

# “The Hope Left Us:” Russia’s Siege, Starvation, and Capture of Mariupol City

Produced by

## **Global Rights Compliance**

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Cover image: residential building on Nakhimova Avenue, Mariupol.  
Global Rights Compliance

This report is authored and published as part of Global Rights Compliance's (GRC) Starvation Mobile Justice Team. The Starvation Mobile Justice Team is part of the UK, EU and US-sponsored Atrocity Crimes Advisory Group (ACA) which was launched in response to the OPG's need to increase capacity to investigate and prosecute atrocity crimes perpetrated since the invasion by Russian Forces of Ukraine. Other partners include the EU Mission (EUAM), Pravo Justice and the International Law and Development Organisation (IDLO). The Starvation Mobile Justice Team is one of multiple Mobile Justice Teams (MJT) based in Ukraine set up by international human rights law firm Global Rights Compliance – led by GRC's President and world-leading British human rights barrister, Wayne Jordash KC – to provide critical support to the Ukrainian Office of the Prosecutor General by assisting Ukrainian investigators and prosecutors on the ground as the conflict continues. The innovation of the MJTs is to bring together leading Ukrainian and international experts in the field of international criminal law, mass atrocity crimes investigations and case-building, as well as providing support to victims and witnesses and provide agile and bespoke support. The Starvation Mobile Justice Team is led by GRC Vice President Catriona Murdoch and funded by the Kingdom of the Netherlands' Ministry of Foreign Affairs. The views expressed in this paper are those of the authors (Global Rights Compliance) and may not be or coincide with the official position of The Netherlands. For more information visit [www.starvationaccountability.org](http://www.starvationaccountability.org)

The findings in this report are the result of a year-long investigation by GRC, utilizing the findings by the Centre for Information Resilience (CIR) and Intelligence Management Services Limited (IMSL), which supported GRC as open-source consultants to investigate the siege and capture of Mariupol using their expertise and OSINT methods and tools.

**Global Rights Compliance (GRC)** is an international legal foundation based in The Hague, Netherlands and Kyiv, Ukraine (with additional presence in the United Kingdom). It was founded by international lawyers with a mission to enable people and communities to achieve justice through the innovative application of international law. We have established a reputation as a leading supplier of humanitarian and human rights legal services across the spectrum of technical legal and policy advice, litigation, capacity-building and advocacy. GRC offers: (i) decades of proven expertise in International Human Rights Law (IHRL), International Humanitarian Law (IHL) (the law of armed conflict), and International Criminal Law (ICL); (ii) an exhaustive understanding of documentation and how to use it for legal action; and (iii) proven experience in transforming data into relevant and probative evidence and international advocacy to generate measurable policy and justice outcomes. We possess unrivalled global expertise and granular knowledge on the crime of starvation and right to food violations, derived from a dedicated starvation portfolio established in 2017.

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The images in this report are either publicly available or have been independently purchased by GRC, CIR, and IMSL through a licencing agreement. All are identified in this report.

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# Foreword

In February 2022, peaceful Mariupol, home to several hundred thousand Ukrainians, turned into hell on earth. In a matter of days, civilians were encircled inside the city with little to no means of survival. Items and services that we all take for granted in our daily lives swiftly became a luxury. Under incessant shelling, Mariupol’s citizens lost access to electricity, water, heating, and gas. Communications were cut off for several weeks, leaving besieged residents with very little ways to communicate, removing their ability to understand what, if any safe evacuation routes may be open, where to safely shelter, or how to find food and water. The residents of Mariupol were soon forced to take shelter in public buildings or inside the basements of apartment blocks. Dwindling supplies and the obstruction of humanitarian aid led to alternative coping strategies, such as the establishment of *ad hoc* distribution points for food, water, and other basic necessities. These shelters and distribution points, however, also became the object of attacks, as illustrated by the deadly attack on the Drama Theatre.

Against this backdrop, humanitarian evacuations were also impeded, including through the shelling of official humanitarian corridors as civilians attempted to flee. Civilians who later sought to escape did so in extremely dangerous circumstances and at their own peril. Many were then subjected to a terrifying and undignified filtration scheme.

The Office of the Prosecutor General of Ukraine and the Donetsk Regional Prosecutor’s Office welcome the release of GRC’s unique report “*The Hope Left Us:” Russia’s Siege, Starvation, and Capture of Mariupol City* for its unprecedented exploration of the siege of Mariupol in its entirety through the lens of the war crime of starvation as a calculated warring strategy. Through an in-depth analysis of the concerted and deliberate conducts that led to the near-total destruction of the city and its infrastructure, as well as to the loss of hope and the indignity suffered by its residents, the report dispels the myth that Mariupol sustained widespread destruction simply as the result of urban combat.

The title of this report came from a Ukrainian prosecutor who stated that after the attack on the maternity hospital in Mariupol “the hope left us.” The Office of the Prosecutor General of Ukraine and the Donetsk Regional Prosecutor’s Office will continue to hope for justice for the victims and survivors of the siege of Mariupol and for international attention to remain on Ukraine as it continues into its second year of facing similar patterns of attacks on its civilians, its cities, its critical infrastructure and other items essential to survival.



***There is no crime under the Rome Statute that was not committed by the Russian military during a full-scale invasion. Every day, investigators and prosecutors document the consequences of war crimes, as well as the testimony of victims and witnesses. In this regard, Mariupol is a vivid example of the policy of destruction of the city and its population by the Russian occupiers. To combat such crimes, we optimize the work of the Prosecutor General’s Office and strengthen the knowledge and skills of our prosecutors and investigators with the support of international partners. We are open to strengthening our cooperation to ensure that these and other war crimes are effectively investigated and the perpetrators brought to justice. We are grateful to everyone involved in this process, because only by coordinating joint efforts will we be able to ensure the inevitability of punishment.***

GRC has been one of the main long-standing partners of the Office of the Prosecutor General of Ukraine and its regional offices. For the past ten years, GRC's teams of experts have continued to support all aspects of our work, including by assisting our investigations, case-building, and prosecutions. The present report is the culmination of the collaboration with GRC's Starvation Mobile Justice Team.

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*The incidents within this report also form part of the Office of the Prosecutor and Regional Prosecutor's Office's current case files. The Office of the Prosecutor General of Ukraine and Donetsk Regional Prosecutor's Office continue to actively seek information of alleged violations that occurred both during the siege of Mariupol as well as other alleged crimes that took place in the wider oblast. If you have witnessed or survived a possible violation or crime and are willing to be interviewed or to share any type of audiovisual information, or documentary information, with Ukrainian authorities, please contact <https://warcrimes.gov.ua/>. Instructions on how to securely share information will be provided after an initial contact has been made.*

Yuriy BELOUSOV

*Head of the Department for Combating Crimes Committed in Conditions of Armed Conflict, Office of the General Prosecutor*

Vera CHERNOSTHAN

*Deputy Head of the Department of Procedural Management and Support of Public Prosecutions of the Department of Combating Crimes Committed in the Conditions of the Armed Conflict of the Donetsk Regional Prosecutor's Office*

# Acknowledgements

The present report would not have been possible without the support of Ukrainian law enforcement authorities. We want to thank first and foremost the Office of the Prosecutor General of Ukraine and the Donetsk Regional Prosecutor's Office for supporting our investigation in all its stages and for providing their expert assessment on crucial issues detailed in the report. We also thank the Interagency Working Group for providing their invaluable military expertise which has been integral to many aspects of the findings.

Further, we express our deepest gratitude to the Charitable Foundation "I'Mariupol" and the non-governmental organisation "Center for civic initiatives Skhidna Brama" for providing crucial detail and adding the local communities' perspectives into our narrative of the siege and capture of Mariupol. In addition, we gratefully acknowledge the assistance of Hala Systems who provided swift imagery and analysis offering their granular warfare expertise.

We finally want to also acknowledge the work of our colleagues at Human Rights Watch, Truth Hounds, and SITU Research who recently released the findings of their investigation on the devastation of Mariupol, which fully complements our analysis of the siege through the lens of the war crime of starvation.

## Executive Summary

Following eight years of strategic ambivalence, on 21 February 2022, the Russian Federation officially recognised the independence of the Donetsk and Luhansk regions in south-eastern Ukraine. Three days later, on 24 February, the Armed Forces of the Russian Federation (RFAF)<sup>1</sup> and affiliated actors (collectively "pro-Russian forces") launched a full-scale invasion into Ukrainian sovereign territory, beginning in the newly recognised Donetsk region.

The full-scale invasion commenced with the wresting for control over Mariupol – a strategically vital city situated on Donetsk's southern coast off the Sea of Azov, which holds considerable geopolitical significance for maritime trade. In attempting to capture Mariupol, pro-Russian forces sought to create an over-route land bridge to the previously occupied Crimean Peninsula,<sup>2</sup> both to control the entirety of the north shore of the Sea of Azov, as well as to free up Russian troops who could then easily navigate and traverse the broader Donetsk and Luhansk regions.

Over the course of an ensuing 85-day offensive for Mariupol (24 February to 20 May 2022), pro-Russian forces systematically attacked objects indispensable to the survival (OIS) of the civilian population, including energy, water, food and distribution points, and healthcare infrastructure (see section III., below), crippling Mariupol civilians' access to critical OIS while wilfully impeding access to humanitarian aid (see section IV., below) and simultaneously denying them access to organised evacuation routes (see section V., below). Due to the extensive damage and relentless attacks, affected vital infrastructure could not be repaired or replaced.

As this report and other reports by Global Rights Compliance (GRC) demonstrate, such conduct is indicative of a broader pattern, strategy, and

discernible intent on the part of pro-Russian forces to deliberately starve civilians as a method of warfare (see section II., below). In Mariupol, starvation crimes were perpetrated to accelerate the capture of the besieged enclave, with such efforts manifestly increasing and culminating with the declared capture of Mariupol City on 20 May 2022.

During the first week of the Mariupol invasion alone, pro-Russian forces systematically targeted energy infrastructure, not only critical for heat and light, but also for residents to access water – given the dependency on energy to power water pumping stations controlling Mariupol's water supply. Beginning on 27 February, pro-Russian forces struck a powerline blacking out half of Mariupol City,<sup>3</sup> followed by a four-day onslaught of shelling that fully cut power, internet, and gas<sup>4</sup> to some 450,000 desperate residents. The 15 energy entry points leading into Mariupol City were also damaged during the first week of the invasion,<sup>5</sup> depriving women, men, and children of heat, potable water, and access to information, which residents described as a "harrowing" situation that forced them to both drain defunct heating systems and melt snow to fashion potable water.<sup>6</sup>

After systematically attacking electricity and water infrastructure, by 2 March, pro-Russian forces were able to successfully encircle and lay siege to Mariupol, though the siege remained porous, as evidenced by residents numbering up to 200,000 who were able to escape Mariupol at their own peril during periods of heavy bombardment. Many of those who fled between March and May were systematically vetted by pro-Russian forces for their loyalties to the Russian State apparatus, through a compulsory security screening process known as "filtration",<sup>7</sup> regularly characterised by blanket unlawful internment (see section V., below).



Civilians who remained in Mariupol, however, were forced to organise creative and alternative means to obtain OIS, notably through the establishment of ad hoc distribution points (see section III., below). On 16 March, the Russian Aerospace Forces attacked two of the most notable of these distribution points supporting the largest numbers of residents – the Donetsk Academic Regional Drama Theatre and the Neptun Swimming Pool Complex. At the time, both well-known locations were serving as large civilian shelters<sup>8</sup> and both suffered extensive damage from direct targeting, despite being clearly identifiable as civilian locations. On the day of the attacks, President Volodymyr Zelensky pleaded for a humanitarian no-fly zone over Ukraine.<sup>9</sup>

Home to several coal mines, metallurgic plants, and heavy-equipment factories, much of the pre-invasion Donetsk economy remained dominated by industry two years ago, with Mariupol City having been specifically fortified for this purpose. Mariupol residents were therefore accustomed to the existence of tunnels and underground bunkers in some factories, and therefore a certain level of disaster preparedness.<sup>10</sup> Fortification alone, however, proved insufficient to protect civilians from the pace and frequency of pro-Russian attacks, including via the use of earth-penetrating bunker-buster bombs,<sup>11</sup> which, in addition to street-to-street battles beginning on in the latter half of March, overall left some 90 per cent of residential buildings in Mariupol damaged or destroyed, as well as up to 60 percent of private homes.<sup>12</sup>

The foregoing facts demonstrate the myriad ways in which the siege of Mariupol City and the underlying acts perpetrated to affect its capture constitute egregious violations of international humanitarian law and international crimes, as detailed below. Prosecutors, both domestically and internationally, therefore have a suite of crimes that could and should comprise any forthcoming indictments. The present report further captures the broader narrative of the siege through the patterned lens of attacks against objects indispensable to survival (OIS) of the civilian population. It does so because

– in the aggregate – the seemingly isolated attacks against OIS, when paired with associated violations and crimes related to the weaponisation of humanitarian aid, the denial of humanitarian access and humanitarian evacuations, filtration, and arrests of humanitarian actors, reveal a deliberately calculated method of warfare carried out by pro-Russian forces who intentionally employed several starvation tactics as a means to an end.

Moreover, this report focuses on the crime of starvation as a method of warfare not only because of its ability to accurately label the aggregated criminality, but also the indignity suffered by Ukrainian women, men, and children in Mariupol – alongside the near-total destruction of a city and its infrastructure – while highlighting the means through which Mariupol was dismantled and destroyed. GRC notes that whilst other public reports have focussed on attacks against energy and healthcare infrastructure; the United Nations Office of the High Commissioner for Human Rights (OHCHR) has considered cursorily the arrests of humanitarian volunteers; and others forthcoming may look at isolated “high-profile” attacks such as that of the Mariupol Drama Theatre on 6 March 2022, to date, none have explored the siege of Mariupol City in its entirety through the prism of starvation as a calculated warring strategy. The approach set out in this report therefore lays out what GRC has found to be a concerted and deliberate pattern as also found by United Nations mandated mechanisms, while underscoring how Mariupol City was not the first to be annihilated and subsumed by a devastating and deliberate Russian strategy (see Section II., below).

Through a unique blend of meticulous open-source intelligence (OSINT), along with arms and munitions expertise, this report – the culmination of 12-months of investigative work – reveals an unprecedented narrative underpinning the deliberate starvation of civilians in Mariupol City during every phase and facet of the siege laid by pro-Russian forces. The present report focusses on four critical elements of the siege and destruction of Mariupol:

- (i) attacks against objects indispensable to survival including critical infrastructure, with an emphasis on deliberate attacks against energy, water, food and distribution points, and healthcare;
  - (ii) the discriminatory and arbitrary denial of humanitarian aid to civilians living under the control of Ukrainian forces;
  - (iii) attacks against humanitarian evacuation corridors and the assortative use of "filtration" to vet Mariupol's population, for those loyal to the Russian State apparatus; and
  - (iv) the arrests and prosecutions on terrorism-related charges of civilian humanitarian volunteers operating solely within their humanitarian function.
- In the aggregate, GRC finds that these four patterns of conduct leave no other reasonable interpretation than to conclude that pro-Russian forces intentionally used the starvation of civilians in Mariupol City as a method of warfare, in order to accelerate the capture of the besieged enclave and force the capitulation of the Ukrainian army. These findings dispel the myth that Mariupol sustained widespread destruction simply as the result of urban combat.

### **Preliminary findings**

Through its investigations between May 2022 and February 2024, the Global Rights Compliance Starvation Mobile Justice Team (GRC SMJT) carried out a comprehensive examination and damage assessment of Mariupol City and its environs, assessing over 1.5 billion square metres of satellite imagery, and a suite of OSINT and commercially available all-source intelligence capabilities, specifically overlaying five levels of information: (i) the analysis of online damage mapping tools, including the Yale Humanitarian Research Lab's Conflict Observatory Timeline of Mariupol's Destruction<sup>13</sup> ("Conflict Observatory's mapping"); (ii) the creation of a bespoke algorithm cross-referencing the damage identified by these tools with crowd-sourced mapping data from Open Street Map and Wikimapia; while (iii) mainstream and social media sources were collected, analysed, and cross-referenced with the aforementioned mapping data. This included an advanced upstream social media, news, and mainstream media search, and the visualisation platform Zignal. OSINT analysts individually reviewed over 393 mainstream and social media sources featured in this report, with hundreds more reviewed and discounted based on relevance or reliability; (iv) Imagery analysts further reviewed food distribution locations using damage mapping and online satellite imagery to identify the most likely date of destruction at these sites. Of the 33 user generated images featured in this report, 24 were verified by the GRC Starvation Mobile Justice Team's (SMJT) OSINT and imagery intelligence (IMINT) specialists, using geolocation and, when possible, chronolocation. Additional non-geolocated images were selected for inclusion based on the quality of the source that shared the image; and (v) Weapons Ordnance Munitions and Explosives (WOME) specialists reviewed images and videos pertaining to damaged infrastructure to provide an assessment of the most likely cause of damage and weapons used.

GRC's SMJT found that there are reasonable grounds to believe that:

1. Over the 85-day offensive, pro-Russian forces deliberately attacked, destroyed, removed, or rendered useless OIS in Mariupol City. Pro-Russian forces further engaged in an orchestrated campaign of unlawful area bombardment, often treating entire locales including full city blocks as military targets, while failing to take all feasible precautions to mitigate incidental loss of civilian life, injury to civilians, and damage to civilian objects. In addition to killing and injuring scores of civilians, such conduct often

either trapped civilians underground, or forced them to risk their lives to escape the besieged enclave, in effect compelling their movement.

2. At the same time, pro-Russian forces took little to no concrete steps to alleviate civilian suffering, with the compounded effects spawning an acutely dire impact on vulnerable residents who were made to subsist during extremely harsh winter months. Already by 4 March, the Russian Ministry of Defence addressed publicly the “humanitarian catastrophe” that had emerged in Mariupol, demonstrative of the fact that Russian forces were completely aware of the rapidly deteriorating situation.<sup>14</sup> At least 22 supermarkets and other markets were also damaged or destroyed during the course of the offensive.<sup>15</sup>

3. In both deliberately attacking OIS absent valid and identifiable military objectives, and through foreseeably rendering the population extremely vulnerable, pro-Russian forces intended to starve the civilians of Mariupol City as a method of warfare. By the end of March 2022, such conduct had succeeded in destroying electricity, water, heat, and most healthcare facilities (with the denial of fuel also rendering many healthcare facilities useless), while pro-Russian forces also regularly attacked organised distribution and evacuation points within Mariupol City.

4. The siege of Mariupol followed patterned conduct documented and analysed in extensive detail both by GRC and United Nations mandated mechanisms concerning recent sieges laid in similar scope and brutality by pro-Russian forces across Syria, (Aleppo City (2016)<sup>16</sup> and eastern Ghouta (2013-2018)<sup>17</sup>. This included well-known Russian strategies of *maskirovka* (“misinformation”) and *blokirovaniye* (“blocking”)<sup>18</sup> – which involved pinpointing vulnerabilities in defensive lines, whereby pro-Russian forces were able to strategically infiltrate and isolate the besieged Mariupol enclave through a series of unlawful attacks, including deliberate attacks against OIS such as energy and water infrastructure that began during the encirclement and first week of the siege. Russia’s patterned strategy had the effect of: (i) introducing confusion and hindering the Ukrainian forces’ overall defence; (ii) cutting-off defending Ukrainian troops from one another across three pocketed lines it forced Ukrainian troops into; (iii) eroding the morale among besieged and increasingly starving civilians; and (iv) facilitating advancements by pro-Russian forces in order to ultimately enable their full capture of Mariupol City by 20 May.<sup>19</sup>

5. Pro-Russian forces also regularly denied organised evacuations in order to deliberately control the large population outflows from Mariupol through “filtration” checkpoints and centres (used to register, interrogate, vet, and in some cases arrest and detain Ukrainian citizens *en masse*, or to deport or forcibly transfer them into Russia). All told, some 350,000 residents were displaced from Mariupol City,<sup>20</sup> tens of thousands of whom underwent the filtration scheme.

6. As part of its broader filtration campaign, Russia documented the Ukrainian nationals that it brought to filtration camps and gave those who passed interrogations special permits to move around areas in Ukraine and within the Russian Federation. The arrest and prosecution on terrorism-related charges of civilian humanitarian volunteers served as a key part of the filtration process, including of those at the heart of the humanitarian response who (sought to) provide food, shelter, and other essentials to residents in the besieged enclave – further serving as indicia of and underscoring the overall broader intent to employ starvation as method of warfare during the 85-day Mariupol offensive.

# I. Methodology

Between March 2023 and February 2024, Global Rights Compliance's (GRC) Starvation Mobile Justice Team (SMJT), with industry leading defence intelligence specialists Intelligence Management Services Limited (IMSL), and open-source intelligence (OSINT) and geo-location experts Centre for Information Resilience (CIR), undertook a comprehensive investigation into starvation-related conduct during the siege of Mariupol.

The GRC SMJT investigated and analysed the use of starvation as a method of warfare during the encirclement and siege of Mariupol City and its environs, with a temporal focus between 24 February and its effective capture on 20 May 2022.

The present report analysed open sources comprising information including photographs, videos, public statements by officials, and other digital data. Consistent with international best practices and standards, the report employs a "reasonable grounds to believe" standard of proof. This standard is met when factual information has been collected that would satisfy an objective and ordinarily prudent observer that the incident has occurred as described with a reasonable degree of certainty,<sup>21</sup> and, where possible, that violations were committed by the warring party identified. Several factual findings in the present report and particularly those based on OSINT relied upon the North Atlantic Treaty Organization (NATO) scale and met a "high probability" determination, which far exceeds the standard of proof of "reasonable grounds to believe." Specifically, the "high probability" determination equates to an 80 per cent and above likelihood of occurrence.

As the GRC SMJT continues to support the Office of the Prosecutor General of Ukraine (OPG) and regional prosecutors' offices (RPOs) in the investigation of starvation-related violations and

crimes across Ukraine, the identification of alleged perpetrators was carried out confidentially and therefore the naming of individuals, units, and formations has been purposefully withheld from the present public report.

The present methodology was developed by the SMJT, comprising international lawyers and leading open source experts from IMSL and CIR, and adheres to the high-level guiding principles as set out in the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the University of California, Berkeley Human Rights Centre's Berkeley Protocol on Digital Open Source Investigations (Berkeley Protocol), and the Leiden Guidelines on the Use of Digitally Derived Evidence. The SMJT methodology further builds upon methodologies of other organisations working in this space, including that of the Global Legal Action Network (GLAN) and Bellingcat's Justice and Accountability Unit. The methodology bolsters the best practices identified in GRC's Starvation Training Manual and Mobile App, the latter which was also co-authored by open-source experts. It has been endorsed by leading external legal and open-source experts.

GRC conducts its investigative activities independently and impartially, eschewing political considerations, and in accordance with best practices as developed by the latest research in the field. In pursuance of its mandate, GRC collects and preserves information and evidence that it stores in a confidential database and that it catalogues by unique registration numbers. Reference is made to these numbers throughout this report so that States may use them when requesting to consult the underlying information and evidence. The SMJT relies on Mnemonic's Ukrainian Archive to forensically preserve all information collected through its OSINT investigations.

## II. Establishment of the Siege

Triggering the full-scale invasion of Ukraine on 24 February, Russian forces began advancing from the previously occupied Crimean Peninsula north towards Mariupol, with the Russian 7th Airborne Division (VDV)<sup>22</sup> and elements of 58th Combined Arms Army breaking out east towards Melitopol and west towards Odesa<sup>23</sup> (see Annex A for detailed Chronology). The following day, pro-Russian forces from the self-proclaimed “Donetsk People’s Republic” (“DPR”) joined the offensive for Mariupol, shelling residential areas and striking at least one school.<sup>24</sup>

Over the course of the first week of the invasion (24 February to 2 March 2022), Russian forces captured the port city of Berdyansk (Zaporizhzhia Oblast) from the west,<sup>25</sup> and, as artillery bombardment and airstrikes against Mariupol escalated,<sup>26</sup> they were joined by ground forces who advanced east from Crimea.<sup>27</sup> By 28 February, aerial or ground attacks carried out by pro-Russian forces had cut the electricity, gas, and internet connection to most of Mariupol City (see section III., below).<sup>28</sup>

Heavy fighting around the city<sup>29</sup> continued in the days that followed, as pro-Russian forces including members of the 8th Combined Arms Army successfully encircled Mariupol on 1 March.<sup>30</sup> Densely populated neighbourhoods across Mariupol City were shelled for nearly 15 hours the following day,<sup>31</sup> as residents suffered a water outage, damage to a maternity hospital,<sup>32</sup> and scores of civilian casualties.

