

**Human Rights Council****Fifty-second session**

27 February–4 April 2023

Agenda item 4

**Human rights situations that require the Council's attention****Report of the Independent International Commission of Inquiry on Ukraine\****Summary*

In the present report, submitted pursuant to Human Rights Council resolution 49/1, the Independent International Commission of Inquiry on Ukraine outlines its main findings since the outset of its mandate. The body of evidence collected shows that the authorities of the Russian Federation have committed a wide range of violations of international human rights law and international humanitarian law in many provinces of Ukraine and in the Russian Federation. Many of these violations amount to war crimes and include wilful killings, attacks on civilians, unlawful confinement, torture, rape and the forced transfer and deportation of children.

The Commission concludes that the armed forces of the Russian Federation have carried out attacks with explosive weapons in populated areas with an apparent disregard for civilian harm and suffering. The Commission has documented indiscriminate and disproportionate attacks and a failure to take precautions, in violation of international humanitarian law.

In addition, the Commission finds that the waves of attacks by the armed forces of the Russian Federation, starting on 10 October 2022, on the energy-related infrastructure of Ukraine and the use of torture by the authorities of the Russian Federation may amount to crimes against humanity. It recommends further investigations.

The Commission has documented a small number of violations committed by the Ukrainian armed forces, including likely indiscriminate attacks and two incidents that amount to war crimes.

Lastly, the Commission recommends that all violations and crimes be investigated and that those responsible be held accountable at either the national or the international level. It calls for a comprehensive approach to accountability that includes both criminal responsibility and the victims' right to truth, reparation and non-repetition.

\* The present report was submitted after the deadline so as to include the most recent information.



## I. Introduction

1. In its resolution 49/1 of 4 March 2022, the Human Rights Council established the Independent International Commission of Inquiry to investigate all alleged violations and abuses of human rights and violations of international humanitarian law and related crimes in the context of the aggression against Ukraine by the Russian Federation. On 30 March 2022, the President of the Human Rights Council appointed Jasminka Džumhur (Bosnia and Herzegovina), Pablo de Greiff (Colombia) and Erik Møse (Norway) to serve as independent members of the Commission, with Mr. Møse serving as Chair.

2. On 12 May 2022, the Human Rights Council, in its resolution S-34/1, requested the Commission to conduct an inquiry to address the events in Kyiv, Chernihiv, Kharkiv and Sumy Provinces that had occurred in late February and in March 2022. The corresponding findings are contained in the report submitted by the Commission on 18 October 2022 to the General Assembly.<sup>1</sup> The present report reflects the findings of the Commission since its creation.

3. In line with its independence and impartiality, the Commission has assessed whether the situation in Ukraine is an act of “aggression against Ukraine by the Russian Federation”, as stated by the Human Rights Council in its resolution 49/1. In accordance with the definition of aggression approved by the General Assembly in its resolution 3314 (XXIX), the Commission has found reasonable grounds to conclude that the invasion and attacks by the armed forces of the Russian Federation<sup>2</sup> against the territory and armed forces of Ukraine qualify as acts of aggression against Ukraine.<sup>3</sup>

4. To conduct its investigation, the Commission travelled eight times to Ukraine and visited 56 cities, towns and settlements. It also travelled to Estonia and Georgia to meet people who had fled from areas affected by the armed conflict. The Commission conducted 610 interviews with 595 persons (348 women and 247 men), in person and remotely; inspected sites of destruction, graves, places of detention and torture, and weapon remnants; and consulted documents, photographs, satellite imagery and videos.

5. The Commission is grateful for the access and written responses to its queries provided by Ukrainian officials. It regrets that its attempts to establish meaningful communication with the Russian Federation have been unsuccessful, its notes verbales and letters remaining unanswered. A governmental institution of the Russian Federation referred material to the Commission, which it has examined.

6. In its work, the Commission is guided by the principles of independence, impartiality, objectivity and integrity. It has adopted a victim-centred approach and is committed to the “do no harm” principle. Consistent with the standard of proof followed by most international commissions of inquiry, namely “reasonable grounds to conclude”, the Commission has reached determinations that, on the basis of a body of verified information, an objective and ordinary prudent observer would also reach in concluding that the facts had taken place as described.

7. Owing to the large number of relevant events, security and logistical constraints and challenges relating to the investigation of certain issues, the Commission has concentrated on samples of allegations and on cases that illustrate specific patterns.

8. The Commission expresses its gratitude to all those who shared testimonies and other valuable information, responded to its call for submissions – including 38 teenagers who sent letters – and facilitated its work. It appreciates the assistance provided by Governments, United Nations agencies, other international organizations and non-governmental entities.

---

<sup>1</sup> [A/77/533](#).

<sup>2</sup> For the purposes of the present report, the term “armed forces of the Russian Federation” is used to refer to all combatants who have been identified as such or as directly affiliated with the armed forces of the Russian Federation.

<sup>3</sup> General Assembly resolution 3314 (XXIX), annex, arts. 1–4.

## II. Legal framework

9. Pursuant to resolution 49/1, international human rights law, international humanitarian law and international criminal law constitute the law applicable to the mandate of the Commission.

10. The Russian Federation and Ukraine are party to seven and eight core United Nations international human rights instruments respectively. They are also bound by various international humanitarian law instruments, including the four Geneva Conventions of 12 August 1949. The situation in Ukraine is an international armed conflict, pursuant to common article 2 of the four Conventions.

11. Neither the Russian Federation nor Ukraine is a State party to the Rome Statute of the International Criminal Court. However, the Court has jurisdiction in Ukraine, pursuant to two declarations lodged by Ukraine and referrals by States parties. The Rome Statute, and the Elements of Crimes,<sup>4</sup> provide detailed elements for some of the alleged crimes. Where the Court was found to lack jurisdiction, the Commission has applied the elements of crimes as set out in the Rome Statute, as long as they reflect customary international law.

## III. Background

### A. Political and military context

12. On 24 February 2022, the President of the Russian Federation, Vladimir Putin, announced his decision to conduct a “special military operation” in Ukraine to seek its “demilitarization and denazification”. On the same day, Russian troops crossed various border points into Ukraine, including through Belarus, and launched attacks by land, air and sea.

13. International and regional bodies and States condemned in the strongest terms the invasion and imposed far-reaching economic sanctions.<sup>5</sup> They also expressed serious concern about the risks of spread or escalation of the armed conflict and the unacceptable nuclear rhetoric used by Russian officials.<sup>6</sup> Condemnation of Belarus, which allowed the Russian Federation to use its territory and infrastructure to conduct hostilities in Ukraine, was also voiced.<sup>7</sup>

14. Ukrainian cities and localities became the scenes of heavy warfare. Humanitarian relief teams had great difficulty reaching the areas most affected by the fighting, leaving the basic needs of civilians unmet. Mariupol was one of the worst-hit cities, with thousands estimated to have been killed and large sectors of the city destroyed. Some attacks, including those targeting the country’s critical infrastructure, have affected the entire country, including areas far from the front lines.

15. Populations under occupation reported grave human rights violations. Amid widespread condemnation of the events in Bucha, in Kyiv Province, the General Assembly adopted a resolution calling for the suspension of the Russian Federation from the Human Rights Council.<sup>8</sup>

16. In September, the authorities of the Russian Federation<sup>9</sup> in the occupied areas of Donetsk, Kherson, Luhansk and Zaporizhzhia Provinces held so-called referendums on the incorporation of those provinces into the Russian Federation. On 30 September 2022, Mr. Putin and the de facto authorities of the four provinces signed “treaties” regarding their

<sup>4</sup> ICC-ASP/1/3 and ICC-ASP/1/3/Corr.1, part II.B

<sup>5</sup> See, for example, General Assembly resolution ES-11/1.

