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UN Committee on Enforced Disappearances

**Russian War Crimes and Terroristic Activities against Ukrainian Prisoners of War:
Reaction of Ukrainian Civil Society**

Our Association of Reintegration of Crimea (ARC)¹, is non-governmental expert and human rights organisation²; our expert researches are related with human rights and humanitarian issues, including their fundamental rights, informational rights, right to development, also as with issues of the transitional justice for Crimean peninsula, with relevant humanitarian, informational, economic, social and financial impacts.

Since 2020 we sent more than 50 submissions and proposals to UN, CoE, OSCE and EU human rights' strictures, major part of them were published in the official web-sources. Our experts researched the issues of terroristic aspects of the Russian aggression against Ukraine, including activities of Russia-financed and Russian-controlled activities of terroristic groups on the Russia-occupied territories and related war crimes, committed against Ukrainian non-combatants and prisoners of war³⁴⁵⁶.

We pointed that after the occupation of Crimea in 2014, Russia, in violation of the requirements of the III and IV Geneva Convention, extended the action of its own criminal legislation and legislation on administrative offenses to the occupied territory. All independent activities of civil society in the Crimea were banned by Russia's occupying "administration" of the peninsula.

As it is well-known, since 24th of February 2022 Russia committed broad and open military aggression to all Ukraine's territory. Due last six months of fights Russia occupied some territories of Donetsk, Kharkiv, Kherson, Luhansk, Mykolaiv and Zaporizhzhya regions and strong fights are going near cities of Kharkiv, Mykolaiv and others with total population more than 8 millions persons near the frontline⁷⁸⁹¹⁰¹¹

On 30 of July, 2022 Russian state media like TASS and others disseminated the alleged statements, regarding the death of mote than 50 prisoners of war in Olenivka, Donetsk Region of Ukraine¹². Some Russia-controlled propagandists mentioned of Ukrainian prisoners of war that are captured in the Russia-occupied Crimea, including camp for prisoners of war in Sevastopol.

Russia-controlled troops and mercenaries committed in Ukraine, during this invasion, gross violation of international humanitarian law and international human rights' law already, including broad crimes against property, social and cultural rights and environment, attacks on medics, teachers, and journalists, social, medical, educational and informational infrastructure¹³¹⁴¹⁵¹⁶¹⁷¹⁸¹⁹²⁰.

¹ <https://arc.construction/>

² https://www.journal-officiel.gouv.fr/associations/detail-annonce/associations_b/20210005/1348

³ <https://www.ohchr.org/sites/default/files/2022-06/DP-HRC51-ARC.pdf>

⁴ <https://www.ohchr.org/sites/default/files/2022-05/ARC-HRC50.pdf>

⁵ https://www.ohchr.org/sites/default/files/2022-05/arc_replies-dp.pdf

⁶ <https://www.ohchr.org/en/calls-for-input/calls-input/2021/report-human-rights-dimensions-technical-assistance-and-capacity>

⁷ <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea-ukraine-minnesota-protocol.pdf>

⁸ <https://www.ohchr.org/sites/default/files/2022-04/AssociationReintegrationCrimeaSubmission.pdf>

⁹ <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea.pdf>

¹⁰ <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea.pdf>

¹¹ https://www.ohchr.org/sites/default/files/2022-05/arc_replies-dp.pdf

¹² https://www.legifrance.gouv.fr/download/pdf?id=5T5_vWvFKWHkB0b2CFOrldVeMJTi2C06ic6UTBmB0po=

¹³ <https://sofrep.com/news/russian-soldiers-gang-raped-ukrainian-woman-as-her-child-was-crying-in-the-next-room/>

¹⁴ <https://www.icj-cij.org/public/files/case-related/182/182-20220307-PRE-01-00-EN.pdf>

All war crimes, committed by Russian invaders, including actions of the so-called Russia-controlled “republics of Donbass” during ongoing hostilities, are connected with absolutely clear Russia’s war targets in maximal destruction the population and civil infrastructure, including objects, essential for all Ukrainian ethnic and social groups that is a clear terroristic activities²¹.