By 5 March, elements of the 49th Combined Arms Army, 22nd Army Corps, and 7th Airborne Division had become involved in the operations in and around Mariupol.<sup>33</sup> A ceasefire was announced by 5 March,<sup>34</sup> however Russian Forces failed to observe it and continued to shell the

city including by targeting evacuation points (see section V., below).<sup>35</sup> Over the following days, pro-Russian forces continued their encirclement and increased their efforts to break into the city.<sup>36</sup> The full encirclement was characterised by a “porous siege,”<sup>37</sup> whereby civilians were able to escape at their own peril, although Russian forces regularly denied the entry of humanitarian relief supplies and other critical goods (see section IV., below), rendering besieged women, men, and children extremely vulnerable.

### **Pro-Russian forces and patterned siege warfare**

Based on a comprehensive comparative examination undertaken by the GRC SMJT, the encirclement, siege, and ultimate capture of Mariupol City was not an isolated strategy unique to the full-scale invasion of Ukraine. Rather, it followed patterned conduct documented in extensive detail both by GRC and United Nations mandated mechanisms concerning recent sieges laid in similar scope and brutality by pro-Russian forces across Syria, including those laid to eastern Aleppo City (2016)<sup>38</sup> and eastern Ghouta (2013-2018).<sup>39</sup>

Russia’s strategic manoeuvres – including the well-known Russian strategies of *maskirovka* (“misinformation”) and *blokirovanie* (“blocking”)<sup>40</sup> – involved pinpointing vulnerabilities in defensive lines, whereby pro-Russian forces were able to strategically infiltrate and isolate the besieged Mariupol enclave through a series of unlawful attacks, including deliberate attacks against OIS such as energy and water infrastructure that began during the encirclement and first week of the siege (see section III., below).

Just as they had in eastern Ghouta (Syria),<sup>41</sup> pro-Russian forces laying siege to Mariupol City demonstrated an acute ability to identify unit boundaries and then exploited them to fracture the Ukrainian defence by attacking OIS,<sup>42</sup> including by deliberately cutting off access to telecommunications<sup>43</sup> and humanitarian aid, both of which disproportionately and overwhelmingly affected besieged civilians. Between 29 March 2022<sup>44</sup> and early April, pro-Russian forces had pushed the Ukrainian resistance into three areas, namely: (i) the Port of Mariupol in the city's southwest; (ii) the Illich Iron & Steel Works ("Mariupol Metallurgical Plant") located in northern Mariupol; and (iii) the Azovstal Iron and Steel Works ("Azovstal Steel Plant").

As they had in eastern Ghouta (Syria),<sup>45</sup> splitting Mariupol City into three distinct areas<sup>46</sup> meant that pro-Russian forces were able to create isolated pockets of resistance while fracturing Mariupol City into the three sectors and disrupting communication – and therefore coordination – between defending Ukrainian forces, destroying in tandem the communication between civilians. For this reason, there are reasonable grounds to believe that ensuring besieged civilians were unable to restore telecommunications access was deliberate and formed part and parcel of the overall strategy, thus leaving vulnerable civilians deprived of vital information as to whether humanitarian aid, shelters, or evacuation routes were even available to them (see sections IV. and V., below).

Moreover, the fact that the siege and capture of Mariupol City spanned a mere 85 days (24 February to 20 May 2022), meant in practical terms that Ukrainian forces did not have the time nor equipment to entrench themselves through fortification – e.g., by carving out defensive positions from the urban terrain – beyond that which Mariupol City already had to offer as a city dominated by industry, with a subterranean network of tunnels and underground bunkers underneath some factories that was previously setup for disaster preparedness (e.g., underneath the Azovstal Steel Plant).<sup>47</sup> Accordingly, once pro-Russian forces established three isolated

pockets by early April,<sup>48</sup> they advanced through the three weakened defensive lines they had fashioned more easily, capitalising on the chaos and disorganisation they wrought including through their unlawful conduct.

Russia's patterned strategy, as previously documented by the United Nations,<sup>49</sup> had the effect of: (i) introducing confusion and hindering the Ukrainian forces' overall defence; (ii) cutting-off defending Ukrainian troops from one another across the three pocketed lines; (iii) eroding the morale among besieged and increasingly starving civilians; and (iv) facilitating advancements by pro-Russian forces in order to ultimately enable their full capture of Mariupol City by 20 May.<sup>50</sup>

On 8 April, pro-Russian forces captured the first pocket of the Port area in the southwest.<sup>51</sup> By 13 April, pro-Russian forces made Ukrainian troops abandon the second pocket, namely the Mariupol Metallurgical Plant located in northern Mariupol, which Moscow officially confirmed on 15 April.<sup>52</sup> Once they took two of the pockets, and throughout April, pro-Russian ground troops pushed deeper into Mariupol City, driving back Ukrainian forces further into the Azovstal Steel Plant. As pro-Russian ground forces established a perimeter around the Azovstal, they called in a relentless series of airstrikes from Sukhoi Su-25 and Su-34 fighter jets – believed to be those based in Primorsko-Akhtarsk town in Russia.<sup>53</sup> On 17 May 2022, Ukrainian troops, who had by then fully ensconced themselves at the Azovstal Steel Plant – the last pocket and redoubt in the last remaining of the three sectors – were ordered to surrender by the Ukrainian military command.<sup>54</sup>

For 85 days, this conduct engaged in by pro-Russian forces during the encirclement, siege, and capture of Mariupol City, as documented by the GRC SMJT and detailed extensively below, evinced an overall intent to starve the Ukrainian civilian population as a method of warfare, including through concerted and repeated attacks against objects indispensable to their survival.

### III. Attacks against Objects Indispensable to the Survival (OIS) of the Civilian Population

The initial assault on Mariupol was characterised by constant attacks against civilian infrastructure that delivered critical OIS to encircled residents. Within the first week of the invasion and subsequent siege, pro-Russian forces began by systematically targeting energy and water infrastructure vital for consumption, sanitation, and the overall delivery of electricity and gas, depriving besieged civilians of light, heat, the ability to cook, and potable water. The lack of electricity also removed any ability to access information, culminated by the 6 March destruction of the last functioning telecommunications tower in Mariupol.

Between 24 February and 6 March, Ukrainian forces attempted to repel attacks by Russian units located several kilometres outside of Mariupol City.<sup>55</sup> The distance between the city and the frontline meant that attacks against civilian infrastructure, including critical infrastructure, were unlikely to have had a concrete impact on Ukrainian forces, who possessed their own equipment and supplies.<sup>56</sup> Rather, the primary target of these attacks appears largely to have been the decimation of Mariupol City itself, in order to erode the viability of life for some 430,000 civilian residents and force the capitulation of the Ukrainian forces.

#### **a. Energy**

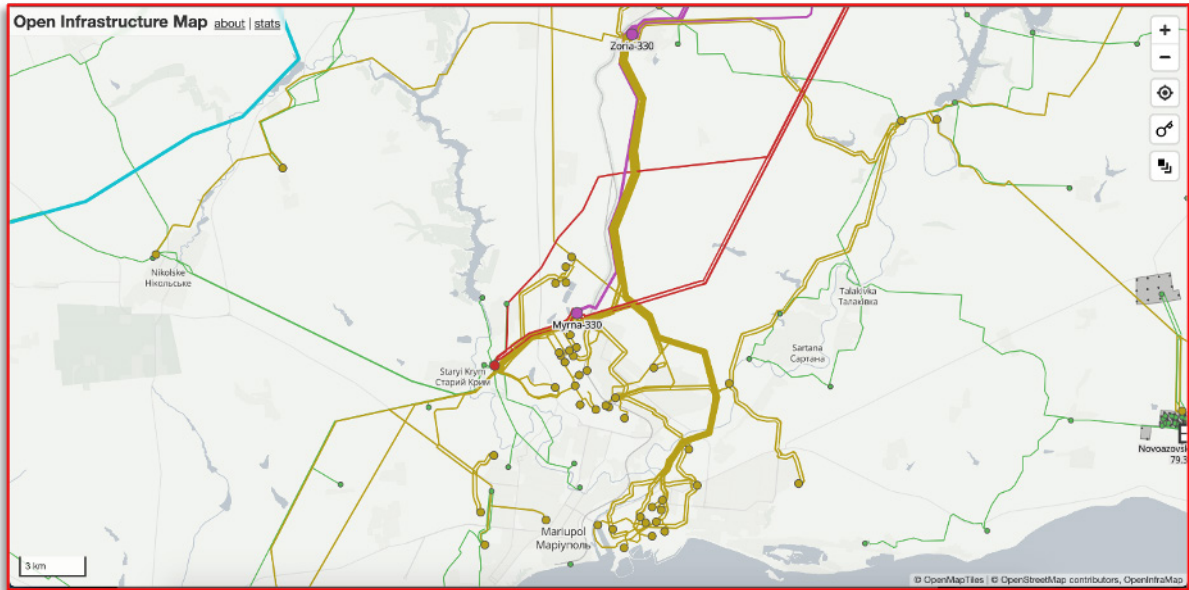
Within the first 10 days of the full-scale invasion, pro-Russian forces began systematically targeting Mariupol’s energy infrastructure, depriving residents of access to electricity and heat during extremely

harsh winter months, as well as to potable water and communication channels and means.<sup>57</sup>

#### **Electricity**

On 28 February, four days after the full-scale invasion commenced, Russian forces struck a powerline, completely blacking out half of Mariupol.<sup>58</sup> As one Mariupol resident commented, “the light left us;” thereafter, sporadic access to electricity only returned to some districts by mid-summer 2022. At the same time, continued shelling resulted in near-total loss of power, and by 2 March, internet connectivity had plummeted to a mere seven per cent of its ordinary amount.<sup>59</sup> Also on 2 March – as Mariupol City had become fully encircled – the Mayor of Mariupol, Vadym Boychenko, reported that the 15 electricity power lines leading into the city had been destroyed over the preceding week,<sup>60</sup> rendering Mariupol completely powerless.<sup>61,62</sup>

Satellite imagery from mid-March onwards revealed damage to key transformer substations within Mariupol’s electrical grid, which provided both the residential and industrial grids with power. As of February 2022, the grid was comprised of four principal substations, themselves connected to lower voltage substations distributed across the city (see Figure 1, below). The latter included two 330-KV substations (Myrna-330 and Zoria-330), damage to which would immediately disrupt the whole city’s electricity supply; as well as one 220-KV substation (Azovska-220); and at least 40 substations of 110-KV distributed across the city.



**Figure 1: Electrical power grid of Mariupol<sup>63</sup>**

The GRC SMJT observed and identified a pattern of damage at Myrna-330, Azovska-220, and at least 14 of the 110-KV substations<sup>64</sup> – ranging from visible craters consistent with artillery shelling, to the significant destruction of buildings consistent with precision strikes.

their perimeters. While the damage to Myrna-330 substation appears confined to the main building, satellite imagery from 14 March shows that the Azovska-220 substation sustained damage to two transformers and other parts of the facility's infrastructure. Notably, both substations were in rural areas, remote from other potential targets.

The larger 330-KV and 220-KV substations sustained targeted damage to buildings within

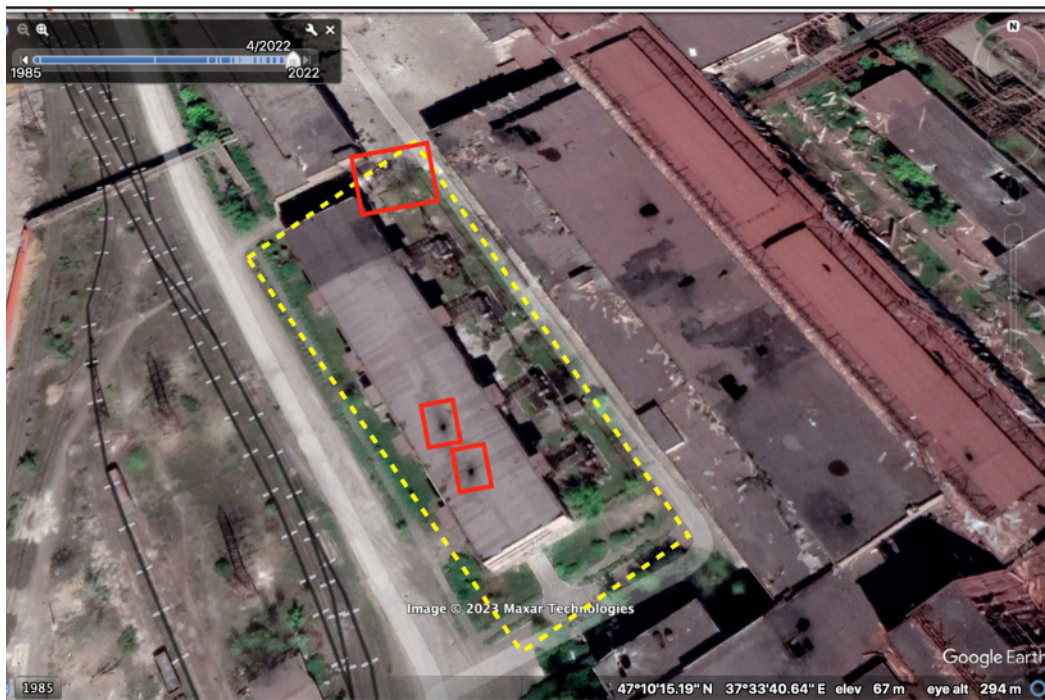


**Figure 2: Myrna 330 KV substation with signs of shelling on the buildings to the south of the site. Craters can be identified in the fields surrounding the substation. Google Earth Pro (c), Maxar, Image dated April 2022.**





**Figure 3: Azovska-220KV Substation, with signs of possible damage.  
Google Earth Pro (c), Maxar, Image dated March 2022.**



**Figure 4: 110KV Substation ('41') with damaged roof and scorch markings.  
Google Earth Pro (c), Maxar, Image dated April 2022.**

The 14 targeted 110-KV substations distributed in the north, south-west, and south-east of Mariupol all sustained severe damage. The substations located

in the south of Mariupol were in urban areas of the city that were most attacked. GRC found that the damage appears to indicate precision in targeting.

## Gas

Pro-Russian forces also attacked the gas network servicing Mariupol. Multiple sources reported an attack on the Donetsk-Mariupol high pressure gas pipeline on 5 March 2022.<sup>65</sup> The pipeline had previously been targeted in the same location in June 2015 with consequent effect, indicating knowledge of its importance in servicing the city. At the time, pro-Russian forces had launched a targeted mortar attack, successfully damaging the pipeline and preventing gas from reaching Mariupol factories for two days.<sup>66</sup>

Following the March 2022 attack, technicians were compelled to close the pipeline to prevent leakage, thereby stopping gas supply to all homes between Donetsk and Mariupol, including those in besieged Mariupol City. Attempts to repair the pipeline and restore gas to the city continued for at least four weeks, but ultimately failed largely due to persistent shelling.<sup>67</sup> Civilians in Mariupol were therefore deprived of gas until April 2022, preventing them from direct access to heat and from suitable means to cook during almost the entirety of the siege.

## b. Water

During the first week of the full-scale invasion and alongside energy infrastructure, pro-Russian forces simultaneously launched a concerted attack against

Mariupol's water supply, first impacting the water flow to the city and then the filtration system that was needed to provide residents with potable water.

Prior to the full-scale invasion, two sources ensured water supply to Mariupol: the South Donbass Water Pipeline, and the Stary Krim Reservoir, located in the northern suburbs of Mariupol City.<sup>68</sup> The South Donbass Water Pipeline had provided the majority of the total water supply, with the remaining coming from the Stary Krim Reservoir,<sup>69</sup> with water from both sources unpotable due to excessive mineral content.<sup>70</sup> Therefore, all water had to have been processed at the Starokrymskaya Filtration Stations No. 1 and No. 2.

Significantly, on 19 February 2022, five days prior to the invasion, a transformer substation located on the South Donbass Water Pipeline near Vasilivka (north of Donetsk) was damaged.<sup>71</sup> While the GRC SMJT was unable to determine the exact cause of the damage, the impact stopped all water supply from the pipeline to four filtration stations: Starokrymskaya Filtration Stations 1 and 2; Karlovskaya; and Velikoanadolskaya.<sup>72</sup>

Military fortifications had been placed around the transformer substations, as it was located very close to the frontline of the 2014 conflict between Ukrainian forces and forces from the self-proclaimed "Donetsk People's Republic" ("DPR").



Figure 5: Map Showing Location of Damaged Substation in Relation to the Water Pipeline Infrastructure Feeding Mariupol, Google Earth Pro (c), Maxar.

There are therefore reasonable grounds to believe that the substation was a site known to pro-Russian forces.

Following the attack on the transformer substation, Mariupol’s water supply was connected to the Stary Krim Reservoir on 25 February 2022, then becoming the sole source of water to Mariupol.<sup>73</sup> Water from the Stary Krim Reservoir was entirely filtered by the Starokrymskaya filtration stations. On 2 March, however, the KP Donbass Water Company reported that the Starokrymskaya filtration stations No. 1 and No. 2 had been de-energised.<sup>74</sup> That same day, the Mayor of Mariupol echoed that pro-Russian forces had destroyed all 15 electricity inputs to Mariupol, and that the city had no running water.<sup>75</sup>

Satellite imagery from 14 March shows visible damage to the major transformer substation of Azovska-220. This substation directly connects to Starokrymskaya Filtration Stations No. 1 and No. 2. The satellite imagery from 14 March shows the Azovksa substation had sustained damage to two transformers and other parts of the facility’s infrastructure, including in proximity to an area of the facility that outputs to the 35-kilovolt power line connecting to the filtration stations (see Figure 6, below).

Already in 2019, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) had warned of the dire consequences of a potential electricity cut to Mariupol water pumping stations, highlighting that its then-474,000 residents could be directly affected by their de-energisation.<sup>76</sup> This concern was raised in the context of a deteriorating security situation in the Donetsk region.<sup>77</sup> In the event of power cuts, the primary contingency supply provided by the Mariupol water board would not be able to compensate for electricity loss as its water was not potable due to the high mineral content.<sup>78</sup> The attack on the transformer substation and consequent de-energisation of the filtration stations therefore entirely removed Mariupol residents’ access to drinking water.

In addition, access to heating in Mariupol largely relied on boilers pumping hot water to heating outlets, including radiators. The disabling of water pumps serving the city therefore not only deprived residents of potable water, but also of water necessary to the existing heating system. By 2 March, and with energy and potable water sources attacked or destroyed, Mariupol residents had become deprived of heat, drinking water, and access to information.

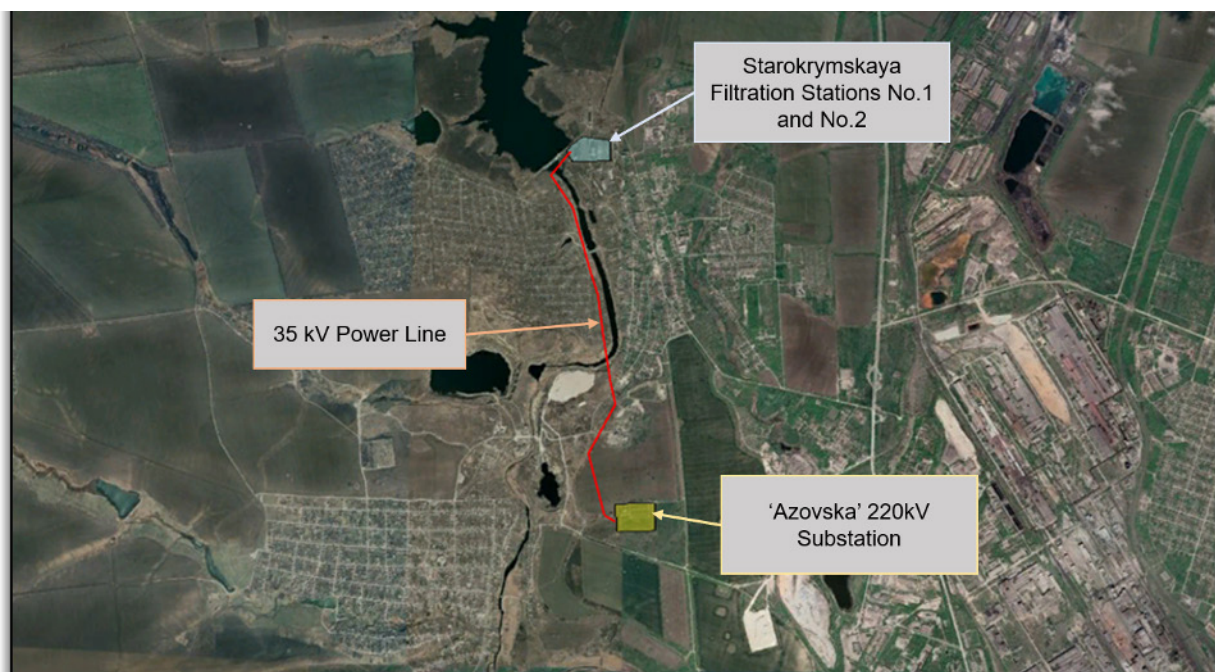


Figure 6: Map of substation and connection to Filtration Stations, Google Earth Pro (c), Maxar



Figure 7: Azovska 220kV Substation. Google Earth Pro (c), Maxar, Image dated 14 March 2022.

### c. Food and distribution points

With the encirclement and siege of Mariupol City, access to food and other OIS for residents who remained inside the city became exceedingly precarious. The onset of the invasion had prompted fears among large portions of the population, with residents having purchased food in bulk for storage as early as 25 February 2022, before the encirclement.<sup>79</sup> Reports from the first week indicate that some supermarkets were already emptied of their stocks.<sup>80</sup>

In response, and particularly at the outset of the offensive, the Mariupol City Council regularly announced the locations of “distribution points,” or ad hoc areas where civilians could gather and queue to collect basic necessities including food and potable water.<sup>81</sup> These included distribution points for bread,<sup>82</sup> water,<sup>83</sup> and other essential items such as medicine and clothes.<sup>84</sup> With the deliberate denial by pro-Russian forces of humanitarian aid from entering the city (see section IV., below), residents had become entirely dependent on such distribution points.

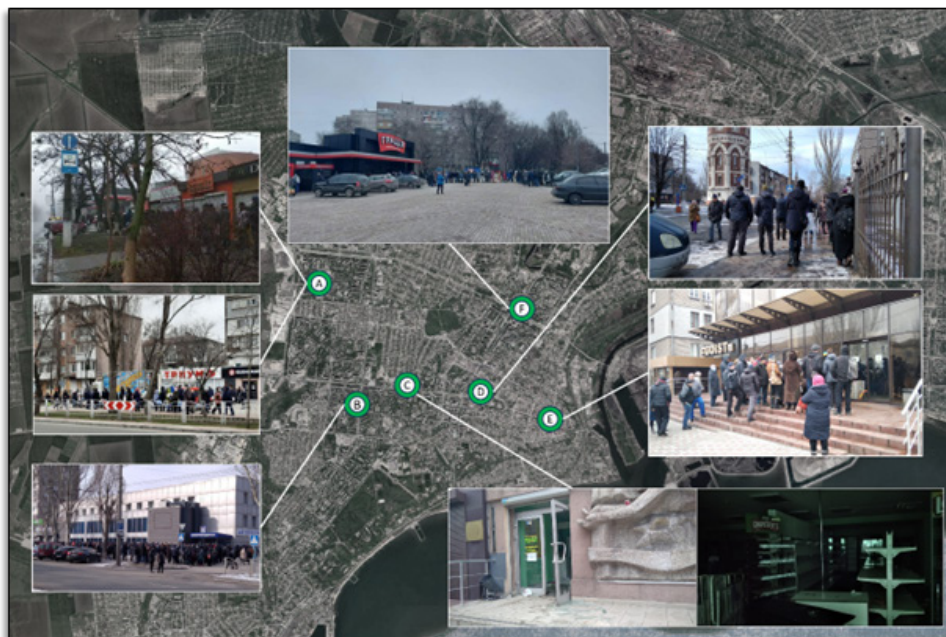
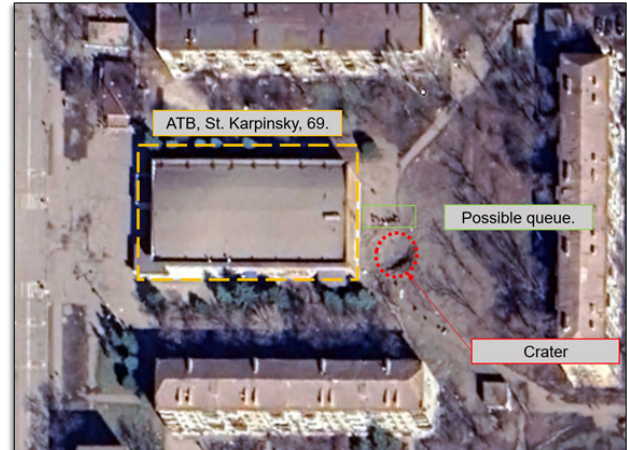


Figure 8: Queues for Food at Distribution Points in Mariupol, Google Earth Pro (c), Maxar<sup>85</sup>



**Figure 9: Crater Beside Announced Bread Distribution Point – Google Earth Pro (c) Image Captured March 2022.**



**Figure 10: Second Crater Beside Announced Bread Distribution Point - Google Earth Pro (c), Image Captured March 2022**

Sustained attacks against Mariupol City forced the distribution of essential items to become largely mobile in order to mitigate risks of shelling, though a significant number of both mobile and stationary distribution points were still shelled, repeatedly exposing vulnerable and hungry residents to significant risk to their lives and means of securing basic necessities. On 2 March, the Council released a list of 11 locations from where bread would be sold at a reduced cost,<sup>85</sup> and, by 14 March, at least three of the locations sustained damage.<sup>86</sup> Another two locations sustained damage between 14 and 29 March, with one, the ATB supermarket on 69 Karpinskoho Boulevard, appearing to have been targeted twice (see Figures 9 and 10, above).<sup>87</sup> The GRC SMJT identified an additional six supermarkets that sustained damage prior to 14 March, noting however limited reporting which indicates that many supermarkets had been emptied of supplies by the end of February, so their sustenance value / indispensability would require further analysis.