<sup>6</sup> See <https://press.un.org/en/2022/sc15036.doc.htm> and <https://news.un.org/en/story/2022/11/1130722>.

<sup>7</sup> See <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-belarus>.

<sup>8</sup> General Assembly resolution ES-11/3.

<sup>9</sup> For the purposes of the present report, the term “authorities of the Russian Federation” is used to refer to military and civilian occupying authorities of the Russian Federation and all associated de facto authorities, armed groups and private military and security companies.

“accession” to the Russian Federation.<sup>10</sup> The General Assembly found the attempted annexation illegal and called for its immediate reversal.<sup>11</sup>

17. On 10 October 2022, Mr. Putin announced attacks on the energy infrastructure of Ukraine. Since then, waves of missile and drone attacks have affected the gas, heating and electricity infrastructure of the country.

18. The Zaporizhzhia nuclear power plant remains under the control of the armed forces of the Russian Federation. The deployment of military personnel and assets at the facility, in addition to shelling in close proximity, has sparked fears of a major nuclear accident.<sup>12</sup>

19. Attempts to engage the Russian Federation and Ukraine in meaningful negotiations have not yielded success, with each party rejecting the conditions put forward by the other.

## B. Impact on the civilian population

20. In one year, the armed conflict has taken a devastating toll on the civilian population. As at 15 February 2023, according to the Office of the United Nations High Commissioner for Human Rights (OHCHR), 8,006 civilians had been killed and 13,287 injured in Ukraine since 24 February 2022. Of adult civilian casualties whose sex was known, 61.1 per cent were men and 39.9 per cent were women. OHCHR believes that the actual figures are considerably higher.<sup>13</sup> In addition to the human losses, the armed conflict in Ukraine has caused a population displacement not seen in Europe since the Second World War. As at 21 February 2023, the Office of the United Nations High Commissioner for Refugees (UNHCR) had reported approximately 8 million refugees from Ukraine across Europe, of which approximately 90 per cent were women and children.<sup>14</sup> In addition, approximately 5.4 million people are currently displaced across Ukraine.<sup>15</sup> Nearly 18 million people in Ukraine are in need of humanitarian assistance, and endured particularly harsh conditions during the winter months.<sup>16</sup> The conflict has affected people’s right to health, education, adequate housing, food and water. Some vulnerable groups, such as older persons, children, persons with disabilities and persons belonging to minority groups, have been particularly affected. No region of the country has been spared by the conflict.

## IV. Violations of international law

21. The Commission’s aim was to ensure broad thematic and geographic coverage in its investigation. It focused on behaviour during the conduct of hostilities and violations of personal integrity, including summary executions, torture and ill-treatment, detention, and sexual and gender-based violence. The Commission also looked into violations of the laws addressing occupation and the transfer of children. It found that violations of human rights and international humanitarian law and related crimes had been committed across Ukraine and in the Russian Federation.

22. In all the cases examined, the Commission sought to identify individual perpetrators of violations and crimes, the units deployed in the areas concerned and their chain of command. It attempted to determine whether the crimes had been committed in furtherance of orders or policies at a higher level. The Commission developed a separate list of perpetrators and military units identified as responsible for crimes and violations.

<sup>10</sup> See <http://en.kremlin.ru/events/president/news/69465>.

<sup>11</sup> See General Assembly resolution ES-11/4.

<sup>12</sup> See <https://news.un.org/en/story/2022/11/1130857>.

<sup>13</sup> See <https://www.ohchr.org/en/press-releases/2023/02/turk-deplores-human-cost-russias-war-against-ukraine-verified-civilian>.

<sup>14</sup> UNHCR, “Ukraine refugee situation”, Operational Data Portal. Available at <https://data.unhcr.org/en/situations/ukraine> (accessed 21 February 2023).

<sup>15</sup> International Organization for Migration, “Ukraine”, Displacement Tracking Matrix. Available at <https://dtm.iom.int/ukraine> (accessed 20 February 2023).

<sup>16</sup> See <https://reliefweb.int/report/ukraine/ukraine-situation-report-10-feb-2023-enruuk>.

## A. Violations committed during the conduct of hostilities

### 1. Overview

23. The Commission investigated 25 individual attacks with explosive weapons in populated areas in nine provinces of Ukraine, in both territory controlled by the Government of Ukraine and areas controlled by the authorities of the Russian Federation. All those attacks involved weapons that predictably cause civilian harm in populated areas and affect civilians or civilian objects. Many of the attacks were determined to have been indiscriminate as, among other things, they entailed a method or means that could not be directed at a specific military objective or their effects could not be limited as required. The armed forces of the Russian Federation launched or likely launched the majority of the attacks. Several attacks were disproportionate, as they were initiated with an apparent disregard for the presence of large concentrations of civilians or objects with special protection, causing excessive harm and suffering. A small number of indiscriminate attacks were likely committed by the Ukrainian armed forces.<sup>17</sup>

24. The Commission also documented the barrage of attacks targeting the energy infrastructure of Ukraine, which started on 10 October 2022. It found these attacks to have been disproportionate, widespread and systematic.

25. Furthermore, the Commission investigated instances in which parties to the armed conflict failed to protect civilians or civilian objects against the effects of the hostilities.

26. The use of explosive weapons with wide-area effects in populated areas was one of the main causes of civilian casualties. OHCHR estimated that 90.3 per cent of the civilian casualties were caused by explosive weapons.<sup>18</sup> Such attacks damaged or destroyed thousands of residential buildings, more than 3,000 educational institutions,<sup>19</sup> and more than 600 medical facilities.<sup>20</sup> The systematic targeting of energy-related installations deprived large portions of the civilian population of electricity, water and sanitation, heating and telecommunications during certain periods and hampered access to health and education.

27. In all the places that it visited, the Commission documented considerable civilian harm and observed first-hand the damage to buildings and infrastructure. It was struck by the extent of the destruction in the cities of Kharkiv, Chernihiv and Izium. While it was unable to visit the city of Mariupol, it interviewed more than 30 civilians who had been in the city during the siege and bombardment by the armed forces of the Russian Federation. They reported intensive shelling and air strikes, including on civilian buildings, and described the use of explosive weapons during the period as “constant” and “never-ending”. Photographs, videos and satellite imagery corroborated the widespread destruction of residential areas. In addition, civilians were left without basic services during that period.

### 2. Unlawful attacks in territory controlled by the Government of Ukraine

28. The Commission investigated attacks carried out with explosive weapons in populated areas controlled by the Ukrainian authorities.<sup>21</sup> Some of these attacks were conducted in the context of attempts by the armed forces of the Russian Federation to capture towns or cities, while others struck areas far from the front lines. The attacks investigated were a small fraction of the total number.

29. According to international humanitarian law, indiscriminate attacks are those which are not directed at a specific military objective, employ a method or means of combat that cannot be directed at a specific military objective, or employ a method or means of combat

<sup>17</sup> For the purposes of the present report, the term “Ukrainian armed forces” is used to refer to all combatants who have been identified as such or as directly affiliated with the Ukrainian armed forces.

<sup>18</sup> See <https://www.ohchr.org/en/press-releases/2023/02/turk-deplores-human-cost-russias-war-against-ukraine-verified-civilian>.

<sup>19</sup> See <https://www.unicef.org/ukraine/en/press-releases/war-has-hampered-education>.

<sup>20</sup> World Health Organization, figures for the period 24 February 2022–1 February 2023, Surveillance System for Attacks on Health Care. Available at <https://extranet.who.int/ssa/Index.aspx>.