At the same time Russia-controlled structures use Ukrainian prisoners of war in own propaganda broadcasting with direct goal to make influence on the Ukrainian authorities and society, so they violate the relevant demands of III Geneva Convention with direct terroristic purpose.

Those issues should be the subject of the investigation the International Criminal Court²² Due to gross violation the human rights Ukraine filed an application to the European Court of Human Rights also²³. Russian government refused to execute the demand of the ECtHR and the order of ICJ to immediately suspend the military operations that it commenced on 24 February 2022.²⁴

On March 16 2022, Russia was excluded from the Council of Europe and refused officially to execute the demands of European Convention on Human Rights²⁵ that guarantees rights to life. UN Human Rights Council (HRC) adopted its resolution 49/1 on 4 March 2022 where it expressed grave concern at the documented harm to the enjoyment of many human rights, resulting from the aggression against Ukraine by Russia²⁶.

On 8 March 2022 UN human rights experts called on Russia to immediately end its invasion of Ukraine to avoid further bloodshed; experts recalled that intentional attacks against civilian objects amount to war crimes²⁷, that are terroristic by their nature. In other UN experts’ statements the negative impact of Russia’s aggression on persons was condemned²⁸, and relevant risks for right to life were pointed^{29,30}.

UN Special Rapporteur on the right to adequate housing expressed on 9th of March the grave concerns about the serious violations of the right to adequate housing in Ukraine³¹ that is directly connected with activities of Russia-controlled fake terroristic “Donetsk peoples republic”.

UN General Assembly in its resolution ES-11/1 on 2 March 2022 recognized that the military operations of Russia inside the sovereign territory of Ukraine are on a scale that the international community has not seen in Europe in decades and that urgent action is needed to save this generation from the scourge of war³².

UN General Assembly in its resolution ES-11/2 on 24 March 2022, demanded again that the Russian Federation immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders³³.

On 7 April 2022 the UN General Assembly adopted a resolution ES-11/3³⁴ calling for Russia to be suspended from the Human Rights Council³⁵. The UN Human Rights Council adopted on 12th of May a resolution on the deteriorating human rights situation in Ukraine where pointed that Russia should immediately cease its aggression, withdraw all its forces from the whole territory of Ukraine³⁶.

¹⁵ <https://www.bbc.com/ukrainian/features-60888528>

¹⁶ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

¹⁷ <https://www.bbc.com/news/world-europe-60547807>

¹⁸ <https://arc.construction/26892>

¹⁹ <https://news.un.org/en/story/2022/03/1113652>

²⁰ <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

²¹ <https://www.washingtonpost.com/world/interactive/2022/ukraine-before-after-destruction-photos/>

²² <https://www.icc-cpi.int/ukraine>

²³ <https://hudoc.echr.coe.int/eng-press?i=003-7282553-9922068>

²⁴ <https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf>

²⁵ <https://arc.construction/26897>

²⁶ <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session49/Pages/ResDecStat.aspx>

²⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28231&LangID=E>

²⁸ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28200&LangID=E>

²⁹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28201&LangID=E>

³⁰ <https://www.ohchr.org/en/press-releases/2022/05/ukraine-millions-displaced-traumatized-and-urgently-need-help-say-experts>

³¹ <https://arc.construction/26902>

³² <https://digitallibrary.un.org/record/3959039?ln=ru>

³³ <https://digitallibrary.un.org/record/3966630?ln=en>

³⁴ <https://digitallibrary.un.org/record/3967950?ln=ru>

³⁵ <https://news.un.org/en/story/2022/04/1115782>

³⁶ <https://arc.construction/31039>

Those decisions are not executed by Russian troops, Russia-controlled mercenaries and terroristic groups, such as terroristic “Donetsk peoples republic”, which established policy of terror and repressions over the Russia-occupied territories of Ukraine, including Donetsk and Luhansk Regions, AR Crimea and Sevastopol, including direct and public violation of rights of Ukrainian prisoners of war, killing, tortures and other inhuman and degrading treatment.