In addition to the above, two well-known locations operated as distribution points:

- The Donetsk Academic Regional Drama Theatre
- The Neptun Swimming Pool Complex

Both locations were clearly identified as civilian locations. Through its investigations, evidence gathered by the GRC SMJT revealed that that both sites were deliberately targeted by Russian forces

on 16 March within hours of each other, resulting in extensive structural damage and affecting the residents relying on them for vital supplies. The GRC SMJT notes that much of the international community’s focus has centred on the attack against the Mariupol Drama Theatre and the attack on the Neptun Swimming Pool Complex has been largely overlooked despite it appearing to be one of the larger distribution points inside the city. Satellite imagery analysed by the SMJT establishes the presence of hundreds of civilians at Neptun less than 48-hours before its destruction, by weaponry likely of the same type to that used in the attack against the Drama Theatre.

### The Donetsk Academic Regional Drama Theatre (“Mariupol Drama Theatre”)

The Mariupol Drama Theatre, situated in Mariupol City centre, was destroyed shortly after 10:00hrs on 16 March 2022.<sup>88</sup> Commonly referred to as the Mariupol Theatre, this Soviet-era building, set within a parkland, had been the backdrop to Mariupol’s old town.<sup>89</sup>

Following the full-scale invasion, and until it was destroyed on 16 March, the Theatre had become a critical shelter for besieged civilians. On 27 February 2022, the Mariupol City Council had informed residents that the basement of the Theatre could be used as a shelter.<sup>90</sup> According to Petro Andriushchenko, an Advisor to the Mayor

of Mariupol, it was the "largest shelter in both size and capacity in Mariupol."<sup>91</sup> As an officially designated shelter,<sup>92</sup> the Theatre attracted up to 1,500 desperate residents seeking refuge.

At the time of its attack on 16 March 2022, it is estimated that several hundreds of people were residing in the Theatre.<sup>93</sup> Mariupol City's Deputy Mayor, Sergei Orlov, cited a figure of 1,200 people,<sup>94</sup> and a report by OSCE stated that up to 1,300 people<sup>95</sup> were sheltering there at the time of the attack. The SMJT notes that a lack of information from the scene due to severely restricted communications and a reliance on the accounts of traumatised survivors contributes to variance in the exact number of civilians present.

In addition to serving as a shelter, the Theatre was also a location for the distribution of food, water, and supplies for civilians, with deliveries coordinated by both Ukrainian Police and Military.<sup>96</sup> Inside the Theatre, civilians had also constructed a makeshift kitchen, from which they could distribute scant but warm meals during a period of intense cold.<sup>97</sup> Behind the Theatre was a water distribution point,<sup>98</sup> and extremely irregular mobile reception.<sup>99</sup> The non-permanent presence of police and territorial defence forces<sup>100</sup> provided reassurance and critical information regarding attacks and on the possibility of humanitarian corridors, and therefore the Theatre was further designated as a mustering point for potential civilian evacuations (see section V., below).

Overall, the Mariupol Drama Theatre afforded civilians one of the sole locations inside the city where they could meet some of their essential needs, gather, speak, and support one another. Satellite imagery from 14 March clearly displayed the words "ДЕТИ" ("Children" in Russian) in very large white lettering at the front and back of the Drama Theatre, attempting to signify the location as civilian in nature. These markings measured approximately 4m high by 18m wide<sup>101</sup> and remained clearly visible after the attack.<sup>102</sup> On 11 May 2023, the Secretary of State for Defence of the United Kingdom issued an oral statement on the war in Ukraine, during which he stated that "two 500kg bombs dropped by Russian fighter aircraft [were used to attack] the Mariupol theatre."<sup>103</sup> Previous open-source investigations concluded

that the Theatre had likely been struck either by a laser-guided bomb such as the KAB-500L<sup>104</sup> or an unguided variant of a FAB-500 bomb.<sup>105</sup> The lowest bombing altitude of both bombs is identical at 500 metres, with the maximum bombing altitude at 5,000 metres for the KAB-500L and 12,000 metres for the FAB-500. The impact of the FAB-500, capable of penetrating concrete and reinforced concrete objects, would ensure a depth of penetration certain to affect those residing inside the Theatre.

The SMJT analysed satellite imagery demonstrating that the markings of "ДЕТИ" ("Children") were visible at an altitude of up to 500 metres, the lowest bombing altitude of the involved ammunition. Beyond 500 metres visibility, on 15 March 2022, then Russian Deputy Minister of Defence Mikhail Mizintsev confirmed pro-Russian forces' use of unmanned aerial vehicles (UAVs or drones) in Mariupol<sup>106</sup> previously asserted by "DPR"<sup>107</sup> The access and use of such vehicles enabled pro-Russian forces to collect information regarding the civilian status of the Theatre, including viewing the markings, and potentially take precautionary measures as required by IHL. There is no information which GRC's SMJT assessed which indicated that pro-Russian forces took any precautionary measures prior to the attack on 16 March.

In seeking to justify their targeting, Russian authorities and pro-Russian actors put forth a series of claims that the Theatre had been overtaken by Ukrainian forces. The GRC SMJT reviewed reports alleging that Ukrainian military were present at the Theatre on various occasions in the lead up to the attack, albeit in very low numbers.<sup>108</sup> On 10 March 2022, a video was posted online by the Azov Regiment which depicted the presence of two Azov Soldiers in and around the Theatre on that date, as they appeared to be escorted by a civilian showing them around the location and highlighting the needs of the civilians at the Theatre.<sup>109</sup> The video concludes with two civilians' affirmation that the Theatre was a civilian shelter, pleading pro-Russian forces to allow women and children to evacuate the city. Polygraph fact-checkers remarked that the video "show[ed] no evidence that a large number of fighters or any military equipment were at the theatre".<sup>110</sup>

In addition, while civilians confirmed the presence of members of the National Police (civilian) and the Territorial Defence Forces (military reserves) involved in the organisation of food and aid distribution at the Theatre, they were vastly outnumbered by the number of civilians sheltering in the Theatre and, for the military reserves, would in no way allow for a proportionate attack against

it. Throughout its investigations, the SMJT did not identify any information or imagery from the relevant period which suggests a significant military presence at the Theatre on or around 16 March. Notwithstanding the cloud cover precluding the use of satellite imagery prior to 14 March, no other information suggests a change in the overwhelmingly civilian use of the Theatre.



**Figure 11: Naked eye visibility at 500m altitude – Google Earth Pro (c), Airbus, image dated March 2022**



**Figure 12: Naked eye visibility at 1,000m altitude – Google Earth Pro (c), Airbus image date 14 March 2022**

Despite the above, Russian authorities persistently maintained accusations against the Azov Regiment for the attack on the Mariupol Drama Theatre. On the morning of 16 March, Russian State-owned media agency TASS quoted Deputy Defence Minister and Defence Spokesman of the self-proclaimed "DPR" militia command, Eduard Basurin, alleging that the "DPR" forces had received information as to the preparations of another falsification in Mariupol.<sup>111</sup> That same evening, the Russian Ministry of Defence released a statement claiming that Russian aviation had not conducted any operations in Mariupol that day.<sup>112</sup>

Rather, in similar fashion to previous pro-Russian attacks against other civilian targets, the Defence Ministry proceeded to connect the attack on the Drama Theatre to a 9 March targeting of the Mariupol Maternity Hospital, reiterating that attacks in both instances had been conducted by Ukrainian "nationalists."<sup>113</sup> Parallel pro-Russian statements claimed that the Drama Theatre had served as the Azov Regiment's headquarters and had been blown up to eliminate documents,<sup>114</sup> despite stating that shortly before the explosion, food and aid had been distributed there.<sup>115</sup> Assistant Minister of Internal Affairs of the self-proclaimed "Luhansk People's Republic" ("LPR"), Vitaly Kiselyov, affirmed in Russian State media that a Russian investigation concluded that Ukrainian Armed forces had carried small boxes

of 50 by 50 cm into the Drama Theatre a few days prior to the attack, claiming that "the explosion took place not from the outside, but from the inside."<sup>116</sup>

Despite thorough investigations, the SMJT did not find any compelling evidence to indicate that the Mariupol Drama Theatre served as the headquarters of the Azov Regiment. Rather, substantial open-source evidence goes against statements put forth by self-proclaimed "DPR" and "LPR" officials, demonstrating instead how the visible damage to the Theatre stemmed from an airborne bomb, likely penetrating the concrete roof prior to detonation.<sup>117</sup>

### The Neptun Swimming Pool Complex

Though it has received considerably less attention, the Neptun Swimming Pool Complex also served as one of the larger distribution points attacked by Russian Aerospace Forces inside Mariupol City on 16 March 2022. Residents living near the Complex recalled how besieged residents had gathered near its building every day, with essentials being periodically distributed,<sup>118</sup> while others also used the location to cook food,<sup>119</sup> or receive makeshift treatment for wounds. Satellite imagery analysed by GRC depicted large queues of several hundreds of people outside the Neptun distribution point on 13 and 14 March, as shown below, these queues

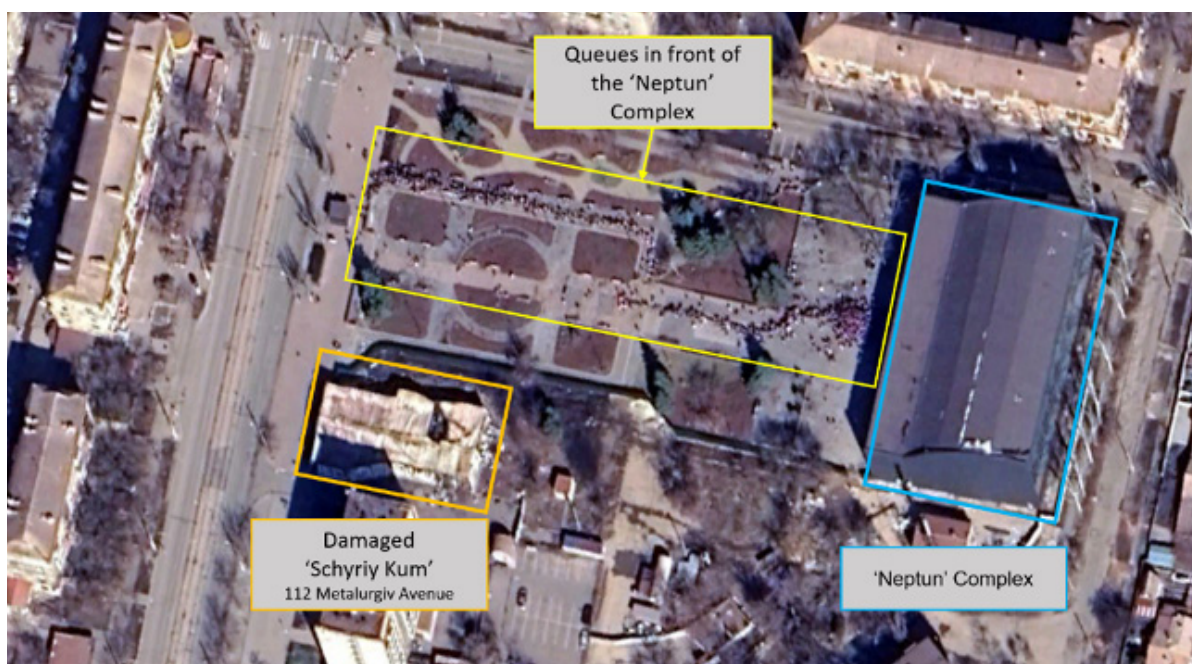
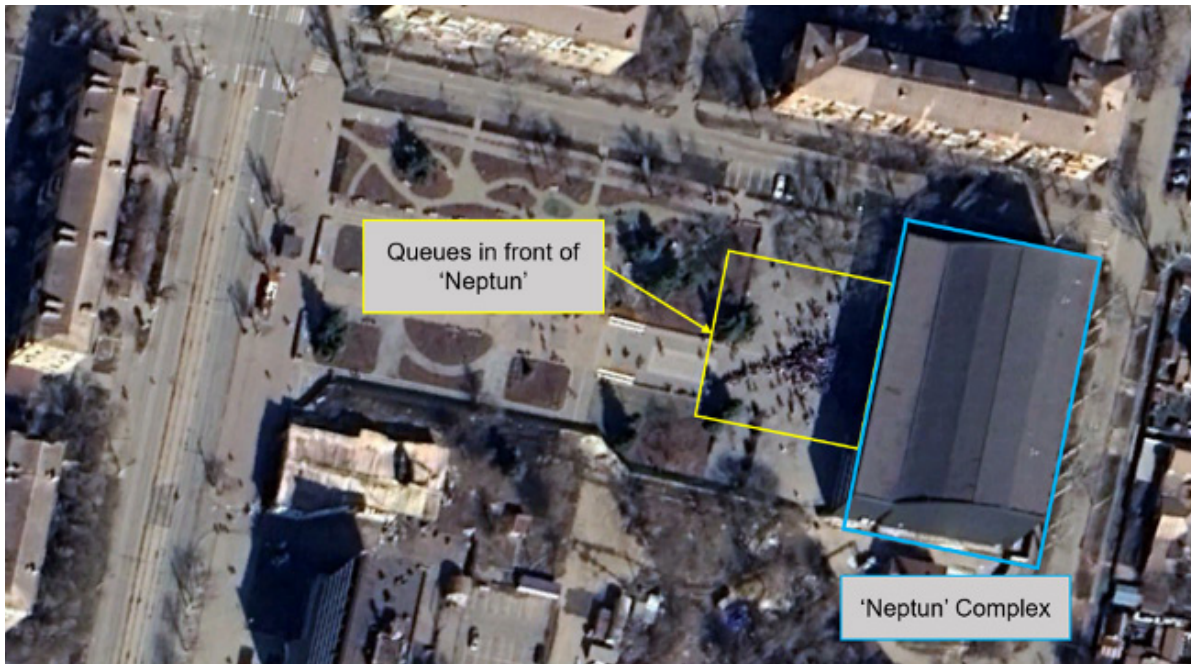


Figure 13: Queues outside Neptun complex, Google Earth Pro (c), image dated 13 March 2022.





**Figure 14: Queues outside Neptun complex, Google Earth Pro (c), image dated 14 March 2022.**

appear civilian in nature and have no hallmarks of military formation or organisation.

A video uploaded to various Telegram and YouTube channels on 16 March, showed extensive damage to the Neptun structure,<sup>120</sup> verified by satellite imagery of 26 March showing damage to the structure's roof. In addition, the 'Schyriy Kum' supermarket located next to the Neptun Complex was among the locations announced as a bread distribution point on the Mariupol City Council Facebook and Telegram channels on 2 March 2022.<sup>121</sup> Images posted to social media on 16 March showed the supermarket had caught fire.<sup>122</sup>



**Figure 15: Screenshot of video showing damage to Neptun.<sup>123</sup>**

The SMJT reviewed available video and satellite imagery to carry out a forensic analysis of the explosion. Analysis of satellite imagery, verified by two independent weapons and ordnance munitions experts (WOME) corroborated through flight simulation analysis, indicated that the Neptun Swimming Pool had been targeted at approximately 11.00am by one munition, which impacted the gymnasium and the internal wall between the gym and pool area, causing destruction also to the roof. The surprisingly little evidence of fragmentation within the gym space and the collapse of the Complex roof inward and downwards suggest that munitions may have detonated on impact without fully penetrating through the roof prior to detonation. Visible glass damage all around the building and the manner in which panels, window frames, and cladding is bowed outwards in available imagery further indicates that the internal spaces of the building were subjected to overpressure resulting from one or more detonations.

From the level of visible damage, it appears that Neptun was struck by one air-dropped, high-explosive general-purpose bomb, with an explosive content of approximately 50-100 kilograms.<sup>124</sup> The attack on the Mariupol Drama Theatre earlier on the same day and only some four kilometres south-west of the Neptun Complex, provides compelling circumstantial evidence that Russian Aerospace

Forces conducted similar attacks, using air dropped high explosive weapons in both incidents. Pregnant women and children were reported to have been injured and "under the rubble" at the damaged Neptun complex, with hundreds of people, mostly women, children, and the elderly having had sheltered at both the Neptun Complex and the Drama Theatre.<sup>125</sup>



**Figure 16: Damage to Neptun pool complex, Google Earth Pro (c), Maxar, Image dated 26 March 2022**



**Figure 17: Further damage to Neptun complex sustained between 26 and 29 March 2022, Google Earth Pro (c), Maxar**

Through its investigations, the SMJT found no Ukrainian military targets (neither soldiers present, checkpoints, nor equipment) visible in proximity to the Neptun swimming pool or the Shyriy Kum supermarket. Ukrainian media suggested that Russian warplanes had targeted the nearby Military Hospital No. 61, less than 100 metres from the pool complex, with one of the bombs causing damage to the pool itself.<sup>126</sup> Sentinel-2 data from 19 March appears to show indications of damage to the Military Hospital.

Later testimony stated that Azov Battalion soldiers were receiving treatment at the Neptun and had moved there from the hospital after it was bombed by the RFAF on 16 March.<sup>127</sup> Large vehicles with white markings were identified within the grounds of Military Hospital No. 61 in satellite imagery from 14 March. While the profile of the vehicles cannot exclude that they may be military in nature, the SMJT notes that visible white markings on their roofs indicate they are more likely to have been vehicles marked as ambulances rather than military vehicles.

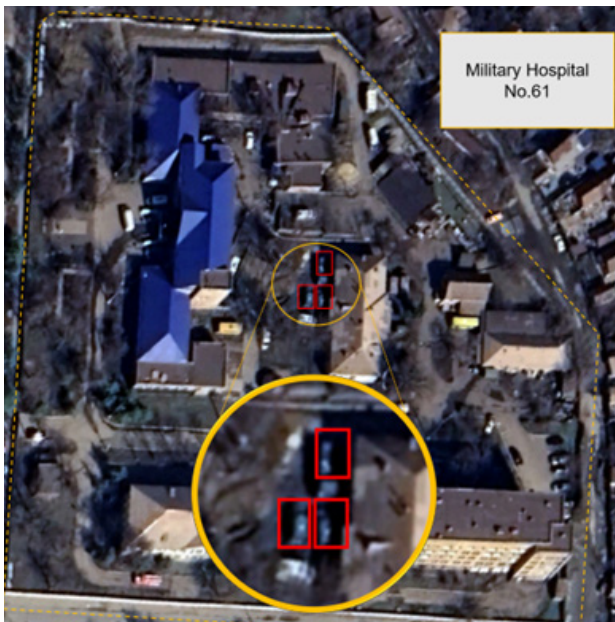
Personnel from the Russian 150th Motorised Rifle Division were pictured at Military Hospital No. 61 in April 2022.<sup>128</sup>

In parallel, Russian State Media claimed that Azov Battalion soldiers were entrenched in the area and were responsible for destroying the Neptun complex and killing many inside.<sup>129</sup> Russian State Media repeated the claim made by the Russian Ministry of Defence in relation to the destruction of the Drama Theatre on the same day, namely that the Russian Aerospace Forces had not carried out any strikes on ground targets in Mariupol on 16 March.<sup>130</sup>

The SMJT finds it incredible that Ukrainian forces would have targeted a hospital where Ukrainian soldiers were being treated. Without evidence of Military Hospital No. 61 being used to commit, outside its humanitarian function, acts harmful to the enemy (see section VII, below), it must be considered as a protected medical unit under IHL, including by virtue of the fact that Ukrainian forces rendered *hors de combat* were receiving treatment.<sup>131</sup> The clear presence of hundreds of civilians queuing on 14 March and several days prior, a mere two days before damage to the Neptun structure was clearly visible on 16 March, indicates a large-scale civilian presence in proximity to the Military Hospital.



**Figure 18: Man seeking to heat water on a makeshift brick structure.<sup>132</sup>**



**Figure 19: Imagery of 14 March 2022 showing large vehicles with White Markings on Roofs at Military Hospital No.61, Google Earth Pro (c)**

As outlined above, hundreds of besieged civilians had regularly relied upon the Neptun Swimming Pool Complex both prior to 16 March as well as on

the day of the attack. Satellite imagery throughout the end of March and April shows a desolate complex, seemingly devoid of civilian presence. A similar effect was produced following the attack on the Drama Theatre. Thus, through the destruction, pro-Russian forces effectively removed two of the most salient lifelines that Mariupol residents relied on at a critical stage of the siege when no viable escape from Mariupol was feasible.

#### **d. Medical care**

Healthcare facilities were among the most affected OIS during the siege of Mariupol. Notably, the Donetsk region reported the highest concentration of damage to the healthcare sector in Ukraine, with an estimated cost of over 452 million U.S. dollars as at June 2022.<sup>133</sup> According to the UN OHCHR, by the end of March 2022, all hospitals in Mariupol that could have received injured civilians were either damaged or destroyed, while the lack of electricity and medical supplies “meant that hospitals had effectively ceased to function.”<sup>134</sup>



**Figure 20: Mariupol Hospital Number 3, Maternity Ward - Myru Avenue, 80.<sup>135</sup>**



**Figure 21: Damage inside the Maternity Ward 3, Myru Avenue, 80.<sup>136</sup>**

With Mariupol City under siege and no humanitarian aid allowed to enter for residents living under Ukrainian control (see section IV., below), only dwindling supplies were available to meet the residents' increasingly overwhelming needs, primarily through humanitarian volunteers risking their own lives (see section VI., below). These included the many civilians injured by persistent

shelling and requiring emergency care, those suffering from chronic illnesses and dependent on regular medication, as well as those affected by conflict-related disease such as cholera.

According to an assessment conducted by the Ukrainian Healthcare Centre (UHC), over 90 per cent of healthcare facilities in Mariupol sustained

either direct or proximate damage between 24 February and 20 May 2022.<sup>137</sup>

- Thirty-three (33) out of 46 primary care clinics;
- Five (5) out of 6 hospitals;
- Four (4) out of 5 facilities that provided assistance to mothers and children, including the City Maternity Hospital, the City Perinatal Centre, and the Children’s and Women’s Health Territorial Medical Association (the “Maternity Hospital”), the latter of which resulted in the killing of three and injury of another 17 civilians; and
- Departments of the one psychiatric hospital.