<sup>21</sup> For the purposes of the present report, the term “Ukrainian authorities” is used to refer to Ukrainian civilian and military authorities and all associated persons and groups.

whose effects cannot be limited.<sup>22</sup> The documented attacks affected civilian objects, including residential buildings, hospitals, schools, a hotel, shops, a theatre, a pharmacy, a kindergarten and a train station.

30. In some of the situations examined, the Commission could not identify a military objective. When objects of military value that might have been the intended targets of the attacks were present in the vicinity of some of the impact sites, the Commission generally found that the armed forces of the Russian Federation used weapons that struck both military and civilian objects without distinction. It identified four types of weapons whose use in populated areas led to indiscriminate attacks: unguided bombs dropped from aircraft; long-range anti-ship missiles of the Kh-22 or Kh-32 type, which have been found to be inaccurate when striking land targets; cluster munitions, which, by design, spread small sub-munitions over a wide area; and multiple-launch rocket systems, which cover a large area using inaccurate rockets.

31. The circumstances of the attacks launched or likely launched by the armed forces of the Russian Federation that the Commission investigated led it to determine that the majority of them were indiscriminate. These attacks included such widely reported instances as the attack of 16 March 2022 carried out during the siege of Mariupol on the city's drama theatre, which killed and injured a large number of people; the attack of 8 April 2022 on the Kramatorsk train station, which killed 59 people and injured 92; and the attack of 27 June 2022 on a shopping mall in Kremenchuk, which killed 21 people and injured dozens.

32. The Commission found that in several attacks, the armed forces of the Russian Federation had failed to take feasible precautions to verify whether civilians were present.<sup>23</sup> Hundreds of civilians had gathered in the areas affected by the attacks on the Kramatorsk train station and the Mariupol drama theatre. Similarly, hundreds of civilians were in the residential areas of Chernihiv during attacks of 3 March 2022, which killed at least 20 people and injured many others. Irrespective of whether there was a military objective, an assessment of the targets should have alerted the armed forces of the Russian Federation to the presence of large numbers of civilians.

33. That the attacks affected civilian buildings, such as functioning medical institutions, also manifests a failure to take precautions. Such attacks include that of 9 March 2022 on the Mariupol Primary and Sanitation Aid Centre No. 3, also referred to as Maternity Ward No. 3, in which at least one pregnant woman and her unborn child were killed. Even if the armed forces of the Russian Federation had military objectives in conducting the attacks, the special protected status of medical institutions should have led them to take extra care.

34. The Commission concluded that the armed forces of the Russian Federation committed, and in some cases likely committed, indiscriminate and disproportionate attacks, in violation of international humanitarian law.<sup>24</sup> The multiple examples of such attacks and the failure to take feasible precautions show a pattern of disregard on the part of the armed forces of the Russian Federation for the requirement to minimize civilian harm.

35. The Commission also assessed whether the bombardment of Mariupol and the conduct of the siege in the city may have constituted a crime against humanity.<sup>25</sup> However, as the Commission did not have access to Donetsk Province, including Mariupol, it did not have a sufficient basis on which to make such a determination. It recommends further investigations in this regard.

### **3. Unlawful attacks in areas controlled by the armed forces of the Russian Federation**

36. The Commission found instances in which the Ukrainian armed forces likely used cluster munitions and rocket-delivered anti-personnel landmines to carry out attacks in Izium, in Kharkiv Province, from March to September 2022, when it was controlled by the armed forces of the Russian Federation. Ukraine, unlike the Russian Federation, is a State party to

<sup>22</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 51 (4) and (5).

<sup>23</sup> *Ibid.*, art. 57 (2).

<sup>24</sup> *Ibid.*, art. 51 (4) and (5).

<sup>25</sup> Rome Statute, art. 7 (1).

the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, which bans all use of anti-personnel landmines.

37. The following three examples illustrate the use of weapons that bear the characteristics of cluster munitions in the Iziium during that period. On 9 May 2022, an attack struck a residential area, killing three people and injuring six. On 14 July 2022, an attack hit the area around the central market, injuring two older women. On 16 July 2022, several sub-munitions hit a residential area, including a kindergarten, where about 250 people had sought shelter, killing two older persons.

38. Witness testimonies also indicated that anti-personnel high-explosive landmines were used in populated areas from July 2022, specifically before the withdrawal of the armed forces of the Russian Federation. They caused grave civilian injuries. After inspecting unexploded landmines, photographs and weapon remnants, the Commission identified them as anti-personnel high-explosive landmines, known as “PFM” or “butterfly mines”, likely delivered by Uragan rocket-launcher. The Ukrainian armed forces were at that time stationed within the striking distance of such rockets.

39. After considering the context of these incidents, notably the fact that the attacks struck an area during a period when it was controlled by the armed forces of the Russian Federation, the weapons systems used, and the fact that the attacks were repeated and affected civilians or civilian objects, the Commission found it likely that the Ukrainian armed forces committed indiscriminate attacks, in violation of international humanitarian law.<sup>26</sup>

#### 4. Attacks against Ukrainian energy-related infrastructure

40. The Commission investigated the barrage of attacks on energy-related installations in Ukraine launched by the armed forces of the Russian Federation, starting on 10 October 2022. Critical energy-related infrastructure in Ukraine had come under attack from the early stages of the invasion, but on that date, Mr. Putin declared the following: “This morning, at the proposal of the Defence Ministry and in accordance with the plan of [the] General Staff, a massive strike was launched with long-range precision air-, sea- and land-based weapons against Ukrainian energy, military and communications facilities.”<sup>27</sup> After that declaration, the attacks changed in several important ways.

41. First, the intensity of attacks increased significantly, with at least 13 waves of attacks between 10 October 2022 and 1 February 2023 using hundreds of long-range missiles and drones equipped with explosives. Second, the geographical scope widened, with attacks affecting 20 of the 24 provinces in Ukraine. Lastly, while attacks prior to 10 October 2022 had been focused mainly on fuel installations and electric infrastructure related to the railway system, attacks after that date systematically targeted power plants and other infrastructure critical for the transmission of electricity and the generation of heat across Ukraine. On the basis of these factors, the Commission found that the attacks on energy infrastructure since 10 October 2022 were widespread and systematic and that the objective was to disrupt the energy system of the entire country, with the predictable effects on the heating system.

42. The disruption of electrical substations, power plants and other installations used to produce the energy and heating indispensable to the survival of the population inflicted significant harm on civilians. Entire regions and millions of people were for periods left without electricity or heating, particularly during the winter, and consequently with impaired access to, notably, water, sanitation, food, health care and education. Despite the availability of public information about the civilian harm after the first few attacks, the armed forces of the Russian Federation continued to target energy infrastructure.

43. The Commission concluded that these attacks by the armed forces of the Russian Federation were disproportionate and that they constituted the war crime of excessive

<sup>26</sup> Protocol I Additional to the Geneva Conventions of 1949, art. 51 (4) and (5).

<sup>27</sup> President of Russia, “Meeting with permanent members of the Security Council”, 10 October 2022. Available at <http://www.en.kremlin.ru/events/president/transcripts/deliberations/69568>.

incidental death, injury or damage.<sup>28</sup> It also found that the attacks were widespread and systematic and may have amounted to the crime against humanity of other inhumane acts. Further time and resources are needed to investigate the attacks to clarify whether their accumulated impact becomes comparable, as it might give their magnitude, to one of the enumerated acts of crimes against humanity, and the extent to which the policy was directed against the civilian population.<sup>29</sup>

## 5. Endangering civilians

44. During the conduct of hostilities, the armed forces of the Russian Federation exposed civilians to significant risks. The Commission found that, on repeated occasions, they deliberately positioned their troops or equipment in residential areas and, at times, forced civilians to remain there or in the proximity of their positions.

