

## General Allegation

133<sup>rd</sup> session (6-10 May 2024)

### Russian Federation

The Working Group on Enforced or Involuntary Disappearances (hereafter, ‘the Working Group’) received information from sources concerning obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter, ‘the Declaration’) by the Russian Federation.

1. This general allegation focuses on the obstacles encountered in the application of the Declaration, in particular with respect to alleged enforced disappearances that occurred in connection with Russia’s full-scale invasion of Ukraine from February 2022. We would also like to refer to the general allegation sent in [May 2022](#) to your Excellency’s Government, for which we are yet to receive replies.

#### *Enforced disappearances of Prisoners of War (POWs) and civilians*

2. One of the sources has recorded 3,796 cases of enforced disappearances allegedly committed by Russian authorities, its armed forces and affiliated armed groups between 24 February 2022 and 31 March 2023. During the same time, the Working Group has submitted to the Russian Federation 856 cases under its humanitarian procedure; more cases are waiting to be processed. The real number of enforced disappearances is likely much higher. According to the International Committee of the Red Cross (hereafter, “ICRC”), 23,300 persons are considered missing in Ukraine due to the war; as their fate is not known, many of them could be victims of enforced disappearance.
3. The alleged enforced disappearances concerned active Ukrainian military personnel, as well as civilians. The military personnel reportedly disappeared in the aftermath of hostilities, while civilians disappeared in various contexts, for example from filtration camps, when travelling between locations, or were abducted from their homes. Enforced disappearances of civilians often were to be connected to their official functions, particularly members of local governments and municipality councils. In other instances, it occurred because of statements made by the persons concerned, including on social media. Prior to being disappeared, some targeted individuals were offered collaboration with Russian authorities, while being threatened or financially encouraged. Several patterns have been observed, for example, concerning teachers who refused to instruct students using Russian textbooks. While there are also several women alleged to be forcibly disappeared, most disappeared persons are men.
4. In the light of the lack of information from the Russian Federation, families of some of the allegedly forcibly disappeared persons have received confirmation through various informal channels (Telegram, released POWs) of their loved ones being held in, and transferred between, detention facilities operated by Russian authorities, including after having been transferred through Belarus. Others have not heard any news about their disappeared family members for over two years. In all those cases, the families have sought information through the National Information Bureau under the 1949 Geneva Convention III on POWs, which registers information regarding the fate of protected persons, undertakes searches, and transmits all this information through the protecting power, the ICRC, or the National Red Cross or Red Crescent societies of the State concerned. According to the information received by the Working Group, these attempts were to no avail. In some cases, the families have attempted to directly contact Russian official governmental agencies and authorities, as well as the Russian Ombudsperson, but did not receive any information about the fate and whereabouts of their disappeared relatives. In cases where the disappeared person was allegedly last seen in the hands of members of the private military and security contractor known as Wagner Group, in the past engaged in the hostilities and actively supporting the Russian Federation armed forces, but subsequently dismantled as such (albeit still active in several countries in the world and, in

Ukraine, to a great extent officially assimilated to Russian armed forces), relatives do not know to whom they could address their demands.

5. The uncertainty the families are facing is causing them extreme anxiety and psychological trauma lasting for over two years already. Because of the effects that enforced disappearances have on families, they are victims of enforced disappearances themselves. The search for the disappeared persons is further complicated by the fact that many of the family members had themselves to flee because of the war, facing the additional obstacle of having to address authorities in other countries, navigating bureaucratic and practical barriers. Furthermore, most of the family members are women, who are often left alone to care for children and other family members in such difficult circumstances.
6. Some of the persons that were forcibly disappeared, including those whose cases have been transmitted to the Russian Federation by the Working Group under its humanitarian mandate, have been released. According to their testimonies, the detained POWs and civilians are often subjected to torture and physical violence, such as beatings and electrocution of, inter alia, genitalia. They are also reportedly forced to stand for long hours, housed in overcrowded cells with no natural light, deprived of sleep, as well as held in freezing temperatures and exposed to the attacks of dogs unleashed on them. The detained persons are not provided with sufficient and adequate food, thus leading to hunger, terrifying weight loss and sickness. Many detainees come back with illnesses they have caught while being detained, for example tuberculosis. There is also no access to medical care, including for persons with chronic illnesses.
7. The incommunicado detention has a dreadful impact on the mental health of the victims of enforced disappearance. After months or even years without any news from their loved ones, who stayed in the war-torn Ukraine, the detained POWs and civilians have to guess what the silence means: were their relatives killed by another aerial strike, did the relatives forget them or did Ukraine abandon its citizens? The accounts of released POWs showed that the detaining authorities have successfully played on the victims' sentiments, claiming that they had been abandoned and forgotten and that they would never be released, thus stealing their hope.
8. It is worth adding that relatives of disappeared persons consistently and regularly seek information from former POWs in the hope of obtaining news on the fate and whereabouts of their loved ones. However, listening to the accounts of the treatment suffered in captivity and seeing the effects on those who returned further nourishes their anguish and distress about the fate of their loved ones.