Several known healthcare facilities in Mariupol City were hit on multiple occasions, strongly suggesting deliberate targeting. Notable examples are the Mariupol Regional Intensive Care Hospital, attacked on 28 February, 3 March, and again on 10 or 11 March,<sup>138</sup> and Mariupol City Hospital N. 1 struck both on 15 March and 6 April.<sup>139</sup> The latter attack struck the children’s hospital buildings within Hospital N. 1 and resulted in at least 50 people burning alive.<sup>140</sup>

On 28 February 2022, a missile hit the yard of the Mariupol Regional Intensive Care Hospital, affecting the intensive care unit.<sup>141</sup> The hospital had been immediately sought at the outset of the full-scale invasion, with patients flowing in as early as 24 February. Some of the patients included wounded Ukrainian military personnel rendered *hors de combat*.<sup>142</sup> On 3 March, Russian missiles damaged the passageway and upper floors.<sup>143</sup> The Mariupol Regional Intensive Care Hospital was attacked again on 10 or 11<sup>144</sup> In mid-March, Russian troops then seized and occupied the facility, forced approximately 400 civilians inside,<sup>145</sup> From mid-March onwards, residents in Mariupol could therefore no longer seek care at the hospital.

On 15 March, Russian military forces shelled Mariupol City Hospital N. 4 multiple times, destroying several buildings.<sup>146</sup> On the same day, Mariupol City Hospital N. 1 was severely damaged, with some buildings destroyed entirely due to shelling.<sup>147</sup> On 26 March, the Mariupol City Council

announced that eyewitnesses had seen “occupiers” forcibly remove residents, patients, and medical staff who were sheltering at the hospital.<sup>148</sup> Reports indicated that the hospital was providing shelter and/or medical care to approximately 700 patients at the time.<sup>149</sup> On 6 April, despite public knowledge that the hospital served as a shelter, pro-Russian forces released several high-powered bombs (possibly thermobaric bombs) on the children’s unit buildings within Hospital No. 1, burning at least 50 people including patients alive.<sup>150</sup>

The location and function of all the larger hospital facilities in Mariupol were public knowledge prior to the full-scale invasion. They were high-profile medical facilities, easily found, and in most cases, registered with the National Health Service of Ukraine. Despite reports of the hospitals treating civilians and serving as shelters, GRC notes with concern that several of the above facilities were attacked multiple times.

Moreover, the GRC SMJT analysed several public statements made by Russian actors in relation to specific medical facilities, erroneously claiming that the presence of Ukrainian forces inside medical facilities would *ipso facto* render them legitimate military targets under international humanitarian law (IHL). The use of such rhetoric was particularly notable in the context of the 9 March 2022 strike against the Maternity Hospital. Two days before the strike, Russian public actors and private media had already initiated a strong narrative in relation to the hospital, claiming that it had been overtaken by Ukrainian forces.<sup>151</sup> This narrative was built upon in the aftermath of the strike, with the speaker of the Ministry of Foreign Affairs of the Russian Federation claiming that Ukrainian nationalist battalions had forced the staff and patients to leave a maternity hospital in Mariupol and installed their firing positions there.<sup>152</sup> A representative of the Ministry of Defence further maintained that the Russian aviation in Mariupol did not strike any targets on the ground on that day<sup>153</sup> – a claim identical to those later raised in relation to the 16 March attacks on the Mariupol Drama Theatre and the Neptun Swimming Pool Complex, and other similar statements.<sup>154</sup> Despite this claim, throughout the course of its investigations, the GRC SMJT found no evidence to substantiate its veracity.

In light of their interdependence, the GRC SMJT is continuing to investigate the nexus between attacks against medical care in Mariupol City and other OIS, such as energy and water infrastructure, and the impact of such attacks on healthcare facilities, including by rendering healthcare facilities useless through the lack of power to vital equipment.<sup>155</sup>

### **e. Shelters**

From the first week of the full-scale invasion, the persistent artillery shelling and aerial bombardment of Mariupol City forced civilians to seek shelter in *ad hoc* locations, such as the Drama Theatre and Neptun swimming pool complex (see section III., above). Throughout Mariupol, besieged civilians took shelter anywhere they could, whether in the basements of multi-story buildings, other collective, non-residential shelters, as well as in spontaneously erected humanitarian centres. In addition to offering physical shelter from the ongoing conflict and extreme cold weather for scores of civilians (noting the average temperature between February and March 2022 in Mariupol ranged between  $-12.4^{\circ}\text{C}$  at night and  $9.6^{\circ}\text{C}$  during the day, with most evenings at sub-zero temperatures),<sup>156</sup> many of these shelters also attempted to provide other OIS, as well as becoming critical points to receive and exchange news about potential evacuations and aid deliveries, during a period where telecommunications in Mariupol had been completely cut off (see section III., above).

On 24 February 2022, the Mariupol City Council announced a list of over 1,000 civilian shelters, which included mainly the basements of multi-story buildings.<sup>157</sup> The list was widely re-posted by the media.<sup>158</sup> Later, as the damage wrought to Mariupol spiralled, the City Council additionally informed residents about shelters that were erected in larger, non-residential buildings,<sup>159</sup> including the basement of the Drama Theatre as early as 27 February 2022.<sup>160</sup> Not all of the shelters used were announced publicly, however, as information was also spread by residents through the word-of-mouth or via leaflets.



**Figure 22: Azov State Technical University, Azovhipromez building.<sup>161</sup>**



**Figure 23: Azov State Technical University<sup>162</sup>**

Shelters across the city were not spared by continuous attacks, but in several instances were rather also deliberately targeted. In one example, according to several eyewitnesses, pro-Russian forces attacked Livoberezhnyi Palace

on 6 March 2022.<sup>163</sup> The Palace had served as a designated shelter for hundreds of civilians.<sup>164</sup> As depicted below, satellite imagery analysed by the GRC SMJT confirmed considerable damage to Livoberezhnyi Palace.



Figure 24: Livoberezhnyi Palace after the attack. Image by Mariupol City Council<sup>165</sup>



Figure 25: Livoberezhnyi Palace, Google Earth Pro (c), Airbus, Image dated 13 March 2022

The GRC SMJT further documented and verified extensive damage to several other shelters that had been announced by Mariupol City Council,<sup>166</sup> including Molodizhnyi Palace,<sup>167</sup> the Chaika Palace of Culture,<sup>168</sup> Art School No. 12,<sup>169</sup> and Ukrainskyi Dim.<sup>170</sup> Hospitals *de facto* sheltering civilians were also attacked (see section III, above). Several residents were reportedly injured or killed while sheltering in buildings damaged or destroyed by concerted attacks.<sup>171</sup>

Attacks against shelters across Mariupol City deprived the civilian population of an essential OIS during a period of intense bombardment across the besieged enclave. Based on the levels and types of damage, as well as a consistent pattern, GRC underscores that many of the announced shelters were deliberately targeted by pro-Russian Forces. In each case documented by the GRC SMJT, no identifiable military targets were present within or immediately near the shelters struck, nor did pro-Russian provide sheltered civilians with advance (effective) warning of looming attacks. Moreover, throughout the course of its 12-month investigation, the SMJT did not document any attack by pro-Russian forces which was preceded by an advance warning to Mariupol residents, even though certain locales were densely populated (see section VII., below).

Prior to targeting several key locations that delivered vital OIS in Mariupol, as detailed above, Russian authorities and State media regularly issued statements alleging the presence of Ukrainian forces, employing similar rhetoric following their attacks on these locations. Witnesses in Mariupol, however, consistently noted the absence of Ukrainian forces positioned within or immediately near many of the affected locations during times they were struck.

Moreover, while Ukrainian forces would be required to endeavour to remove the civilian population and objects from the vicinity of valid military objectives,<sup>172</sup> the siege laid by pro-Russian forces, coupled with the massive levels of destruction wrought upon Mariupol City, rendered it such that the number of viable locations for civilians to safely situate themselves gradually diminished over the duration of the offensive. This was coupled with the targeting of critical OIS by pro-Russian forces while simultaneously launching attacks on evacuation corridors (see section V., below), in effect confining the besieged residents in Mariupol alongside Ukrainian forces – forcing them to co-locate – while systematically bombarding critical and other infrastructure indispensable to their survival.



## IV. Denial of Humanitarian Aid

While pro-Russian forces actively prevented Mariupol’s residents from using organised evacuation routes to leave the city (see section V., below), the RFAF simultaneously ensured that they had no formal access to humanitarian aid while living under the control of Ukrainian forces – leaving them trapped with critical shortages of food, water, and necessary medical supplies. The GRC SMJT verified several incidents where relief supplies were either denied or obstructed through a variety of means.

A fundamental challenge faced by humanitarian organisations and other volunteer groups attempting to reach besieged residents was the persistent shelling of areas in and around Mariupol City, which impeded life-saving assistance to those in need. For example, as early as 12 March 2022, the UN OCHA reported that a Ukrainian Government-led convoy carrying around 100 tonnes of relief supplies was unable to reach Mariupol,<sup>173</sup> with another aid convoy unable to reach the city the following day.<sup>174</sup> One month later, a spokesperson for the International Committee of the Red Cross (ICRC) announced that their teams had been attempting to access the city and deliver humanitarian aid to residents for weeks, though were unsuccessful due to security conditions.<sup>175</sup>

Despite Russian forces’ command failing to halt hostilities in order to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, aid delivery was also directly blocked by pro-Russian forces operating at checkpoints erected around evacuation corridors between Mariupol and Zaporizhzhia. GRC documented the below instances which were demonstrative of a broader pattern of pro-Russian forces’ deliberate denial of critical humanitarian aid:

- On 14 March, pro-Russian forces prevented the delivery of medicine, food, and other essential items heading to Mariupol for the third day in a row when a convoy was blocked around 60 kilometres away from the city.<sup>176</sup>
- The following day, 15 March, Ukrainian Deputy Prime Minister Iryna Vereschuk reported that a convoy carrying humanitarian supplies was stuck at the Russian-controlled city of Berdyansk, 65 kilometres southwest of Mariupol.<sup>177</sup> The convoy never reached the city and had to turn back on 20 March.<sup>178</sup>
- A week later, on 22 March, buses and trucks carrying humanitarian aid were blocked by Russian forces in Berdyansk.<sup>179</sup>
- According to the Adviser to Mariupol’s Mayor, Petro Andryushchenko, since 31 March, “Russian forces [had] categorically not allowed any humanitarian aid, even in small quantities, into the city.”<sup>180</sup>
- On 12 April 2022, trucks with humanitarian aid were blocked by Russian forces in Vasylivka.<sup>181</sup>

Regarding the incident in Berdyansk on 22 March, satellite imagery reviewed and analysed by GRC, depicted a checkpoint to the immediate north of Berdyansk. Several buses and heavy-load vehicles can be seen beyond the checkpoint, supporting GRC’s analysis that aid bound for Mariupol was prevented from leaving Berdyansk by pro-Russian forces stationed there (see Figures 23 and 24).

The SMJT further reviewed a series of additional reports that pro-Russian forces seized or otherwise confiscated humanitarian aid at checkpoints while preventing buses or trucks from entering Mariupol.<sup>182</sup> In other instances, the buses

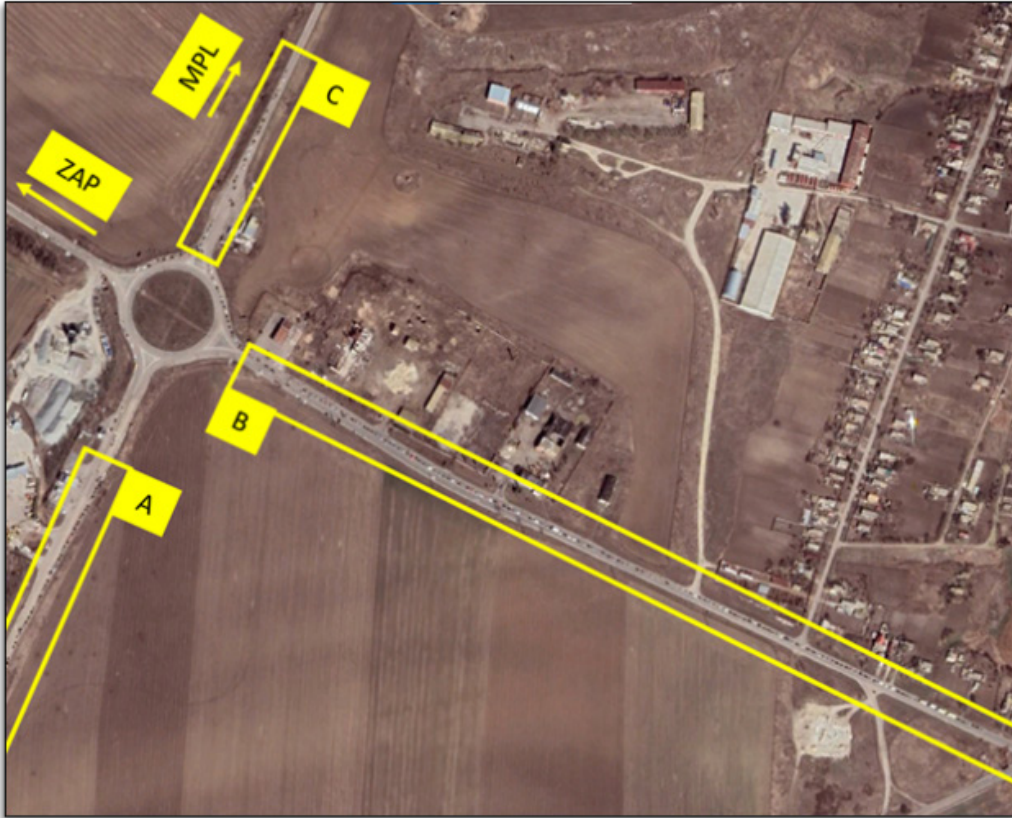


Figure 26: Imagery from 25 March 2022 show queues approaching a junction, from the direction of Mariupol, near Berdyansk, where the humanitarian corridor turns towards Tokmak, Vasylivka, and Zaporizhzhia (labelled ZAP). Queues of cars approach the junction from Mariupol (C) Berdyansk (B) and Prymorsk (A). (Google Earth Pro, Maxar (c) 2023. 46.805792, 36.656788).



Figure 27: Imagery from 25 March 2022 shows several buses parked within 300-1000 meters of likely Berdyansk checkpoint. The buses closest to the checkpoint (B1) appear to be loading or unloading passengers. Heavy goods vehicles can be seen parked 200 meters further north of the site (B3). (Google Earth Pro, Maxar © 2023. 46.808057, 36.651915)

themselves were seized, such as on 22 March when pro-Russian forces sized 11 buses travelling to Mariupol to evacuate citizens and deliver humanitarian supplies at a Russian checkpoint just outside Manhush.<sup>183</sup> The buses, bus drivers, and several emergency services workers were taken to an undisclosed location.<sup>184</sup> At least 12 more buses delivering humanitarian supplies to Mariupol were reportedly seized on or around 31 March 2022.<sup>185</sup>

Overt obstruction in accessing aid was coupled with pro-Russian forces restricting the ability of Mariupol’s residents to access information as to where relief supplies could be retrieved within the besieged city. Notably, as outlined above (Section III. A – Energy) due to continuous shelling, several of Mariupol’s districts were left without electricity and internet connectivity within the first week of the full-scale invasion.<sup>186</sup> As noted above, on 6 March 2022, the last functioning cellular tower in Mariupol was struck by a Russian shell.<sup>187</sup> From that moment onwards, residents experienced a complete information blackout, with conditions said to have become “nightmarish.”<sup>188</sup> On the same day, the Advisor to the Mayor of Mariupol, Petro Andryushchenko, stated that residents had begun “drinking from puddles in the streets” due to the lack of available potable water.<sup>189</sup> Due to the information blackout, however, the location of distribution points as well as details regarding evacuations could only be obtained from members of the Mariupol City administration, Ukrainian police and military, or from leaflets posted in the city centre.<sup>190</sup> Some of the most vulnerable members of the population, including the elderly, remained completely cut off from this vital information, and were therefore unable to receive any of the little relief supplies that Ukrainian humanitarian volunteers were attempting to bring into Mariupol (see section VI., below), with one 90-year-old woman reportedly having perished as a result.<sup>191</sup>

Throughout the siege of Mariupol, representatives of the self-proclaimed “DPR” released multiple statements claiming that humanitarian aid was being delivered to the city by the Russian Federation.<sup>192</sup> The GRC SMJT notes with extreme concern, however, that in instances where such aid was delivered, it was only ever delivered to areas that had fallen under Russian control, and mainly to the eastern side of the city (left bank of the Kalmius River).<sup>193</sup> Moreover, any movement between the two riverbanks was only permitted for those holding a “special document.”<sup>194</sup> With Russian media affirming that civilians were not allowed back into the left bank if they had gone to the right bank to see relatives,<sup>195</sup> any relief delivered would not have reached the besieged residents in need who lived under the control of Ukrainian forces.

Underscoring the manifest discrimination, the SMJT analysed a video released by the Russian Ministry of Defence that highlighted how aid was only distributed to those who supported (or lived under the control of) pro-Russian forces, as implied by the writing visible on the aid boxes: “We do not abandon our own” (see Figure 25, below).<sup>196</sup>

Through incessant shelling, the repeated and often arbitrary denial of humanitarian aid convoys through the use of checkpoints erected outside of the city, the direct confiscation or seizure of relief supplies and vehicles, and the information blockade due to the destruction of electricity infrastructure and all cellular towers, pro-Russian forces deliberately manufactured a severe humanitarian crisis whereby access to humanitarian assistance and relief for residents remaining inside Mariupol City and living under Ukrainian control was deliberately made virtually impossible.



Figure 28: Still from video showing aid boxes with the writing "We do not abandon our own".

## V. Denial of Humanitarian Evacuations and Filtration

### a. Humanitarian evacuations

Beginning in early March, both besieged civilians and Ukrainian authorities had made multiple attempts to evacuate civilians from Mariupol City, all of which were consistently hindered by pro-Russian forces who pursued artillery, rocket, and missile barrages onto previously agreed-upon routes that were to serve as humanitarian corridors. In addition to the attacks, pro-Russian forces also resorted to disinformation, with each failed humanitarian evacuation attempt being met by the Russian authorities' outright denial of responsibility.

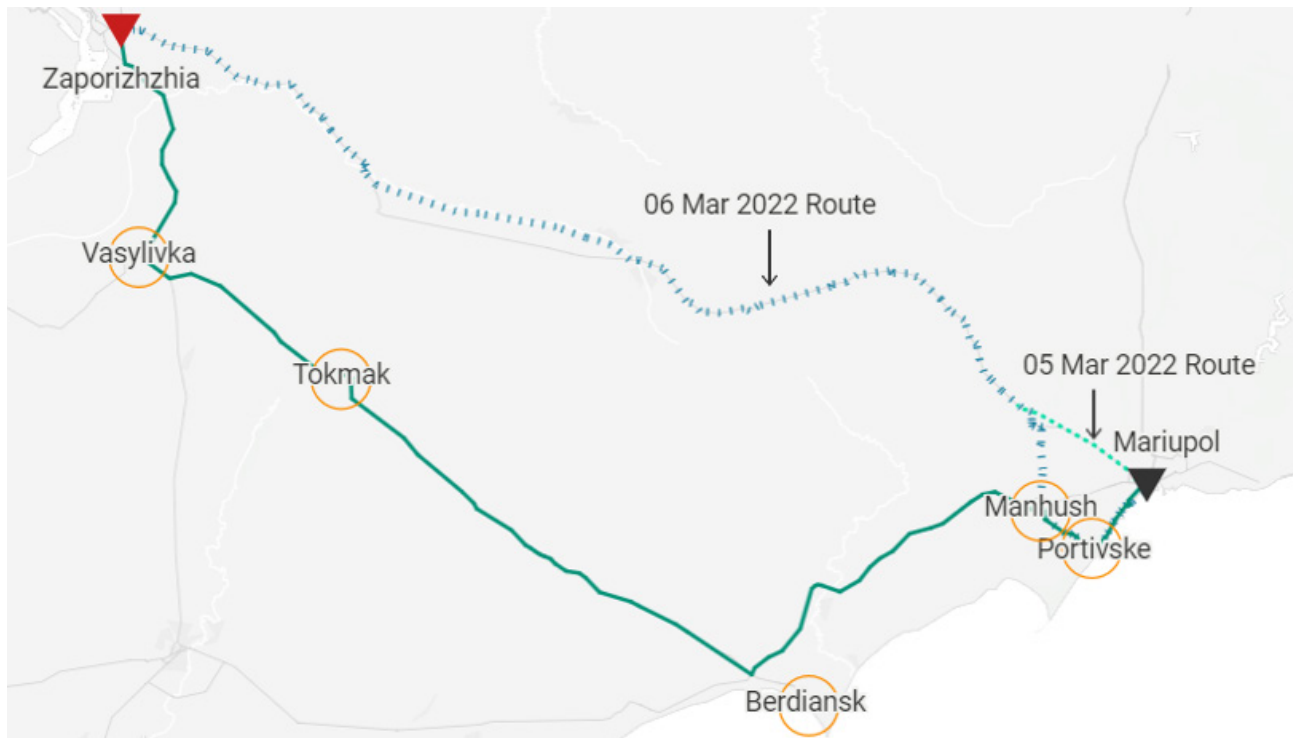


**Figure 29. Public transport stop at the intersection of Myru Avenue and Budivelnkyiv Street in the Central district of Mariupol.<sup>197</sup>**

Almost daily throughout the month of March, the Russian Ministry of Defence publicly announced humanitarian corridors, including some agreed to with Ukraine, to evacuate Mariupol's besieged residents, alongside the observance of ceasefires to enable the evacuations.<sup>198</sup> For every failed ceasefire, however, the Russian Ministry consistently denied any involvement in the shelling of the corridors. Russian public statements in relation to evacuations repeatedly blamed the targeting of corridors and departure points on Ukrainian authorities and forces, claiming that Ukrainian "nationalists" were using ceasefires to advance their position, and that any attempts by the civilian population and foreign citizens to move in the direction of departure points were being severely suppressed, including through lethal means.<sup>199</sup> Once more, the use of such rhetoric is consistent with Russian practice documented by the GRC SMJT including regarding unlawful attacks against critical infrastructure, as seen in the targeting of medical facilities and the shelters and distributions points of Neptun Complex and Drama Theatre.

By 2 March, residents in Mariupol had been subsisting without heat, running water, or electricity for several days, while pro-Russian forces had begun shelling the city's hospitals. With the onset of a looming humanitarian catastrophe, Ukrainian authorities first requested a temporary ceasefire and humanitarian corridor to evacuate civilians on 4 March.<sup>200</sup>

In response to the shelling of the humanitarian corridors by pro-Russian forces, the designated evacuation routes changed three times between 5 and 14 March. From approximately 14 March, pro-Russian forces began establishing a formal system of "filtration" (or organised vetting/security screening) through which all evacuees who managed to escape Mariupol City had to pass through (see section V., below).



