

## **General allegation**

**127th session (9-13 May 2022)**

### **Russian Federation**

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

1. The sources informed the Working Group that they have documented enforced disappearances of representatives of local authorities, journalists, civil society activists, retired servicemen of the armed forces, especially those who took part in the hostilities in 2014-2021, as well as regular civilians committed by Russian armed forces and affiliated armed groups in the recently occupied Ukrainian territories of Donetsk, Luhansk, Zaporizhzhia, Kyiv, Mykolaiv, Sumy, Kharkiv, Kherson, Poltava and Chernihiv regions. The highest number of cases has been recorded in the Kyiv, Kherson and Zaporizhzhia regions. Several of the enforced disappearances were presumably carried out by members of the Russian intelligence agencies, as witnesses noted the specific manner of communication, the different uniforms from those of the regular Russian military, and the usage of the special equipment.
2. According to one of the sources, between 24 February 2022 and 29 April 2022, there have been recorded 293 cases of enforced disappearances. Six persons were found dead, 121 were released, and the whereabouts of 166 people remain unknown. Another source alleges 139 cases of enforced disappearances during the same period. There is still no information about the fate and whereabouts of 65 persons, 67 persons were released, 7 were found dead or died after their release in the aftermath of torture endured in captivity. The real number of enforced disappearances is likely higher.
3. The sources report that Russian armed forces and affiliated armed groups have held abducted persons in improvised places of detention, including in schools, buildings of government institutions, warehouses, barns, and industrial buildings in the territory of Ukraine under their control. After several days or weeks of secret detention, many of the victims were reportedly transferred to the territory of the Russian Federation, Crimea or the territory of Donetsk and Luhansk regions controlled by the Russian affiliated armed groups before 24 February 2022. They were then held there in penal institutions.
4. Four families, according to the sources, have shared with them reliable information that their abducted relatives are being held in the detention facilities in the Bryansk and Kursk regions of the Russian Federation. In one instance, the family learnt about the transfer to Russia from news on Russian television. In all four cases, relatives of the victims of enforced disappearances still do not have any official information from Russia regarding the whereabouts and state of health of these individuals. According to the sources, this exemplifies a more general practice of transfers of captives from Ukraine to the territory of the Russian Federation.
5. The sources further assert that, commonly, relatives of Ukrainian prisoners of war (hereinafter 'POWs') cannot obtain information about their place of detention and their fate. Reportedly, neither the Russian Federation nor affiliated armed groups have created information bureaus, as required under the 1949 four Geneva Conventions. The sources state that they have received information about Ukrainian POWs being held in penal institutions together with abducted civilians and presumably some of them have been released during so-called 'exchanges of

prisoners of war' held between Ukraine and the Russian Federation. There is no reliable information about the procedures followed in the course of such 'exchanges'. At the same time, there are grounds to believe, as the sources maintain, that some of the victims of the enforced disappearance were 'exchanged' for Russian POWs.

6. While in captivity, several forcibly disappeared persons, as the sources allege, have been subjected to torture and ill-treatment by Russian military personnel or intelligence agents. In particular, reappeared persons have allegedly given testimony that, while being forcibly disappeared, they were kept tied and blindfolded for several days, were provided no or scarce food, and were held in overcrowded rooms with no sanitation. In particular, the sources have received reliable confirmation about the use of torture on abducted Ukrainian civilians in the Pre-trial Detention Center № 2 of the Novozybkov town, Bryansk region.

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 practice, 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 4*

1. *All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.*
2. *Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases 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 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 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.*

The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

1. Please provide any additional information and/or any comment you may have on the above-mentioned allegations.

2. 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.
3. 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 intelligent agencies of the Russian Federation, and affiliated armed groups. Please inform about the applicable law, including what criminal law provisions codify enforced disappearance as a separate criminal offense, and share the results of the searches and investigations.
4. Please inform on how the Government ensures that persons deprived of their liberty are held in an officially recognized places of detention and accurate information on the detention of such persons and their place or places of detention, including transfers, is made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information. What are the rules and procedures to prevent ill-treatment, including the torture, of detainees?
5. Please provide information on how the Government ensures that Ukrainian prisoners of war (POWs) are treated in accordance with international humanitarian law, including how families of POWs can obtain information about their whereabouts and their fate. Has the Russian Federation set up information bureaus, as required under the 1949 four Geneva Conventions? Please explain the rules and procedures, and practices on the exchanges of POWs of war between Ukraine and the Russian Federation. Is true that some Ukrainian civilians have been exchanged for Russian POWs?
6. Please inform on how your Government ensures the right of victims of enforced disappearance and their relatives to an effective remedy, including cessation of violations, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days.