45. Military operations near or from within the Zaporizhzhia nuclear power plant, in Enerhodar, in Zaporizhzhia Province, have significantly endangered the plant, creating the risk of a serious nuclear incident. On 4 March 2022, the armed forces of the Russian Federation launched an attack on the facility and heavy fighting erupted as they attempted to take control of it. Videos show that a fire broke out as a consequence of the attack and inflicted damage to parts of the plant. In addition, the armed forces of the Russian Federation placed military equipment in and near the facility and have been launching attacks from there. Satellite imagery from 29 August 2022 appears to show military equipment less than 150 metres from a reactor.

46. The Commission also documented that, in territory controlled by the Ukrainian armed forces, on some occasions, there was a lack of separation between the armed forces and civilians, which placed civilians at risk. For example, in the city of Chernihiv, the Ukrainian Territorial Defence Forces set up headquarters at school 18 and stationed some of their members at school 21. Those schools were also used to distribute humanitarian aid to the population. On 3 March 2022, an air strike hit both schools and killed civilians and military personnel.<sup>30</sup>

47. The Commission concluded that the parties endangered civilians by not taking the requisite precautions to the maximum extent feasible, such as avoiding locating military objectives within or near densely populated areas, and thereby violated international humanitarian law.<sup>31</sup> Additionally, it follows from international humanitarian law that the armed forces of the Russian Federation must avoid locating any military objectives in the vicinity of a nuclear power plant, and that the plant should not be made the object of attack by either party.<sup>32</sup>

## B. Violations of personal integrity

### 1. Violations of personal integrity committed by the authorities of the Russian Federation

48. The Commission documented patterns of wilful killings, unlawful confinement, torture, rape and unlawful transfers of detainees in the areas under the control of the authorities of the Russian Federation in Ukraine. Violations were also committed against persons deported from Ukraine to the Russian Federation.

49. The Commission noted certain elements that were common to the different patterns of violations that it identified, as detailed in the following paragraphs.

<sup>28</sup> Protocol I Additional to the Geneva Conventions of 1949, arts. 51 (4) and (5) and 57 (2) (a) (iii) and (b) (on the prohibition of indiscriminate attacks), and art. 85 (3) (b) and (5) (on the war crimes of excessive incidental death, injury or damage).

<sup>29</sup> Rome Statute, art. 7 (1) (k).

<sup>30</sup> [A/77/533](#), para. 55.

<sup>31</sup> Protocol I Additional to the Geneva Conventions of 1949, art. 58.

<sup>32</sup> *Ibid.*, art. 56.



50. In cases of summary execution and torture, the perpetrators targeted persons mostly for any form of real or perceived support of the Ukrainian armed forces,<sup>33</sup> or for any action directed against the armed forces of the Russian Federation.

51. During the initial control by the armed forces of the Russian Federation of localities in Ukraine, many of the cases of wilful killing, unlawful confinement, rape and sexual violence were committed in the context of house-to-house searches aimed at locating supporters of the Ukrainian armed forces or finding weapons.

52. Furthermore, when the authorities of the Russian Federation controlled areas for longer periods of time, they established dedicated detention facilities, used more diverse methods of torture and targeted persons who refused to cooperate. A wider array of perpetrators were involved in the commission of unlawful confinement, torture and sexual and gender-based violence, according to victims and witnesses, including perpetrators from the Federal Security Service of the Russian Federation, the National Guard of the Russian Federation and its subordinate units, and armed groups aligned with the Russian Federation from the so-called Donetsk People's Republic and Luhansk People's Republic.

**(a) Summary executions**

53. Evidence collected showed a widespread pattern of summary executions in areas that the armed forces of the Russian Federation controlled in 17 localities of Chernihiv, Kharkiv, Kyiv and Sumy Provinces, with the highest number in Kyiv Province, including in the city of Bucha. The Commission confirmed the execution of 65 men, 2 women and a 14-year-old boy. Most of the cases documented in the areas visited by the Commission took place during the first few months of the armed conflict.

54. In more than half of the executions investigated, witnesses had last seen the victims in the custody of the armed forces of the Russian Federation. In a few cases, eyewitnesses had seen the armed forces of the Russian Federation carry out the executions. The Commission concluded that the armed forces of the Russian Federation were responsible in those cases. In the remaining cases, the victims' bodies were found at or near locations that the armed forces of the Russian Federation had used as bases. The Commission also concluded that the armed forces of the Russian Federation were likely responsible in those cases.

55. Detention, interrogation, torture or ill-treatment often preceded execution. Some victims had been found with their hands or feet tied. According to medical records and photographs, the most common method of killing was a gunshot to the head at close range.

56. The Commission concluded that the armed forces of the Russian Federation committed wilful killings of civilians or persons hors de combat in areas that came under their control, constituting war crimes and violations of the right to life.<sup>34</sup>

**(b) Attacks against civilians on the move**

57. The Commission found a pattern of attacks against civilians on the move in Kharkiv, Kyiv and Sumy Provinces when they were under the control of the armed forces of the Russian Federation. It documented 18 such cases in February and March 2022, in which 14 men, 8 women, 3 boys and 1 girl were killed and 6 other civilians injured. Among the cases examined, most were committed in Kyiv Province. In many of these instances, the Commission found enough evidence to conclude that the armed forces of the Russian Federation were responsible for these attacks.

58. The attacks occurred while civilians were trying to evacuate or were carrying out routine activities. In all the cases, the victims were wearing civilian clothes, were unarmed

<sup>33</sup> Persons involved in the former Anti-Terrorist Operation, which was run in parts of Donetsk and Luhansk Provinces between 2014 and 2018, and members of the Ukrainian Territorial Defence Forces were among those specifically targeted.

<sup>34</sup> For example, Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 147, and International Covenant on Civil and Political Rights, art. 6 (1).

and were driving civilian cars, some with signs on the windows indicating that children were on board. Several attacks occurred in or around the same location, such as the E40 highway in Kyiv and Kharkiv Provinces. The Commission interviewed survivors of attacks and witnesses and relatives of those killed, and reviewed video footage showing yet more damaged cars on the highway where the attacks had taken place. The attacks were thus not isolated, suggesting that some military units were responsible for multiple incidents. Some of the attacks seem to have been deliberate, such as when soldiers opened fire on civilian cars that posed no risk because they had stopped or were driving away. In other cases, there were no indications that the attackers had taken steps to verify whether the target was a military objective.<sup>35</sup>

59. The Commission concluded that the armed forces of the Russian Federation committed or likely committed indiscriminate attacks against civilians and civilian objects, which are violations of international humanitarian law and violations of the right to life.<sup>36</sup> In some cases, they did not do everything feasible to verify that the objectives to be attacked were not civilians or civilian objects. The attacks that appear to have intentionally targeted civilians amount to war crimes.<sup>37</sup>

**(c) Unlawful confinement**

60. The Commission established a pattern of widespread unlawful confinement in areas controlled by the armed forces of the Russian Federation targeting broad categories of persons. Victims were men and women of all ages and children. The Commission identified detention facilities where the authorities of the Russian Federation detained large numbers of people for long periods of time in Chernihiv, Donetsk, Kharkiv, Kherson, Kyiv and Zaporizhzhia Provinces of Ukraine and in the Russian Federation. It focused its investigation on 14 such places. Procedural requirements for detention were not met. Conditions of detention were consistently inhuman. In numerous cases, the confinement was prolonged, with the longest instance over nine months. Relatives were not informed and the reasons for confinement were not properly communicated.