**Figure 30: Mariupol evacuation routes, with the dark green line presenting the route in place from 14 March onwards, OpenStreetMap.**

The first agreed-upon route had envisioned for evacuees to exit the city through the north. On 5 March 2022, the Mariupol City Council announced a ceasefire, with evacuations that would follow the northern road from Mariupol to Zaporizhzhia due to take place from 11:00 a.m. onwards.<sup>201</sup> Ukrainian authorities estimated that approximately 200,000 people would seek to evacuate the city.<sup>202</sup> Russian authorities openly agreed to a complete cessation in hostilities to ensure the evacuation of civilians,<sup>203</sup> but continued to shell both the city and its environs, compelling the Mariupol City Council to postpone the evacuation.<sup>204</sup>

Evacuation attempts were renewed the following day, on 6 March, with the City Council announcing evacuations passing through Manhush village before leading north towards Zaporizhzhia.<sup>205</sup> In parallel, several buses were announced to have departed Zaporizhzhia for Mariupol in a Government-led humanitarian convoy that would deliver relief supplies and evacuate residents.<sup>206</sup> Continued airstrikes and shelling<sup>207</sup> by Russian forces on the city and the evacuation route itself, however, prevented the evacuation attempt.<sup>208</sup> Again, Russian authorities accused Ukrainian authorities of failing to fulfil their obligations, and

Ukrainian forces of using the time specified for the humanitarian corridor to employ civilians as human shields in order to fire at Russian forces.<sup>209</sup>

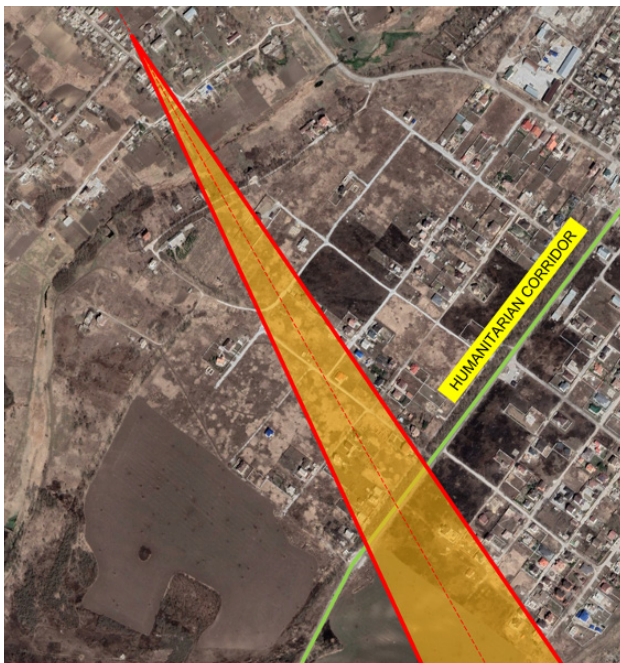
On 7 March, the ICRC announced that one of the most recent proposed evacuation routes was mined. Ukraine's Joint Forces Operation (JFO) subsequently reported that Ukrainian forces had ensured to clear the roads of mines and remove engineering barriers for a subsequent evacuation.<sup>210</sup> Later that same day, Russia declared that a ceasefire would be held on 8 March to enable evacuation along the humanitarian corridor between Mariupol and Zaporizhzhia.<sup>211</sup> While the Mariupol City Council Telegram channel did not announce that a ceasefire had been agreed to, additional reporting indicates that the evacuation route was being used by residents attempting to evacuate Mariupol. On 8 March, the Council announced that humanitarian aid was on its way to Mariupol. This echoed Ukrainian Deputy Prime Minister, Iryna Vereshchuk, and the Ukrainian Foreign Ministry, who stated that a convoy of eight trucks and 30 buses had left Zaporizhzhia to deliver supplies to Mariupol and transport evacuees on their return.<sup>212</sup>

Repeated shelling of the safe corridor again prevented both the convoy from reaching Mariupol and residents from leaving the city on 8 March.<sup>213</sup> Drone footage from the Azov brigade appeared

to show RFAF armoured vehicles at various locations in proximity to the evacuation route, and GRC geolocated two tanks 950 metres from the road identified as the humanitarian corridor.<sup>214</sup>



**Figure 31: Two tanks filmed within 950 metres of evacuation corridor on 8 March 2022.<sup>215</sup> (Red annotations and figures included in original video. Yellow annotation added by investigator).**



**Figure 32: Approximate heading of tank turret (+/- 10 degrees) relative to the humanitarian corridor. Canon projection intersects the humanitarian corridor 1040 – 1100 metres from MBT location, Google Earth (c)**

Two additional armoured vehicles were pictured in a second location in immediate proximity to the humanitarian corridor.<sup>216</sup> The footage appears to show a round being fired at very short range in close proximity to the humanitarian corridor.



**Figure 33: Two armoured vehicles in very close proximity to the specified humanitarian corridor (labelled: A). Potential impediment across road (D). (Red annotation from original video).<sup>217</sup>**



**Figure 34: Location 3 in relation to Location 2 and the humanitarian corridor. Blue arrows show direction of movement of column Google Earth (c)**

Lastly, the footage<sup>218</sup> captures a small column of 16 armoured vehicles and tanks approximately 640 metres east of the second location and the humanitarian corridor.<sup>219</sup> The column appeared to be heading east away from the corridor but remained well within firing range.

An additional route modification was announced on 14 March 2022.<sup>220</sup> This route appeared to remain in place for the remainder of the period of mass evacuations from Mariupol. Routes from 6 March onwards passed through Manhush, a "filtration" location where residents of Mariupol were held for days for processing by RFAF. Manhush is understood to be a significant location in the Russian administered "filtration" network (see section V., below).

In addition to targeting evacuation routes, two of the three departure points announced for evacuation sustained visible shelling damage. The three departure locations were:<sup>221</sup>

- SC "Ilyichevets" (53 Nakhimova Ave.) [47.088058, 37.529974]
- Drama Theatre (Teatralnaya Ploshchad, 1) [47.096140, 37.547858]
- Kalmius district administration - (193 Metallurgov Ave) [ 47.128285, 37.565269]

Available satellite imagery from 14 March appears to show dozens of vehicles queuing at the SC "Ilyichevets." The vehicles were no longer present in imagery available from 26 to 29 March, with the area appearing to have sustained signs of damage between 14 and 29 March 2022.

Satellite imagery from 14 March 2022 also appears to show similar activity at the Drama Theatre, with at least 40 cars pictured in proximity. The subsequent destruction of the theatre on 16 March negated its use as a departure point (see section III., above).



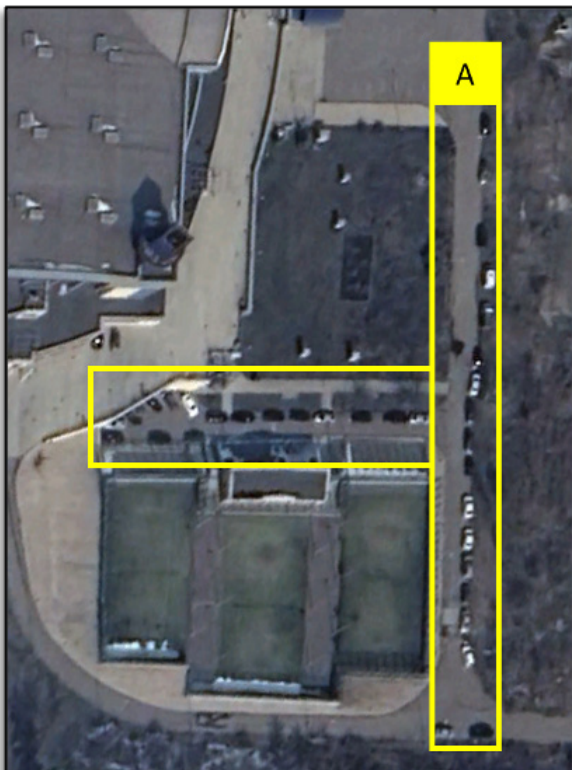


Figure 35: Cars lining the road of SC "Ilyichevets" on 14 March 2022. (Maxar © 2023, GoogleEarthPro; 47.086911, 37.531445).

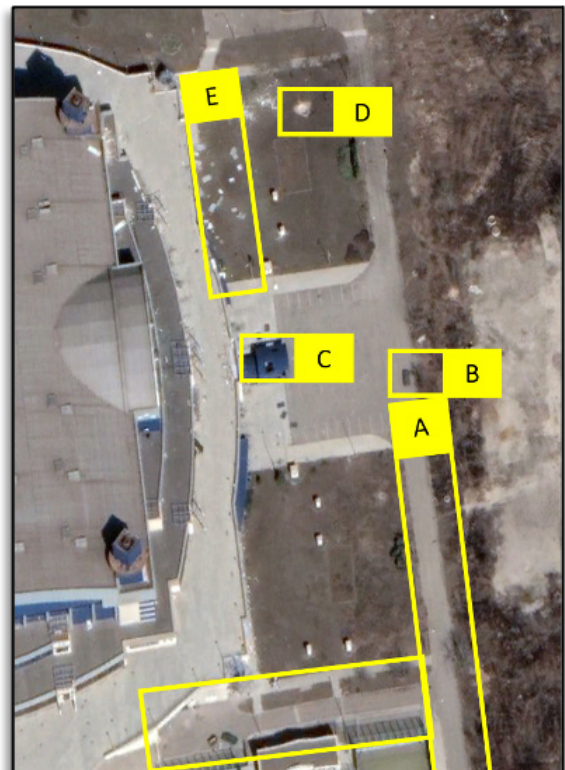


Figure 36: Imagery of SC "Ilyichevets", Google Earth Pro, Image dated March 2022.



Figure 37: Vehicles in proximity to the Mariupol Drama Theatre (A1+2). (B) Likely field kitchen. (C) Truck with tanker, likely dispensing water. (Maxar © 2023, GoogleEarth Pro; 14 March 2022, 47.095971, 37.548690).

Through shelling and mining evacuation routes and targeting mustering points, pro-Russian forces restrained civilians within Mariupol. Within weeks

following the invasion, attacks on evacuations ceased as pro-Russian forces proceeded to instate a system of "filtration" for civilians escaping the city.



**Figure 38. Cars on Nakhimova Avenue, in the area of SC Illichivets<sup>222</sup>**

## **b. Filtration**

Commencing on 6 March,<sup>223</sup> the GRC SMJT documented how the few viable escape routes from Mariupol City meant that civilians were forced to pass through locations where they were made by Russian forces to undergo a “filtration” procedure. This procedure required residents seeking to leave Mariupol and other occupied territory to apply for a filtration certificate or permit – only obtainable following an invasive security screening including the systematic collection of personal data. As a component of the filtration scheme, Russia systematically recorded the details of all the Ukrainian nationals who fled from Mariupol and its environs.<sup>224</sup> Residents then had to present the permit at every checkpoint in order to pass, though the successful possession of a permit did not prevent pro-Russian forces from incidents of arbitrary arrest and detention.

The Russian filtration architecture was used to identify civilians’ potential affiliations with, or their support for, the Ukrainian armed forces or authorities, or broader State apparatus, and to gather information about residents prior to allowing them to live in Russian occupied territory. According to the United States Department of State, the use of filtration across Ukraine serves an assortative logic, by allowing Russia to divide Ukrainian citizens into three distinct categories: (i) those deemed most threatening, who were detained and imprisoned in eastern Ukraine or Russia; (ii) those deemed less threatening, who were forcibly deported to Russia; and (iii) those deemed non-threatening, who were either issued documentation and permitted to remain in Ukraine or forcibly deported to Russia.<sup>225</sup> The GRC SMJT documented how those who successfully underwent interrogations were in fact routinely issued special permits, ostensibly in order to allow them to move freely within designated areas spanning both Ukraine and Russia.<sup>226</sup>

The filtration points erected around Mariupol City functioned as registration points, where Ukrainian citizens were compelled to respond to inquiries regarding their perceived political opinion or affiliation,<sup>227</sup> forced to reveal their personal data and biometrics, and subsequently received the “certificate of filtration” enabling their freedom of movement within their own country.<sup>228</sup> Credible indications suggest that Russia’s filtration system was conceived and envisaged weeks prior to the onset of the full-scale invasion on 24 February 2022, and that it expanded after the capture of Mariupol City on 20 May.<sup>229</sup> Notably, the Russian Federation is thought to have used similar filtration facilities in Chechnya during both the first (1994–1996) and second (1999–2009) Chechen wars,<sup>230</sup> as well as in Syria, with Russian involvement and oversight in a similar vetting process referred to in this context as “reconciliation.”<sup>231</sup>

As with the GRC Mobile Justice Teams, the UN OHCHR also documented filtration processes in Russian-occupied areas including Kharkiv, Kherson, Luhansk, and Zaporizhzhia regions. Notably, the Donetsk region and in particular Mariupol City and its environs, featured the most extensive filtration system, including through a network of designated filtration camps.<sup>232</sup> During the filtration process around Mariupol City, several thousands of the previously besieged civilians were detained for durations ranging from several days to several months. Failure to pass through the filtration registration points meant that Mariupol residents were sent to interrogation centres, where many civilians were tortured, or to detention facilities, resulting in either short-term or long-term imprisonment.<sup>233</sup>

The SMJT identified the following checkpoints on satellite imagery between March and April, and May and August 2022 (see Figure 34, below). While these appeared to be stationary, many additional mobile checkpoints were present along the route from Mariupol to Zaporizhzhia.



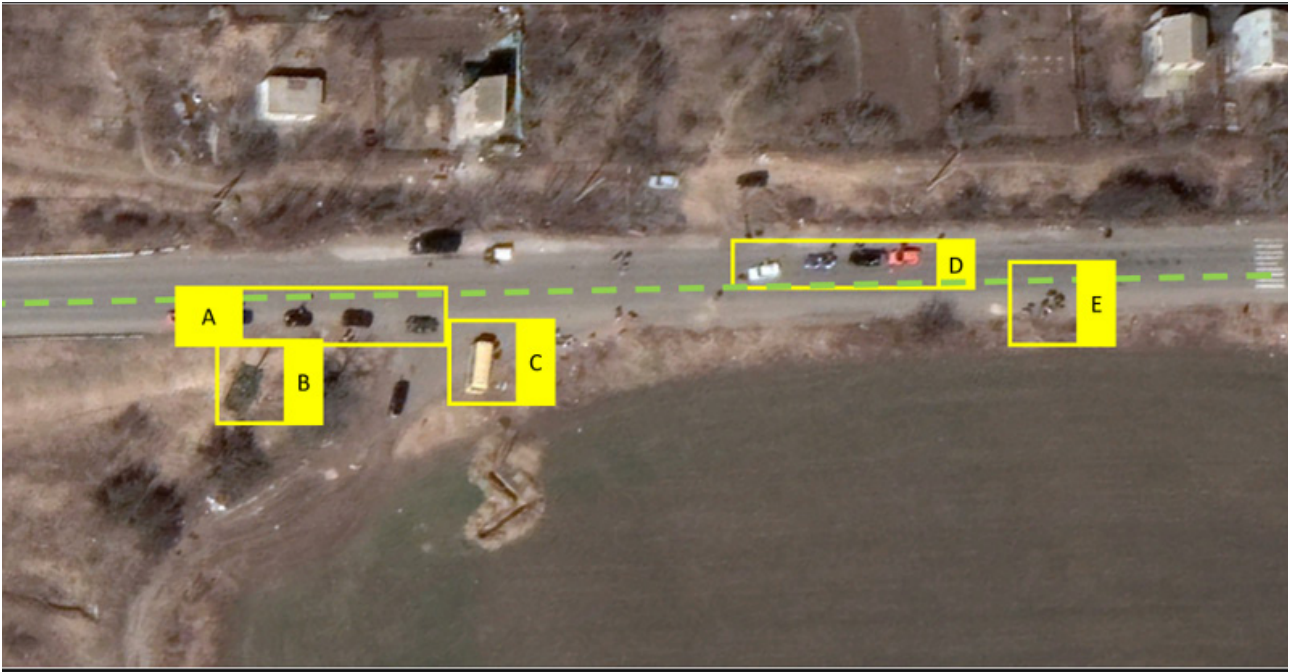
**Figure 39: Checkpoints Observed on Satellite Imagery from March - April 2022 (Red) and May - August (Orange), OpenStreetMap.**

As an example of filtration checkpoints around Mariupol City, the GRC SMJT analysed satellite imagery captured on 19 and 29 March 2022, that appears to depict a checkpoint at a segment of

the humanitarian corridor which passes by the outskirts of Chernove, and identified military equipment near the site:



**Figure 40: (A) 1.8km queue of hundreds of cars at Possible Chernove checkpoint on 19 Mar 2022. (PlanetLabs © 2023; 47.02483, 37.46267)**



**Figure 41: Possible Armoured Vehicle. (C) A bus. Likely west-bound vehicles. (E) Groups of people concentrated near Chernove checkpoint. (Image dated 29 March 2022; 47.02483, 37.46267. Maxar (c) 2023, GoogleEarth).**

### ***Manhush Village (Donetsk)***

One man detained at Chernove spoke on the detention conditions at a filtration camp in Manhush village. He was reportedly detained and held in cramped communal cells in the Manhush site before being transported to a secondary site in Dokuchaevsk (Donetsk).<sup>234</sup> Similarly, the ICRC reported that one of its teams that engaged in humanitarian activities in Mariupol was detained and held overnight in Manhush on 4 April 2022.<sup>235</sup> Likewise, the Director General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) denounced the death of a 78-year old

Ukrainian journalist who was said to have been held and abused while in captivity in Manhush between 18 to 21 Mar 2022;<sup>236</sup> while a 17-year-old girl alleged how she was detained arbitrarily with her family in Manhush<sup>237</sup> Moreover, a Ukrainian female judge stated that she was detained at Manhush when attempting to evacuate Mariupol, and subsequently held in a communal cell overnight after being detained at the Manhush police station.<sup>238</sup> Footage, likely re-published to a self-proclaimed "DPR"-associated channel on 17 March 2022, appears to show RFAF soldiers at the Manhush central police station. The footage also depicts several detained individuals.<sup>239</sup>



Figure 42: Imagery of 3 April 2022 showing unusual traffic activity of unusual traffic activity (C) in the town of Manhush. Parked vehicles (B,D) can also be seen throughout the town. Military vehicles were identified close to the traffic activity (A), Google Earth (c).

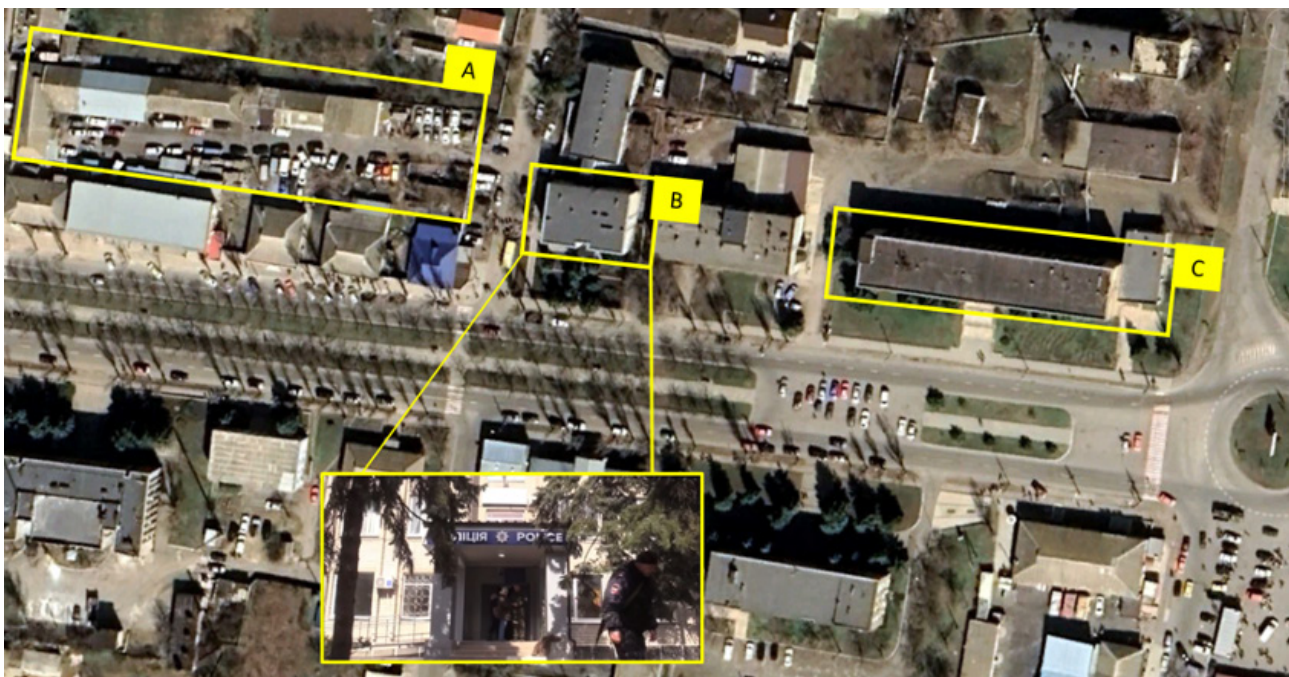
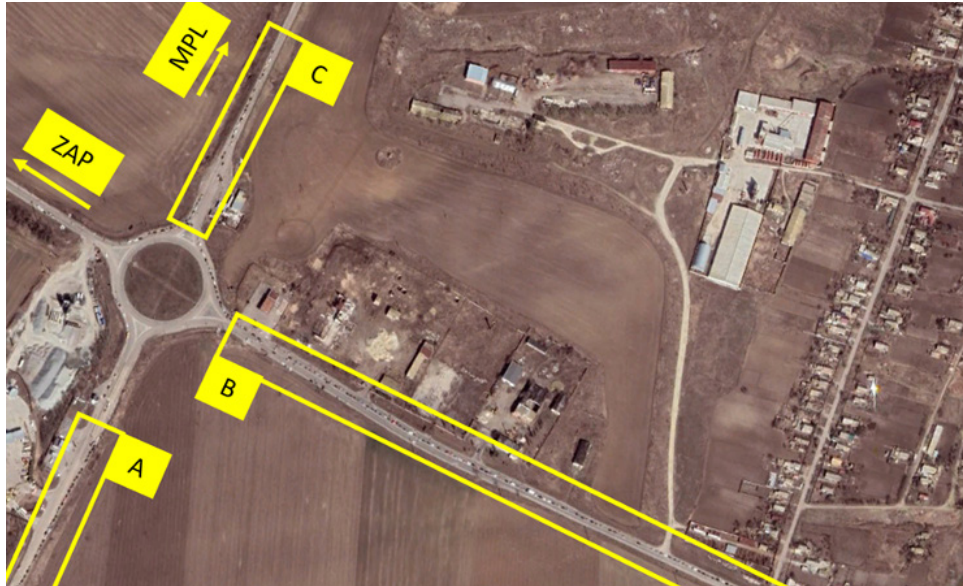


Figure 43: Imagery of 3 April 2022 showing unusually high number of parked cars (A) adjacent to Manhush Police Station (B). Footage of RFAF/DPR soldiers was geolocated to the Manhush police station station was published to a Telegram on 17 March 2022, Google Earth (c).

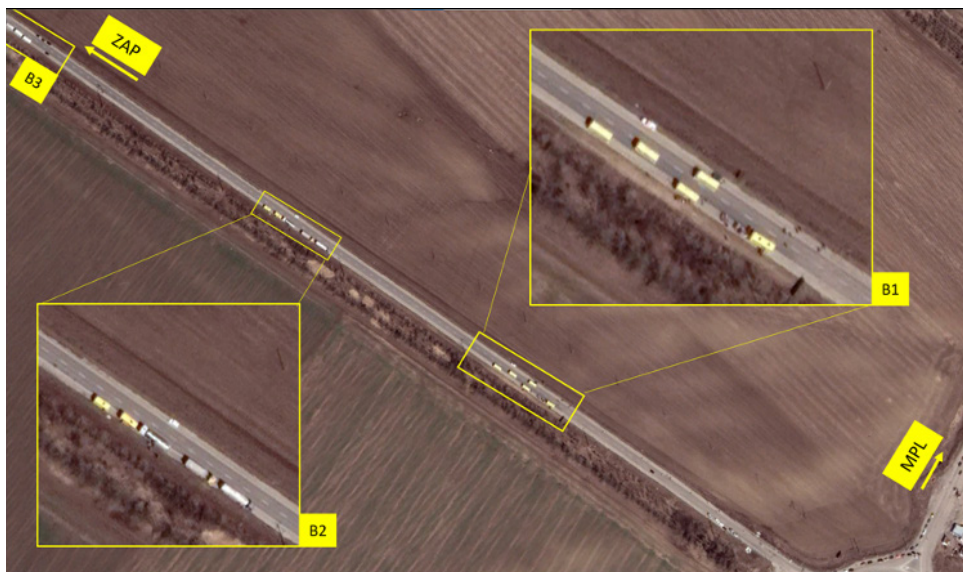
### **Berdyansk City (Zaporizhzhia)**

As with Manhush Village, individuals who fled from Mariupol to Berdyansk City also claimed they faced invasive screening methods and acts of physical violence in Berdyansk before passing through

an archipelago of approximately 27 additional pro-Russian administered checkpoints between Berdyansk and Zaporizhzhia, both stationary and mobile.<sup>240</sup> Satellite imagery and footage geolocated by the GRC SMJT appears to confirm a checkpoint to the immediate north of Berdyansk.



