paid in months.

Similarly, the SMM was informed on 3 April 2015 by inhabitants of Pavlopil, 25 km north of Mariupol, which is neither government controlled nor “DPR”-controlled, that due to the discontinuation of bus services to the village, villagers would need to hire private vehicles to approach checkpoints and apply for permits and thereafter organize their onward travel, which inhabitants are unable to afford. Residents of “LPR”-controlled territories working in government controlled areas have also experienced difficulties in accessing their place of employment following a February 2015 decision to not authorize passage for commuters in Starobilsk, even if holding a permit.³²

4.3 Travel through the Russian Federation

Due to the lengthy process and security concerns coupled with public transport limitations from non-government controlled areas³³, the SMM has observed that people often decide to

³¹ On 26 February 2015, the SMM observed numerous unexploded ordnances (UXOs) within Kominternove and Pavlopil village. The SMM has been aware for months of the existence of UXOs at this location, and has succeeded in facilitating a local cease-fire enabling de-mining exercises. See OSCE SMM Spot report of 9 March 2015 at <http://www.osce.org/ukraine-smm/144146>.

³² SMM official interlocutors confirmed during the last week of February 2015 that the crossing point in Stanytsia Luhanska has been closed for commuters even if they are in possession of all the documents associated with the Temporary Order. No further explanation has been shared.

³³ On 6 January 2015, the Ministry of Infrastructure of Ukraine announced the suspension of passenger road public transport to areas where the ATO is being conducted, in view of a “threat to the life and health of passengers”. This decision followed a similar measure adopted on 26 December 2014 by the same Ministry,

transit through the Russian Federation to reach government controlled areas within Ukraine.³⁴ This is perceived as a longer but safer option. However, it also represents an additional burden for persons seeking to move out or go back to the conflict zone, including the high costs of using private bus companies.

Most people forced to travel through the Russian Federation are women, children and elderly in possession of personal identification or travel documents.³⁵ This form of travel, as well as travel through the contact line to attain a permit, is not viable for many including: those lacking the required documents, such as a passport; for individuals who lack civil registration (including for many Roma); for individuals who have lost their documents while escaping from the hostilities; and for persons who are unable to recover their documents as they live in non-government controlled areas.³⁶ In addition, this travel option is not feasible for persons with disabilities who require special transport and assistance, including those who are home or institution-bound or unable to move independently, making it extremely difficult to reach locations in which they could apply for a permit.

SMM's interlocutors who have travelled to government controlled territories have reported mixed experiences at border crossings points including some complaints of abusive behaviour.³⁷ For instance, on the basis that their exit was not registered when they first left Ukraine and entered the Russian Federation, officials have allegedly removed these persons from their transport, subjected them to long hours outdoors in cold temperatures, and subsequently issued a misdemeanour notification and fine of 1,400 – 1,800 UAH. A group of women also complained that they had to endure a 15-hour interrogation and were called names, which they have perceived as harassing. Border guards were reportedly particularly aggressive at the Vovchansk crossing point, which was later closed.³⁸

resulting in the suspension of ticket sales for public road transport on routes connecting mainland Ukraine to the Autonomous Republic of Crimea.

³⁴ From 29 January to 18 February 2015, people crossing the border to the Russia Federation expressed their feelings of unsafety in leaving their houses and the need to protect children during military activities. *See* reports of OSCE Observer Mission at the Russian checkpoints of Gukovo and Donetsk of: 4 February 2015, at <http://www.osce.org/om/139066>, and 19 February 2015, <http://www.osce.org/om/141856>.

³⁵ The Report of Chief Observer Paul Picard to the OSCE Permanent Council for the period 1 October 2014 to 17 February 2015 informed that families, including elderly people, represent the second largest group observed. Elderly people have also been observed crossing with the help of family members. Almost none of them have the desire to leave their homes but most of them are convinced by their family members to leave the Donbas area for a period of time.

³⁶ On 5 February 2015, the Border Guard Unit in Chuhunivka (north-east of Kharkiv) informed the SMM that based on new rules received on 28 January 2015 a special procedure had to be applied to persons coming from the non-government controlled territory in Ukraine. Their border crossing to Russia was considered illegal due to the lack of a custom or border control. Against this administrative misdemeanour the border guard unit was obliged to refer all cases to courts. The minimum administrative sanction was 1,500 UAH but they were confident that it would not be applied to citizens in distress (IDPs). A database of persons leaving the uncontrolled area through the uncontrolled border points was being kept and compared with the SBU database in order to detect persons actively supporting the "DPR" and "LPR". Citizens without proper documents (including international passports) were rejected. The average duration of the border crossing procedure has been delayed from 20 minutes to 3 hours.

³⁷ Also while travelling within Ukraine some civilians reported verbal aggression from Ukrainian soldiers at checkpoints who addressed them as "separatists".