61. The authorities of the Russian Federation confined persons of different occupations, with the majority being young or middle-aged men, including any person formerly associated with Ukrainian armed forces,<sup>38</sup> local officials, State personnel, current and former law enforcement officials, activists and journalists, education personnel, employees of the Zaporizhzhia nuclear power plant, volunteers evacuating civilians, and others. They also confined people who were influential in their communities, in order to coerce them and the local residents to cooperate. Some were confined together with their relatives, including children, or as a group.

62. Unlawful confinement started at checkpoints or filtration points staffed by the armed forces of the Russian Federation, or on the street. The authorities of the Russian Federation also detained people during house-to-house searches (see para. 51) or at their workplace. Detention was often a precursor to torture and execution.

63. Perpetrators generally accused the detainees of real or perceived assistance to the Ukrainian armed forces or found something that, in their view, looked suspicious during phone searches. In numerous cases, the authorities of the Russian Federation detained people on invalid grounds, such as having relatives in Ukrainian security or law enforcement agencies, refusing to cooperate, participating in protests against the occupation, holding pro-Ukrainian views or having certain types of tattoos.

64. Among the detention facilities that the Commission identified, some were improvised. Such facilities were more common during the first weeks of the occupation. Others were established in permanent structures, such as police stations. Conditions were poor in all the facilities. Cells were overcrowded, with people forced to sleep on the floor or to take turns to sleep. At times, men, women and children were held together. A lack of light and ventilation,

<sup>35</sup> Protocol I Additional to the Geneva Conventions of 1949, art. 57 (2).

<sup>36</sup> *Ibid.*, art. 51 (4) and (5), and International Covenant on Civil and Political Rights, art. 6 (1).

<sup>37</sup> Protocol I Additional to the Geneva Conventions of 1949, art. 85 (3) (a) and (5).

<sup>38</sup> Persons involved in the former Anti-Terrorist Operation were among those specifically targeted.

difficulty breathing and the absence of heating in freezing temperatures were reported. Sanitary conditions were inadequate, with, at times, buckets or a bottle used as a toilet and limited or no possibility of washing. In one case, 10 older people died as a consequence of the inhuman conditions in a school basement, while the other detainees, including children, had to share the same space with the bodies of the deceased.

65. Such conditions of detention can disproportionately affect people depending on their gender. Some women restricted their water and food intake out of shame at having to use the toilet in front of others. When water was available, there was no privacy. Menstruating women suffered because of a lack of hygiene, which can lead to serious infections and diseases.

66. Numerous persons detained in areas that were under the control of the Russian Federation are still missing. Family members who reached out to the authorities of the Russian Federation reported that they most often received no response or were not informed of the whereabouts of the victims.

67. On the basis of the large number of cases that it documented, the Commission concluded that the authorities of the Russian Federation unlawfully detained wide categories of civilians and other protected persons, frequently in the absence of valid reasons or without respecting procedural requirements. Detention conditions were generally inhuman. Such confinements constitute war crimes and are violations of the right to liberty and security of persons.<sup>39</sup>

**(d) Unlawful transfer and deportation of detainees**

68. The Commission reviewed situations in which the armed forces of the Russian Federation transferred detainees within Ukraine or deported them to the Russian Federation.<sup>40</sup> Victims were both men and women. In the Russian Federation, some of the detainees were confined in pretrial facilities in Bryansk and Kursk Provinces. A large number of Ukrainians were detained there. According to former detainees, the authorities of the Russian Federation labelled some of the detained persons as prisoners of war. However, after reviewing their circumstances, the Commission found that they retained their civilian status.

69. In its investigations, the Commission identified several instances of transfer and deportation in March 2022. In two cases, the victims were first detained in a makeshift detention facility in the town of Dymer and then transferred to another such facility at Hostomel Airport, both in Kyiv Province, and subsequently deported with other detainees through Belarus to the Russian Federation, to a detention facility in Bryansk Province. In another case, a young woman was first detained in a makeshift detention facility in the village of Novyi Bykiv, in Chernihiv Province, and subsequently deported with other detainees to the Russian Federation, to a detention facility in Kursk Province. Upon arrival, the three victims were interrogated, accused of providing support to the Ukrainian armed forces and subjected to torture. In two further cases, concerning three men, the victims were first confined in a makeshift detention facility in the village of Boromlia, in Sumy Province, and subsequently deported with other detainees to the Russian Federation, to a place not far from the border. The authorities of the Russian Federation held them there, in a basement with other detainees from Ukraine, and interrogated them.

70. The Commission concluded that the authorities of the Russian Federation committed unlawful transfers within Ukraine and deportations to the Russian Federation of civilians and of other protected persons, constituting war crimes.<sup>41</sup>

**(e) Torture and inhuman treatment**

71. The Commission found a widespread pattern of torture and inhuman treatment committed by the authorities of the Russian Federation against people that they detained in Chernihiv, Donetsk, Kharkiv, Kherson, Kyiv, Sumy and Zaporizhzhia Provinces of Ukraine

<sup>39</sup> Fourth Geneva Convention, art. 147, and International Covenant on Civil and Political Rights, art. 9 (1).

<sup>40</sup> [A/77/533](#), para. 80.

<sup>41</sup> For example, Fourth Geneva Convention, art. 147.

and in the Russian Federation. The use of torture was prevalent against certain categories of people. Most victims were men, and both civilians and prisoners of war were tortured. The Commission found that, as the authorities of the Russian Federation consolidated control over certain areas, more diverse but similar methods of torture were used systematically in detention facilities across various provinces of Ukraine.

72. Torture was particularly severe against current or former members of the Ukrainian armed forces and associated persons and their relatives. Local officials, law enforcement personnel, employees of the Zaporizhzhia nuclear power plant and civilians with pro-Ukrainian views were also victims of torture.

73. The aim was to obtain information about the Ukrainian armed forces, extract confessions, force victims to cooperate, or inflict punishments. Torture was usually combined with long interrogation sessions. Victims often had their hands tied or handcuffed, their legs tied and their eyes covered with tape or with a hood, clothes or a bag placed over their head. According to some former detainees, the authorities of the Russian Federation referred to them as “Nazis”, “fascists” and “terrorists” and forced them to undergo “denazification sessions” consisting of severe beatings.

74. The perpetrators inflicted severe physical and mental pain and suffering. Victims described instances of beatings with rifle butts or batons, electric shocks with taser guns, rape and prolonged exposure to cold that had taken place during the first weeks of the armed conflict and in makeshift detention facilities in Ukraine. In some cases, torture was followed by execution (see para. 55).

75. In areas under the prolonged control of the Russian Federation and in more permanent detention facilities, additional methods of torture were used. One such method involved electric shocks administered using a military phone known as a “Tapik” connected to an electric cable with clips that were applied to the feet, the fingers or men’s genitals. The perpetrators referred to this procedure as the “call to Lenin” or “call to Putin”. Other methods included hanging detainees from the ceiling with their hands tied in the so-called “parrot” position, strangling them with cables, suffocating them with plastic bags or gas masks, and rape and other sexual violence (see paras. 81 and 82). Victims witnessed the death of co-detainees following severe torture.

76. In the Russian Federation, confinement at times started with an abusive “acceptance procedure”. Victims reported electric shocks with taser guns, beatings with batons, suffocation with plastic bags, and forced nudity in front of others. A former detainee reported undergoing beatings as punishment for speaking Ukrainian and for not remembering the lyrics of the national anthem of the Russian Federation. One woman said that she had passed out a few times from beatings, but that the perpetrators had woken her and continued.

