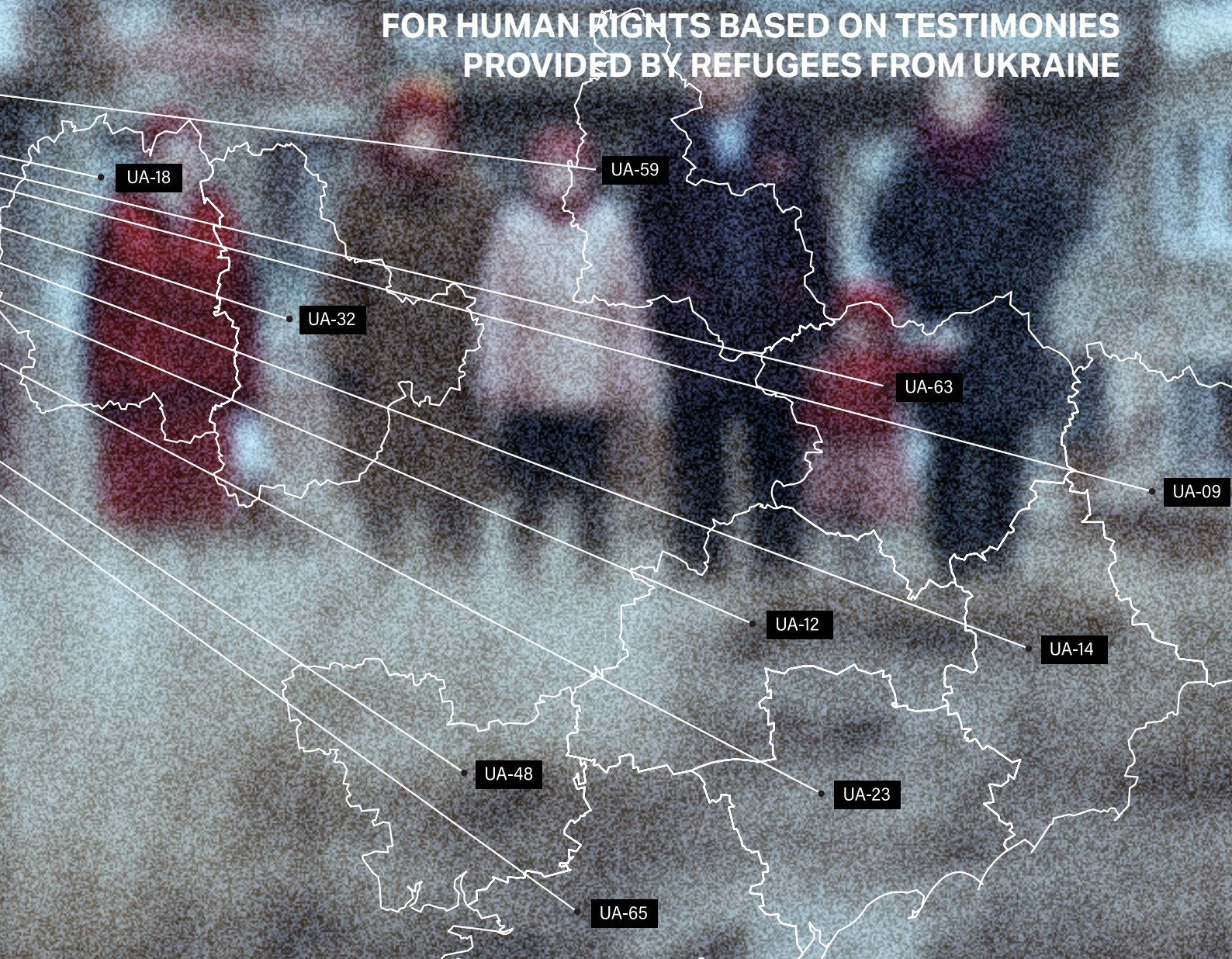


# IN SEARCH OF JUSTICE

**The rights of victims and survivors of serious violations of international law committed during the full-scale aggression of the Russian Federation against Ukraine.**

**REPORT OF THE HELSINKI FOUNDATION  
FOR HUMAN RIGHTS BASED ON TESTIMONIES  
PROVIDED BY REFUGEES FROM UKRAINE**







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June 2024

We need to speak out for those who no longer can... The stories should be told because evil must be punished, and crimes must be called by their proper names.

**Anna from Zhytomyr<sup>1</sup>**

We must document this because otherwise ... there will be nothing.  
At least for the ones who survived.

**Victor from Mariupol**

<sup>1</sup> The names of people, whose testimonies feature in the report were changed to maintain confidentiality.

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# 1. INTRODUCTION

Russia's full-scale invasion<sup>1</sup> against Ukraine, which began on 24 February 2022, has caused unimaginable harm - displacing millions of families and shattering countless lives. With little end to the fighting in sight, people in Ukraine continue to suffer.

The United Nations (UN), other international organizations, and civil society groups have documented serious violations of international humanitarian law (IHL) and gross violations of international human rights law (IHRL) - committed primarily by the Russian Federation armed forces.

Helsinki Foundation for Human Rights (HFHR) joined these documentation efforts to support transitional justice mechanisms<sup>2</sup> in Ukraine, such as:

- ensuring criminal investigations against the perpetrators,
- providing comprehensive reparations<sup>3</sup>, including urgent assistance measures for the victims and survivors<sup>4</sup>,
- building a historical record of the war that may be made available to the public and challenge divisive narratives downplaying the unlawfulness and devastating consequences of Russia's aggression against Ukraine.

The report highlights the stories of refugees from Ukraine, who reside in (or transferred through) Poland. The document contains recommendations, primarily for the attention of the Polish authorities, proposing policy measures that

1 The Russian Federation began its aggression against Ukraine in Crimea in February 2014. After holding an invalid so-called "referendum", it signed the "Treaty on the Accession of the Republic of Crimea to the Russian Federation" on 18 March 2014, illegally annexing Crimea to the Russian Federation. In April 2014, armed groups opposed to the post-Maidan government in Kyiv seized government buildings and territory in parts of Donetsk and Luhansk regions. In May 2014, the armed groups proclaimed the 'Donetsk people's republic' and 'Luhansk people's republic' after holding so-called "referendums" that neither the Government of Ukraine nor the international community recognized, triggering hostilities over territorial control in eastern Ukraine that were further escalated with the aggression of the Russian Federation on 24 February 2022.

2 Transitional justice is a response to widespread violations of IHL and IHRL - focused on ensuring accountability, recognition for the victims and survivors, and promotion of possibilities for peace, reconciliation, and democracy. More information: UN, Guidance Note on Transitional Justice, A Strategic Tool for People, Prevention and Peace, June 2023.

3 In this report the term reparation refers to the rights of individuals who experienced violations of IHL and IHRL, but in international law reparations can be sought by both - individuals and states.

4 In this report, the term "victims" and "survivors" refer to individuals who experienced violations of IHL and IHRL. Furthermore, it is important to use the term "survivor" when referring to people who were exposed to conflict-related crimes of sexual violence in order to avoid their stigmatization and victimization.



can increase the effectiveness of the criminal investigations into violations of international law committed in Ukraine; improve access to justice for the victims and survivors<sup>5</sup>; and offer rehabilitation support for the individuals whose lives were adversely impacted, including medical care, psycho-social services, and legal aid.

HFHR interviewed people from different parts of Ukraine who suffered violations of IHL and IHRL, including torture and ill-treatment, sexual violence, enforced disappearance and arbitrary detention. On top of this, they experienced the trauma of crimes being committed against their loved ones. Many are grieving for family members who were killed or went missing. The fate of thousands of the missing in Ukraine is unknown.

HFHR has worked in Ukraine since 2014 to support Ukrainian civil society groups in documenting violations of IHL and IHRL committed in conflict areas in the east of Ukraine and Crimea, occupied by the Russian Federation. Following 24 February 2022, HFHR in Poland engaged in documentation of violations of international law suffered by the refugees from Ukraine. These violations may then be assessed by the competent institutions and prosecuted as crimes under international law. Since August 2022, HFHR's outreach teams have connected with people willing to share their testimonies. HFHR's documentation activities are conducted in partnership with the Ukraine.5 AM Coalition<sup>6</sup>

5 In this report, the term "victims" and "survivors" refer to individuals who experienced violations of IHL and IHRL. Furthermore, it is important to use the term "survivor" when referring to people who were exposed to conflict-related crimes of sexual violence in order to avoid their stigmatization and victimization.

6 <https://www.5am.in.ua/en>

## 2. METHODOLOGY

### 2.1 Data collection & ethical considerations

HFHR collected in-depth semi-structured interviews with Ukrainian refugees residing in (or transiting through) Poland; and analyzed them in the context of international legal standards, as well as the information published by the UN; the Organization for Security and Co-operation in Europe (OSCE), other international and Ukrainian human rights actors; national investigative bodies; and other credible sources.

HFHR teams informed the interviewees that, depending on their wishes and written consent, their testimonies would be:

- shared with national and/or international investigative mechanisms, such as Polish and Ukrainian prosecutors, the International Criminal Court (ICC), UN monitoring bodies, and the OSCE,
- reflected in HFHR reports to inform the public about the violations of international IHL and IHRL (and their consequences) suffered by refugees from Ukraine,
- and/or included in future historical archives.

HFHR informed interviewees about the voluntary nature of the interviews. All interviews took place in safe spaces that ensured people's privacy, and they were conducted in Ukrainian or Russian languages.

To mitigate the risk of re-traumatization of individuals who had to re-live experiences from the war, HFHR teams had been trained in trauma-informed interviewing methods by expert NGOs, such as the Polish Centre for Torture Survivors.<sup>7</sup> Furthermore, agreements were made with humanitarian actors providing psycho-social assistance to ensure referral to psychological care if needed.<sup>8</sup>

<sup>7</sup> <https://pcts.org.pl>.

<sup>8</sup> Communication with organizations providing specialized psychosocial assistance for people impacted by international crimes was facilitated by humanitarian actors, such as the UN Refugee Agency (UNHCR).

HFHR also coordinated with other Polish actors documenting violations of IHL and IHRL regarding geographical outreach to refugees willing to share their stories.<sup>9</sup>

## 2.2. Overview of the conducted individual interviews

Between August 2022 and December 2023, HFHR teams conducted 226 outreach activities in 40 locations (such as humanitarian aid assistance hubs, collective shelters, etc.), and spoke to 1800 individuals. This resulted in 105 in-depth interviews, including 91 interviews with people who directly witnessed or experienced violations of IHL and IHRL. As of March 2024, over 40% remained in Poland, while others resided in Western Europe and the U.S. Several people returned to Ukraine.

Among the people interviewed by HFHR:

- Two experienced the **death of a loved one** as a result of indiscriminate or targeted attacks, and 17 witnessed such deaths; 9 out of these 19 interviewees were from Mariupol (HFHR documented 42 deaths in total, including 34 reported in Mariupol).
- 36 people suffered the consequences of **partial or complete destruction of civilian objects** (private property; farmer's fields affected by mines and unexploded ordnance).
- 16 people were subjected to **arbitrary detention**; 10 were victims and two were witnesses of **torture and ill-treatment**.
- Two people were looking for their **missing relatives**.
- Two people were subjected to, and one was a witness of **forcible transfer to the Russian Federation**.
- 11 people were **coerced to take oath of allegiance** to the occupying power as they were essentially forced to apply for Russian Federation passport and/or birth certificates for their children.

9 This included Foundation Sunflowers and War Crimes Documentation Centre– Opora.

- Two people fled occupied territories to avoid **forced conscription** into the Russian Federation armed forces.
- 16 people experienced **house searches** conducted by the occupying forces – in most cases associated with torture, ill-treatment, and pillage.