**Figure 44: Imagery from 25 March 2022 show queues approaching a junction, from the direction of Mariupol, near Berdyansk, where the humanitarian corridor turns towards Tokmak, Vasylivka, and Zaporizhzhia (labelled ZAP). Queues of cars approach the junction from Mariupol (C) Berdyansk (B) and Prymorsk (A). (Maxar (c) 2023. 46.805792, 36.656788).**



**Figure 45: Imagery from 25 March 2022 shows several buses parked within 300 to 1,000 metres of the likely Berdyansk checkpoint. The buses closest to the checkpoint (B1) appear to be loading or unloading passengers. Heavy goods vehicles can be seen parked 200 metres further north of the site (B3). (Maxar © 2023. 46.808057, 36.651915).**



**Figure 46: Image of people with luggage queuing along the side of the road between Berdyansk and Tokmak, (geolocated to 46.806588, 36.655112). The location is identified as a potential drop off/pick up area based on the position of buses in Figure 40. Published by the Mariupol City Council on 8 May 2022.<sup>241</sup>**

There are reasonable grounds to believe that Manhush remained the primary filtration point. From March 2022 onwards, additional locations in Nikolske City and Bezimenne Village (Novoazovsk Raion), served similar functions for displaced Mariupol residents fleeing to the north and east respectively. There are further reasonable grounds to believe that pro-Russian forces including elements of the RFAF and "DPR" proxies detained Mariupol residents and humanitarian staff (see section VI., below) using these routes, at the Manhush central police station in March and April 2022.

An accurate estimation of the total number of Ukrainian women, men, and children who have

undergone filtration remains challenging. As at 14 June 2022, the number of civilians who had left from the whole of Ukraine to Russia had surged to a minimum of 1,700,000, encompassing 276,000 children, as reported by the former Ukrainian Ombudswoman for Human Rights. On 16 August, however, a representative from the Russian government presented figures that were twice as high, indicating a total of over 3,400,000 people, including more than 550,000 children. With the largest filtration infrastructure present in the Donetsk region, a substantial percentage of persons subjected to filtration likely originate from this region, including Mariupol. The current number of individuals detained pursuant to Russia's filtration architecture is unknown.<sup>242</sup>



## VI. Arrest and Prosecution of Humanitarian Volunteers

In addition to both the incidental damage and deliberate attacks against OIS during the siege and the arbitrary denial of humanitarian aid, the arrests of civilian humanitarian volunteers<sup>243</sup> across Mariupol City served as a key part of Russia’s overall filtration process.<sup>244</sup> By mid-March 2022, just under a month after the full-scale invasion commenced, reports began emerging that numerous Ukrainian humanitarian volunteers who had delivered aid to Mariupol City were detained arbitrarily, tortured, and ill-treated under the filtration scheme.<sup>245</sup> In June 2023, the UN OHCHR confirmed that Russian forces were in fact arresting and detaining humanitarian volunteers arbitrarily, including those from within Mariupol,<sup>246</sup> in particular throughout the month of March.<sup>247</sup>

During filtration checks, pro-Russian forces targeted those at the centre of the humanitarian response to Mariupol who (sought to) provide relief including non-perishable food items, water, and other essentials to the besieged residents.<sup>248</sup> Between March and April 2022, the GRC SMJT reviewed credible information indicating that at least dozens of humanitarian volunteers were arrested in this manner while running – at their own extreme peril – low-profile missions to deliver basic staples to the besieged enclave. Most coordinated their volunteer activities in Zaporizhzhia<sup>249</sup> and travelled to Mariupol using minibuses or private vehicles, including by visibly indicating that they were in fact serving as civilian humanitarian volunteers.<sup>250</sup> The majority were detained for up to over four months<sup>251</sup> in Olenovka Oblast (Donetsk) at the Olenovka penal colony N° 120.<sup>252</sup> Reports citing Ukrainian President Zelenskyy echoed that humanitarian workers were also detained near Manhush Village on 22 March 2022.<sup>253</sup>

In the self-proclaimed “Donetsk People’s Republic,” Art. 223(2) of the Criminal Code of the “DPR” comprises anti-terrorism legislation which allows for between five and 10 years of imprisonment for activities deemed to constitute terrorism, though the legislation is vague and subject to a wide

range of (lawful) activities, rendering its abuse and targeted misuse highly likely. For example, the GRC SMJT documented how humanitarian volunteers operating strictly within their humanitarian function were charged and sentenced pursuant to the anti-terrorism legislation. The perverse logic of prosecuting humanitarian volunteers on terrorism-related charges reportedly further extended through to the arrest and prosecution in the “DPR” of civilian cooks who had simply prepared meals for Azov Battalion fighters in Mariupol City.<sup>254</sup>

On 2 August 2022, the Supreme Court of the Russian Federation qualified the Azov Regiment as a terrorist organisation, banning it in Russia and allowing for lengthy jail terms for its members and “supporters.” In effect, this may further lead to dire implications for humanitarian volunteers who delivered much needed essentials to besieged Mariupol City, and other civilians susceptible to being systematically targeted as “supporters” of the designated terrorist entity.

Based on its investigations and documentation thus far, the GRC SMJT notes that glaring commonalities and immutable features between the filtration processes around Mariupol City, including those in Manush Village and Berdyansk City, comprise: (i) the use of wanted lists and elaborate networks of checkpoints; (ii) the targeting of specific subsets of the population for their (perceived) political opinion or affiliation, including humanitarian volunteers; (iii) the arrest and removal of undesirable individuals; and (iv) the use of oaths of loyalty or the issuance of certificates that offer the desirable individuals freedom of movement within their own country (Ukraine).<sup>255</sup> With respect to the arrests and prosecutions of humanitarian volunteers, there are reasonable grounds to believe that this systematic conduct engaged in by pro-Russian forces underscored a broader intent to employ starvation as method of warfare during the Mariupol offensive, as well as to intimidate and punish specifically those who had provided humanitarian aid to besieged enclave.

## VII. Applicable Law

The foregoing facts demonstrate the myriad ways in which the siege of Mariupol City and the underlying acts perpetrated to affect its capture constitute egregious violations of international humanitarian law (IHL) and international crimes, as detailed below. Prosecutors, both domestically and internationally, therefore have a suite of crimes that could and should comprise any forthcoming indictments. The present report further captures the broader narrative of the siege through the patterned lens of attacks against objects indispensable to survival (OIS) of the civilian population. It does so because – in the aggregate – the seemingly isolated attacks against OIS, when paired with associated violations and crimes related to the weaponisation of humanitarian aid, the denial of humanitarian access and humanitarian evacuations, filtration, and arrests of humanitarian actors, reveal a deliberately calculated method of warfare carried out by pro-Russian forces who intentionally employed several starvation tactics as a means to an end.

Moreover, this report focuses on the crime of starvation as a method of warfare not only because of its ability to accurately label the aggregated criminality, but also the indignity suffered by Ukrainian women, men, and children in Mariupol – alongside the near-total destruction of a city and its infrastructure – while highlighting the means through which Mariupol was dismantled and destroyed. GRC notes that other public reports have focussed on attacks against energy and healthcare infrastructure; the UN OHCHR has considered cursorily the arrests of humanitarian volunteers; and others forthcoming may look at isolated "high-profile" attacks such as that of the Mariupol Drama Theatre on 6 March 2022. Yet, to date, none have explored the siege of Mariupol City in its entirety through the prism of starvation as a calculated warring strategy. The approach

set out in this report therefore lays out what GRC has found to be a concerted and deliberate pattern as also found by the United Nations in the Syria context, while underscoring how Mariupol City was not the first to be annihilated and subsumed by a devastating and deliberate Russian strategy (see Section II., above).

### Cardinal IHL principles

#### ***Distinction***

A fundamental concept and cornerstone of international humanitarian law (IHL) applicable in both international and non-international armed conflicts, and which is reflective of customary international law, is the principle of distinction<sup>256</sup> which is considered "cardinal"<sup>257</sup> and "intransgressible".<sup>258</sup>

The principle of distinction is aimed at minimising harm to civilians and civilian objects by distinguishing between those that may be considered to be combatants, or civilians directly participating in hostilities (see below), and military objectives on one hand, and civilians and civilian objects on the other. The principle of distinction aims to balance the military necessity of conducting hostilities with the protection of civilian lives and civilian objects during armed conflict.

According to the principle of distinction, only those individuals actively participating in hostilities may be considered legitimate targets and must be distinguished from the broader civilian population. Civilians not taking a direct part in hostilities are therefore protected from direct attack and the intentional targeting of civilians is therefore prohibited. Similarly, with respect to civilian objects, attacks may only be directed against military objectives. Civilian objects, such

as residences, distribution points, and shelters, may not be targeted unless they are being used for military purposes, in which case an assessment of proportionality must be made, in addition to an assessment as to whether the object may be said to have been “specially protected,” in which case it benefits from an elevated standard (see below).

### **Proportionality**

Another fundamental IHL principle applicable in both international and non-international armed conflicts, and which is also reflective of customary international law, is that of proportionality,<sup>259</sup> which too governs the conduct of hostilities. The principle of proportionality is intended to limit the intensity and effects of armed conflicts by ensuring that any use of force is not excessive in relation to the anticipated military advantage gained. The principle of proportionality reflects the broader IHL aim of protecting civilians and minimising suffering during armed conflict.

In accordance with the principle of proportionality, parties to armed conflicts may only use force that is proportional to the legitimate military objective they seek to achieve, and therefore the anticipated harm to civilians or civilian objects cannot be excessive in relation to the concrete and direct military advantage anticipated from an attack. This means that military actions should not cause more harm to civilians or civilian infrastructure than is necessary to achieve a legitimate military objective. The principle of proportionality thus requires a careful balancing act between the military necessity of achieving a particular goal and the humanitarian imperative of minimising harm to non-combatants and civilian objects.

### **Precaution**

Third, the principle of precaution<sup>260</sup> is also an essential component of IHL applicable in both international and non-international armed conflicts, and enshrined in customary international law, which emphasises the obligation of belligerents to take precautions in their military operations to minimise harm to civilians and civilian objects. Parties to armed conflicts must take feasible precautions to avoid or minimise civilian casualties and damage to

civilian objects; take anticipatory measures to assess the potential impact of their military operations on civilians and civilian objects, including by choosing means and methods of warfare that will likely result in the least harm to civilians; provide advance (effective) warnings of attacks, where appropriate (see below); and ensure that the expected harm to civilians or civilian objects does not exceed the anticipated military advantage.

## **Siege warfare**

While IHL foresees that parties to armed conflicts may lay siege, including ostensibly to densely populated urban areas, they must comport with relevant rules including respecting and protecting humanitarian relief personnel and objects; ensuring access to humanitarian relief for civilians in need; ensuring the freedom of movement of humanitarian relief personnel; and the prohibition of the starvation of civilians as a method of warfare.<sup>261</sup> Although IHL treaties including Geneva Conventions I, II, and IV refer to “besieged” or “encircled” areas, IHL does not define the term “siege.”<sup>262</sup> For purposes of this report, the GRC SMJT relied on the characterisation of siege as defined by the UN OCHA, as constituting “an area surrounded by armed actors with the sustained effect that humanitarian assistance cannot regularly enter, and civilians, the sick and wounded cannot regularly exit the area.”<sup>263</sup>

Beyond the humanitarian definition of siege, the GRC SMJT deems that the military logic of encircling Mariupol through the laying of a “porous siege” may have been to provide pro-Russian forces with intelligence, leaving open conduits to and from Mariupol City in order to systematically engage in filtration (see section V., above) and glean details about the status of Ukrainian armed forces, including the locations of their positions and/or materiel within the besieged enclave.

## **Starvation as a method of warfare**

### **Objects indispensable to the survival of the civilian population (OIS)**

Specially protected objects benefit from an elevated protection under IHL and objects indispensable to the survival (OIS) of the civilian population fall within

this regime. In the context of international armed conflict, Article 54(1) of Additional Protocol I to the 1949 Geneva Conventions – to which both Ukraine and the Russian Federation are State parties, and which is reflective of customary international law – prohibits the starvation of civilians as a method of warfare. Article 54(2) prohibits attacking, destroying, removing, or rendering useless OIS, regardless of the motive. The term OIS is not defined in IHL, rather relevant provisions provide a non-exhaustive list of examples such as foodstuffs, agricultural areas, crops, livestock, drinking water installations and supplies, and irrigation works. As a result of weather or other circumstances, objects such as shelter or clothing must also be considered as indispensable to survival in a particular context.<sup>264</sup> As such, OIS may be permanently or situationally indispensable.<sup>265</sup> As the starvation of combatants as a method of warfare is not unlawful, the prohibition's customary law status is reflected in ICRC Customary IHL Rule 54 and is based on the principle of distinction (see above), requiring civilians and civilian objects be distinguished from belligerents and military objectives.<sup>266</sup>

Notably, under Additional Protocol I, Article 54(3) which too is reflective of customary IHL, OIS may only be attacked if they are used "(a) as sustenance *solely* for the members of its armed forces" or "(b) otherwise in direct support of military action." If the OIS has a "dual-use", i.e. when used for both civilian and military purposes, it may only be targeted subject to the cardinal principles of proportionality and precaution (see above), as well as when advance (effective) warnings are issued, where applicable (see below). Moreover, "in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement."<sup>267</sup> Art. 54(3)(b) therefore reflects an elevated standard whereby OIS may *only* be attacked, destroyed, removed, or rendered useless in very limited circumstances: even if OIS become a legitimate military objective (e.g., due to its "dual-use"), in line with the principles of proportionality and precaution, any military advantage gained by targeting the OIS cannot exceed the damage caused to the civilian population by: (i) depriving them of food or water so as to cause their starvation, or (ii) to force their displacement.<sup>268</sup>

### **Critical infrastructure**

In Mariupol City and its environs, critical infrastructure including electricity, water, and gas constituted OIS for both encircled and later besieged civilians. Electricity infrastructure, in particular, may also be considered a "dual-use object" when used for both civilian and military purposes. A cumulative two-prong test determines whether a particular piece of energy infrastructure qualifies as a military objective under IHL: (i) by its nature, location, purpose (intended future use) or use, the piece of energy infrastructure must make an effective contribution to military action; and (ii) its total or partial destruction, capture, or neutralisation, in the circumstances ruling at the time, must offer a definite military advantage.<sup>269</sup> Thereafter, an analysis must be undertaken as to whether any precautionary measures were taken to spare or protect civilians through advance (effective) warnings and whether the attack was proportionate. Cutting electricity to an entire civilian population during harsh winter months, with the awareness that the electricity served as the only or primary source of heat, would constitute a disproportionate and therefore unlawful attack. Moreover, under Additional Protocol I, Art. 54(3) (b), any military advantage gained by targeting the electricity infrastructure cannot exceed the damage caused to the civilian population by (i) depriving them of food or water so as to cause their starvation or (ii) to force their displacement.<sup>270</sup>

It must also be reminded that IHL forbids attacks against pieces of energy infrastructure if the sole purpose is to force the adversary to the negotiating table, to influence the will of the population, or to intimidate political leaders.<sup>271</sup>

In 2021, the UN Security Council (UNSC) unanimously passed Resolution 2573, strongly condemning attacks against critical civilian infrastructure and objects indispensable to the survival of the civilian population, citing the long-term humanitarian and economic impacts of such attacks. It further stressed the need to counter impunity for these violations and associated crimes.<sup>272</sup>

## **Humanitarian assistance**

The regulation of humanitarian assistance is related to but separate from the IHL prohibition of starvation.<sup>273</sup> Where a civilian population is inadequately supplied and their needs are not met,<sup>274</sup> Article 70(2) of Additional Protocol I provides that parties to an international armed conflict should “allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided,” even if such aid is intended for the adverse party’s civilian population. The assistance must be impartial in character and conducted without any adverse distinction (Article 70(1)). Although the warring party has a right to control the technical arrangement of the passage, it shall “in no way whatsoever” divert or delay the delivery of the relief supplies (Article 70(3)).

The same principles are enshrined in customary IHL, specifically ICRC Rules 55 and 56. Rule 55 prohibits the wilful impediment of relief supplies, by directing States to allow access for impartial aid directed for civilians in need. Rule 56 outlines that the parties ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Temporary restriction may only be allowed in case of some imperative military necessity.

The UNSC has frequently considered that impeding humanitarian activities or restricting access to humanitarian assistance may be grounds for implementing targeted sanctions against individual or group perpetrators, and has imposed such sanctions, for example, in relation to al-Shabaab in Somalia<sup>275</sup> and on an anti-Balaka commander in the Central African Republic.<sup>276</sup>

The same is also captured under UNSC Resolutions 2573 and 2417 relating to starvation, both of which strongly condemn attacks on humanitarian personnel. UNSC 2417 is explicit in the prohibition of attacks against OIS and reinforces the intrinsic link between armed conflict and the consequential harms. It also underlines that the starvation of civilians as a method of warfare may constitute a war crime and calls for independent investigations into these attacks.<sup>277</sup>

## **International Criminal Law**

In the context of international armed conflict, Article 8(2)(b)(xxv) of Rome Statute recognises starvation as a method of warfare to constitute a war crime. Specifically, the act of “intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions.”<sup>278</sup>

The ICC Elements of Crimes, which focuses on the conduct, consequences, and circumstances associated with enumerated crimes, provides four elements to establish the starvation offense:<sup>279</sup> (i) the perpetrator deprived civilians of OIS; (ii) the perpetrator intended to starve civilians as a method of warfare; (iii) the conduct took place in the context of and was associated with an international armed conflict; and (iv) the perpetrator was aware of factual circumstances that established the existence of an armed conflict.<sup>280</sup>

## **Intent**

Notably, starvation as a method of warfare consists of deprivation of OIS with two constituent elements of intent, the intent to deprive and the intent to starve civilians as a method of warfare. As noted above, in relation to the intent aspects of the crime, both the intent to deprive and the intent to starve can be proven through indirect or oblique intent, that is where the perpetrator knew or should have known that their conduct would lead to that outcome in the ordinary course of events. In other terms, where in the ordinary course of events the deprivation of indispensable objects and/or the starvation of civilians is a foreseeable consequence.<sup>281</sup> There is also no requirement that anyone should have died or suffered physically or psychologically of, or from, starvation as a result of these acts.<sup>282</sup> Indeed, “[t] here is no requirement that the belligerent must be seeking to attain a military advantage or advantage on the battlefield therefrom. Using starvation in order to achieve other objectives, such as ‘ethnic cleansing’ of an area or simply to annihilate or weaken the population would fall within the prohibition.”<sup>283</sup> The intent to starve, further, does not have to be the sole or even primary intent, and may be just one among other lawful or unlawful goals.<sup>284</sup>

### **Prohibition under UA and RF codes / military manuals**

Although not listed as a stand-alone crime in the Ukrainian Criminal Code (UCC), the prohibition of starving civilians as a method of warfare is established under the law and customs of armed conflict. In the Instructions on IHL for Armed Forces issued by the Ukrainian Ministry of Defence, for example, Instruction 3.1 reads identical to Article 54(2) of Additional Protocol I, and specifically bans the use of civilian starvation to achieve military goals. The same provision can also be found in Instructions on IHL for the Russian Armed Forces.<sup>285</sup> Therefore, the war crime of starvation may be prosecuted by virtue of Article 438(1) of the UCC, not only as the "use of methods of warfare prohibited by international instruments," but also as "other violations of rules of the warfare stipulated by international treaties."

Under Ukrainian domestic law, the Law on Critical Infrastructure (as amended on 18 October 2022) is part of the national security legislation, and it enumerates the legal and organisational principles for the creation and functioning of the national system for the protection of critical infrastructure. Moreover, Resolution No. 1109 of 9 October 2020 (as amended by Resolution No. 48 dated 16 January 2024), details the application of the Law on Critical Infrastructure. The Resolution includes a list of critical infrastructure sectors, including: the fuel and energy sector; electronic communications; healthcare; the food industry and agro-industrial complex; and life support systems which include utilities such as heat, water, and gas.

### **Attacks against medical personnel, transports, and hospitals**

Hospitals, medical units, and medical personnel are also afforded "special protection" under IHL as a result of their specific humanitarian function, and parties to a conflict must take additional, specific measures prior to targeting, directly or indirectly, such objectives. Under IHL, medical personnel, transports such as ambulances, and hospitals exclusively assigned to medical duties must be respected and protected *in all circumstances*, unless they are used to commit, outside their humanitarian function, acts harmful to the enemy.<sup>286</sup> Acts that

would remove protection may include the use of a hospital as: a shelter for able-bodied Ukrainian forces; an arms or ammunition store; a military observation post; or as command-and-control node for liaison with fighters. In case of doubt, there must be a presumption of the civilian status of the hospital and the associated protection.

Any such attack must be absolutely necessary, offering a distinct and direct military advantage.<sup>287</sup> The burden is on the attacking party to demonstrate the existence of a definitive advantage. The injury to medical personnel, patients, or civilians, and the damage to medical facilities must be proportionate to the military advantage gained.<sup>288</sup> The foreseeable and longer-term harm of depriving the population of a medical facility, particularly in the context of a siege where civilians are arbitrarily denied humanitarian aid and prevented from organised evacuations, may also render the attack against a medical facility unlawful.

### **Co-location and passive precautions**

Under IHL, Additional Protocol I, Article 57(1) contains an obligation that, in "the conduct of military operations, constant care shall be taken to spare the civilian population, civilians, and civilian objects" which applies to both the attacker and the defender (e.g., to both pro-Russian and Ukrainian forces and vice-versa). Under Additional Protocol I, Art. 58(b) and the corresponding customary law prohibition of ICRC Rule 23, each party to a conflict has a duty to avoid locating military objectives within or near densely populated civilian areas. The measures set out in Article 58, known as "passive precautions," require that parties to the conflict endeavour to remove the civilian population, individual civilians, and civilian objects under their control from the vicinity of military objectives. Such measures are not absolute, in that they need to be taken to the maximum extent feasible, and the defender is only required to "endeavour to remove" the civilian population and objects from the vicinity of military objectives.

### **Advance (effective) warning**

Under Additional Protocol I, Art. 57(2)(c) and the corresponding customary law prohibition of ICRC Rule 20, each party to the conflict must give

effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit. Despite this obligation as being applicable to “each party to the conflict,” even if the defending party did not issue warnings to civilians situated near areas where their forces were located, IHL does not require defending belligerents to issue such warnings. Moreover, advance warnings intended to spread terror, that are used as a ruse, or that lead to the forced displacement of civilians, all arguably breach the principle of distinction, and would not constitute legitimate effective advance warnings for purposes of IHL compliance.

Under Additional Protocol I, Art. 13(1), and in the case of attacks against medical facilities, even if belligerents misuse a hospital, e.g., to store weapons or to shelter able-bodied combatants, the attacking party must issue a warning to cease that misuse, setting, whenever appropriate, a reasonable time limit for it to end, and launching its attack only after such a warning has gone unheeded.

## Area Bombardment

Under IHL, it is prohibited to launch an attack by bombardment by any method or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village, or other area containing a similar concentration of civilians or civilian objects (Additional Protocol I, Art. 51(5)(a) and ICRC Rule 13). Protocol III to the Convention on Certain Conventional Weapons defines “concentration of civilians” as “permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.”

In the ICRC’s view, the concepts of “clearly separated” and “distinct” should not be understood as purely subjective or dependent on the circumstances, and therefore the prohibition against area bombardment must be interpreted in good faith. For example, the prohibition against area bombardment could be compromised if objects, evidently separate and distinguishable to a reasonable third party, are deemed otherwise by the attacker solely due to the attacker’s intention to use explosive weapons

with broad area effects.<sup>289</sup> Moreover, even if several military objectives may be said to have been located within a densely populated civilian area, such as Mariupol City, are so close together that they cannot be attacked separately, an attack against them would be prohibited if it could be expected to result in excessive civilian casualties or damage to civilian objects in violation of the rule of proportionality.

## Internment

Geneva Convention IV recognises expressly the authority of parties to IACs to detain individuals who do not benefit from prisoner-of-war privileges for security reasons. It delineates comprehensive rules and regulations governing the conditions of internment and the treatment of internees across 72 articles (Arts. 79–141), with the primary elements of these provisions having attained the status of customary rules.

Occupying powers have the authority to intern or assign residence to certain individuals from the population of occupied territories deemed threatening. The permissible grounds for internment, or administrative detention, by an occupying power for the purposes of vetting civilians believed to pose a security threat may only be justified to address “imperative reasons of security,” indicating an exceptional standard. Crucially, in the case of civilians, internment may not be used solely for interrogation or intelligence gathering. Any person subjected to internment in occupied territory is entitled to a review of that decision carried out by a “regular procedure” that is to be administered by a “competent body” (GC IV, Art. 43(1)). All persons interned in international armed conflicts, both inside or outside of occupied territory, are entitled to a prompt reconsideration of the decision, facilitated either by a court or an administrative board, with automatic periodic reviews occurring on a six-month basis (GC IV, Arts. 43(1) and 78(2)).