77. On the basis of the cases that it documented, the Commission concluded that the authorities of the Russian Federation committed acts of torture and cruel or inhuman treatment, constituting war crimes and violations of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.<sup>42</sup> In addition, given the targeting of specific categories of persons and the consistent use of the same methods of torture across several provinces that the authorities of the Russian Federation controlled in Ukraine for extended periods of time, the Commission concluded that the authorities of the Russian Federation used torture in a systematic and widespread manner. These circumstances, which also involved elements of planning and resource availability, indicate that the authorities of the Russian Federation may have committed torture constituting crimes against humanity. The Commission recommends further investigations to ascertain whether the torture of detainees by the authorities of the Russian Federation in detention facilities that they held in Ukraine and of detainees deported from Ukraine to the Russian Federation was committed in furtherance of a specific policy.<sup>43</sup>

<sup>42</sup> For example, Protocol I Additional to the Geneva Conventions of 1949, art. 75 (2) (a) (ii), and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2.

<sup>43</sup> Rome Statute, art. 7 (1) (f).

**(f) Sexual and gender-based violence**

78. The Commission documented cases of sexual and gender-based violence involving women, men and girls, aged 4 to 82 years, in nine provinces of Ukraine and in the Russian Federation.<sup>44</sup> It found that the authorities of the Russian Federation committed sexual violence in two main situations: during house-to-house searches and against victims whom they had confined. In addition, the Commission documented situations in which the authorities of the Russian Federation imposed forced nudity in detention, at checkpoints and at filtration points.

79. As the armed forces of the Russian Federation took control of localities in Ukraine and undertook house-to-house searches to find people who had supported the Ukrainian armed forces (see para. 51), in some instances, soldiers committed acts of rape and sexual violence when they broke into the victims' houses. The Commission documented such violations in Chernihiv, Kharkiv, Kherson and Kyiv Provinces, with the majority in Kyiv Province, mainly during the first two months of the armed conflict. Most victims were women alone at home.

80. Acts of rape were committed at gunpoint with extreme brutality and with acts of torture, such as beatings and strangling. The perpetrators at times threatened to kill the victim or her family if she resisted. In some cases, more than one soldier raped the same victim or the same victim was raped several times. In one incident, the victim was pregnant and begged the soldiers to spare her, in vain; she had a miscarriage a few days later. The perpetrators, in some instances, executed or tortured husbands and other male relatives. Family members, including children, were sometimes forced to watch the perpetrators rape their loved ones.

81. The Commission found numerous instances of sexual and gender-based violence committed by the authorities of the Russian Federation during unlawful confinement in Donetsk, Kharkiv, Kherson, Kyiv and Luhansk Provinces of Ukraine and in the Russian Federation (see paras. 74 and 75). The cases of sexual and gender-based violence in confinement affected mostly men, both civilians and prisoners of war. The evidence collected showed that sexual violence amounting to torture, and the threat of such, were important aspects of the torture exercised by the authorities of the Russian Federation, with methods including rape, electric shocks on genitals, traction on the penis using a rope and emasculation. The Commission also analysed signs of such acts on the bodies of deceased victims. According to survivors, the perpetrators aimed to extract information or confessions, force cooperation or punish, intimidate or humiliate victims as individuals or as a group.

82. Among the incidents documented by the Commission were those of two women, interviewed separately, who had been detained in facilities maintained by the authorities of the Russian Federation in two different locations in Kharkiv Province. They described how soldiers had ordered them to undress fully, touched them all over their bodies and raped them. The Commission also analysed a video showing how the armed forces of the Russian Federation had emasculated and then shot a captured Ukrainian soldier.

83. The armed forces of the Russian Federation inflicted forced nudity in a variety of situations, ordering people to undress and remain naked, including for prolonged periods of time, which can constitute a form of sexual violence. Cases were identified in Donetsk, Kharkiv and Kyiv Provinces of Ukraine and in the Russian Federation. Victims were men, women and, in one case, a 17-year-old boy. Such acts were committed during confinement or at filtration points and checkpoints, in order to humiliate the victims during torture and detention or to verify the presence of tattoos, among other reasons. The forced nudity went beyond what would be acceptable in the framework of a security verification.

84. For example, the Commission documented instances of hours-long forced nudity imposed in a humiliating way on new detainees upon their arrival at the Olenivka penal colony in Donetsk Province and in detention facilities in the Russian Federation. In another situation, the armed forces of the Russian Federation detained a priest, fully undressed him, beat him and ordered him to parade naked for one hour through the streets of his village.

<sup>44</sup> [A/77/533](#), paras. 88–98.

85. On the basis of the evidence that it collected, the Commission concluded that some members of the armed forces of the Russian Federation, in areas that they controlled, committed the war crime of rape and sexual violence, which can amount to torture.<sup>45</sup> Rape and torture constitute war crimes and violations of the corresponding human rights obligations. Acts of forced nudity can be a form of sexual violence and may constitute the war crime of outrages upon personal dignity.<sup>46</sup>

## **2. Violations of personal integrity committed by the Ukrainian authorities**

### **(a) Torture and wounding of prisoners of war**

86. The Commission has previously described two incidents, in Mala Rohan, in Kharkiv Province, and in Dmytrivka, in Kyiv Province, in which the Ukrainian armed forces shot, wounded and tortured captured soldiers of the armed forces of the Russian Federation.<sup>47</sup> In a letter to the Commission on this issue, dated 27 January 2023, the Office of the Prosecutor General of Ukraine noted that it had initiated pretrial investigations into those cases. It further stated that no objective data supporting the involvement of Ukrainian military service personnel had been gathered at that time, but that the investigations were continuing. The Commission, however, found that the persons responsible for the violations either belonged officially to the Ukrainian armed forces or were fighting closely with them at the time of the incidents.

### **(b) Alleged torture and ill-treatment of collaborators**

87. Since 24 February 2022, the Ukrainian authorities have opened thousands of investigations into allegations of collaboration and treason in the context of the armed conflict.<sup>48</sup> The Commission collected dozens of accounts from lawyers, former detainees and detainees' relatives relating to cases of detention on charges of high treason, collaborative activity and support for the aggressor State. Allegations were made that the Ukrainian authorities committed torture and ill-treatment against detainees, violated their procedural rights and detained them in inhuman conditions.

88. Witnesses reported beatings, mock executions and threats to harm the detainee or the detainee's family. Reportedly, no arrest warrants were produced in some cases, and some detainees were held incommunicado, sometimes for several days. Sleep and food deprivation was also reported.

89. The Commission is concerned about these allegations. However, at the time of the writing of the present report, it was not in a position to corroborate them. It recommends further investigations.

## **C. Violations of the laws of occupation**

90. The Commission examined the context and circumstances in which the authorities of the Russian Federation organized and held so-called referendums between 23 and 27 September 2022 in the occupied areas of Donetsk, Kherson, Luhansk and Zaporizhzhia Provinces concerning the annexation of the provinces to the Russian Federation. It found that the holding of the so-called referendums was in disregard for the Ukrainian Constitution, which regulates the organization of referendums in Ukraine.<sup>49</sup> The referendums were therefore held in violation of international humanitarian law, which prescribes that an occupying Power must respect the laws in force in the territory that it occupies.<sup>50</sup> Moreover, the Commission concludes that the annexation of the four provinces was unlawful on the

<sup>45</sup> For example, Fourth Geneva Convention, art. 27.

<sup>46</sup> *Ibid.*, and Protocol I Additional to the Geneva Conventions of 1949, art. 75 (2) (b).

<sup>47</sup> [A/77/533](#), paras. 86 and 87.