## Limited number of testimonies of survivors of conflict -related sexual violence (CRSV)

HFHR interviewed one survivor of CRSV, who also experienced other violations of IHL and IHRL, including the enforced disappearance<sup>10</sup> of her two sons. She left Poland and continued her journey to another European state.

HFHR data do not reflect the real number of survivors among refugees in Poland. In Ukraine, allegations of acts of CRSV against women, girls, men and boys are widely documented by the national investigative bodies, the UN and NGOs.<sup>11</sup>

HFHR notes that effective identification of survivors requires the provision of comprehensive care services, that are survivor-centered and trauma-focused. Such support system is necessary to ensure the rights and address the needs of all survivors.<sup>12</sup>

Sexual violence is surrounded by stigma, and it is difficult for survivors to come forward. Many would need specialized support, sensitive and adapted to their specific needs, including medical and psychological care, as well as legal and

<sup>10</sup> Article 2 of the International Convention for the Protection of All Persons against Enforced Disappearance of 20 December 2006 (signed by Poland on June 25, 2013, but still not ratified) defines enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” Relatives of a missing person are also considered victims of human rights violations. More on this topic in: ICRC, Missing persons and their families; international legal framework, November 2023 [Accessed: 20 May, 2024].

<sup>11</sup> For example, between February 2022 and December 2023, the Office of the Prosecutor General of Ukraine recorded 257 incidents of conflict related sexual violence: <https://www.gp.gov.ua/ua/posts/seksualne-nasilstvo-pov-yazane-z-konfliktom>.

<sup>12</sup> ICC, Policy on gender-based crimes; crimes involving sexual, reproductive and other gender-based violence, December 2023; See also: WHO, Mental health and psychosocial support for conflict-related sexual violence: principles and interventions, 2012.



psychosocial services. Such support is currently limited in Poland.<sup>13</sup> Furthermore, as noted by the UN Special Rapporteur on violence against women and girls, its causes and consequences during her visit to Poland in 2023, refugee survivors are restricted by the same policy limitations as Polish women and girls, who are largely unable to access gender-based violence-related services including access to safe abortion and the clinical management of rape.<sup>14</sup>

### **2.3. Ensuring impartiality**

HFHR's staff made efforts to maintain impartiality during outreach activities and interviews. The analysis of collected information, based on relevant international definitions, showed that violations documented in the report were in most cases committed by the representatives of the Russian Federation armed forces and affiliated groups - the aggressor in the war. HFHR documented five cases of possible violations of IHL and IHRL committed by the Ukrainian armed forces (mostly related to indiscriminate attacks).

### **2.4. Managing security risks and ensuring confidentiality**

To ensure the safety of the witnesses and survivors, and due to ongoing retaliation risks for many of the people from the occupied territories (e.g. whose relatives are held in detention or whose travel documents were confiscated by the occupying forces), only the basic details extracted from the collected testimonies feature in this report. The names of all interviewees were changed.

### **2.5. Demographics**

HFHR spoke to people from 10 different regions of Ukraine:

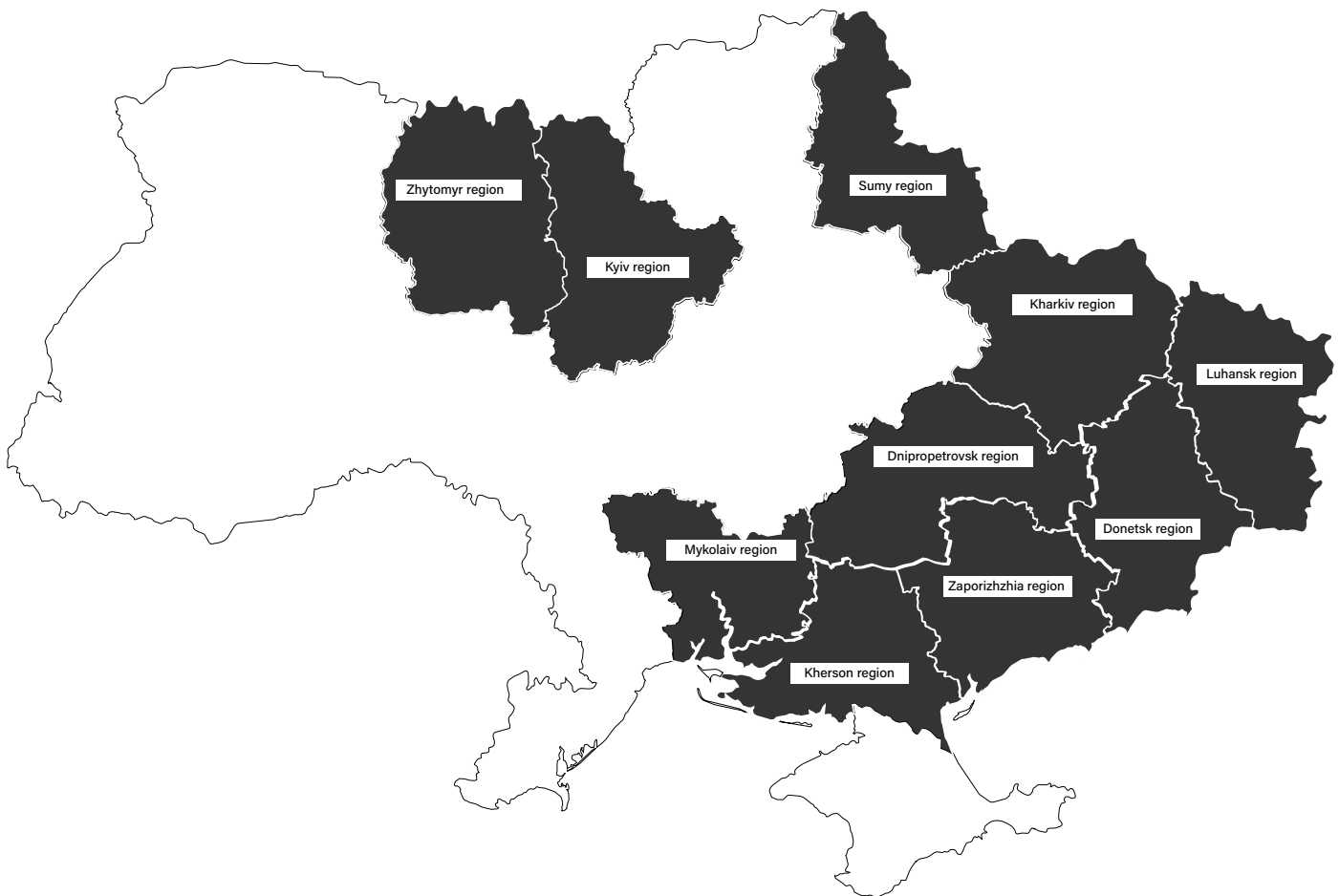
- Kherson region: 31
- Donetsk region: 22
- Zaporizhzhia region: 16
- Kharkiv region: 7
- Luhansk region: 8

13 EIGE, Women fleeing the war: Access to sexual and reproductive healthcare in the EU under the Temporary Protection Directive, 2024, p. 70 [Accessed on 20 May 2024].

14 UN SR on violence against women and girls, Official Visit to Poland - Preliminary findings and recommendations, 9 March 2023.

- Kyiv region: 3
- Dnipropetrovsk region: 1
- Zhytomyr region: 1
- Sumy region: 1
- Mykolaiv region: 1

Majority, approximately 70%, came from territories occupied by the Russian Federation, where human rights abuses are wide-spread and systematic (in many places since 2014).



### **3. CONTEXT: ONGOING INTERNATIONAL ARMED CONFLICT IN UKRAINE**

On 24 February 2022, the Russian Federation, supported by Russian-affiliated armed groups, launched a full-scale aggression against Ukraine.<sup>15</sup> The military attack led to severe intensification of the conflict ongoing since 2014, and allowed the Russian Federation to capture territory in Donetsk, Kharkiv, Kherson, Luhansk, Mykolaiv, and Zaporizhzhia regions of Ukraine.

Ukrainian armed forces launched a counteroffensive, and by the end of November 2022, they recaptured most of the Mykolaiv region, nearly all of the Kharkiv region, the city of Kherson and areas of the Kherson region on the right bank of the Dnipro River.

In September 2022, Russian occupying authorities conducted so-called “referendums” and illegally annexed the regions of Donetsk, Luhansk, Kherson, and Zaporizhzhia. The Russian Federation armed forces continued to tighten control over the remaining occupied territories by imposing Russian political, legal, administrative, and economic systems.<sup>16</sup> In October 2022, the UN General Assembly condemned and declared unlawful the attempted illegal annexation of Ukrainian territory. Both the UN General Assembly and the Secretary-General deplored Russia’s aggression against Ukraine as a violation of the UN Charter and international law<sup>17</sup>.

Most of the hostilities occurred in big cities and densely populated areas such as Chernihiv, Kharkiv, Donetsk, Horlivka, Makiivka, Mariupol, Kherson and Mykolaiv, causing widespread death of civilians and destruction of civilian objects across the country.

By February 2024, the United Nations documented over 10,000 people killed and nearly 20,000 injured as a result of the armed conflict, but the real number

15 This includes the following armed actors under the overall control of the Russian Federation: 1) affiliated armed groups of the former self-proclaimed ‘republics’ (former self-proclaimed ‘Donetsk people’s republic’ and former self-proclaimed ‘Luhansk people’s republic’); and 2) Wagner Group military and security contractors.

16 OHCHR, Human rights situation during the Russian occupation of territory of Ukraine and its aftermath, 19 March 2024, para 112 [Accessed 20 May 2024].

17 See UN General Assembly Resolutions ES-11/1 i ES-11/4 (2022).

is likely much higher.<sup>18</sup> According to the UN Refugee Agency (UNHCR), over 6 million refugees fled Ukraine, and over 3,5 million remain displaced within the country.<sup>19</sup>

The joint assessment by the Government of Ukraine, the World Bank Group, the European Commission, and the UN, published in December 2023, estimated that “the total cost of reconstruction and recovery in Ukraine is USD 486 billion over the next decade”, and highlighted that in 2024 alone “the country will need around USD 15 billion for immediate reconstruction and recovery priorities at both the national and community level, with a particular focus on supporting and mobilizing the private sector alongside restoration of housing, soft infrastructure and services, energy, and transport.”<sup>20</sup>

Attacks have continued to obstruct the delivery of humanitarian aid. The damage to energy-related infrastructure left many communities without water, electricity, and heating. According to the Office of the High Commissioner for Human Rights (OHCHR)<sup>21</sup>, the widespread use of wide-range explosive weapons in populated areas - e.g. shelling from heavy artillery and multi-rocket launch system (MLRS), and air strikes was the main cause of civilian casualties and damage to civilian infrastructure. The hostilities also resulted in the contamination of Ukraine’s territory by tens of thousands of mines and explosive remnants of war.<sup>22</sup>

Multiple reports by the UN mechanisms and civil society actors<sup>23</sup> documented systematic violations of IHL and IHRL, including deterioration in a range of civil, political, economic, social and cultural rights of the civilian population in areas occupied by the Russian Federation.

18 OHCHR, Human Rights Situation in Ukraine: 1 December 2023 - 26 March 2024, March 2024, para.94 [Accessed 20 May 2024].

19 See UNHCR website: <https://data.unhcr.org/en/situations/ukraine> [Accessed 20 May 2024].

20 The World Bank, Ukraine - Third Rapid Damage and Needs Assessment (RDNA3): February 2022 - December 2023, 31 December 2023, p.16.

21 OHCHR, Report on the Human Rights Situation in Ukraine – 1 December 2023 - 26 March 2024, March 2024, paras 4, 31, 36 [Accessed 20 May 2024].