#### *Forced transfer of children*

9. As already confirmed by the Russian Federation, children from occupied territories have been transferred to the Russian Federation. While the exact modalities differ, in many instances, the children are first held in "children camps". The Working Group was informed about the fact that 43 of such camps have been identified. In those camps, the children reportedly undergo indoctrination, some receiving also military training. As the Working Group has been informed, some of the children were eventually enrolled in Russian cadet corps academies.
10. Based on decree No. 330 of the President of the Russian Federation of 30 May 2022, the transferred children may acquire Russian citizenship under a simplified procedure. The Working Group was informed that names and surnames of transferred children are often changed, thus adding obstacles vis-à-vis any attempt to trace the children concerned and to reunite them with their biological families.

#### *Unidentified remains in mass graves*

11. According to sources, some persons are also not accounted for because they are buried in unidentified graves. As enforced disappearances occur on a large scale, it cannot be ruled out that some of the persons buried in the unidentified graves were forcibly disappeared. Thus, to establish the fate and whereabouts of all disappeared persons, it is crucial to identify all persons in mass graves, respect and return their remains to their loved ones.

12. For example, while the number of deaths could be higher, investigations have demonstrated that more than 8,000 persons died from war-related reasons after the siege of Mariupol in March 2022, many of whom are buried in unidentified graves. After Russian forces gained control of the city, they allegedly collected bodies still lying on the streets and exhumed bodies from makeshift graves without conducting a proper forensic examination. The remains were brought to a makeshift morgue and provided the local community with a database of the dead so that families could identify them. However, the database was only accessible from a laptop at the morgue and not online, which made it impossible for families that had already fled Mariupol to identify their dead relatives. Many of the dead have not been identified until today. As per the information received by the Working Group, over 9,000 persons have been registered as having gone missing in Mariupol, some of which might be victims of enforced disappearances.
13. The Working Group would like to bring to the Government's attention the following provisions of the Declaration, which are directly related to the present allegation:

*Article 2*

1. *No State shall practise, permit or tolerate enforced disappearances.*
2. *States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.*

*Article 7*

*No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.*

*Article 9*

1. *The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7 above.*

*Article 10*

1. *Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.*
2. *Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.*
3. *An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.*

*Article 11*

*All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.*

#### Article 12

1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.

2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

#### Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.

3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

#### Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

#### Article 20

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for and identification of such children and to the restitution of the children to their families of origin.

2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review, by the child's closest relatives.

*3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.*

*4. For these purposes, States shall, where appropriate, conclude bilateral and multilateral agreements.*

#### *Article 21*

*The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of those provisions.*

14. Furthermore, the Working Group wishes to recall the principles affirmed in its general comment on the [right to the truth](#), [women affected by enforced disappearance](#), and [children and enforced disappearance](#).
15. Likewise, the Working Group would like to recall that enforced disappearances are also prohibited under international humanitarian law (Rule 98). Each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate (Rule 117). Furthermore, parties of a conflict also have obligations regarding the dead, including taking all possible measures to search for, collect and evacuate them, returning remains, respecting and maintaining graves, as well as record all available information before disposal and marking the location of graves (112-116).
16. Moreover, the third Geneva Convention provides standards of treatment for POWs and the fourth Geneva Convention affords protection to civilians, including in occupied territory. The first Additional Protocol to the Geneva Conventions contains additional protection measures, including dealing particularly with missing and dead persons (Articles 32-34). All those provisions provide valuable protection for detained persons, ensuring that their detention is recorded and the detained persons remain in contact with their families.
17. The Working Group would be grateful for the cooperation and any information that your Excellency's Government can provide on the following questions:
  - (a) Please provide any information or comments that Your Excellency's Government may have regarding the above allegations.
  - (b) Please provide information about all the Ukrainian civilians – including children – and POWs held in the territory of the Russian Federation and the occupied territories.
  - (c) Please provide information on which authority in Russia is authorized to provide information on POWs and how that information is provided to families.
  - (d) Please provide information on how your Excellency's Government safeguards the rights of all civilians and POWs detained in the Russian Federation and the occupied territories and how their fundamental rights are secured, including the right to communication with families, right to proper medical care and the right to judicial hearing for civilians.
  - (e) Please provide information on measures taken to prevent torture and other forms of ill-treatment in all places of detention under the control of the authorities of the Russian Federation.
  - (f) Please provide information on measures taken to guarantee the children transferred their right to identity, including nationality, name and family relations, as guaranteed in Article 8 of the Convention of the Rights of the Child and Article 20 of the Declaration.

- (g) Please inform on how the Government ensures that families of allegedly forcibly disappeared persons can exercise their right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.
  - (h) Please inform of any searches of allegedly forcibly disappeared persons and investigations undertaken into alleged enforced disappearances committed in Ukraine by the armed forces and intelligence agencies of the Russian Federation, and affiliated armed groups. Please inform about the applicable law, and share the results of the search activities and investigations.
  - (i) Please provide information about the treatment of the dead and measures undertaken to ensure scientific identification of remains, particularly about forensic and DNA examinations, and information provided to families, including families being abroad.
18. The Working Group requests the Government of the Russian Federation to provide a response to the above questions within 60 days.
19. The text of the general allegation will be published along with the Working Group's post-session report and on its website, where also any response received by your Excellency's Government will be uploaded.