<sup>48</sup> See <https://www.gp.gov.ua> (in Ukrainian only).

<sup>49</sup> Constitution of Ukraine, arts. 72 and 73.

<sup>50</sup> Regulations respecting the Laws and Customs of War on Land, arts. 42 and 43.

basis of principles of international law that no territorial acquisition resulting from the threat or use of force may be recognized as legal.<sup>51</sup>

91. In addition, the Commission found that the so-called referendums were held in a general climate of fear and coercion. Some interlocutors reported that, prior to the vote, the authorities of the Russian Federation had carried out visits to private residences to ask people what they would do in relation to the referendum. On voting days, interlocutors had seen “electoral staff” accompanied by armed personnel going from door to door with ballot boxes.

92. Pursuant to the so-called annexation “treaties” between the Russian Federation and the four occupied provinces, citizenship of the Russian Federation was granted in the areas concerned. The Commission was informed of situations in which local residents had felt compelled to apply for passports of the Russian Federation. Civilians of retirement age, in particular, had applied for passports after receiving messages from representatives of the authorities of the Russian Federation suggesting that they would need to do so in order to receive or continue to receive pensions. Civil servants and other employees of State services who sought to retain their employment under the administration of the Russian Federation were required to apply for passports as a condition for maintaining their positions.

93. According to testimonies, the authorities of the Russian Federation detained local officials and employees in the occupied areas to force them to cooperate. In March 2022, the Mayor of Melitopol, in Zaporizhzhia Province, was detained at the Palace of Culture in Melitopol. Furthermore, in August 2022, the head of a rural community in Kherson Province was detained by the armed forces of the Russian Federation, who broke into her home. The Commission obtained the names of 27 heads of territorial communities in Kherson Province who were reportedly detained by the authorities of the Russian Federation. There were also cases in which school principals and teachers were detained, subjected to ill-treatment and expelled from their hometowns to force them to apply the curricula of the Russian Federation in schools. Threatening and intimidating messages were sent to parents to force them to enrol their children in schools operating under the system of the Russian Federation in occupied areas.

94. The Commission concluded that the authorities of the Russian Federation exercised physical and moral coercion against civilians in occupied areas, in violation of international humanitarian law.<sup>52</sup> In addition, they unlawfully confined persons, constituting a war crime.<sup>53</sup>

#### **D. Forced transfer and deportation of children**

95. The Ukrainian authorities and the authorities of the Russian Federation have declared that hundreds of thousands of children have been transferred from Ukraine to the Russian Federation since 24 February 2022, citing figures that vary greatly. A data-collection system maintained by the Government of Ukraine indicated that 16,221 children had been deported to the Russian Federation up to the end of February 2023.<sup>54</sup> The Commission was unable to verify these figures.

96. According to statements and media reports, the authorities of the Russian Federation have taken legal and policy measures regarding Ukrainian children transferred to the Russian Federation. These measures include the granting of citizenship and the placement of children in foster families, which appear to have created a framework under which some of the children may end up remaining permanently in the Russian Federation. In this regard, in May 2022, Mr. Putin signed a decree facilitating applications for citizenship of the Russian Federation for some categories of children.<sup>55</sup> In July 2022, Maria Lvova-Belova, Presidential

<sup>51</sup> See General Assembly resolution 2625 (XXV), annex. See also Assembly resolution 3314 (XXIX), annex, art. 5 (3).

<sup>52</sup> Fourth Geneva Convention, art. 31.

<sup>53</sup> *Ibid.*, art. 147.

<sup>54</sup> See <https://childrenofwar.gov.ua>.

<sup>55</sup> Available at <http://publication.pravo.gov.ru/Document/View/0001202205300008> (in Russian only).

Commissioner for Children's Rights, declared that "now that the children have become Russian citizens, temporary guardianship can become permanent".<sup>56</sup>

97. The Commission identified three main situations in which the authorities of the Russian Federation transferred Ukrainian children from one area that they controlled in Ukraine to another or to the Russian Federation. The transfers affected children who had lost parents or had temporarily lost contact with them during hostilities, children who had been separated following the detention of a parent at a filtration point, and children in institutions. The Commission reviewed incidents concerning the transfer of 164 children, 4 to 18 years of age, from Donetsk, Kharkiv and Kherson Provinces.

98. Under international humanitarian law, no party to the armed conflict may arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety so require, and the written consent of the children's parents or legal guardians is required.<sup>57</sup> In none of the situations that the Commission examined did transfers of children appear to have satisfied the requirements set forth by international humanitarian law. The transfers were not justified by safety or medical reasons. There seems to be no indication that it was impossible to allow the children to relocate to territory under the control of the Government of Ukraine. It also does not appear that the authorities of the Russian Federation sought to establish contact with the children's relatives or with the Ukrainian authorities. While the transfers were supposed to be temporary, for a variety of reasons most became prolonged, and parents or legal guardians and children encountered an array of obstacles in establishing contact, achieving family reunification and returning the children to Ukraine.

99. In a separate situation, large numbers of children from areas that had come under the control of the Russian Federation in Kharkiv, Kherson and Zaporizhzhia Provinces travelled temporarily, with parental consent, to vacation camps in the Russian Federation or in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine. According to the parents and children concerned, when the three provinces returned to the control of the Government of Ukraine, the authorities of the Russian Federation required parents or legal guardians to travel in person to pick up their children. As this involved long and complicated journeys and security risks, not all parents were able to do so, which led to prolonged or even indefinite family separation.

100. Parents and children told the Commission that during the children's stay in the Russian Federation or in areas of Ukraine that were controlled by the Russian Federation, social service workers had in some cases told the children that they would be placed in institutions, accommodated in foster families or adopted. Parents also told the Commission that in some places to which their children had been transferred, the children wore dirty clothes and were screamed at and called names. Meals were poor and some children with disabilities did not receive adequate care and medication. Children expressed a profound fear of being permanently separated from their parents, guardians or other relatives.

101. In all the incidents examined by the Commission, the onus to trace and find parents or other relatives fell primarily on the children. Parents and relatives encountered considerable logistical, financial and security challenges in retrieving their children. In some cases, it took weeks or months for families to be reunited. Witnesses told the Commission that many of the smaller children transferred have not been able to establish contact with their families and might, as a consequence, lose contact with them indefinitely.

102. The Commission concluded that the situations that it examined concerning the transfer of children within Ukraine and the deportation of children to the Russian Federation violated international humanitarian law and amounted to war crimes.<sup>58</sup> It found that the authorities of the Russian Federation violated their obligation under international humanitarian law to facilitate in every possible way the reunion of families dispersed as a result of the armed

<sup>56</sup> Human Rights Watch, "Russia: submission to the UN Committee on the Rights of the Child", 12 December 2022.

<sup>57</sup> Protocol I Additional to the Geneva Conventions of 1949, art. 78 (1).

<sup>58</sup> Fourth Geneva Convention, art. 147.



conflict.<sup>59</sup> Such conduct could also amount to the war crime of unjustifiable delay in the repatriation of civilians.<sup>60</sup> In addition, the citizenship and family-placement measures, which could have profound implications for the identity of the children concerned, were in violation of the children's right to preserve their identity, including nationality, name and family relations, without unlawful interference, as recognized under international human rights law.<sup>61</sup>

## V. Accountability measures

103. The Commission is mandated to make recommendations on, in particular, accountability measures.<sup>62</sup> The term "accountability measures" is broad in scope, covering not only criminal responsibility, but also non-judicial measures.