22 See: Human Rights Watch, Landmine Use in Ukraine, June 2023 [Accessed 20 May 2024].

23 See regular reports published by OHCHR Monitoring Mission in Ukraine; and UN Inquiry Commission; See also reports published by civil society groups associated with the 5am. Coalition: <https://www.5am.in.ua/en> or Tribunal for Putin: <https://t4pua.org/en/1084>.



## 4. INTERNATIONAL LEGAL FRAMEWORK

### International Humanitarian Law (IHL)

The international armed conflict in Ukraine is governed by international humanitarian treaty law - primarily the four Geneva Conventions of 1949 and its First Additional Protocol of 1977 (Protocol I), as well as the rules of customary international humanitarian law. The laws of war regulate the means and methods of warfare by parties to a conflict and protect civilians from the hazards of armed conflict. They are required to refrain from attacks that fail to discriminate between combatants and civilians, or that would cause disproportionate harm to the civilian population. Both the Russian Federation and Ukraine are parties to the 1949 Geneva Conventions and Protocol I.

### International Human Rights Law (IHRL)

During an armed conflict, IHRL is applied in parallel to IHL and continues to protect individuals from abuse of power by state representatives. States must respect and uphold IHRL at all times, including on territories under their control or occupation. Any restrictions on the enjoyment of human rights must strictly adhere to the provisions of the IHRL. Such restrictions exclude non-derogatory rights, including the right to be free from arbitrary deprivation of life; the prohibition of torture and other ill-treatment; the prohibition of slavery; prohibition of retroactive penalty; recognition as a person before the law and procedural rights; and freedom of thought, conscience, and religion.

Both the Russian Federation and Ukraine have treaty obligations in respect of human rights, as they are parties to the vast majority of the main UN conventions protecting human rights, including the International Covenant on Civil and Political Rights. Until 15 September 2022, the Russian Federation was a Party to the European Convention on Human Rights.

### The rights of the victims and survivors

Under international law, victims and survivors of gross violations of IHRL and serious violations of IHL have a right to reparation. While the terms 'serious violations' or 'gross violations' are not formally defined in international law, it is

widely accepted that they refer to violations that have adverse consequences for the most basic rights of individuals – primarily for the right to life and the right to physical and moral integrity. It is generally assumed that the category of serious or gross violations includes among others torture or other cruel, inhuman or degrading treatment or punishment; sexual violence; slavery; enforced disappearances; prolonged arbitrary detention or deportation or forcible transfer of population. Furthermore, in some circumstances, the term ‘victim’ also includes the immediate family of the people subjected to serious crimes – e.g. in cases of enforced disappearances.

Among different international standards on the rights of victims and survivors,<sup>24</sup> *the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* offer the most comprehensive approach to reparation that puts the victims and survivors at the centre. The document describes a wide range of measures that may be taken by States to enable victims and survivors to receive justice, and to access services and support that will provide relief for the harm suffered, and “repair” the harm caused by crimes. States should take the following measures to provide comprehensive reparation:

- **Restitution** to try as much as possible to help people restore their lives as they were before the violation occurred, e.g. through return of property, reinstatement of employment or safe and voluntary return to one’s home.
- **Compensation** to make sure victims and survivors receive financial reparation for any economically assessable damage, loss of property, loss of livelihoods, or moral damages.
- **Rehabilitation** to help people access medical and psychological care, as well as legal and social services to address the consequences of the crimes they suffered.
- **Satisfaction** through measures that can stop the continuation of violations; support truth-seeking initiatives; search for the disappeared person or their remains; public apologies; memorials, and commemorations.
- **Guarantee of non-repetition** by ensuring the independence of the judiciary,

24 Other relevant documents on the right to remedy include among others: General comment No. 3 of the Committee against Torture (CAT/C/GC/3); Resolution adopted by the Human Rights Council on Torture and other cruel, inhuman or degrading treatment or punishment: rehabilitation of torture victims (A/HRC/RES/22/21); General comment No. 31 by the Committee on Civil and Political Rights on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant (CCPR/C/21/Rev.1/Add.13); or General comment on women affected by enforced disappearances of the Working Group on Enforced or Involuntary Disappearances at its ninety-eighth session, 2012 (A/HRC/WGEID/98/2).

and changing laws contributing to gross violations of international human rights law and serious violations of international humanitarian law, e.g. including definitions of serious crimes under international law in the criminal code.

While the state responsible for committing those violations is also responsible for the delivery of reparations, Principle 16 of the UN Guidelines provides that states “should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations.” This means that countries hosting refugees, many of whom may suffer life-long consequences of experienced violations, should consider their role in supporting and providing reparations (or specific elements of a broader comprehensive reparation framework).

# 5. OVERVIEW OF THE VIOLATIONS OF INTERNATIONAL LAW REPORTED TO HFHR IN 2022-2023

## Protection of civilians and civilian objects under IHL

It is prohibited to:

carry out deliberate attacks against civilians,<sup>25</sup>

carry out indiscriminate attacks (without distinction),<sup>26</sup>

use civilians to shield military objectives or operations from attack.<sup>27</sup>

Parties to the conflict must ensure that attacks are directed at specific military objectives, and use accurate weapons to minimize the risk of incidental harm to civilians. They must always distinguish between combatants<sup>28</sup> and civilians (targeting only the former), and take constant care during military operations to “take all feasible precautions” to avoid or minimize the incidental loss of civilian life and damage to civilian objects. They must also respect the principle of proportionality to prevent situations when incidental deaths of civilians resulting from an attack are excessive in relation to the anticipated military advantage.

25 The prohibition resulting from, among others, Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (among others Article 3); Article 51 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Article 8(2)(b)(i) of the Rome Statute of the ICC.

26 The prohibition resulting from, among others, Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (among others Article 3); Article 52 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Article 8(2)(b)(ii) and (v) of the Rome Statute of the ICC.

27 The prohibition resulting from, among others Article 51(7) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts; Article 8(2)(b)(xxiii) of the Rome Statute of the ICC.

28 The term “combatants” describes members of the armed forces of a party to the conflict (except medical and religious personnel).



Parties to a conflict must facilitate the evacuation of civilians who want to leave conflict areas. Deportation or transfer of the civilian population from an occupied territory is prohibited (unless the security of the civilians involved or imperative military reasons so demand). Parties to the conflict should allow access for neutral humanitarian actors to support civilians who may need assistance to leave, including people with injuries, chronic or severe medical conditions, people with disabilities, older people, pregnant people and those who have recently given birth, and children.

The laws of war do not prohibit fighting in urban areas, but parties to the conflict must take steps to minimize the risk of indiscriminate and disproportionate attacks, and loss of life among civilians. For example, they should verify that the target of an attack is a military objective, and give warning and the possibility for the civilian population to evacuate.

The warring parties must never conduct direct attacks against civilian objects, such as homes and apartments, shops, places of worship, hospitals, schools, and cultural monuments unless they are being used for military purposes. Some critical infrastructure, such as electricity generation plants, water infrastructure, and telecommunications facilities, are considered dual-use objects, entities that normally have both civilian and military purposes. A dual-use object is a legitimate military target if it is an "effective contribution to military action" and its destruction, capture or neutralization in the circumstances ruling at the time offers "a definite military advantage." An attack on a dual-use object that is a legitimate military objective still must consider the principle of proportionality.

## 5.1. Deaths of civilians resulting from military attacks and disregard for provisions of IHL

HFHR spoke to 40 individuals who were directly impacted by or witnessed indiscriminate attacks – in most cases conducted by the Russian Federation armed forces.

Kateryna, who witnessed the hostilities in Zaporizhzhia, told HFHR that on 3 March 2022, she was sheltering in the basement of a residential building with her neighbours. They read media reports that a firefighting department nearby had been attacked by the Russian armed forces. When it appeared that the shelling had calmed down, one of the women left the shelter. She went back to her apartment to check on her elderly mother, who was bedridden and unable to move to the basement. *“She left during the night and never returned. The next day, we learnt that a shell hit her building and killed the woman. Her mother survived and was taken by an ambulance to Zaporizhzhia the next morning.”*

Igor from Teterivske, a village of 300 inhabitants in the Kyiv region, recalled that on 8 March 2022, airstrikes killed at least three of his neighbours. One woman died after a missile hit her house. *“The woman and her son entered the house, and a rocket hit immediately after. The woman died, but the son survived.”* He added that it was impossible to extinguish the fire caused by the air strikes that day and around 70% of their village was destroyed, including his house.

In their testimonies, several people interviewed by HFHR described attacks which appeared to be deliberately targeting civilians.

In mid-March 2022, Andriy, an elderly man from Mariupol, saw the bodies of 15 individuals killed in a bomb explosion. Andriy had taken cover with them in the same bomb shelter near Peremohy (Victory) Square. They were killed while preparing food in the courtyard outside the bomb shelter. *“And we didn’t hear the explosion. But when we went outside [the bomb shelter] and saw this pit - we were just shocked... People were lying there as if nothing had happened to them. Only one man’s legs were blown off and he died on the way to the hospital.”* The bodies of these people were buried in a pit that was formed after the explosion of the bomb. Andriy said that people rarely left the shelter during the day, because the sniper would immediately start shooting at them.

Since 24 February 2022, the UN documented around 10,000 deaths resulting from the armed conflict in Ukraine. This number is likely much higher. In a joint report, Human Rights Watch, Truth Hounds and SITU estimated that, between 24 February 2022 and March 2023, at least 8,000 people died in Mariupol alone due to the war.<sup>29</sup>

Mariupol (425,000 residents<sup>30</sup>)

Mariupol is a city in the Donetsk region known for its steel industry with access to the Azov Sea. On 24 February 2022, the city was attacked by the Russian Federation armed forces, and got encircled by 1 March 2022. Ukrainian armed forces fought from within the city and took shelter at the Azovstal Plant. By mid-April 2022, the Russian forces had almost full control of the city. The siege of Mariupol continued until 20 May 2022, when Russian authorities declared the “complete liberation” of the city, which remains under occupation up to date.<sup>31</sup>

The fighting destroyed over 90% of the city’s infrastructure, depriving people of access to electricity supplies, heating, water, and other basic services. The UN High Commissioner for Human Rights said that the “intensity and extent of hostilities, destruction and death and injury strongly suggest that serious violations of international humanitarian law and gross violations of international human rights law have occurred [in Mariupol]”<sup>32</sup> During the siege, medical care was largely unavailable as hospitals were targeted, despite their protective status under IHL,<sup>33</sup> and supplies of medicine were blocked. Thousands of civilians died – many as a direct result of the hostilities as large residential apartment buildings appear to have been most impacted by the devastation. Others, died from chronic illness, lack of access to medical care, and inadequate and unsafe living conditions.<sup>34</sup> Evacuation from the city

29 Human Rights Watch, Truth Hounds, SITU, “Our City Was Gone”: Russia’s Devastation of Mariupol, Ukraine, February 2024 [Accessed 20 May 2024].

30 Government of Ukraine, Ukraine Population Census 2022, [Accessed on 20 May 2024].

31 Based on data provided by the Ukrainian Ministry of Reintegration on The territories affected by hostilities or under the occupation of the Russian Federation, [Accessed 20 May 2024].

32 UN High Commissioner for Human Rights, Briefing to the 50th session of the United Nations Security Council, 5 May 2022.

33 For more information on attacks affecting the healthcare system see: <https://www.attacksonhealthukraine.org>, and <https://extranet.who.int/ssa/Index.aspx>.

34 Human Rights Watch, Truth Hounds, SITU, “Our City Was Gone.” Russia’s Devastation of Mariupol, February 2024, p. 14 [Accessed 20 May 2024].

was obstructed by a lack of mobile phone signal and no reliable information about safe evacuation corridors.

HFHR interviewed 19 people who witnessed deaths of civilians, including loved ones, resulting from military attacks. Among these individuals, 9 were from Mariupol.