For example, group of Ukrainian prisoners of war, being under control of Russian proxies in Luhansk were forcibly gathered for “meeting with UN representative” on 21st August, 2022 and Russia’s propaganda declared that they allegedly “asked for nothing but cigarettes” during this meeting. But at the same time some Ukrainian prisoners of war were recognized on this propagandistic video³⁷, like soldier Ivan Drozd, which have wounds and serious diseases and do not get any adequate medic aid since end of February 2022, when they were captured by Russian forces.

From the point of view of international law, such Russian combatants’ and propagandists’ acts can be considered as terrorism. According to the International Convention for the Suppression of the Financing of Terrorism, terrorism is considered, among other things, “any act intended to cause death or serious bodily injury to ...any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act”³⁸. Prisoners of war seems to be such “other person not taking an active part in the hostilities in a situation of armed conflict” as they are under full control of other conflict party.

In the form of Article 51 of Additional Protocol I to the Geneva Conventions, a link exists between the definition of terrorism in the Convention and the description of these war crimes in the Rome Statute. All Ukraine’s attempts for the peace-building, including peace talks and negotiations with Russian government were unsuccessful and Russia rejects all peace propositions and it refuses to execute the demands of ICJ and ECtHR orders to stop the aggression and hostilities that are directly pointed against the Ukrainians’ rights to life, freedom, movement, health and not to become a victim of enforced disappearance.

More, being of Ukrainian prisoners of war under control of Russian proxies in Donetsk and Luhansk, are out of demands of III Geneva Convention, 1949, Relative to the Treatment of Prisoners of War. As it was allegedly mentioned on the so-called “people’s republic” to which Russian military and politic power allegedly “transferred” Ukrainian prisoners of war, later killed in Olenivka, the Article 12 of III Geneva Convention, 1949³⁹ or group of prisoners of war, showed on 21st of August with propaganda purposes “for UN visit to Luhansk”, must be reminded.

It points that prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power (and it is only and exactly Russia in this case) is responsible for the treatment given them. Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention (and any fake “people’s republic” is not and may not be such party) and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention.

Nevertheless, Article 12 of III Geneva Convention adds that if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

More, exactly and only Russia as state is responsible for safety of Ukrainian prisoners of war, as III Geneva Convention stresses directly. For example, in its Article 19 it is pointed that prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger. Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are,

³⁷ https://t.me/rian_ru/175128

³⁸ <https://arc.construction/16791>

³⁹ https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.32_GC-III-EN.pdf

may be temporarily kept back in a danger zone. Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

There was not and could not be, by definition, any reasons or grounds for Russian politic and military authorities do not execute this direct III Geneva Convention demands due to August, 2022 as it was clear that Russia does not agree to exchange those prisoners and more, that Russian organizes the so-called “trials” against them, who are in full power of Russian invaders. And more as there was pointed by different official and expert sources, the Russian version on the alleged “Ukraine’s missile strike” on so-called “pre-trial detention center” in Olenivka is fully fake.

The Russian armed forces carried out targeted artillery shelling of a “pretrial detention facility” in Olenivka, Donetsk region, where Ukrainian prisoners were kept, statements about alleged shelling by the Armed Forces of Ukraine are an outright lie and a provocation, the General Staff of the Armed Forces of Ukraine (AFU) said⁴⁰.

“The Russian armed forces carried out targeted deliberate artillery shelling of a pretrial detention facility in the village of Olenivka, Donetsk Region, where Ukrainian prisoners were kept. The Russian invaders pursued, thus, their criminal goals – to accuse Ukraine of committing 'war crimes,' as well as to hide the torture of prisoners and executions committed there on the orders of the occupation administration and command from Russia in the temporarily occupied territory of Donetsk region”, the AFU said.

The General Staff said that, according to the information of the Commander of the Rocket Forces and Artillery of the Command of the Ground Forces of the Armed Forces of Ukraine, no strikes were carried out by the Armed Forces of Ukraine in the area of the settlement of Olenivka. The servicemen also said the Armed Forces of Ukraine “due to the high-precision weapons received from partner countries, they inflict exceptionally accurate strikes only on Russian military targets”.