³⁸ On 18 February 2015, the Cabinet of Ministers passed Order No. 106-p "On Closure Check Points through State Border" temporarily suspending the operation of 23 checkpoints located at the Ukrainian-Russian border in the Luhansk, Donetsk, Sumy and Kharkiv regions. In total, 39 operational checkpoints within the Ukrainian-Russian border (3 in Chernihiv region, 14 in Sumy region, 15 in Kharkiv region, 6 in Luhansk region, and 1 in Kyiv region) are currently closed. *See* <http://www.kmu.gov.ua/control/uk/cardnpd>. Two weeks before this decision, on 30 January 2015, the Cabinet of Ministers adopted Resolution No. 38 on "Certain Issues of

4.4 Assisted evacuations

Many persons remaining in areas controlled by armed groups lack the capacity, resources or support to leave such areas independently. Evacuations organized by the Ukrainian authorities and volunteer organizations represent their only chance to voluntarily depart from conflict-affected areas. As of 10 March 2015, the Government had evacuated more than 11,000 civilians³⁹ (including over 2,240 children and almost 350 persons with disabilities) from the Donetsk and Luhansk regions.⁴⁰ Nevertheless, evacuations from non-government controlled areas are essentially carried out by civil society volunteer organizations, including for persons with disabilities.⁴¹ Every day the joint hotline set up by the Kharkiv Internal Displacement Persons support initiative (including *Station Kharkiv*, *Vostok SOS* and *INVA SOS Vostok*) receives an average of 100 requests for evacuation assistance. Seven of these requests come from persons with disabilities. Since June 2014, *INVA SOS Vostok* has evacuated 700 civilians, mostly persons with disabilities.

The SMM observed that the Temporary Order is applied differently in this framework. While the state-supported evacuations do not require permits, civil society organizations need to obtain a permit to assist conflict-affected populations. For instance, following an agreed temporary ceasefire on 6 February 2015, the State Emergency Service, (SES) in co-operation with several volunteer organizations, was able to organize the evacuation of hundreds of civilians in and around the Debaltseve area, with a simplified procedure that did not require permits. However, since the entry into force of the Temporary Order, the number of civilians evacuated by volunteer organizations has considerably decreased, as only a few organizations have obtained the permit. Currently, they are no longer able to distribute humanitarian aid and can only carry out *ad hoc* evacuations of a limited number of persons when allowed or requested by the SES or ATO authorities. At the time of reporting *INVA SOS Vostok* was the only volunteer group which had obtained a multi-entry ATO travel permit in the Kharkiv region; while another volunteer group was informally allowed to conduct selected evacuations. Every four to five days they can evacuate a maximum of 40 persons including wounded or vulnerable mothers, their children up to the age of eight, and unaccompanied children from family-type foster communities, although subject to prior notification.⁴² These cumbersome requirements negatively impact the ability of aid providers to conduct emergency evacuations.

4.5 Access to humanitarian assistance

In addition to restricting the ability of aid providers to assist in evacuations, restrictions on freedom of movement also hinder the provision of humanitarian assistance to those most in need.⁴³ The SMM has consistently observed that the situation for civilians trapped in areas

Strengthening of Ukraine's National Security Level". This Resolution stipulates as of 10 February 2015 passage in and out of the ATO zone or the Autonomous Republic of Crimea shall be regulated by Article 22 § 3 of the Law of Ukraine "On State Border of Ukraine".

³⁹ At least 4,500 were evacuated between 2 and 9 February 2015, mainly from the Debaltseve area.

⁴⁰ See UNHCR delivers aid amid worsening conditions in eastern Ukraine at <http://www.unhcr.org/54fecb966.html>.

⁴¹ In the Kharkiv region, a Government representative confirmed that they could assist persons with disabilities only once they have been evacuated.

⁴² Information received by the NGO *Prolisok*.

⁴³ See OCHA, *Situation Report No. 33*, 27 March 2015 at

<http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Ukraine%20Situation%20Report%20number%2033.pdf>

most affected by the conflict remains extremely challenging, with many persons living in basements and without access to drinking water, food, heating, electricity and basic medical supplies. Several civil society organizations operating in conflict-affected areas have experienced challenges in obtaining permits and crossing checkpoints (either government or non-government controlled) when trying to deliver aid to those in need in “DPR”-controlled territory.⁴⁴ The delivery is often denied or delayed with no reasonable explanation.