In December 2022, HFHR spoke to a married couple from Mariupol. Victor and Nadia suffered an unimaginable loss soon after the Russian armed forces launched an attack on the city. Their residential building was targeted by heavy shelling, which forced the couple and their two young children to shelter in the house of the husband's parents. Days later, they experienced another airstrike. Nadia told HFHR *"It felt as if the whole house fell on top of us completely. There was not even a single brick left."* Victor described the impact of the attack: *"There was a crater maybe two or two and a half meters in diameter and one meter and a half deep. The wall and roof of the house completely crumbled"*. The airstrike killed two family members – their child and Victor's father. The child's body was crushed under the rubble of the house. The father died in the fire caused by the strike. Victor recalled that *"Everything was on fire... The neighbours... began to save us. To be honest, though, I thought it would be the end."* All family members sustained serious injuries. The family managed to leave Mariupol together (despite the attempts by the occupation authorities to separate the child from the parents). Today, they are in safety outside Ukraine. Their physical injuries are slowly healing, but they struggle to build a new life without their loved ones. Despite many efforts, they were not able to organize a proper burial and are now losing hope it can change in the foreseeable future.

Several of the Mariupol residents told HFHR that in the first weeks following the attack on the city it was dangerous to bury the dead in cemeteries or transport them to hospitals and morgues. Instead, people had to bury the bodies of neighbours, family members or strangers in makeshift graves, often in the courtyards of residential buildings.<sup>35</sup> Today, many of the people buried in such makeshift graves are possibly registered as missing.

Oksana, a 55-year-old woman, who did not leave occupied Mariupol until 8 August 2022, stayed in the basement of a store on Moskovska Street to shelter

<sup>35</sup> Ibid, p. 153.



from relentless air strikes and mortar and artillery shelling. She was there with 30 other people. She would leave the basement only in search of water, food or firewood. Oksana believes that at least 11 people, all of them civilians, died in the spring of 2022 in her neighbourhood as a result of indiscriminate attacks or sniper fire. *“I had to cook [outside] because my husband has diabetes. There was no bread to buy. There was nothing. On 2 March, I was making flatbread on the fire, and suddenly heard a whistling sound. The most terrible thing was that you could not hear the firing. It [shrapnel] was just coming. I managed to run into the basement, but one man, who was also outside, was killed by a shrapnel. We could only bury his body after a month in the garden of his yard, where he was killed. My husband and I went to help, and we held a burial ceremony nearby. Somehow, we managed to bury him in a coffin, so that it could be later reburied. The coffin protected the remains from dogs. The hungry dogs were terrible.”*

## **5.2. People who are missing as a result of armed conflict**

Since 24 February 2022, the Ukrainian authorities registered 37,000 people as missing, but that number is likely higher.<sup>36</sup> Over 9000 are from Mariupol.<sup>37</sup> The International Committee of the Red Cross (ICRC) registered 23,000 missing cases reports by January 2024, which includes people who were captured, died, or lost contact with relatives after fleeing hostilities.<sup>38</sup>

The families of the missing continue to look for their loved ones without knowing if they died, if and where they were buried, or if they are still alive.

**HFHR spoke to two women, whose family members were reportedly captured by the Russian Federation armed forces, but they have no information about their fate or whereabouts.**

Maria told HFHR that her husband was reportedly detained by the Russian Federation armed forces in March 2022 in Mariupol. He served in the Ukrainian

36 Estimate based on information provided by the Ukrainian Parliament Commissioner for Human Rights in April 2024, See: <https://zmina.ua/en/event-en/working-group-that-will-take-care-of-civilian-hostages-detained-by-russia-was-presented-in-kyiv/>.

37 Human Rights Watch, Truth Hounds, SITU, “Our City Was Gone”: Russia’s Devastation of Mariupol, Ukraine, 28 February 2024, p.2 [Accessed 20 May 2024].

38 See: ICRC, Russia-Ukraine international armed conflict: 23,000 people reported missing, February 2024 [Accessed 20 May 2024].

army after 2014. He was no longer deployed with the military during the full-scale invasion. *“The last time I saw him was on 14 March. He put me in his friend’s car, and I did not even have a chance to kiss him goodbye. It affected me so much... My husband and I love each other very much, and it is not typical for us to not show affection. I think he must have felt somehow that we would not see each other for a long time.”* In April 2022, Maria learnt from unofficial sources that her husband was in captivity. She filed a missing person report with the ICRC. She is currently in Poland with her children. She works in a restaurant. Every day, she waits for news about her husband’s release.

Those who know or suspect that their relatives are dead, face challenges with identifying their remains and organizing burials for them.

In April 2022, the occupying authorities in Mariupol reportedly began removing bodies from the streets, exhuming graves in the city, and clearing rubble. However, they have failed to establish a proper system of searching for the missing.<sup>39</sup>

One person told HFHR that, after the body of a relative had been recovered from a makeshift grave by the city services, the authorities exhumed the body and re-buried it elsewhere. Later, the authorities realized that the re-buried body was incomplete because some of the remains had gone missing while the body was stored in the morgue. In another instance, the authorities gave a family an identification number assigned to several graves in different re-burial sites. Overall, relatives of the missing expressed concern that evidence of the committed crimes, including the remains of their family members, would be removed by the occupying authorities along with the debris from the demolished buildings and covered up with the new infrastructure projects implemented by the occupying authorities.

It is important to note that many relatives cannot return to the occupied territories to register the disappearance of their loved ones out of fear of retaliation.

Under both IHL and IHRL, states have the obligation to clarify the fate and whereabouts of missing persons; to provide their family members with any information available on their fate and whereabouts; and to investigate and, when possible,

39 Human Rights Watch, Truth Hounds, SITU, “Our City Was Gone”: Russia’s Devastation of Mariupol, Ukraine, 28 February 2024, p.146 [Accessed 20 May 2024].

prosecute international crimes resulting in persons going missing or being forcibly disappeared.<sup>40</sup>

The inaction of the occupying authorities in Mariupol raises concerns over the obstruction of such investigations and the denial of the rights of the relatives of the missing. To date, no independent mechanisms and forensic experts specializing in searching missing persons,<sup>41</sup> such as ICRC, INTERPOL or the International Commission on the Missing Persons (ICMP), were allowed to work in Mariupol. Furthermore, the ICC or national investigative mechanisms are unable to examine the sites of potential war crimes and other crimes under international law committed in Mariupol and other territories under the Russian Federation's control.

### **5.3. Destruction and damage to civilian infrastructure**

In addition to deaths of civilians, an estimated 1,5 million homes were destroyed or damaged as a result of hostilities.<sup>42</sup>

**HFHR heard testimonies of 36 people whose houses or apartments were affected.**

Typically, the damage was a result of indiscriminate attacks – primarily committed by the Russian Federation armed forces.

**HFHR spoke to 15 individuals who witnessed destruction or damage to civilian infrastructure, including medical and educational facilities in Zhytomyr, Kherson, Kharkiv, Zaporizhzhia, Enerhodar, Mariupol, Nikopol and Chuhuiv.**

Natalia from Kharkiv told HFHR that she left the city in early May 2022, with the help of volunteer organizations, because her daughter suffered a stroke and needed specialized care and rehabilitation not available in the city. Her parents stayed behind. She recalled that the Kharkiv regional clinical oncological

40 See: ICRC, Missing Persons and Their Families, International Legal Framework, November 2023.

41 UN, Missing persons, Report of the Secretary-General (A/65/285), 12 August 2010.

42 UNDP, , Breaking barriers, building hope in Ukraine, 19 June 2023 [Accessed 20 May 2024].

centre in the Pomerky district was destroyed.<sup>43</sup> Her father, a cancer patient, had to interrupt his chemotherapy treatment because of shelling and lack of a functioning hospital. He died by the end of September 2022.

In February 2023, HFHR spoke to Oleh, a psychiatrist from Kharkiv city. At the time of the full-scale invasion, he was retired but continued to work part-time. In February-March 2022, the clinic where he worked was closed. He was concerned that lack of access to functioning medical facilities would impact patients in need of continued treatment for various mental health conditions. One of his patients committed suicide and Oleh was convinced this was because he had to interrupt his medical treatment. *“One of them [a patient] died because I wasn’t there, otherwise it would not have happened.”*

Kharkiv region (2,6 million residents<sup>44</sup>)

Since the full-scale invasion, Ukraine’s second largest city has been the target of constant air strikes due to its proximity to the border with the Russian Federation. Russian armed forces occupied a large part of the region, including Chuhuiv, Kupiansk and Izium. By September 2022, Ukrainian armed forces liberated the region, except for a small area bordering the Luhansk region. The Ukrainian authorities reported that they recovered the bodies of around 450 civilians buried in mass grave sites in Izium<sup>45</sup>. To date, the UN and major human rights organizations documented a number of violations, including attacks on medical and educational facilities;<sup>46</sup> the use of explosive weapons including airstrikes, multiple launch rocket systems, missiles, and bombs near major towns and cities causing death and injuries to civilians and destruction and damage of civilian objects<sup>47</sup>; and incidents caused by

43 Kharkiv Today, “How the Kharkiv Oncological Centre Functions after the Shelling”, 9 March 2022 [Accessed 20 March 2024].

44 Statistics Ukraine, Population Census of Ukraine, January 2022, p.40.

45 Ministry of the internal affairs of Ukraine, “The bodies of 263 victims, including two children, were removed from the mass burial site in Izyum”, September 21, 2022 [Accessed 20 May 2024].

46 OHCHR, Report on the human rights situation in Ukraine, 1 August 2022 – 31 January 2023, March 2023, paras. 35–37 [Accessed 20 May 2024].

47 OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2022, September 2022, paras. 25–29, 89 ; OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2023, October 2023, para. 32; OHCHR, Report on the human rights situation in Ukraine, 1 August 2023 – 30 November 2023, December 2023, paras. 18, 25 [Accessed 20 May 2024].



mines or explosive remnants of war.<sup>48</sup> One of the deadliest attacks on civilians was conducted on 5 October 2023 in the village of Hroza when the Russian armed forces reportedly killed 59 people who were participating in a funeral service.<sup>49</sup> Furthermore, the occupying forces committed widespread acts of violence against the civilian population, including enforced disappearances and arbitrary detentions,<sup>50</sup> summary executions, and the transfer of civilians, including children into the Russian Federation.<sup>51</sup> At the time of writing, Kharkiv city remains severely impacted by constant attacks by the Russian armed forces, resulting in more deaths and further destruction of civilian infrastructure essential to the survival of the city's population, including the thermal and hydroelectric power stations <sup>52</sup>.

On 6 June 2023, the breach in the Kakhovka dam and hydroelectric power plant was one of the most catastrophic events since the start of the full-scale invasion, causing extensive flooding along the lower Dnipro River, submerging entire communities across the Ukraine-controlled right and Russian-occupied left banks in a matter of hours.

It is impossible to verify what exactly caused the incident, but the consequences for the civilian population were devastating. The UN estimated some 100.000 people had been affected by the flooding in four regions —Kherson, Mykolaiv, Dnipropetrovsk, and Zaporizhzhia. Their homes were damaged and access to energy supplies, drinking water and other essential services was disrupted.<sup>53</sup> In mid-June, UN reported that the occupying authorities declined requests to

48 OHCHR, Report on the human rights situation in Ukraine, 1 August 2022 – 31 January 2023, March 2023, para. 31; OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2023, October 2023, para. 33. [Accessed 20 May 2024].

49 OHCHR, Report on the human rights situation in Ukraine, 1 August 2023 – 30 November 2023, December 2023, para. 4 [Accessed 20 May 2024].