The AFU General Staff said the Ukrainian servicemen strictly abide by the principles and comply with the norms of international humanitarian law, did not and do not shell civilian infrastructure, especially places where their fellow prisoners of war are likely to be held.

“The Russian enemy continues its propaganda methods of conducting an information war in order to accuse the Armed Forces of Ukraine of shelling civilian infrastructure and the population, thereby hiding their own insidious actions. Therefore, such statements about the alleged shelling of civilian infrastructure and the population by the Armed Forces of Ukraine are an outright lie and a provocation, the responsibility for which bears Russia – an aggressor country, an occupier and a sponsor of terrorism”, the AFU said in the statement.

Ukraine has demanded Russia be held accountable for a missile attack that killed dozens of Ukrainian prisoners of war at a Russian-operated detention facility in eastern Ukraine.

The Ukrainian government on 30 July, 2022 called on the UN and the International Committee of the Red Cross to immediately investigate Friday’s attack. With international outrage building over the missile strike, the UN pledged support to help investigate the prison attack. “In relation to the recent tragedy at the prison in Olenivka, we stand ready to send a group of experts able to conduct an investigation, requiring the consent of the parties,” said Farhan Haq, deputy spokesperson for the U.N. secretary-general in a statement released⁴¹.

Representatives of UN and the International Committee of the Red Cross were not immediately allowed by Russian invaders military and politic structures to research the place of killing Ukrainian prisoners of war. Thus made for Russia-controlled structures too simple to destroy all possible evidences in Olenivka. But, as it was in case of Ivan Drozd in Luhansk, the UN representatives were “allowed to visit” Ukrainian prisoners of war, but just when it was “suitable” for Russian invaders.

All those violations of international standards regarding prisoners of war and counteracting the enforced disappearances are fixed and determined by Ukrainian non-governmental institutions like our Association. Ukrainian legislation gives some competence to the non-governmental structures in this area, including provisions of the Ukraine’s Law “On Legal Statute of Persons, Disappeared under Special Circumstances” № 2191-IX, Law “On Social and Legal Defense of Persons, Who Are

⁴⁰ <https://interfax.com.ua/news/general/849302.html>

⁴¹ <https://www.voanews.com/a/ukraine-calls-for-investigation-into-prison-attack-that-killed-ukrainian-pows/6680390.html>

Determined As Deprived Personal Freedom Due to Russian Aggression, and Their Family Members” № 2010-IX, Ukraine’s Government-approved Order on Realization Social and Legal Defense of Persons, Deprived Liberty Due to Russian Aggression after Their Liberation № 524, 2022; Ordinance On Coordination Headquarter Regarding Prisoners of War № 257, 2022; Ministerial Ordinance On Inter-Ministerial Commission On Issues Of Recognition Persons Determined As Deprived Personal Freedom Due to Russian Aggression, and On Measures Regarding Their Social Defense

Our Association believes that UN Committee on Enforced Disappearances should take into account the above-pointed issues regarding Russian aggression during preparation the relevant reports and during possible Committee’s visit to Ukraine.

Next urgent, immediate steps of the UN Committee on Enforced Disappearances must be done in Ukraine, in condition of ongoing interstate conflict and hostilities, of ongoing Russia’s criminal, discriminative and racist policy against Ukrainians prisoners of war rights must be done, including all observation procedures and visits to Ukraine.

We hope that above-pointed special statements of the UN experts and rapporteurs regarding situation in Ukraine must be supported by next UN HRC’s and UN High Commissioner for Human Rights’ official positions. Our Association believes that urgent, immediate steps of the UN OHCHR bodies must be done; monitoring procedure, mentioned in UN HRC resolution 49/1, must be enforced immediately. UN Committee on Enforced Disappearances may communicate with other UN authorized structures on this issue.

Such UN Committee on Enforced Disappearances steps must counteract the gross human rights violations committed by the Russian troops in Ukraine; such steps must be in compliance with the activities of the Human Rights Council and in the framework of High Commissioner for Human Rights’ and Human Rights Council’s mandates.

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