104. The International Criminal Court is investigating alleged war crimes, crimes against humanity and genocide in Ukraine.<sup>63</sup> The Court does not have jurisdiction over the crime of aggression in Ukraine. Suggestions have been made to establish a special tribunal on aggression. Any such tribunal would have to coordinate with the Court. Furthermore, it should have the required international legitimacy with respect to both its establishment and its functioning. Discussions about a new tribunal should be combined with efforts to amend the Rome Statute, so that the Court's jurisdiction over the crime of aggression is identical to its jurisdiction over the other three crimes.

105. In addition to judicial measures, other dimensions of accountability include truth, reparations and guarantees of non-repetition.<sup>64</sup> The full satisfaction of victims' rights will be impossible before the cessation of hostilities, but measures can be taken already to contribute to the eventual satisfaction of those rights. Priority should be given to a victims' registry and to institutional support, including mental health and psychosocial services.

106. The Commission encourages the robust coordination of the many national and international accountability actors. Minimizing duplication and the retraumatization of victims while increasing the efficient use of resources is achievable. Practical steps include mapping the various actors conducting investigations, which could facilitate the establishment of an index of shareable evidence.

## VI. Conclusions and recommendations

**107. The armed conflict in Ukraine has had devastating effects at various levels, most notably on individuals and communities and on the society, environment and economy of Ukraine. It has had a considerable effect on the enjoyment of almost all human rights. People are living in a climate of unbearable uncertainty and fear. Scores of survivors are coping with the immediate consequences of violent events and large-scale damage. In addition to the many physical injuries that will take time to heal, the deep psychological impact will have long-lasting effects.**

**108. The Commission is concerned about the number, geographic spread and gravity of the human rights violations and the corresponding international crimes that it has documented under its mandate, which have affected men, women, boys and girls of all backgrounds and ages.**

**109. The Commission has concluded that the authorities of the Russian Federation have committed numerous violations of international humanitarian law and international human rights law, in addition to a wide range of war crimes, including the**

<sup>59</sup> Protocol I Additional to the Geneva Conventions of 1949, art. 74.

<sup>60</sup> Ibid., art. 85 (4) (b) and (5).

<sup>61</sup> Convention on the Rights of the Child, art. 8 (1).

<sup>62</sup> Human Rights Council resolution 49/1, para. 11 (e).

<sup>63</sup> International Criminal Court, "Statement of ICC Prosecutor, Karim A.A. Khan, QC, on the situation in Ukraine: receipt of referrals from 39 States parties and the opening of an investigation", 2 March 2022.

<sup>64</sup> See General Assembly resolutions 60/147 and 40/34.

war crime of excessive incidental death, injury or damage, wilful killings, torture, inhuman treatment, unlawful confinement, rape, and unlawful transfer and deportation. The Commission has also found that the waves of attacks by the armed forces of the Russian Federation, starting on 10 October 2022, on the energy-related infrastructure of Ukraine and the use of torture by the authorities of the Russian Federation may amount to crimes against humanity.

110. In a limited number of cases, the Commission has found that the Ukrainian armed forces were likely responsible for violations of international humanitarian law and international human rights law and for some incidents that qualify as war crimes, including indiscriminate attacks and two incidents of wounding and torture of prisoners of war of the Russian Federation.

111. Beyond sharing with the Commission their deep loss and trauma, survivors have highlighted the importance of identifying those responsible and bringing them to account. One man, whose father was executed by the armed forces of the Russian Federation in a village in Kharkiv Province, told the Commission: “They punished innocent people; now those who are guilty, if they are still alive, need to be punished to the fullest extent.”

112. The Commission recommends that the parties to the conflict:

(a) Respect and ensure compliance with all obligations stipulated in relevant treaties and customary international law regarding international humanitarian law, international human rights law and international criminal law;

(b) Comply with all the obligations enshrined in international humanitarian law, including keeping accurate records of all people under the control of each party and exchanging information on that basis;

(c) Ensure that the International Committee of the Red Cross has unrestricted access to carry out its work in accordance with its mandate under international law;

(d) Respect the space for humanitarian action and protect it from disinformation, politicization and polarization;

(e) Take all feasible measures, in accordance with international standards, to locate all disappeared or missing persons, including women, men, girls and boys, establish their fate and ensure communication with their families;

(f) Ensure the timely, effective, thorough, independent, impartial and transparent investigation and prosecution of all allegations of international crimes and violations of international human rights law and international humanitarian law, including sexual and gender-based violence and violence against children;

(g) Hold all perpetrators accountable through judicial proceedings, in accordance with international human rights standards;

(h) Take all the measures necessary to ensure that the right to truth of all victims is satisfied and that they eventually obtain redress and remedy, including compensation and rehabilitation;

(i) Ratify international instruments to which they are not yet party that will strengthen the protection of civilians in armed conflict.

113. The Commission recommends that the Russian Federation immediately:

(a) Cease aggression and all acts of violence committed against civilians in violation of applicable international human rights law and international humanitarian law and end the use of torture and other forms of ill-treatment, including sexual and gender-based violence;

(b) Take all feasible precautions to protect civilians and civilian infrastructure and end massive attacks against energy-related infrastructure in Ukraine;

(c) Provide reliable and comprehensive information about the number and whereabouts of all children who have, for whatever reason, been transferred within

Ukraine or deported to the Russian Federation; facilitate effective communication between such children and their families, and promptly and proactively initiate the return to Ukraine of children deported to the Russian Federation, in accordance with their best interests and with international obligations, using technical assistance from international organizations; and prevent any further transfers of children within or their deportation from Ukraine;

(d) Release or return to Ukraine all Ukrainian civilians who have been deported to the Russian Federation and are being detained there as a consequence of the armed conflict.

114. The Commission further recommends that the Russian Federation:

(a) Ensure that all perpetrators, including commanders and other superiors and those ordering, soliciting or inducing the commission of international violations and crimes, are held accountable;

(b) Take the measures necessary to prevent the commission of such violations and crimes, in particular through unequivocal instructions to all branches of the armed forces and other entities participating in the armed conflict, with a view to ensuring that military discipline and respect for international human rights law and international humanitarian law are upheld along with the principle of command responsibility;

(c) Limit the use of private military and security companies in the conflict, as experience has shown that they frequently engage in violations of international law and are generally less accountable than regular forces since they lie outside the formal lines of command and have a great incentive to compete with one another and with regular forces;

(d) Respect international humanitarian law applicable to occupied territories and refrain from placing any impediment to humanitarian assistance in those territories;

(e) Cooperate fully with all international monitoring and investigative bodies.

115. The Commission recommends that Ukraine:

(a) Establish a victims registry as an institutional portal for better coordination of available government services to victims, constituting a preliminary step towards a comprehensive reparations programme;

(b) Comprehensively address the mental health and psychosocial needs resulting from the armed conflict by tackling access and the allocation of resources to the relevant services and enhancing their institutional coordination, legal regulation, monitoring and evaluation, in the context of the Ukrainian operational road map on prioritized multisectoral mental health and psychosocial support actions during and after the war;

(c) Harmonize its legislation relating to war crimes where it is not in conformity with international standards and amend its criminal code to clarify the definition of “collaborative activity” to avoid legal uncertainty and harm to social cohesion;

(d) Develop an investigatory and prosecutorial strategy that prioritizes cases on the basis of clear criteria and ensure due process and transparent monitoring, taking into account both the enormous caseload and the limited resources.

116. The Commission recommends that other States and regional and international organizations:

(a) Strengthen national, regional and international accountability mechanisms, both judicial and non-judicial, including by improving their coordination and supporting the effective participation of civil society and groups representing victims and survivors;

(b) Integrate the human rights dimensions of the armed conflict in Ukraine more fully into the agenda of the Security Council.