50 OHCHR, Report on the human rights situation in Ukraine, 1 August 2022 – 31 January 2023, March 2023, paras. 48, 55; OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2023, October 2023, para. 64; Petruniok B., Illegal detention, torture and ill-treatment of the civilian population of Ukraine: similarity of the practices of committing crimes in the regions occupied by Russia in 2022, Human Rights Centre ZMINA, Kijów, 2024, pp. 4–6, 8 [Accessed 20 May 2024].

51 OHCHR, Report on the human rights situation in Ukraine, 1 August 2022 – 31 January 2023, March 2023, paras. 63–64, 69; OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2023, October 2023, paras. 91, 93. [Accessed 20 May 2024].

52 OHCHR, Report on the human rights situation in Ukraine, 1 December 2023 – 29 February 2024, February 2024 [Accessed 20 May 2024].

53 Government of Ukraine and United Nations, Post Disaster Needs Assessment, 17 October 2023 [Accessed 20 May 2024].

help residents of Russian-controlled areas of southern Ukraine impacted by the breach of the Kakhovka dam.<sup>54</sup> Testimonies collected by HFHR confirm that information.

Denys from Oleshky city in the Kherson region witnessed the destruction and damage caused by the flooding following the explosion of the Kakhovka hydro-electric power plant. He recalled that the Russian Federation armed forces (that occupied the city at the time) failed to undertake an organized evacuation of the civilian population and provide them with humanitarian assistance. *“Mostly the outskirts of Oleshky were flooded, while the centre remained dry ... They told us on TV that the water was gone, and to stay calm. And then later during the night, of course, the water rose. They did not save people ... I called my sister from the Khutoryshche district and went by boat to help people.”* Denys described vulnerable people stranded on the rooftops of the houses waiting for assistance. The residents organized community-based humanitarian response, including evacuation by boats. Around two weeks later, the occupying authorities offered alternative accommodation to some of the families whose housing was damaged by the flooding.

The disaster will likely adversely impact the economy and the ecology of the region. It also sparked nuclear safety concerns, because the water from the reservoir of the dam was used to cool the nearby Zaporizhzhya nuclear power plant (ZNPP), which had been under constant jeopardy since the occupation by the Russian armed forces early in the conflict and military activity taking place nearby.<sup>55</sup> HFHR spoke to multiple people who expressed fear over the ongoing hostilities near or in the ZNPP, including the potential short- and long-term catastrophic impacts on people’s safety, health, the environment, and the economy.

#### Zaporizhzhia region (1.6 m residents)

Zaporizhzhia region, surrounded by the Sea of Azov in the south, was largely occupied by the Russian Federation in early March 2022. On 4 March 2022, Russian armed forces took control over the Zaporizhzhia nuclear

54 UN News, Russia declines UN request for aid access to areas flooded by Ukraine dam breach. 18 June 2023 [Accessed 20 May 2024].

55 International Atomic Energy Agency, IAEA Director General Statement on Situation in Ukraine, 28 Mart 2024 [Accessed 20 May 2024].

power plant (ZNPP) - the largest facility of this type in Ukraine and Europe.<sup>56</sup> The International Atomic Energy Agency repeatedly warned about the safety risks associated with military activities. The ZNPP was cut off from external power eight times, forcing the plant to use emergency diesel generators.<sup>57</sup> This increases the vulnerability of the facility and creates a high risk of a nuclear accident. Since 24 February 2022, the UN and other major human rights organizations documented a number of serious violations of IHL and IHRL. This included: the use of explosive weapons with wide area effects in populated areas, as well as missile and air strikes and loitering munitions, which caused the death of civilians, destruction, and damage of civilian objects.<sup>58</sup> Crimes of sexual violence, arbitrary detention and enforced disappearance reportedly committed by members of the Russian armed forces were also documented.<sup>59</sup> After the illegal so-called "referendums" in September 2022, the Russian Federation illegally annexed the Zaporizhzhia region and established its political, legal and administrative systems there. Occupying power reportedly organized unlawful conscription,<sup>60</sup> and mass conferral of Russian citizenship to residents there.<sup>61</sup>

#### **5.4. Failure to ensure access to evacuation routes & forcible transfers and deportations of civilians**

The widespread attacks forced residents of major cities such as Mariupol to flee underground and many had to endure extreme hardship. The occupying forces failed to facilitate adequate evacuation and provision of humanitarian assistance and emergency medical care.

56 OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2022, September 2022, para. 31; IAEA, Update 11 – IAEA Director General Statement on Situation in Ukraine, 4 March 2022 [Accessed 20 May 2024].

57 IAEA, Update 207 – IAEA Director General Statement on Situation in Ukraine, January 19, 2024 [Accessed 20 May 2024].

58 OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2022, September 2022, para 25 [Accessed 20 May 2024].

59 OHCHR, Report on the human rights situation in Ukraine, 1 August 2022 – 31 January 2023, March 2023, para. 48; OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2023, October 2023, para. 65. [Accessed 20 May 2024].

60 OHCHR, Report on the human rights situation in Ukraine, 1 August 2023 – 30 November 2023, December 2023, paras. 43–45 [Accessed 20 May 2024].

61 OHCHR, Report on the human rights situation in Ukraine, 1 February – 31 July 2023, October 2023, para. 99 [Accessed 20 May 2024].

HFHR spoke to 8 people who described shortages of food, water, heating, and basic goods while hostilities continued, and they were unable to reach safety.

Stanyslav from Mariupol told HFHR about the fear and panic he experienced when the shelling started. *“A rocket or a bomb carried by airplane means that you will be knocked down. I am only thinking about one thing: if it hits me, let it be a quick death, not a painful death. You know that they will not pull you out because there are no rescuers. The doctors will not come, they will not help you.”* At first, his family hid in the basement of their building, but it caught on fire after a shelling in early March. They then moved to a larger shelter across the street, with 300 other residents. They had no information about possible evacuation routes, and there was no access to food, water, and essential services. Lack of medical care was a major issue. One of the wounded men in the basement could not receive medical care, because the hospital had no medicine to treat him. Stanyslav finally left Mariupol on 19 March with an evacuation bus organized by the Russian Federation authorities, but they had to evacuate to the Russian Federation. At the time, there was no other evacuation route from their part of the city.

On 14 March, the evacuation from Mariupol to Government-controlled territory began, after an agreement was made between Ukraine and the Russian Federation on the establishment of humanitarian corridors. People left the city in their private vehicles, by buses or on foot. The Government of Ukraine supported evacuation towards Zaporizhzhia by providing buses and shelter upon arrival, but many residents in the city were unable to reach safety in Ukraine-controlled territories. The coercive environment created by the hostilities and the humanitarian crisis in Mariupol meant that people often had no choice, but to evacuate to whichever direction possible, including the Russian Federation or the occupied territories in the Donetsk region.

HFHR spoke to three people, who may have been subjected to forcible transfer to the Russian Federation in the context of the supposed humanitarian evacuation of civilians.

Yulyia from Mariupol told HFHR that on 23 March Russian soldiers entered the basement where she was sheltering with other people and ordered them to tie white ribbons around their arms and legs and leave towards the Russian-controlled area of the city. *“We lived on the left bank of the city, and we*

had no opportunity to reach territories controlled by Ukraine. We were cut off." She walked on foot to the Vynogradne (neighbourhood of Mariupol) where she was told to get on a bus without information about where she was going or how long it would take. She later learnt that the bus was going to Rostov in the Russian Federation. Before entering Russia, the bus stopped in Novoazovsk (in the occupied territories of Ukraine), where she was interrogated by the Russian military forces as part of the so called "filtration".

Filtration, in the context of the armed conflict in Ukraine, is a term used to describe a system of excessive security checks, interrogation and personal data collection imposed by the Russian armed forces on those leaving areas of ongoing hostilities, and those residing in or moving through the occupied territories. The purpose of filtration was to identify possible affiliation with or support for the Ukrainian armed forces, and to collect information about the population. UN bodies and human rights organizations documented cases where filtration would lead to human rights abuses, such as arbitrary detention, torture and ill-treatment, or enforced disappearances.<sup>62</sup>

The forcible transfer of Ukrainian civilians to the Russian Federation continued in areas where occupying forces established control. This was conducted in a context of widespread violations of international humanitarian and human rights law by the Russian armed forces that were acting with complete impunity.

HFHR spoke to Aleksandra from Kakhovka in the Kherson region, who was a resident of a government-funded institution providing care for elderly people and people with disabilities. Aleksandra, who had a physical disability affecting her mobility, told HFHR that between 5 and 10 November 2022, around 200 residents of the facility were forcibly transferred to different boarding houses in the territory of the Russian Federation. Two weeks after the so-called "referendums" held in September 2022 in the occupied territories, the residents of the boarding house were informed that there would be "an evacuation". Around the same time, Ukrainian mobile and Internet providers stopped being accessible in the boarding house. No one asked about the resident's consent to be evacuated. Two residents who voiced their objection were threatened by security services. *"They were deeply afraid afterwards. Their phones were simply taken away [by the security services]."* All residents were deported in one day

62 OHCHR, Detention of civilians in the context of the armed attack by the Russian Federation against Ukraine: 24 February 2022 – 23 May 2023, 30 June 2023; See also: HRW, "We Had No Choice" - "Filtration" and the Crime of Forcibly Transferring Ukrainian Civilians to Russia, 1 September 2022.



by buses of the Ministry of Emergency Situations of Russia and vehicles of the Ambulance of Russia, and later by train. It took them one and a half days to reach Voronezh in Russia, where the residents were divided into groups of 5 or 6 people and taken to different care facilities in the region. After her transfer, social workers gave Aleksandra application forms to apply for a Russian passport. She managed to leave the Russian Federation after 6 weeks, with the support of volunteer networks<sup>63</sup>.

## **5.5. Threats, violence and repression in the territories occupied by the Russian Federation**

Under IHL, occupation should be temporary. This means that the occupying forces must refrain from introducing policy changes that would affect the social and economic life of the population and the demographics. Furthermore, IHL requires an occupying Power to administer the territory for the benefit of the local population and allow it to live “as normal a life as possible”:<sup>64</sup>

Private property cannot be confiscated, and pillage is expressly forbidden.

Public services in the occupied territories should continue, including schools, hospitals, social welfare centers, courts, etc.

Employees of these services must be treated with respect, protected against coercion, and not compelled to swear allegiance to the occupying forces (e.g., to change their citizenship).

Furthermore, the occupying authorities may not compel protected persons to serve in its armed forces.

Human rights, including the right of freedom of movement and the right to privacy, continue to apply during armed conflict and occupation. While some rights can be restricted by the occupying power, such restrictions must be in accordance with the principles of legality, proportionality, and necessity:

63 Radio Free Europe, The Russian Anti-War Volunteers Who Defied Threats and Helped Ukrainians Flee, 9 January 2024 [Accessed 20 May 2024].

64 ICRC, IHL and occupied territory, 26 July 2022 [Accessed 20 May 2024].

For example, under IHL occupying authorities may deprive civilians of liberty on security grounds, but procedural safeguards must be protected, by providing access to independent legal counsel, disclosing the reason for detention, promptly informing of the charges against them, etc.

Similarly, security checks must be carried out in line with applicable IHRL standards (including among others respect for the dignity of the person and the prohibition of torture and inhuman or degrading treatment).

Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, are prohibited by IHL. Prohibition of torture and other ill-treatment is also a key principle in IHRL enshrined in treaties and legal instruments of international law. The prohibition applies at all times and in all circumstances, including to all parties to a conflict.

Article 1 of the UN Convention against Torture adopted on 10 December 1984 defines torture as *"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."*

The Russian Federation began its occupation of Ukrainian territory in 2014, in Crimea. Following the full-scale invasion in 2022, the Russian armed forces imposed similar measures as in Crimea<sup>65</sup> to dismantle the Ukrainian governance system, suppress Ukrainian identity and culture, and control nearly all aspects of people's lives.<sup>66</sup> Most people interviewed by HFHR were adversely impacted

65 OHCHR, Ten Years of Occupation by the Russian Federation: Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine, 28 February 2024 [Accessed 20 May 2024].