The SMM observed that travel restrictions have contributed to delays in the delivery of humanitarian aid, including medicines and medical equipment, resulting in a shortage of supplies and limited access to health care for civilians living in non-government controlled areas. On 11 March 2015, the SMM visited Krasnodon where local interlocutors informed the SMM that due to impeded access of humanitarian aid, 17 medical facilities within the district (of reportedly 133,000 inhabitants) faced serious shortages of medicines, with supplies having stopped a month and half earlier.⁴⁵ SMM further observed a lack of oxygen supplies in hospitals. For instance, since 26 February 2015, oxygen supplies coming from Mariupol were not allowed to cross government controlled checkpoints in Volnovakha and Kurahove to travel to “DPR” controlled territories due to complicated fiscal and border regulations. The SMM reacted immediately to the issue and on 27 February 2015 raised the problem with the relevant Joint Centre for Control and Co-ordination (JCCC). Although the Ukrainian representative promised to facilitate the delivery, as of 2 March 2015, no progress had been reported. On 2 and 4 March 2015, the SMM was further informed that the hospital and other medical facilities in Donetsk city have been performing surgeries only for urgent cases because of very limited remaining supply of oxygen. Other planned surgery operations had been cancelled.

Finally, the situation for civilians with special needs in these regions has also continued to deteriorate, including for elderly persons, which is compounded by their inability to travel due to restrictions of movement.⁴⁶ Civilians in need of public services have to travel to government controlled areas, which is often difficult due to the requirements imposed by the Temporary Order, the associated restrictions on freedom of movement and the security constraints due to hostilities. This situation remains particularly concerning in regard to the government decisions in November 2014 to stop providing funding for state services and social benefits payments, including budgets for hospitals, pensions, and social security in areas currently not under Government control.⁴⁷ The so-called “DPR” and “LPR” have not been able to address the gap generated by the cessation of this funding.⁴⁸ Considering all these difficulties, several SMM and OSCE Observer mission at the Russian

⁴⁴ See OCHA, *Situation Report No. 31*, 13 March 2015 at <http://reliefweb.int/sites/reliefweb.int/files/resources/Sitrep%20%2331%20FINAL.pdf>

⁴⁵ Individuals receiving treatment for HIV, tuberculosis and opioid substitution therapy are also facing interruptions of life-saving treatment. See for more information Human Rights Watch, *Civilians struggle to get medical care*, 13 March 2015 at <http://www.hrw.org/news/2015/03/13/ukraine-civilians-struggle-get-medical-care>.

⁴⁶ To illustrate, on 7 March 2015, the SMM visited the local Bilorichenska policlinic, which receives about 100 patients per day. The personnel are not receiving salaries and the institution received the last supply of medicines in July 2014. As a consequence, patients must bring their own medicine to the clinic in order to receive medical care and many patients with chronic diseases are not receiving treatment. Reportedly, several elderly persons suffer from strokes exacerbated by the tense security situation, but they would not receive adequate treatment resulting in premature deaths.

⁴⁷ See OSCE SMM thematic report “Findings on Formerly State-Financed Institutions in the Donetsk and Luhansk Regions” of 30 March 2015 at <http://www.osce.org/ukraine-smm/148326?download=true>.

⁴⁸ See Human Rights Watch, *Ukraine civilians struggle to get medical care*, 13 March 2015 at <http://www.hrw.org/news/2015/03/13/ukraine-civilians-struggle-get-medical-care>.

Checkpoints Gukovo and Donetsk interlocutors living in territories not under Government control perceived this provision as a “punishment”.⁴⁹

5. Recommendations

Based on these concerns, the SMM has formulated a series of recommendations in order to address the ongoing harmful effects caused by restrictions on freedom of movement upon the civilian population. Accordingly, the SMM suggests that the Ukrainian authorities:

- review and evaluate the implementation of the permit system and whether its impact on the civilian population is proportionate to the security aims pursued by the Government and to adjust the system accordingly;
- remove any administrative fees and misdemeanour proceedings against civilians, who, for humanitarian reasons, left Ukraine through uncontrolled border points and transited through the Russian Federation in order to reach a place of safety in Ukraine.

The SMM calls on all sides:

- to respect the Minsk Agreements and the 12 February 2015 Package of measures for the Implementation of the Minsk Agreements;
- to ensure that civilians wishing to leave affected areas on the grounds of security are able to do so rapidly and safely with no excessive delays and restrictions that might put them at risk of shelling, crossfire or other forms of attacks, including at checkpoints;
- to ensure free and safe passage for humanitarian aid and evacuation of civilians from conflict-affected areas;
- to exercise maximum restraint, and fully assume the responsibility to protect civilians, including preventing further displacement and suffering, and to redouble their efforts to stabilize and ensure the agreed ceasefire holds;
- to alleviate humanitarian suffering and to allow free, rapid and unimpeded passage of impartial humanitarian assistance and to grant persons engaged in the provision of such assistance rapid and unimpeded access to persons in need;
- to observe their obligations to ensure that protection of civilians is a priority and that the respect for basic, non-derogable human rights and fundamental freedoms is guaranteed to the civilian population, including the most vulnerable.

⁴⁹ See OSCE Observer mission at the Russian checkpoints Gukovo and Donetsk of 19 February 2015 at <http://www.osce.org/om/141856>.