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**Technical assistance and capacity-building**

## **Written statement\* submitted by Human Rights Research League, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 August 2024]

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\* Issued as received, in the language of submission only.



## **War Crimes against Civilians and Prisoners of War in the Russian Federation’s War of Aggression against Ukraine**

2024 marks the third year of the Russian Federation’s full-scale war of aggression against Ukraine, a war that had started with the occupation of the Autonomous Republic of Crimea ten years earlier.

In the course of this aggression, the Russian Federation has perpetrated numerous atrocities, as has been demonstrated *inter alia* by the Independent International Commission of Inquiry on Ukraine and other sources. According to the Commission’s latest report, as of 15 February 2024, e.g. “the Office of the United Nations High Commissioner for Human Rights (OHCHR) had recorded 30,457 civilian casualties (10,582 killed and 19,875 injured).”<sup>1</sup> As in all situations of war and investigations ‘in theatre’, in an ongoing armed conflict, due to the challenges of collecting all-encompassing evidence in a timely manner throughout a country at war, the actual numbers of casualties are likely significantly higher.

Apart from willful killings, the Independent International Commission of Inquiry on Ukraine also documented widespread torture, rape, and other sexual violence, the illegal transfer of children from occupied territory to the Russian Federation, and massive displacement, both within Ukraine and beyond its borders, as millions have fled the country due to the war. According to the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), about four million people (including nearly one million children) are currently internally displaced throughout Ukraine, while about six million live as refugees abroad, and close to 40 per cent of the population of Ukraine will be in need of humanitarian assistance in 2024.<sup>2</sup> An estimated 1.4 million homes in Ukraine had been damaged or destroyed already during the first year since the full-scale war started.<sup>3</sup>

### **Attribution and ‘Collateral Damage’ in Wars of Aggression**

Indiscriminate or even targeted attacks against civilians constitute war crimes in accordance with International Humanitarian Law, including the Geneva Conventions (and especially the Fourth Geneva Convention, Relative to the Protection of Civilian Persons in Time of War of 12 August 1949) which also the Russian Federation is a state party to, as civilians enjoy particular protection under the law in times of war.

Knowingly targeting or at the very least consciously taking the risk of killing or otherwise seriously harming civilians may never be regarded as justified action by an aggressor leading to ‘collateral damage’. Not only would the principle of proportionality generally prohibit any such conscious act. Rather, arguably, in a war of aggression (which, by definition, is contrary to international law), any negative consequences suffered by victims of that aggression are attributable to the aggressor.

In any case, the Independent International Commission of Inquiry on Ukraine had previously found conclusive evidence of crimes in violation of International Humanitarian Law committed by the Russian Federation, e.g. that Russian armed forces “had committed indiscriminate attacks affecting the Mariupol Drama Theater” and a maternity ward.<sup>4</sup>

More recently, the Commission reported attacks with explosive weapons in other populated areas, including hitting “a café in the village of Hroza, Kharkiv Province, on 5 October 2023, killing 36 women, 22 men and 1 boy, at a time when a large number of civilians had gathered for a memorial service”<sup>5</sup>, as well as frequent waves of drone and missile attacks targeting populated areas across Ukraine.

These attacks continue to this day. As recent as 24 August 2024, as Ukraine was celebrating 33 years of independence, a Russian strike on a residential area in the eastern city of Kostyantynivka, near the frontline in the Donetsk Oblast, reportedly killed five people.<sup>6</sup>

## War Crimes against POWs

The total numbers of POWs are hard to establish during an armed conflict of this scale and kind, as the parties to the conflict, understandably, are reluctant to reveal the exact number of their casualties, including prisoners of war in enemy hands, and the enemy's numbers are often not independently verifiable. Suffice it thus here to assume that thousands of POWs are held captive, on either side. Scrutinizing the first year of the full-scale war, the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported a wide range of breaches of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) in the Russian Federation's treatment of POWs, there among serious violations of IHL rising to the level of war crimes<sup>7</sup>, including "the summary executions of 15 POWs, the use of POWs as human shields, the deaths of two wounded men POWs due to a lack of medical care, and torture or other ill-treatment to extract information."<sup>8</sup>

In its most recent report, the Independent International Commission of Inquiry on Ukraine confirmed that the practice of torture in places of detention under Russian control was widespread and systematically used against Ukrainian POWs, as well as against civilians in Russian occupied territory which Russian authorities suspected of cooperating with Ukrainian armed forces.<sup>9</sup>

We deplore the human toll the Russian Federation's war of aggression against Ukraine has taken and continues to take, including the future consequences of the Russian Federation's actions. Apart from crimes committed in the theatre of war, focus need to be had on the impact the Russian Federation's full-scale war has on civilians, including on family members of POWs, relatives of disappeared persons, and on the short and long-term consequences of forced migration in the wake of the war of aggression, as was also emphasized during a recent side event organized by Human Rights Research League on the occasion of the 56th Session of the United Nations Human Rights Council ('Russia's War of Aggression in Ukraine: Human Toll and Future Impact'<sup>10</sup>).