66 OHCHR, Human rights situation during the Russian occupation of territory of Ukraine and its aftermath, 20 March 2024 [Accessed 20 May 2024].

by the policies of the occupying authorities imposing Russian citizenship, laws, education, language and even currency.

Furthermore, from the outset of the occupation, people experienced widespread pillage of public and private property by members of the Russian armed forces. HFHR heard stories of soldiers pillaging various items from their homes - electronics, house appliances jewellery and even alcohol. Members of the Russian armed forces and affiliated armed groups reportedly seized vehicles and equipment from homes, private businesses, and government facilities. These violations were committed openly, without any apparent fear of disciplinary measures.

Any real or persisted opposition to the policies and practices of the occupying forces was met with repressive measures, such as deprived access to livelihoods and employment, denial of services, or violence, including arbitrary arrests and torture. These actions created a coercive environment pressuring the population to comply with the newly established order. Others searched for opportunities to flee the occupied territories.

## **5.6. Restricted freedom of movement & invasive home searches**

People interviewed by HFHR described how in the early days of the occupation, the Russian armed forces installed numerous checkpoints near civilian houses, at entries to villages and towns, and along main roads. Freedom of movement was severely restricted and people were subjected to frequent and repeated searches, including of their phones. Some people HFHR spoke to were also subjected to aggressive interrogations. Men were required to strip to their underwear so that the Russian armed forces could check for 'pro-Ukrainian' tattoos and bruises that were apparently suggesting that the individual had fired a weapon. People who were subjected to or witnessed this practice described it as invasive and humiliating.

**HFHR spoke to 23 people who described being exposed to such invasive searches at checkpoints, on the street, at their workplace, and in their homes.**

Pavel from the Kherson region told HFHR that between March and December 2022, Russian armed forces conducted frequent searches in his village targeting men. Pavel had to cross the same checkpoint on a daily basis to reach his workplace in a village nearby. The soldiers at that checkpoint frequently forced

him to strip to his underwear and show the content of his mobile phone. Pavel had to endure repeated threats by the representatives of the Russian armed forces – mostly due to a lack of a Russian passport. On one occasion, the soldiers at the checkpoint threatened they would shoot him because he provided false information about applying for a Russian passport. Pavel also told HFHR that in March 2023, he had to take his child to the emergency room and the nearest hospital was around 50 km away in Skadovsk. He recalls being stopped at 14 checkpoints during the journey to the hospital, where soldiers thoroughly searched Pavel and his family members. They looked through their mobile phones and inspected the car each time.

HFHR interviewed Daria, who lived in a village in the occupied part of the Kherson region. Her daughter was born a few months after the full-scale invasion, and she hired a lawyer who managed to obtain (remotely) a Ukrainian birth certificate for her child from the Ukrainian authorities in Zaporizhzhia. At the end of August 2022, representatives of the occupying authorities threatened her that if she did not issue a Russian birth certificate for her child, she and her husband would be deprived of parental rights. In November 2022, after two subsequent home searches, Daria and her family left the occupied territories.

As stated above, the so-called filtration process aimed to identify people affiliated with the Ukrainian armed forces, or those with perceived pro-Ukrainian or anti-Russian views. Such people were often subjected to violations and abuses, including torture and ill-treatment, arbitrary detention, or enforced disappearance. Residents experienced significant stress during searches due to serious risks of violence. Because of these risks, residents were often scared to have any data on their phones.

Maryna from the Kherson region told HFHR that in her village, Russian armed forces launched home searches in March 2022. They looked for the families of military servicemen and security services. One day, the soldiers came to the store where Maryna worked and detained all the staff, including her. They brought them to the Commandment office for questioning. While searching her mobile phone, the military found a photo of her son wearing a Ukrainian uniform (at the time he served in the Ukrainian military forces). She was forced to sign a document declaring that she would convince the son to surrender to the Russian Army. *“They didn’t beat me. It was a good hour [that she was questioned]. They put moral pressure on me. ... They forced me to write a paper that*

*I, as a good mother, would tell my son to put on civilian clothes, report to the commandant's office, and surrender."*

## **5.7. Arbitrary detention and torture of civilians**

International and Ukrainian human rights actors have documented many cases of arbitrary detentions of Ukrainian civilians by the Russian Federation armed forces and affiliated groups.

The 2024 OSCE mission of experts established under the Moscow Mechanism concluded that the number of such civilians can be measured in thousands and that the practice of arbitrary detentions showed signs of a systematic, consistent, deliberate pattern.<sup>67</sup> This was confirmed by the UN Special Rapporteur on Torture, who concluded that arbitrary detention and torture appear to be "orchestrated as part of a policy by the Russian Federation to intimidate, instil fear, punish, or extract information and confessions."<sup>68</sup>

By December 2023, OHCHR recorded 687 individual cases of arbitrary detention in the Ukrainian territories occupied by the Russian Federation since the full-scale invasion.<sup>69</sup> Out of 171 cases of civilian detainees documented by OHCHR, 90 per cent had been tortured or subjected to ill-treatment.

By the end of 2023, the 5.AM Coalition of over 30 NGOs recorded 480 cases of torture and ill-treatment in a joint database.<sup>70</sup> Another civil society platform, the Coalition for Putin gathering over 20 NGOs, recorded 633 such incidents by the first quarter of 2024.<sup>71</sup>

### **In Poland, HFHR conducted in-depth interviews with 10 refugee survivors of torture.**

67 OSCE, Report on violations and abuses of international humanitarian and human rights law, war crimes and crimes against humanity, related to the arbitrary deprivation of liberty of Ukrainian civilians by the Russian Federation, 19 April 2024 [Accessed 20 May 2024].

68 See: UN, Russia's war in Ukraine synonymous with torture: UN expert, 10 September 2023, [Accessed 20 May 2024].

69 OHCHR, Situation of human rights in the territory of Ukraine during the Russian occupation and its aftermath: 24 February 2022 – 31 December 2023, 26 March 2024 [Accessed 20 May 2024].

70 See: Norwegian Helsinki Committee, Documentation and Accountability, 27 September 2023 [Accessed 20 May 2024].

71 See: T4P's data base of war crimes: <https://t4pua.org/en/stats> [Accessed 20 May 2024].



All 10 survivors interviewed by HFHR were from the occupied territories. Two were women. Some were temporarily detained and tortured during house searches, when the occupying forces were looking for informants or members of Ukrainian army or civilians whom they perceived as opposing the occupation. Others were arbitrarily detained after a house search was conducted and subjected to torture in detention.

People interviewed by HFHR were subjected to various forms of violence, including severe beating, kicking, application of electric shocks, asphyxiation with a gas mask, stress positions, sleep deprivation, and forced nudity. Some were threatened with rape or subjected to mock executions. Most were deprived of access to food and water and held in inhumane conditions, often without access to a toilet.

HFHR interviewed Maksym from Zaporizhzhia region who was subjected to torture by the Russian soldiers in May 2023. First, the soldiers searched the house and checked his phone. They found subscriptions to Ukrainian social media channels and his “reactions” to different posts. They also found that he had marked the geolocation of the frontline on the map in his phone and the soldiers concluded that the man was transferring information to the Ukrainian military forces. First, they were beating him with a rifle. Then, they tortured him by asphyxiation, and electricity, demanding that he disclose who else in the village was passing on information. *“It was a gas mask<sup>72</sup> ... They put it over my head, so I could not breathe ... They would move the gas mask slightly, but never enough to catch a full breath.”* They threatened Maksym that they would spread information to the Ukrainian military that his family supports Russia. They also threatened his wife with gang rape. The soldiers conducted another home search some days later and the soldiers “advised” the man to apply for Russian citizenship to avoid further retaliation.

HFHR interviewed Olena from a village in Kherson region. In the early days after the full-scale invasion, she filmed a video of the Russian troops passing through the village and passed on the information to the Ukrainian armed forces through a dedicated website.<sup>73</sup> The occupation of her village began in early March 2022 and in the summer of 2022, the military searched her home, including mobile devices. They took the husband to the police station for questioning. He was

72 Torture by gas-mask asphyxiation, when the flow of oxygen is restricted or cut off repeatedly until the suspect suffocates and agrees to confess.

released the next day. Several months later, the military conducted another house search. Later that day, they detained the husband for several days. In detention, he was severely beaten and sustained bodily injuries. The military returned to their house after some months. They detained Olena for several days in an unofficial place of detention (an old boarding house). *“I was put in the basement. They would only take me out to the torture room, and then put me back in the basement”*. The woman was beaten and deprived of food and water. She was asked to disclose the type of information she provided to the Ukrainian military about the location of Russian troops.

## **5.8. Compelling people to swear allegiance to the occupying power - “passportisation policy”**

Following its illegal annexation of Ukrainian territory, the Russian Federation has intensified pressure on the local population to obtain Russian citizenship and passports, which entailed swearing allegiance to the occupying power.

In April 2023, the Russian Federation adopted a decree concerning the legal status of individuals without Russian citizenship in the occupied territories in Ukraine. As a result, Ukrainians residing in the occupied areas of Zaporizhzhia, Kherson, Donetsk and Luhansk regions are considered as “foreigners”, unless they obtained Russian citizenship.<sup>73</sup>

HFHR interviewed 11 people from the occupied territories who were subjected to coercion to obtain Russian passport under threat of losing employment, social benefits, or even parental rights.

As described by people interviewed by HFHR and established by international organizations,<sup>74</sup> pressure in the workplace was common. According to the analysis of the UN Monitoring Mission in Ukraine, the occupying powers changed the public service system to align it with standards in the Russian Federation and used coercion to pressure employees of public institutions and service providers to continue their work and show allegiance to the Russian Federation.<sup>75</sup>

73 OSCE, Report on violations and abuses of international humanitarian and human rights law, war crimes and crimes against humanity, related to the arbitrary deprivation of liberty of Ukrainian civilians by the Russian federation, 25 April 2024 [Accessed 20 May 2024].

74 OHCHR, Situation of human rights in the territory of Ukraine during the Russian occupation and its aftermath: 24 February 2022 – 31 December 2023, 26 March 2024.

75 Ibid.

Those who refused risked harsher restrictions – e.g., with regards to freedom of movement, as well as access to basic services, such as healthcare and social security benefits.

HFHR spoke to a man, a tractor driver employed in an agricultural enterprise in a village in Kherson. He said that, after the enterprise was taken over by the occupying authorities in July 2022, the new management pressured the staff to apply for Russian passports. This was the condition to remain officially employed in the company. This largely drove his decision to leave the occupied territories.

Many pensioners and others dependent on social benefits, including persons with disabilities, could no longer access support from Ukraine because the Ukrainian banking and postal systems no longer functioned in occupied territory. This left them with little choice but to obtain Russian passports in order to be eligible for Russian social benefits.

Those with the option to take on the long (often risky) journeys decided to leave the occupied territories.

Danylo from the Kherson region told HFHR that the Russian occupying authorities in his village increased the pressure to apply for Russian citizenship in 2023. He recalls that his family was no longer able to receive child support benefits with the Ukrainian identity documents. Despite the economic pressure on his household, he refused to apply for Russian citizenship. In the summer of 2023, a social worker came to his house and insisted he should apply for Russian citizenship to maintain his parental rights. He recalls that pressure from soldiers at the village checkpoint increased for the people who did not apply for Russian citizenship. In August 2023, Danylo decided to leave the occupied territories. He recalled the stress at the border control in the Luhansk region, where the border guards threatened him. *Everyone passed [the border control checkpoint] quickly. When it was my turn, they asked me if I was planning to fight in the Ukrainian Armed Forces. They threatened to shoot me in the knee so that I could not join the army.*

HFHR spoke to four people who left the occupied territories because they were afraid their children would be taken away from them or forced to become Russian citizens.