## Direct participation in hostilities (humanitarian volunteers)

The combined wording of Additional Protocol I, Arts. 50(1) and 51(3) make clear that everyone who does not qualify as a combatant is a civilian

benefitting from protection "unless and for such time as they take a direct part in hostilities."<sup>290</sup> The ICRC Interpretive Guidance on Direct Participation in Hostilities (DPH) relates three cumulative criteria for civilians to qualify as DPH, namely: (i) threshold of harm; (ii) direct causation; and (iii) belligerent nexus.<sup>291</sup>

The delivery of humanitarian assistance in situations of armed conflict is an inherently dangerous task, particularly during fluid and complex security environments. Despite their protected status, aid workers operating in contemporary armed conflicts encounter arrest and detention, for reasons ranging from suspected incitement, espionage, or sabotage, to more punitive pretexts when their strict humanitarian function is perceived as being contrary to the interests of a belligerent party.

While the provision or preparation of food for civilians or combatant forces may take place concurrently and in proximity to actual fighting, the connection between these support activities and the causation of the necessary threshold of harm to the opposing party in a conflict is still indirect.<sup>292</sup> For example, the Inter-American Commission of Human Rights' 1999 Third Report on the Situation of Human Rights in Colombia established certain conduct that cannot be considered as direct participation in hostilities. Specifically, the Report notes that "civilians who merely support the adverse party's war or military effort or that otherwise only indirectly participate in hostilities cannot on these grounds alone be considered combatants. This is because indirect participation, such as selling goods to one or more of the parties to the conflict, expressing sympathy for the cause of one of the parties or, even more clearly, failing to act to prevent an incursion by one of the parties, does not involve acts of violence that pose an immediate threat of harm to the adverse party."

Moreover, the ICRC's Interpretive Guidance offers no indication that humanitarian volunteers would meet the requisite level of harm necessary to qualify as direct participants in hostilities. For those supporting humanitarian causes, the Interpretive Guidance presumes entitlement to protection in case of doubt and allows civilians to regain their protection once their personal involvement in a hostile act or operation ends.<sup>293</sup>

## Superior/Command Responsibility

It is well established in treaty<sup>294</sup> and customary international law<sup>295</sup> applicable in both international and non-international armed conflicts that military and other superiors (including civilian leaders) may be held criminally responsible for the acts of their subordinates. The doctrine of command responsibility<sup>296</sup> therefore allows for commanders to be held criminally liable for crimes committed by their subordinates over which they had either *de jure* or *de facto* effective control.<sup>297</sup> Such commanders may incur liability if they knew or should have known, based on the circumstances at the time of the underlying crime(s), that their subordinate forces were committing or about to commit the crimes, and failed to take all necessary and reasonable measures to prevent<sup>298</sup> or repress<sup>299</sup> their commission, or if they neglected to refer them to competent authorities.<sup>300</sup>

Command responsibility may be established without consideration of intent; mere knowledge of the crime or its potential suffices.<sup>301</sup> Specifically, if a commander was reasonably expected to be aware of the circumstances, s/he can be held accountable, and cannot claim negligence as a defense.<sup>302</sup> Command responsibility does not constitute a strict liability offence for the crimes of the subordinates;<sup>303</sup> rather, the accused commander is liable for the failure to carry out his/her duty to prevent or punish the crimes of the subordinates.<sup>304</sup>

Commanders could prevent a crime, for example, by ensuring compliance with the law in all practices and operations, and/or postponing military operations or conducting those operations in such a way as to lower or remove the risk of specific crimes being committed.<sup>305</sup> A crime can be repressed by taking measures to stop criminal acts in progress, or sanctioning the offending party.<sup>306</sup> An accused may be deemed accountable not only when a subordinate directly committed a crime, but also when a subordinate played a role in planning, instigating, or otherwise facilitating the preparation or execution of the crime.<sup>307</sup>



## VIII. Findings

Just over five years ago, the UN Security Council unanimously adopted Resolution 2417, recognising for the first time the intrinsic link between conflict and hunger. Five years on, starvation crimes continue to be perpetrated in increasingly intricate ways, including as core tactics used to pursue strategic military aims. As evidenced by the patterned starvation crimes in Mariupol City found below, such conduct was not relegated to the periphery; rather, it formed a key part of Russia’s overall strategy and served as a tool intrinsic to the success of its underlying military offensive.

The battle for control over Mariupol City was the scene of unrelenting violence, where pro-Russian forces opted for a rapid outcome through 85 days of wanton destruction rather than more measured attrition. After pro-Russian forces including members of the 8th Combined Arms Army fully encircled Mariupol City on 1 March 2022,<sup>308</sup> what followed was a methodical campaign involving urban siege warfare to deliberately and permanently erode the viability of civilian life under Ukrainian control.

The porous siege of Mariupol City was characterised by repeated attacks against OIS of the civilian population including energy and water infrastructure; *ad hoc* distribution points and shelters; the shelling of humanitarian corridors; arbitrary denial of humanitarian evacuations and relief supplies to civilians living under the control of Ukrainian forces; and the arrests and prosecution of humanitarian volunteers through a highly systematic filtration scheme. This trajectory of criminality involving starvation crimes in Mariupol City reveals a series of wilful and patterned starvation-related conduct that covered all phases and facets of the siege:

- (i) **Attacks against OIS:** The initial assault on Mariupol was characterised by relentless attacks against civilian infrastructure that delivered critical OIS to encircled residents. Within the first week of the invasion and subsequent siege, there are reasonable grounds to believe that pro-Russian forces systematically targeted energy and water infrastructure vital for the delivery of electricity and gas, depriving besieged residents of electricity, heat, potable water, and access to information.

While elements of such infrastructure including particularly energy infrastructure by its nature, location, purpose, or use was likely to have made an effective contribution to Ukraine’s military action, GRC finds that any military advantage gained by pro-Russian forces’ systematic targeting of critical infrastructure and its total destruction, did not exceed the damage caused to some 400,000 civilian residents in Mariupol who, during the early days of the encirclement and siege, were completely deprived of water with many also displaced as a result of the attacks. Moreover, no efforts were made by pro-Russian forces to provide alternative water sources nor were any advance effective warnings given to caution vulnerable civilians.

Dmitry Peskov, President Putin’s Press Secretary, openly stated that the Ukrainian leadership “has all possibilities to resolve the [strikes against energy infrastructure] in a way to meet the demands of the Russian side, and to stop, respectively, all kinds of suffering of the local population.” There are reasonable grounds to believe that the Russian leadership was therefore aware of the impact on the Ukrainian civilian population of its attacks against energy infrastructure, though it persisted in using it as a military strategy.<sup>309</sup>

Attacks against critical infrastructure particularly during the first week of the siege were followed by concerted and patterned attacks against healthcare facilities and shelters. Despite being protected by their own legal regime under IHL, in the context of the siege and arbitrary denial of lifesaving humanitarian relief, hospitals and other medical units in Mariupol City may also be said to have constituted OIS.<sup>310</sup> Repeated bombardments, lack of effective advance warnings, and the absence of military presence in the immediate vicinity of the vast majority of healthcare facilities documented by the GRC SMJT, strongly suggests the patterned and deliberate targeting of medical infrastructure as part of an overall strategy to compel surrender. There are also reasonable grounds to believe that such conduct amounts to the war crime of making medical personnel, medical units, or medical transports the object of attack.<sup>311</sup>

Furthermore, in March 2022, the UN OHCHR noted how civilian casualties were rising daily in Ukraine, and reminded Russian authorities that "so-called area bombardment in towns and villages and other forms of indiscriminate attacks, are prohibited under international law and may amount to war crimes."<sup>312</sup> The GRC SMJT does not discount that certain incidents of damage to civilian infrastructure, particularly during street-to-street combat that began in the latter half of March, may be attributed to either Ukrainian or pro-Russian forces. Such incidents, however, do not change the overall determination there are reasonable grounds to believe that pro-Russian forces engaged in prohibited area bombardment, including by treating entire locales and full city blocks as military targets, while failing to take all feasible precautions to mitigate incidental loss of civilian life, injury to civilians, and damage to civilian objects. Such prohibited conduct was clearly evident through pro-Russian forces' directly and proximately damaging healthcare facilities in Mariupol between 24 February and 20 May 2022.

Moreover, Ukrainian forces would have been required to endeavour to remove the civilian population and objects from the vicinity of valid

military objectives. GRC notes in this regard that repeated attempts were made in good faith by Ukrainian forces to evacuate civilians and protect them from pro-Russian attacks on the besieged enclave, though their attempts to remove the civilian population were repeatedly thwarted by Russian forces engaging in a calculated campaign of disinformation and misinformation. Through its investigations, GRC found no indication that Ukrainian forces either prevented civilians from leaving Mariupol City, used them as human shields, nor that they were responsible for having launched any documented attacks against the (previously agreed upon) organised humanitarian corridors.

Further, the presence of Ukrainian forces alongside civilians in various cases is, on its own, inadequate to conclude that Ukraine failed to implement "passive precautions" to the fullest extent feasible. The massive levels of destruction wrought upon Mariupol City by pro-Russian forces, including through incidents of area bombardment, rendered it such that the number of viable locations for civilians to safely situate themselves gradually diminished over the duration of the 85-day offensive. This was coupled with the targeting of critical OIS by pro-Russian forces who split Mariupol City into three distinct pockets (see section II., above), while simultaneously launching repeated attacks on evacuation corridors, in effect confining the besieged residents in Mariupol alongside Ukrainian forces – forcing them to co-locate, while systematically bombarding critical and other infrastructure indispensable to their survival.

- (ii) **Humanitarian aid:** Pro-Russian forces deliberately withheld humanitarian aid to Mariupol City's civilian population primarily until they were able to capture and were in control of a given swathe of territory, never allowing the residents in Mariupol to receive aid while residing under the control of Ukrainian forces but only when the pro-Russian forces had taken over.<sup>313</sup> This was most evident by the fact that – in the only instances documented by the GRC SMJT where aid was delivered – it was only ever delivered to the eastern side of the city (left

bank of the Kalmius River), which at the time had fallen under Russian control, with no movement allowed for civilians between the two riverbanks unless they held a “special document.” Pro-Russian forces were obliged to allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided, even if such aid was intended for the adverse party’s civilian population, which they deliberately failed to do in a manifestly discriminatory manner, as clearly evidenced by their own relief consignment boxes which read: “We do not abandon our own.”

(iii) **Humanitarian evacuations and filtration:**

While pro-Russian forces deliberately denied international actors and humanitarian organisations from participating in or overseeing humanitarian evacuations, they simultaneously condoned large population outflows from Mariupol City numbering in the hundreds of thousands of persons during the porous siege. Beginning on 6 March 2022, pro-Russian forces denied the organised evacuations in order to deliberately control the outflows of persons fleeing from Mariupol through erecting checkpoints, and *ad hoc* or established filtration centres, including in Manhush Village, Berdyansk City, Nikolske City, and Bezimenne (Novoazovsk Raion). The vetting of every civilian man, woman, and often child fleeing Mariupol was not done on a case-by-case basis and therefore cannot be justified solely on security-related grounds, but rather constitutes unlawful, blanket internment to vet loyalty to the Russian State apparatus. Given their status as unlawful internment points, there are reasonable grounds to believe that pro-Russian forces opted for a more informal process of filtration than organised evacuations, because international actors and humanitarian organisations would not have condoned filtration in the way it was carried out.

(iv) **Humanitarian volunteers:** As a key part of the filtration process, pro-Russian forces arrested and prosecuted on terrorism-related charges civilian humanitarian volunteers, including those at the heart of the humanitarian response who (sought to) provide food, shelter, and other essentials to residents in the besieged enclave. This was done despite the fact that the humanitarian volunteers were operating strictly with humanitarian functions and could not be considered as directly participating in hostilities under any circumstances.

Moreover, as part of the offensive, GRC finds reasonable grounds to believe that pro-Russian forces consistently failed in their obligations to respect the fundamental tenets and cardinal principles of IHL, including the principles of distinction and precaution, and in the case of area bombardment, the principle of proportionality. In the aggregate, and particularly due to the foreseeability of the consequences of the above acts of criminality, the GRC SMJT finds reasonable grounds to believe that these four patterns of conduct leave no realistic alternative interpretation than to conclude that pro-Russian forces intentionally used the starvation of civilians in Mariupol City as a method of warfare, in order to accelerate the capture of the besieged enclave and force the capitulation of Ukrainian army.

The GRC SMJT continues to support the Office of the Prosecutor General of Ukraine (OPG) and regional prosecutors’ offices (RPOs) in the investigation of these and other violations and crimes, and respectfully submits that further investigations be continued on the siege and capture of Mariupol City by the International Criminal Court (ICC), European, and other international prosecuting authorities, alongside investigations on-going by the Independent International Commission of Inquiry on Ukraine.

## IX. Conclusion

The barbaric and archetypal nature of the siege of Mariupol demands accountability and further forensic investigation. The patterns identified by the GRC SMJT, as demonstrated throughout this report, should be carefully considered, not as isolated incidents, but rather as a calculated Russian military strategy (see section II., above), elements of which may have been replicated in other besieged areas in Ukraine such as Chernihiv (24 February – 4 April 2022) and which therefore demand continued forensic investigation. As the title of this report reflects, the porous siege of Mariupol as the initial onslaught of the full-scale invasion served as turning point for many Ukrainians, an initial point from where accountability and restorative justice for the violations and crimes found in this report must be realised in order to offer some semblance of hope. These crimes can no longer be overlooked.

Over the course of the 85-day siege of Mariupol between 24 February and 20 May 2022, Russian and affiliated armed forces executed a calculated warring strategy aimed at eroding the capacity of civilian survival, civilian resilience, and resistance, ultimately forcing Ukrainian forces to capitulate resulting in the capture and occupation of Mariupol City and its environs.

The unrelenting Russian military campaign was executed through targeted and systematic attacks and the concerted and unlawful bombardment of critical civilian infrastructure and other indispensable objects, impacting civilians' access to energy, heating, gas, food, water healthcare, and telecommunications, and was later compounded by deliberate attacks on mustering points for civilians in search of basic necessities including places to take shelter, *ad hoc* distribution points of food, aid, water, amongst others, and critical points of information and aggregation for evacuation efforts.

This was coupled with the wilful impediment of humanitarian access to civilians living in areas remaining under Ukrainian control within Mariupol and the denial of organised evacuations from the besieged enclave by Russian and affiliated armed forces including paramilitary forces, leaving civilians trapped in Mariupol absent the means to survive.

The present report reveals how four critical patterns of conduct perpetrated by Russian and affiliated actors during the encirclement and siege of Mariupol and its environs formed part of a strategic, foreseeable, and calculated military campaign to deprive civilians of objects indispensable to their survival and starve civilians as a method of warfare in order to force Ukrainian armed forces to surrender, ensuring the capture and occupation of the city. The following conclusions form the basis of the overarching aims and strategy of Russian and affiliated armed forces during the encirclement and siege of Mariupol:

- (i) The SMJT found reasonable grounds to believe that, during the first weeks of the siege, pro-Russian forces deliberately and systematically targeted critical civilian infrastructure, indispensable in itself or in ensuring civilians' access to OIS, including energy and water infrastructure. Immediately following the first few weeks, the SMJT's investigation also found patterns of attacks on healthcare facilities and shelters, which in the given context qualified as OIS, in addition to medical facilities being protected separately under IHL.
- (ii) The SMJT found reasonable grounds to believe that Russian and affiliated forces deliberately impeded access to

international humanitarian organisations and denied humanitarian access to civilians in desperate need living in territory still under the control of Ukrainian forces.

- (iii) The SMJT found reasonable grounds to believe that pro-Russian forces intentionally denied international and humanitarian organisations to conduct or oversee the organised evacuations of Mariupol residents, in order to be able to control the movement of people themselves through the erection of checkpoints and filtration centres, to vet loyalty to the Russian state apparatus.
- (iv) The SMJT further found reasonable grounds to believe that as part of the overall control of evacuations and movement of people during filtration operations, Russian and affiliated forces arrested and prosecuted humanitarian volunteers providing aid, food, and other basic commodities to besieged civilians, on terrorism-related charges, further engendering a climate of fear impacting any humanitarian activity which might have alleviated the situation of vulnerable and deprived civilians in the enclave.

In conclusion, the SMJT finds reasonable grounds to believe that Russian and affiliated forces intentionally used starvation of civilians in Mariupol as a method of warfare, to both accelerate the surrender of Ukrainian armed forces and capture the city of Mariupol and its environs.

The findings of the present report form part of larger and detailed confidential submission to

the United Nations Independent International Commission of Inquiry on Ukraine and an Article 54 Communication to the International Criminal Court, on the use of starvation as a method of warfare across Ukraine.

The SMJT also encourages the use of investigations and prosecutions based on the principle of universal or domestic jurisdiction by third countries, as appropriate, to complement and support Ukraine in holding perpetrators accountable for international crimes committed. Any investigation of starvation related crimes detailed in this report should be considered no later than from the very beginning of any structural or person-specific investigation.

The GRC SMJT remains available to provide and share its sources, confidential perpetrator dossiers, and confidential lists of individuals and/or units associated and/or involved in the commission of the violations and crimes detailed in the present report with third countries proceeding with universal or domestic jurisdiction claims, where the rights of the accused are respected and protected. The information collected and verified during GRC’s investigation into the siege and capture of Mariupol has been preserved to the highest evidentiary standards and can be shared with war crime or international crimes units of jurisdictions investigating the use of starvation as a war crime, underlying violations of IHL, and concomitant crimes and violations that may have been committed in the context of the siege of Mariupol.

*The report findings also find visual representation through a forthcoming interactive Story Map (link) created to allow viewers to be walked through the narrative described and lived by the civilians trapped in besieged Mariupol during the winter of 2022.*

## X. Project Outline in Brief

The SMJT has three thematic pillars: (i) the siege of Mariupol City and its environs (assessing this primarily through the lens of humanitarian access violations); (ii) grain theft and the potential qualification as, and legality of, a naval blockade of the Black Sea Ports in the context of starvation; and (iii) patterned analysis, focussing on attacks against critical infrastructure, including attacks on distribution points of food, water, or other OIS. To date, this has included incidents in Mykolaiv and Chernihiv Oblasts, including the attack on a bread queue in Chernihiv on 16 March 2022.

This report is authored and published as part of Global Rights Compliance's (GRC) Starvation Mobile Justice Team (SMJT), led by British human rights barrister Catriona Murdoch. The Starvation Mobile Justice Team is part of the UK, EU, and US-sponsored Atrocity Crimes Advisory Group (ACA) which was launched in response to the need of the Office of the Prosecutor General of Ukraine (OPG) to increase capacity to investigate and prosecute atrocity crimes perpetrated since the full-scale invasion of Ukraine by Russian Forces. Other partners include the EU Mission (EUAM), Pravo Justice, and the International Law and Development Organisation (IDLO). GRC's Starvation workstream is funded in part by the Kingdom of the Netherlands.

The SMJT is one of multiple Mobile Justice Teams set up by international human rights law firm Global Rights Compliance – led by world-leading British human rights barrister, Wayne Jordash KC – to provide critical support to the Ukrainian OPG by assisting Ukrainian investigators and prosecutors on the ground as the conflict continues. The teams bring together leading domestic and international

experts in the field of international criminal law, mass atrocity crimes investigations and case-building, as well as providing support to victims and witnesses.

**Global Rights Compliance (GRC)** is an international legal foundation based in The Hague, Netherlands and Ukraine. It was founded by international lawyers with a mission to enable people and communities to achieve justice through the innovative application of international law. We have established a reputation as a leading supplier of humanitarian and human rights legal services across the spectrum of technical legal and policy advice, litigation, capacity-building, and advocacy. GRC offers: (i) decades of proven expertise in International Human Rights Law, International Humanitarian Law, and International Criminal Law; (ii) an exhaustive understanding of documentation and how to use it for legal action; and (iii) proven experience in transforming data into relevant and probative evidence and international advocacy to generate measurable policy and justice outcomes. We possess unrivalled global expertise and granular knowledge on the crime of starvation and right to food violations, derived from a dedicated starvation portfolio established in 2017.

We developed the first to market Starvation Training Manual in 2019 (updated in 2022 and available in Arabic) followed by the development of a digital App. In 2023 we developed a Special Issue Starvation Manual in Ukrainian and English. These tried and tested tools have been rolled out across a multi-year training programme to War Crimes Units, the ICC, numerous humanitarian agencies, and UN Commissions of Inquiries.

## SMJT Legal Reports:

Chernihiv Bread Queue Investigation – May 2023

Kakhovka Intelligence Reports [six produced in total] – June 2023

Agriculture Weaponised: The Illegal Seizure and Extraction of Ukrainian Grain by Russia - November 2023

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To learn more about the crime of starvation, scan the QR code to download the Starvation Accountability App, check out the Starvation Training Manual, [available in Ukrainian and Arabic] or read the 2022 textbook: Accountability for Mass Starvation: Testing the Limits of the Law.

[www.globalrightscpliance.com](http://www.globalrightscpliance.com)  
[www.starvationaccountability.org](http://www.starvationaccountability.org)

# Annex I: Mariupol Chronology

Following the invasion of Ukraine by Russian Forces on 24 Feb 2022, the city of Mariupol became under siege. The siege of Mariupol lasted from 24 Feb - 20 May 2022.

- 19 Feb 2022 The South Donbass Water Pipeline pumping station located near Vasylivka was damaged in an explosion, halting all water supply from the Pipeline to four filtration stations, including Starokrymskaya Filtration Stations No. 1 and No. 2 that pump water to Mariupol.
- 24 Feb 2022 **The invasion began.** The Port of Mariupol came under artillery bombardment.
- 25 Feb 2022 Russian and DPR forces advanced from DPR territory in the east towards Mariupol. **Residential areas and school No 48 were shelled.** Mariupol's water supply is entirely redirected from the Pipeline to the Stary Krim Reservoir.
- 28 Feb 2022 Russian and proxy forces resumed assaults on Mariupol with additional artillery deployed to the front line. Shelling of nearby Sartana continued. **Electricity, gas and internet connection to most of the city was lost.** A missile hit the yard of the **Mariupol Regional Intensive Care Hospital**, affecting the intensive care unit.
- 2 Mar 2022 **Mariupol was fully encircled by pro-Russian forces.** The Mayor of Mariupol reported that RFAF had destroyed all fifteen electricity inputs to Mariupol, and the city had no running water. The KP Donbass Water Company reported that the Starokrymskaya Filtration Stations No.1 and No.2 had been de-energised. Residents no longer have heat, running water, or electricity as temperature fall below zero. Lack of electricity also removes almost all access to telecommunications and information. The City Maternity hospital was first struck by Russian artillery.
- 3 Mar 2022 The passageway and upper floors of the **Mariupol Regional Intensive Care Hospital** were damaged by Russian missiles.
- 4 Mar 2022 The first humanitarian evacuation corridor was requested as the city's supplies started to run out and a temporary ceasefire was proposed. Artillery, rocket and missile barrages continued.
- 5 Mar 2022 The Donetsk-Mariupol high pressure gas pipeline came under attack. Technicians are compelled to close the pipeline to prevent leakage. Gas supply to all homes between Donetsk and Mariupol, including Mariupol city, is stopped. Pro-Russian forces shell the first agreed-upon evacuation corridor, compelling the Mariupol City Council to cease the evacuation.
- 6 Mar 2022 A second attempt to evacuate civilians failed due to continued bombardment and direct attacks on agreed upon evacuation corridors whilst civilians were trying to use them. The bombardment **hit the last functioning cellular tower in the city, removing all telecommunications.** The continued loss of running water forces civilians to dismantle heating systems, melt snow, or drink from puddles.