## Accountability for the Russian Federation's War Crimes and the International Criminal Court's Arrest Warrants

On 17 March 2023, the International Criminal Court (ICC) issued a first arrest warrant against two individuals, the Russian Federation's president Mr. Vladimir Putin, and Ms. Maria Alekseyevna Lvova-Belova, Commissioner for Children's Rights in the Office of the President of the Russian Federation, for their alleged responsibility for the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied areas of Ukraine to the Russian Federation (under articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute) respectively.<sup>11</sup>

On 5 March 2024, the ICC followed up by issuing warrants of arrest for Mr. Sergei Ivanovich Kobylash, a Lieutenant General in the Russian Armed Forces, who at the relevant time was the Commander of the Long-Range Aviation of the Aerospace Force, and Mr. Viktor Nikolayevich Sokolov, an Admiral in the Russian Navy, who at the relevant time was the Commander of the Black Sea Fleet, for their alleged responsibility for the war crime of directing attacks at civilian objects (article 8(2)(b)(ii) of the Rome Statute) and the war crime of causing excessive incidental harm to civilians or damage to civilian objects (article 8(2)(b)(iv) of the Rome Statute), and the crime against humanity of inhumane acts under article 7(1)(k) of the Rome Statute.<sup>12</sup>

We welcome these international efforts at holding the perpetrators of some of the aggressor state's war crimes to account, but more is needed, including establishing individual criminal responsibility for torture and other war crimes committed against Ukrainian POWs, and we request all UN member states and other stakeholders to do their utmost to prevent the future commission of these crimes and ensure justice for the victims.

- 1 Independent International Commission of Inquiry on Ukraine, 'Report of the Independent International Commission of Inquiry on Ukraine', 18 March 2024, UN doc. A/HRC/55/66, para. 9. Available at: <https://documents.un.org/doc/undoc/gen/g24/037/31/pdf/g2403731.pdf>.
- 2 Cf. United Nations Office for the Coordination of Humanitarian Affairs, 'Ukraine: Overview', available at: <https://www.unocha.org/ukraine>, and UN OCHA, 'Humanitarian Needs and Response Plan Ukraine: Humanitarian Programme Cycle 2024', December 2023, pp. 7-8. Given that these projections were based on numbers as of the end of 2023, actual numbers are likely to be even higher as of today.
- 3 Government of Ukraine, the World Bank Group, the European Commission and the United Nations, 'Ukraine: Rapid Damage and Needs Assessment', March 2023, p. 39. Available at: <https://ukraine.un.org/sites/default/files/2023-03/P1801740d1177f03c0ab180057556615497.pdf>.
- 4 Cf. *supra*, fn. 1, para. 24.
- 5 *Ibid.*, para. 27. Cf. also Office of the United Nations High Commissioner for Human Rights, UN Human Rights Monitoring Mission in Ukraine, October 2023, 'Attack on funeral reception in Hroza, 5 October 2023 (2023)', available at: <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/attack-funeral-reception-hroza-report-en.pdf>.
- 6 Cf. 'Zelensky Vows More 'Retribution' for Russia, POWs Exchanged', RFI, 24 August 2024, available at: <https://www.rfi.fr/en/international-news/20240824-zelensky-vows-more-retribution-for-russia-as-pows-exchanged>.
- 7 United Nations, Office of the High Commissioner for Human Rights, 'Report on the Treatment of Prisoners of War and Persons Hors de Combat in the Context of the Armed Attack by the Russian Federation against Ukraine', para. 2.
- 8 *Ibid.*, para. 5.
- 9 Independent International Commission of Inquiry on Ukraine, 'Report of the Independent International Commission of Inquiry on Ukraine', 18 March 2024, UN doc. A/HRC/55/66, paras. 59-60.
- 10 Human Rights Research League, 'Russia's War of Aggression in Ukraine: Human Toll and Future Impact', UN Human Rights Council Side Event, 8 July 2024, available at: [https://www.hrrleague.org/gallery/HRRL%20Side%20Event%20HRC56%20\(Ukraine\).pdf](https://www.hrrleague.org/gallery/HRRL%20Side%20Event%20HRC56%20(Ukraine).pdf).
- 11 Cf. International Criminal Court, 'Situation in Ukraine', available at: <https://www.icc-cpi.int/situations/ukraine>.
- 12 *Ibid.*