A woman from a village in occupied parts of the Kherson region left Ukraine with her three grandchildren because the Russian military threatened to take them away and transfer them under the care of Russian citizens - unless the family applied for Russian passports.

Children were specifically targeted. HFHR spoke to a woman from Donetsk, whose teenage daughter was pressured to obtain a Russian passport by the school authorities and threatened that she would not be issued a school certificate after the 9th grade if she did not obtain Russian citizenship.

People interviewed by HFHR described how children had to follow the Russian curriculum at school; the online classes conducted by the Ukrainian education system were shut down; Ukrainian school books were seized. Children study in the Russian language and are taught the Russian interpretation of history and bring home report cards and diplomas certified in the Russian education system.<sup>76</sup>

Anna from the Donetsk Oblast told the HFHR that she left the occupied territories to protect her daughter from the Russian indoctrination introduced in her daughter's school. *"At the beginning [of the occupation], there was still distance learning [and her daughter could study in a Ukrainian school], but over time they [occupational forces] started forcing her [the daughter] to go to school. She went once and didn't want to go back. She said that the Russian anthem was played at school and there were Russian flags everywhere. Putin's portrait hangs there and some pioneering organization for children was created. They told the children to come to class in full uniform."*

A woman from a village in Kherson region told HFHR that her daughter studied in the online Ukrainian education system until internet connection disappeared in the village (between 24 February 2022 and 12 August 2023). Russian internet connection, established instead of Ukrainian one was too weak and her child was left with no schooling. As in Anna's case, this situation largely drove her decision to leave the occupied territories.

76 For more information, see: <https://almenda.org/en/prohrama-universytetski-zminy/>.

## 6. DANGEROUS JOURNEYS FROM OCCUPIED TERRITORIES TO POLAND

The majority of the individuals interviewed by HFHR felt they were forced to flee their homes due to an oppressive environment (including “forced passportisation”) and fear related to the conduct of the occupying forces; increased military activity by both armed forces, including active combat near their homes and/or destruction of their property; or lack of access to basic infrastructure and services.

Despite these circumstances, people had to plan their escape routes with little or no access to information - often relying on rumors.

Most people HFHR spoke to explained that while they were not prohibited from leaving the territory of the Russian Federation, they had to overcome multiple challenges to do so:

- There was no official organized return process to territories controlled by Ukraine or onward journeys to third countries. This was especially challenging for people with additional vulnerabilities, such as disability.
- Choice of the escape routes was limited, especially in areas controlled by the Russian Federation forces.
- Many interviewees from the occupied territories told HFHR they relied on volunteer groups<sup>77</sup> (private citizens, drivers) who facilitated their onward journeys and helped them navigate and mitigate the risks of being turned back or detained at border crossings. For example, these volunteers were advising which personal identification documents should be presented to border officials or armed forces at checkpoints. The volunteer groups also helped access transport and accommodation.
- Others had no assistance.

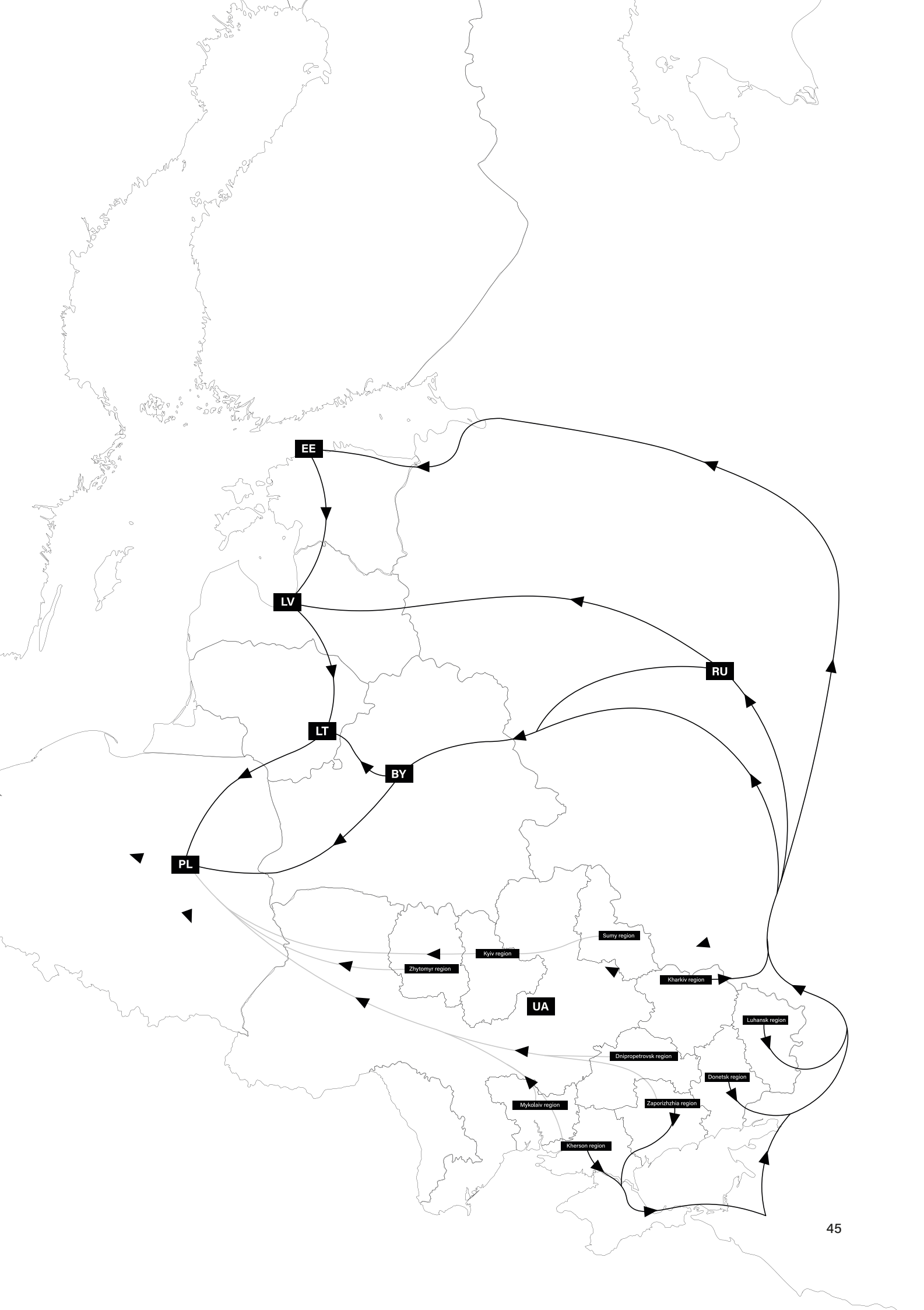
Anna from Donetsk city told HFHR that she left the occupied territories on 30 May 2023 and travelled over 650 km to reach part of the country controlled by the Ukrainian government. She took a bus and travelled through the Luhansk region to the border with the Russian Federation. After crossing the border,

<sup>77</sup> More information about these activities can be found on the Internet websites of the two leading volunteer groups in Poland: Rubikus and Asymetryści.

she reached the Russian city of Belgorod and from there she took a taxi that took her to a different border crossing between the Russian Federation and Ukraine's Sumy region. Once she passed the border crossing, she had to walk for two kilometres before she reached the Ukrainian military, who arranged a bus journey for her to the nearest Ukrainian army checkpoint. There, she had to undergo extensive interviews conducted by the Ukrainian authorities before she could move forward. Later, she travelled to Poland and finally settled in Norway. She left Donetsk primarily because the occupying authorities were forcing her to issue Russian citizenship for her teenage daughter.

- One-third of the interviewees entered Poland through the land border with Ukraine. For the majority of the interviewees who had lived in areas under Russian Federation occupation the only feasible escape route led through the territory of the Russian Federation. Many had to cross through occupied Crimea before reaching the Russian Federation.
- Among the HFHR interviewees who had escape their homes via the Russian Federation, nearly half entered Poland through the land border with Belarus and one-third came through Latvia and Lithuania before reaching Poland. Few other people came through Estonia (then Latvia and Lithuania), or Georgia (by air).
- As mentioned above, many people were forced to apply for Russian passports. HFHR also spoke to refugees who were separated from their family members, and who could not flee the occupied territories, because their travel documents, including Ukrainian passports, were seized during home searches and/or in detention.





# 7. GLOBAL ACCOUNTABILITY EFFORTS & ROLE OF POLAND IN SUPPORTING VICTIMS AND SURVIVORS' RIGHTS TO ACCESS JUSTICE AND REPARATION

## 7.1. Collective accountability efforts at international level and in Ukraine

In Ukraine, the Office of the Prosecutor General of Ukraine is conducting their own criminal investigations, supported by evidentiary and technical assistance provided by other governments. So far, out of 122,000 registered incidents related to committed crimes. This overwhelming number of cases poses a challenge to the Ukrainian legal system. The support of the international community is key.

In March 2023, International Criminal Court (ICC) judges issued arrest warrants against Vladimir Putin, president of Russia, and Maria Lvova-Belova, commissioner for children's rights in the Russian president's office.<sup>78</sup> The arrest warrants stem from an ICC investigation opened by the court's prosecutor in March 2022 with regards to the situation in Ukraine. Neither the Russian Federation nor Ukraine are members of the ICC, but Ukraine accepted the court's jurisdiction over alleged crimes committed on its territory since November 2013. The ICC prosecutor has deployed investigators, forensic experts, and support personnel to the country to investigate crimes within the jurisdiction of the ICC.

Russia is not a member of the ICC and is not legally bound to cooperate with the court in the ongoing investigation into the alleged crimes committed in Ukraine. However, since Ukraine accepted ICC's jurisdiction in accordance with article 12(3) of the Rome Statute,<sup>79</sup> the ICC prosecutor has a mandate to inves-

78 ICC: Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova, 17 March 2023 [Accessed 20 May 2024].

79 The crime of aggression is outside of ICC's jurisdiction in this case, because it requires the State accused of the crime to be part of the Rome Statute. The crime of aggression is defined in the Rome Statute as "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations." This can include, among others, invasion, military occupation, and annexation by the use of force. Future trials of those responsible for this crime can be heard before national courts or a dedicated tribunal.

tigate allegations of crimes committed in Ukraine by all parties to the conflict. The ICC's jurisdiction in Ukraine covers the crimes of genocide, crimes against humanity, and war crimes.

The European Union Agency for Criminal Justice Cooperation (Eurojust) established a Joint Investigative Team (JIT) for Ukraine in March 2022 to facilitate investigations into alleged war crimes, crimes against humanity and possibly genocide, and enable the exchange of information between Ukraine, EU member states and the ICC. At present six EU member states (Estonia, Latvia, Lithuania, Poland, Romania, and Slovakia) are members of the JIT,<sup>80</sup> together with Ukraine and the ICC office of the prosecutor.

Judicial authorities in other countries have also opened criminal investigations into alleged core crimes committed in the context of the full-scale aggression of the Russian Federation in Ukraine.

In some cases, these investigations are focused on collecting and preserving evidence of crimes under international law believed to exist in the country, including by interviewing victims and witnesses among the refugee population. This is the case in Poland.

Elsewhere, countries may be conducting investigations based on the principle of universal jurisdiction, which allows legal systems to prosecute crimes under international law before domestic courts.<sup>81</sup>

Ukrainian and international civil society groups, including HFHR, are documenting war related crimes and working closely with the Office of the Prosecutor General of Ukraine and other investigative mechanisms.

## **7.2. Efforts to deliver reparation to the victims and survivors**

Officials in Ukraine and members of the international community have launched multiple—and unprecedentedly expansive—efforts to investigate and prosecute these atrocities. However, the focus on criminal prosecution of the perpetrator

80 See: <https://www.eurojust.europa.eu/joint-investigation-team-alleged-crimes-committed-ukraine> [Accessed 20 May 2024].

81 See for example: the Clooney Foundation for Justice, CFJ Files Cases in Germany Against Russian Commanders for Crimes Committed in Ukraine, 26 October 2023 [Accessed 20 May 2024].

might overlook the immediate needs and perspectives of the victims and survivors, who continue to suffer the consequences of these crimes.

Accountability should go beyond criminal responsibility to encompass a comprehensive reparation programme, including through the criminal justice process. This is critical to help victims, survivors, families, and entire communities overcome the devastating impact of the armed conflict and the occupation.

Considering the urgency of victims' needs and how long it may take to deliver justice and develop comprehensive reparation programmes, it is critical to ensure rapid delivery of vital services to persons who have experienced gross violations of IHRL and serious violations of IHL – irrespectively of whether they reside in Ukraine or are forcibly displaced outside the country.

Several urgent relief and reparations initiatives are in existence or in progress in Ukraine. In addition, governments around the world, with the support of the government of Ukraine, are exploring how funds can be raised globally to finance reparation.

In Ukraine, authorities are taking steps to develop a comprehensive reparation programme, but this is challenging due to several factors, including the ongoing armed conflict, the large number of victims and survivors, and the need for legal and policy changes.<sup>82</sup> Several administrative mechanisms are in place (or under development) that offer some support for different groups of victims and survivors, but they are yet to ensure full inclusion of all victims and survivors.<sup>83</sup> Examples of such mechanisms include, among others:

- The Law 'On Compensation for Damage and Destruction of Certain Categories of Real Estate Property as a Result of Hostilities, Acts of Terrorism, Sabotage Caused by the Military Aggression of the Russian Federation' No. 7198m grants financial compensation to individuals, whose property was damaged or destroyed. However, in its current form, the law excludes people from areas occupied by the Russian Federation.<sup>84</sup>

82 Council of Europe, Expert Report on Remedies and Redress Mechanisms for War-Affected Individuals in Ukraine, November 2023 [accessed 20.05.2024].

83 Redress, The delivery of reparation for Ukraine,, November 2023 [Accessed 20 May 2024].

84 OHCHR, „Situation of Human Rights in Ukraine in the Context of the Armed Attack of the Russian Federation”, 24 February-15 May 2022, May 2022. para. 55 [Accessed 20 May 2024].

- Mechanisms to provide financial compensation and rehabilitation support to those who were subjected to arbitrary detention (both civilians and Prisoners of War)<sup>85</sup> are not always functioning or available for all victims and survivors. In practice it is also challenging for refugees, especially from areas occupied by the Russian Federation, to apply for this type of support.
- Initiatives to address the needs of survivors of CRSV, including the September 2022 Action Plan for the implementation of the Framework of Cooperation with the government of Ukraine on the Prevention and Response to Conflict-Related Sexual Violence<sup>86</sup>. Following consultations with civil society organizations, such as the Global Survivors Fund, the Ukrainian Women Lawyers Association “JurFem, and survivors association “SEMA Ukraine”, a pilot initiative was launched in March 2024 to provide urgent interim reparations to 500 survivors of CRSV.<sup>87</sup> At the same time, the authorities are preparing a draft law that will regulate reparation for survivors of CRSV. While refugee survivors will be included in these measures, they will likely require psycho-social and legal support to register and seek reparation.

### **7.3. Role of Poland in supporting access to comprehensive justice and reparation mechanisms**

The efforts in Ukraine and globally to bring perpetrators to justice are unprecedented. At the same time, HFHR recognized that it is extremely challenging to carry out investigations and collect evidence while hostilities are ongoing and without safe access to areas where crimes were committed.

In 2022, the Office of the Polish Prosecutor General initiated criminal proceedings concerning Russia’s war of aggression against Ukraine and war crimes committed in the context of the war. It established an investigative team, which supports the collection of evidence for the ongoing investigations carried out in Ukraine, at the International Criminal Court (ICC), and in the European states,

85 See, The Law ‘On the social and legal protection of persons who have been deprived of personal liberty as a result of armed aggression against Ukraine, and their family members, 26 January 2022 [Accessed 20 May 2024].

86 See: The Action Plan for the implementation of the Framework of Cooperation with the government of Ukraine on the Prevention and Response to Conflict-Related Sexual Violence, September 2022 [Accessed 20 May 2024].

87 Office of the Prime Minister for European and Euro-Atlantic Integration, Providing urgent interim reparations today should become an important element of achieving justice in the future, 4 March 2024 [Accessed 20 May 2024].

which are exercising universal (or extraterritorial) jurisdiction. Poland has also declared support for the establishment of an international court for the crime of aggression.<sup>88</sup>

Despite these positive measures, HFHR is concerned that refugees from Ukraine in most vulnerable situations, including victims and survivors of serious violations of IHL and IHRL are facing challenges to exercise their rights and meet their basic needs.

There is limited coordination between the government, the Prosecutor's Office and civil society organizations working in the sphere of human rights and refugee protection<sup>89</sup>, to ensure more effective outreach to and support for refugee victims and survivors of serious crimes.

At the time of writing, around 1 million refugees from Ukraine continue to reside in Poland and among them, victims and survivors of serious crimes. However, Poland has no official data or statistics on how many victims and survivors of serious crimes under international law committed in the context of Russia's war in Ukraine remain in Poland. There is no system for identifying people among the refugee population who were subjected to crimes such as torture, sexual violence or enforced disappearance, and providing them with appropriate rehabilitation assistance to address the adverse medical, psychological, social and economic impacts of these crimes on their lives<sup>90</sup>. It must be noted that the problem of lack of identification of people who suffer as a result of such crimes affects equally refugees from Ukraine, Polish citizens, and other foreigners residing in Poland.

In the European Union (EU), most refugees from Ukraine can access temporary protection measures as envisaged in the 2001 Directive on Temporary Protection activated by the EU Member States at the beginning of March 2022. In Poland, the Directive is implemented through the Law of 12 March 2022 on Assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country (the Special Act), as well as the Act of 13 June 2003 on

88 Ministry of Justice, Minister of Justice Adam Bodnar and Deputy Minister Maria Ejchart visit Kyiv, 1 March 2024 [Accessed 20 May 2024].

89 Rzeczpospolita, Rzeczpospolita, Grzebyk, Kuczyńska: Jak wymiar sprawiedliwości powinien ścigać zbrodniarzy międzynarodowych, 17 January 2024 [Accessed 20 May 2024].

90 For examples of such identification and support systems see: ODIHR, CTI, Providing rehabilitation to victims of torture and other ill-treatment, 2018 [Accessed 20 May 2024].



granting international protection to foreigners within the territory of the Republic of Poland. The Special Act provides people from Ukraine with a residence permit, access to the labour market, access to accommodation and housing, health and social care, and education.

Meanwhile, based on HFHR experience, many refugee victims and survivors of IHL and IHRL violations require specialized (e.g. trauma-informed) services, including medical care, psychological assistance, social and economic support, or legal aid. Poland lacks such a rehabilitation support system for people affected by serious violations of IHL and IHRL regardless of their legal status and nationality.

## 8. RECOMMENDATIONS

Since Russia's full-scale aggression against Ukraine on 24 February 2022, thousands of civilians have lost their lives, and many have experienced horrific crimes. It is difficult to describe the health impact and psychosocial and economic consequences of the violations of IHL and IHRL described in the report on individual lives. And yet, each person HFHR spoke to demonstrated remarkable dignity and determination to keep going. Those who remain in Ukraine – defending and rebuilding their country and those who were forced to flee their homes want to see justice delivered. They want those responsible for the death of their loved ones, the injuries they suffered, the attacks on their homes, and the devastation of their homes and communities to be held to account.

The Russian Federation, as the aggressor in the war, whose armed forces are the perpetrators of most of the documented violations of IHL and IHRL, is responsible for providing reparations to the victims and survivors of these crimes. However, in the absence of Russia's willingness to do so, Ukraine and other governments are stepping in to address the rights of the victims and survivors.

For the suffering of the people to stop, the Russian Federation must cease the use the widespread violations of IHL and IHRL and withdraw its military forces from the territory of Ukraine within its internationally recognized borders as per United Nations General Assembly Resolutions ES-11/1 and ES-11/4 (2022).

Until then governments hosting refugees can take meaningful measures to support victims and survivors of most serious violations who are granted protection in their countries. This should be a collective effort of states to fight impunity for these crimes, help rebuild individual lives, and restore peace, democracy, and rule of law in Ukraine and the wider region.

## To the Government of Poland:

HFHR urges the authorities in Poland to consider the following steps to support Ukraine-led transitional justice efforts, and help victims and survivors of serious violations of IHL and gross violations of IHRL to access justice and comprehensive reparation:

- **Create a dedicated unit within the Office of the General Prosecutor to investigate crimes under international law.**

Such a unit should work within the framework of a comprehensive strategy and receive the necessary resources to increase the technical capacity, specialized training and knowledge within the unit. Proper outreach and support measures for witnesses, victims and survivors (among the refugee population in Poland) willing to speak to the investigative mechanisms should be ensured.

- **Carry out an analysis of the current legal system, overseen by the Ministry of Justice, and consider the possibility of prosecuting cases related to crimes under international law before Polish courts.**

Poland, as a country committed to the rule of law and international justice (and as a state bordering Ukraine and hosting a large number of refugees) is in a unique position to support access to justice for victims and survivors of crimes under international law. Considering the scale and number of the committed crimes, universal jurisdiction exercised in countries such as Poland can help fight impunity.

- **Adopt necessary policies and regulations to ensure access to comprehensive and urgent assistance for the victims and survivors, who are refugees in Poland, unable to return to their homes in the immediate future.**

Poland can implement its international commitments, including *the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, by ensuring that refugee victims and survivors of serious violations of international law are identified by the relevant authorities and institutions, and provided with prompt access to appropriate rehabilitation services. Such support can help people overcome the medical, financial, and social impacts of the atrocities suffered. Out of 1 million refugees

in Poland, around 50% are employed and according to the recent report by UNHR and Deloitte refugees contribute with around 1% to Polish GDP.<sup>91</sup> However, there are many refugees who continue to face multiple vulnerabilities and require specialized assistance – this includes victims of most serious violations, such as torture, crimes of sexual violence or the disappearance of a loved one. Many may suffer psychological consequences impacting their ability to work and function; or struggle to cover the cost of medical treatment related to the physical injuries they suffered.

- **Consider the creation of a multidisciplinary working group on access to justice and reparation for victims and survivors of serious violations of international law.**

Such working group should be comprised of representatives of the relevant ministries, prosecutors, legal experts specializing in international law, NGOs, and other actors to ensure a regular framework for collaboration and effective exchange of information related to the investigation of crimes under international law and access to justice for the victims and survivors, as well as their access to rehabilitation support and international protection in Poland.

#### **To the international community:**

- Continued financial and technical assistance must be provided to authorities in Ukraine, civil society actors, and international organizations to support transitional justice initiatives focused on ensuring access to justice and reparation, as well as urgent assistance for all victims and survivors of crimes under international law, including those who are refugees.

91 UNHCR, Deloitte, Poland: Analysis of the impact of refugees from Ukraine on the economy of Poland, 5 March 2024 [Accessed 20 May 2024].



A blurred photograph of a city street scene. In the foreground, several people are walking, their figures softened by motion blur. They are wearing winter clothing, including coats and hats. The background consists of a multi-story building with many windows, also blurred. The overall color palette is muted, with greys, browns, and some reds from the clothing.

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