- 7 Mar 2022 Russian Forces continue their encirclement and increased efforts to break into the city. The ICRC announced that one of the proposed evacuation corridor roads was mined. **Russia declared evacuation routes towards occupied and Russian territory which were not agreed with Ukraine.**
- 9 Mar 2022 **Bombardment of Mariupol.** A direct Russian airstrike severely damaged the Mariupol Children’s and Women’s Health Territorial Medical Association (the “Maternity Hospital”) **Grocery stores and shopping malls where civilians attempted to find food continue being targeted.** . The Ukrainian Red Cross reported its building in Mariupol was damaged during an air raid. **Russian forces violate another attempted ceasefire, reportedly opening fire on evacuation points.**
- 10 Mar 2022 The Mariupol Regional Intensive Care Hospital was targeted again, with the impact causing the seventh floor to fall on the sixth floor of the building.
- 14 Mar 2022 **The first successful evacuation enabled approximately 160 private cars to leave the city towards Berdyansk.** The ICRC announced that remaining civilians were facing extreme or total shortage of basic necessities including water, food and medicine. Between 14-29 March, the City Maternity Hospital and the **Perinatal Centre** were severely damaged. Satellite imagery clearly shows the words “ДЕТИ” (“Children”) written at the front and back of the Mariupol Drama Theatre.
- 15 Mar 2022 Mariupol City Hospital N.4 is shelled multiple times by Russian military forces, destroying several buildings. That same day, Mariupol City Hospital N.1 is severely damaged, with some buildings entirely destroyed in multiple shelling.
- 16 Mar 2022 Civilian infrastructure and residential areas continued to be targeted. Two of Mariupol’s main distribution points, the **Donetsk Regional Drama Theatre**, which was sheltering potentially up to 1200 civilians and the **Neptune swimming pool Complex**, destroyed in airstrikes or naval attacks strikes (47.13049, 37.56728).
- 22 Mar 2022 Russian forces confiscated 11 buses travelling to Mariupol to evacuate citizens and seized humanitarian supplies. **15 aid workers from the buses were arrested.**
- 25 Mar 2022 Chechen forces claimed to have captured the left bank of Mariupol. A **Red Cross warehouse**, marked with a red cross on the roof, **was shelled** in Mariupol.
- 1 Apr 2022 Russian and DPR forces continued to advance in central Mariupol. **The ICRC made a failed attempt to evacuate civilians with 50 buses.**
- 4 Apr 2022 Russian forces continued to inflict damage on Mariupol with heavy air and artillery fire. **The ICRC reported that its team heading for Mariupol was stopped and held by Russian forces.**
- 6 Apr 2022 The first official report of civilians having to undergo filtration conducted by pro-Russian forces in order to evacuate to unoccupied territory emerge. The mayor of Mariupol, Vadym Boychenko, said that 31,000 Mariupol residents were forcibly deported to the territory of Russia and the DPR through the filtration system. Civilians declared having been interrogated, searched, fingerprinted, etc. The pro-Russian filtration system consolidates in the following months. On the outskirts of the city, temporarily controlled by the Russians, the occupiers began the forced mobilization of men.

- 28 Apr 2022      **Concerns for cholera** led to a resolution calling for additional measures to be taken in regard to drinking and wastewater particularly in places which had become locations for Ukrainian refugees.
- 30 Apr 2022      The UN and ICRC commenced evacuations through a humanitarian corridor. 20 civilians left the Azovstal steel plant with negotiations towards the remaining approximate thousand. The conditions in Mariupol in general were described as "medieval", with sanitary and health infrastructure destroyed.
- 1 May 2022      On May 1, the first evacuation of the civilian population was successful with the support of the UN and the Red Cross. As a result, about 100 civilians (according to Ukrainian authorities) and about 80 civilians (according to Russian authorities) were evacuated.
- 9 May 2022      **The DPR held a Victory Day parade in Mariupol.**
- 15 May 2022      **Over 500 vehicles evacuated from Mariupol to Zaporizhzhia in the largest evacuation from the city since the start of the siege.**
- 16 May 2022      Russian Defense Ministry claimed to have opened a humanitarian corridor from Azovstal steel plant for wounded Ukrainian service personnel to receive treatment in Donetsk Oblast. 264 were evacuated. and held as prisoners of war.
- 17 May 2022      Ukrainian troops based at the Azovstal steel plant were ordered to surrender by the Ukrainian military command. The WHO warned of possible cholera outbreaks due to the damage to water and sanitation infrastructure, stating that there were cases of sewerage and drinking water being mixed in the city.
- 20 May 2022      All remaining Ukrainian troops at the Azovstal steel plant surrendered and the Russian Ministry of Defense declared full control over the city. Filtration of civilians seeking to exit Mariupol continued, with additional claims that Russian forces planned to conduct a census for men aged 18 – 50 and forcibly mobilise them into the DPR.

## ENDNOTES

- <sup>1</sup> The term ‘RFAF’ or Russian forces is used throughout this report. Pro-Russian forces is also included where there are both RFAF and DPR Forces and paramilitaries acting in concert. Where RFAF is used, only Russian forces affiliated with the Russian State are attributed.
- <sup>2</sup> Since 20 February 2014, Crimea has been under Russian military occupation.
- <sup>3</sup> GRC-001; GRC-002
- <sup>4</sup> GRC-003
- <sup>5</sup> GRC-004; GRC-005; ‘Pure genocide’: civilian targets in Mariupol ‘annihilated’ by Russian attacks, Luke Harding for The Guardian (9 March 2022), available at: <https://www.theguardian.com/world/2022/mar/09/pure-genocide-civilian-targets-in-mariupol-annihilated-by-russian-attacks>.
- <sup>6</sup> GRC-006; ‘Why? Why? Why?’ Ukraine’s Mariupol descends into despair, Mstyslav Chernov, Evgeniy Maloletka and Lori Hinant for Associated Press (16 March 2022), available at: <https://apnews.com/article/russia-ukraine-war-mariupol-descends-into-despair-708cb8f4a171ce3f1c1b0b8d090e38e3>.
- <sup>7</sup> GRC-236; For general principles on filtration please see Section V. See also: *Conference room paper of the Independent International Commission of Inquiry on Ukraine, A/HRC/52/CRP.4*, (29 August 2023), available at: [https://www.ohchr.org/sites/default/files/2023-08/A\\_HRC\\_52\\_CRP.4\\_En%20%28003%29.pdf](https://www.ohchr.org/sites/default/files/2023-08/A_HRC_52_CRP.4_En%20%28003%29.pdf); “We had no Choice”, *Human Rights Watch*, (1 September 2022), available at: <https://www.hrw.org/report/2022/09/01/we-had-no-choice/filtration-and-crime-forcibly-transferring-ukrainian-civilians>.
- <sup>8</sup> As for the Drama Theatre, on 2 March, the Mariupol City Council had announced that the Theatre would serve as a civilian shelter.
- <sup>9</sup> *Zelensky’s Address To Congress, Annotated*, Zachary B. Wolf, Curt Merrill, and Ji Min Lee for CNN (16 March 2022), available at: <https://edition.cnn.com/interactive/2022/03/politics/ukraine-zelensky-congress-speech-annotated/>; see also *March 16, Russia-Ukraine News*, CNN, (16 March 2022), available at: [https://edition.cnn.com/europe/live-news/ukraine-russia-putin-news-03-16-22/h\\_b7ac8601da74ad3d21cec04bc5c81471](https://edition.cnn.com/europe/live-news/ukraine-russia-putin-news-03-16-22/h_b7ac8601da74ad3d21cec04bc5c81471).
- <sup>10</sup> GRC-007
- <sup>11</sup> GRC-008
- <sup>12</sup> High Commissioner Updates the Human Rights Council On Mariupol, Ukraine, Office Of The High Commissioner For Human Rights (16 June 2022), available at: <https://www.ohchr.org/en/statements/2022/06/high-commissioner-updates-human-rights-council-mariupol-ukraine>; GRC-009; *Mariupol Updated Building Damage Assessment Overview Map - Livoberezhnyi And Zhovtnevyi Districts*, United Nations Institute For Training And Research (15 June 2022), available at: <https://www.unitar.org/maps/map/3561>.
- <sup>13</sup> GRC-237
- <sup>14</sup> GRC-010
- <sup>15</sup> GRC-047
- <sup>16</sup> See *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, (2 February 2017), A/HRC/34/64, available at: <https://documents.un.org/doc/undoc/gen/g17/026/63/pdf/g1702663.pdf>
- <sup>17</sup> See *The siege and recapture of eastern Ghouta*, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, (20 June 2018), A/HRC/38.CRP.3, available at: [https://www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session38/documents/A\\_HRC\\_38\\_CRP\\_3\\_EN%20%281%29.pdf](https://www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session38/documents/A_HRC_38_CRP_3_EN%20%281%29.pdf).
- <sup>18</sup> GRC-010; GRC-011
- <sup>19</sup> GRC-012; GRC-013; GRC-014
- <sup>20</sup> *High Commissioner Updates The Human Rights Council On Mariupol, Ukraine*, Office Of The High Commissioner For Human Rights (16 June 2022), available at: <https://www.ohchr.org/en/statements/2022/06/high-commissioner-updates-human-rights-council-mariupol-ukraine>
- <sup>21</sup> The full GRC SMJT methodology is available upon request.
- <sup>22</sup> Воздушно-десантные войска России, ВДВ, *Vozdushno-desantnye voyska Rossii* (or VDV).
- <sup>23</sup> GRC-015; GRC-016; GRC-017; GRC-018; GRC-019; GRC-020; Port City Of Mariupol Comes Under Fire After Russia Invades Ukraine, Aleksandar Vasovic for Reuters (24 February 2022), available at: <https://www.reuters.com/world/europe/strategic-city-mariupol-wakes-blasts-russia-invades-ukraine-2022-02-24/>; Ukraine Crisis: Protecting Civilians ‘Priority Number One’; Guterres Releases \$20M For Humanitarian Support, UN News (24 February 2022), available at: <https://web.archive.org/web/20220301084123/https://news.un.org/en/story/2022/02/1112662>.
- <sup>24</sup> GRC-021; GRC-022; Ukraine: Cluster Munitions Kill Child And Two Other Civilians Taking Shelter At A Preschool, Amnesty International (27 February 2022), available at: <https://www.amnesty.org/en/latest/news/2022/02/ukraine-cluster-munitions-kill-child-and-two-other-civilians-taking-shelter-at-a-preschool/>.

<sup>25</sup> GRC-023

<sup>26</sup> GRC-024; GRC-025; GRC-026

<sup>27</sup> GRC-027; GRC-028; GRC-029; GRC-030; GRC-031

<sup>28</sup> GRC-003

<sup>29</sup> GRC-032; GRC-033; GRC-034; GRC-035; GRC-036; GRC-037

<sup>30</sup> GRC-044; GRC-045; GRC-046; *Russia-Ukraine news March 1, 2022*, Sangal et al. for CNN (1 March 2022), available at: [https://www.cnn.com/europe/live-news/ukraine-russia-putin-news-03-01-22/h\\_0e3d20b474aa007bb1e4acc0d0fba984](https://www.cnn.com/europe/live-news/ukraine-russia-putin-news-03-01-22/h_0e3d20b474aa007bb1e4acc0d0fba984).

<sup>31</sup> GRC-048; *Mariupol Mayor Reports Mass Casualties From Nonstop Russian Attack*, Reuters (2 March 2022), available at: <https://www.reuters.com/world/mariupol-mayor-reports-mass-casualties-nonstop-russian-attack-2022-03-02/>; *Ukrainian City Of Mariupol 'Near To Humanitarian Catastrophe' After Bombardment*, Joel Gunter for BBC News (2 March 2022), available at: <https://www.bbc.com/news/world-europe-60585603>.

<sup>32</sup> GRC-049

<sup>33</sup> GRC-050; GRC-051

<sup>34</sup> GRC-052; GRC-053; *Siege Of Mariupol: Fresh Russian Attacks Throw Evacuation Into Chaos*, Joel Gunter for BBC News (5 March 2022), available at: <https://web.archive.org/web/20220306024228/https://www.bbc.com/news/world-europe-60629851>.

<sup>35</sup> GRC-054; GRC-055; GRC-056; *Siege Of Mariupol: Fresh Russian Attacks Throw Evacuation Into Chaos*, Joel Gunter (5 March 2022), available at: <https://www.bbc.com/news/world-europe-60629851>; *UK Accuses Russia Of Using Mariupol Ceasefire Plan To Reset Forces*, Reuters (5 March 2022), available at: <https://www.reuters.com/world/europe/uk-accuses-russia-using-mariupol-ceasefire-plan-reset-forces-2022-03-05/>.

<sup>36</sup> GRC-057; GRC-058; GRC-059

<sup>37</sup> GRC-033; GRC-046; GRC-060; GRC-061; GRC-062; GRC-063; *Ukrainian City Of Mariupol 'Near To Humanitarian Catastrophe' After Bombardment*, Joel Gunter for BBC News (2 March 2022), available at: <https://www.bbc.com/news/world-europe-60585603>.

<sup>38</sup> See *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, (2 February 2017), A/HRC/34/64, available at: <https://documents.un.org/doc/undoc/gen/g17/026/63/pdf/g1702663.pdf>.

<sup>39</sup> See *The siege and recapture of eastern Ghouta*, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, (20 June 2018), A/HRC/38.CRP.3, available at: [https://www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session38/documents/A\\_HRC\\_38\\_CRP\\_3\\_EN%20%281%29.pdf](https://www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session38/documents/A_HRC_38_CRP_3_EN%20%281%29.pdf).

<sup>40</sup> See, GRC-010; GRC-011

<sup>41</sup> *Ibid.*

<sup>42</sup> GRC-064

<sup>43</sup> GRC-011

<sup>44</sup> GRC-066

<sup>45</sup> GRC-066

<sup>46</sup> GRC-066

<sup>47</sup> GRC-065

<sup>48</sup> GRC-066

<sup>49</sup> See, generally, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, (2 February 2017), A/HRC/34/64, available at: <https://documents.un.org/doc/undoc/gen/g17/026/63/pdf/g1702663.pdf>; *The siege and recapture of eastern Ghouta*, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic, (20 June 2018), A/HRC/38.CRP.3, available at: [https://www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session38/documents/A\\_HRC\\_38\\_CRP](https://www.ohchr.org/sites/default/files/hrbodies/hrc/regularsessions/session38/documents/A_HRC_38_CRP)

<sup>50</sup> GRC-013; GRC-014; GRC-067

<sup>51</sup> GRC-068

<sup>52</sup> GRC-069

<sup>53</sup> GRC-246

<sup>54</sup> GRC-070

<sup>55</sup> GRC-071

<sup>56</sup> *Ibid.*

<sup>57</sup> Whilst outside the temporal scope of the siege of Mariupol it is relevant that on 5 March 2024, the ICC issued two further arrest warrants against Mr Sergei Ivanovich Kobylash and Mr Viktor Nikolayevich Sokolov for attacks on critical energy infrastructure and specifically attacks against electricity between 10 October 2022 and 9 March 2022. The ICC indicated that both are allegedly responsible for the war crime of directing attacks at civilian objects (article 8(2)(b)(ii) of the Rome Statute) and the war crime of causing excessive incidental harm to civilians or damage to civilian objects (article 8(2)(b)(iv) of the Rome Statute), and the crime against humanity of inhumane acts under article 7(1)(k) of the Rome Statute.

<sup>58</sup> GRC-001

<sup>59</sup> As evidenced by a notable decline in internet connectivity on 29 February. See GRC-003; GRC-072

<sup>60</sup> GRC-004; GRC-074; ‘*Pure Genocide: Civilian Targets In Mariupol Annihilated By Russian Attacks*, Luke Harding for The Guardian (9 March 2022), available at: <https://www.theguardian.com/world/2022/mar/09/pure-genocide-civilian-targets-in-mariupol-annihilated-by-russian-attacks>;

<sup>61</sup> GRC-075

<sup>62</sup> GRC-076

<sup>63</sup> Open Infrastructure Map (last accessed 13 February 2024), available at: [www.openinframap.org](http://www.openinframap.org)

<sup>64</sup> North of Mariupol: Number 32, number 6, number 41, Illiyh-110. South-west of Mariupol: Micto-11. South-east of Mariupol: Micto-4, AP3-13, AP3-10, AP3-7, AP3-6, AP3-1, AP3-2, AP3-5, AP3-8.

<sup>65</sup> GRC-077; GRC-078; GRC-079

<sup>66</sup> GRC-080

<sup>67</sup> GRC-081

<sup>68</sup> *Facilitation And Monitoring Of Infrastructure Repair In Eastern Ukraine January 2017 – August 2018*, Organisation for Security and Co-operation in Europe Special Monitoring Mission to Ukraine (December 2018), available at: <https://www.osce.org/files/f/documents/9/0/405473.pdf>

<sup>69</sup> *Ibid.*; GRC-082

<sup>70</sup> GRC-083; GRC-084

<sup>71</sup> GPS coordinates: 48.17175, 37.83027.

<sup>72</sup> GRC-083

<sup>73</sup> GRC-085

<sup>74</sup> GRC-086

<sup>75</sup> GRC-004 (“During the first week, they destroyed all 15 electricity inputs in the city. From the 5th day of the war, we tried one way or another to restore electricity, but on the seventh day we were left without electricity. Accordingly, we also lost heat. The occupiers perfectly understood our sources of water supply. And even before the start of the active phase of the war, they cut off one spring that provided 70% of the water volume. They killed the electric pump that pumped water to Mariupol. Then they cut off the second inlet, which served as our backup source of water supply. Yes, on the ninth day of the war, we ran out of water. After that, they deprived us of gas,” says Vadym Boychenko.)

<sup>76</sup> *General Coordination Meeting – Mariupol, Ukraine*, OCHA (11 April 2019), available at: [https://web.archive.org/web/20230920021420/https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/gcm\\_mariupol\\_20190411.pdf](https://web.archive.org/web/20230920021420/https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/gcm_mariupol_20190411.pdf)

<sup>77</sup> *Ibid.*

<sup>78</sup> GRC-087

<sup>79</sup> GRC-088

<sup>80</sup> GRC-089

<sup>81</sup> The GRC SMJT previously investigated the attacks on announced distribution points in Chernihiv in February to March 2022, when the city had almost been encircled by the RFAF. The focus of the SMJT’s investigation was the attack on a bread queue near Soyuz Store on 16 March 2022. This investigation established that Soyuz store was a civilian object and widely announced distribution point, vital for civilians on Dotsenka Street in Chernihiv on the third week of full-scale Russian invasion. The report and the SMJT’s findings were shared confidentially with Ukrainian prosecutors.

<sup>82</sup> GRC-090

<sup>83</sup> GRC-091

<sup>84</sup> GRC-092

<sup>85</sup> GRC-090

<sup>86</sup> Schiryi Kum supermarket, Metalurhiv 211, (47.13058578, 37.56603903), damage first visible on satellite imagery on 13 March 2022.

ATB supermarket, 69 Karpinskoho Street, (47.1305735, 37.5594558), Crater within 10m visible on 13 March 2022, second crater within 20m visible on 26 March 2022.

Zerkal’nyy supermarket, 86A Budevyl’nykiv Avenue, (47.095686, 37.522725), damage first visible on satellite imagery on 14 March 2022.

<sup>87</sup> Schiryi Kum, 24A Bahchivanji Street, (47.09114591, 37.51948506), damage first visible on satellite imagery on 14 March 2022; further damage by 29 March 2022.

Schiryi Kum, Shevchenka Blvd, 89/105, (47.10914794, 37.55549164), damage first visible on satellite imagery on 26 March 2022.

<sup>88</sup> *Ukraine: “Children”: The attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine*, Amnesty International, (30 June 2022), available at: <https://www.amnesty.org/en/documents/eur50/5713/2022/en>; *Report On Violations of*

*International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine Since 24 February 2022*, OSCE, (12 April 2022), available at: <https://www.osce.org/files/f/documents/f/a/515868.pdf>; Mariupol theatre: 'We knew something terrible would happen', BBC News, (17 March 2022), available at: <https://www.bbc.co.uk/news/world-europe-60776929>.

<sup>89</sup> GRC-093

<sup>90</sup> GRC-094

<sup>91</sup> GRC-095

<sup>92</sup> *Mariupol theatre: 'We knew something terrible would happen'*, BBC News, (17 March 2022), available at: <https://www.bbc.co.uk/news/world-europe-60776929>; *Mariupol: Russia accused of bombing theatre and swimming pool sheltering civilians*, The Guardian, (17 March 2022), available at: <https://www.theguardian.com/world/2022/mar/16/mariupol-ukraine-russia-seized-hospital>; *Russia's attack on Mariupol theatre a clear war crime, Amnesty says*, BBC News, (30 June 2022), available at: <https://www.bbc.com/news/world-europe-61979873>.

<sup>93</sup> *Mariupol theatre: 'We knew something terrible would happen'*, BBC News, (17 March 2022), available at: <https://www.bbc.co.uk/news/world-europe-60776929>; *Ukraine: Mariupol Theater Hit by Russian Attack Sheltered Hundreds*, Human Rights Watch, (16 March 2022), available at: <https://www.hrw.org/news/2022/03/16/ukraine-mariupol-theater-hit-russian-attack-sheltered-hundreds>.

<sup>94</sup> *Mariupol theatre: 'We knew something terrible would happen'*, BBC News, (17 March 2022), available at: <https://www.bbc.co.uk/news/world-europe-60776929>.

<sup>95</sup> *Report On Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine Since 24 February 2022*, OSCE, (12 April 2022), available at: <https://www.osce.org/files/f/documents/f/a/515868.pdf>

<sup>96</sup> GRC-096; GRC-097

<sup>97</sup> GRC-096

<sup>98</sup> *Our City Was Gone*, Human Rights Watch (February 2024), page 32-33: "After running water stopped [...] the city's main source of water became a well about one kilometer to the east of the Drama Theater [...] Other water sources included [...] a fire hydrant near the Drama Theatre."

<sup>99</sup> *Ibid.* page 38: "Kyivstar told Human Rights Watch that the lack of electricity citywide by early March made mobile phone coverage impossible, except at two locations: the immediate vicinity of the Drama Theater, from where Vodafone continued to transmit a signal until "its services were destroyed soon after by shelling," and an area close to Kyivstar's seven-story headquarters."

<sup>100</sup> GRC-096

<sup>101</sup> Analyst use of Google Earth Pro measuring tool

<sup>102</sup> *Mariupol theatre a clear war crime, Amnesty says*, BBC News, (30 June 2022), available at: <https://www.bbc.com/news/world-europe-61979873>.

<sup>103</sup> GRC-098

<sup>104</sup> GRC-099

<sup>105</sup> GRC-100

<sup>106</sup> GRC-101; GRC-102

<sup>107</sup> GRC-103

<sup>108</sup> GRC-104

<sup>109</sup> GRC-105

<sup>110</sup> GRC-106

<sup>111</sup> GRC-107

<sup>112</sup> GRC-108

<sup>113</sup> *Ibid.*

<sup>114</sup> GRC-109; GRC-110

<sup>115</sup> GRC-111

<sup>116</sup> GRC-112

<sup>117</sup> *Our City Was Gone*, Human Rights Watch (February 2024), p. 138

<sup>118</sup> GRC-113

<sup>119</sup> *Ibid.*

<sup>120</sup> GRC-114

<sup>121</sup> GRC-090; Schiryi Kum supermarket, Metalurhiv 211, (47.13058578, 37.56603903).

<sup>122</sup> GRC-115

<sup>123</sup> GRC-114

<sup>124</sup> Confidential Internal Note – final analysis by joint expert report pending as at 22.3.24

<sup>125</sup> GRC-116; GRC-117

<sup>126</sup> GRC-118

<sup>127</sup> GRC-119

<sup>128</sup> GRC-120

<sup>129</sup> GRC-121

<sup>130</sup> *Ibid.*

<sup>131</sup> See Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 1 August 1949, 75 UNTS 31 (entered into force 1 October 1950) (GC I), Art. 1; Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 1 August 1949, 75 UNTS 87 (entered into force 1 October 1950) (GC IV), Art. 19(1); Protocol Additional (I) to the Geneva Conventions of 1 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 115 UNTS 3, 8 June 1977 (entered into force 7 December 1978) (AP I), Art. 13(1); see also ICRC Customary International Humanitarian Law Study, Rules 5-10 and 25-30.

<sup>132</sup> Photograph shared confidentially by individual present at the scene (name and details withheld by GRC).

<sup>133</sup> *Ukraine Rapid Damage and Needs Assessment*, World Bank, Government of Ukraine, European Union and United Nations (June 2022), p. 83, available at: <https://documents1.worldbank.org/curated/en/099445209072239810/pdf/P17884304837910630b9c6040ac12428d5c.pdf>.

<sup>134</sup> *High Commissioner updates the Human Rights Council on Mariupol, Ukraine*, OHCHR (16 June 2022), available at: <https://www.ohchr.org/en/statements/2022/06/high-commissioner-updates-human-rights-council-mariupol-ukraine>.

<sup>135</sup> Photograph shared confidentially by individual present at the scene (name and details withheld by GRC).

<sup>136</sup> Photograph shared confidentially by individual present at the scene (name and details withheld by GRC).

<sup>137</sup> *Destruction of Healthcare in Mariupol*, Ukrainian Healthcare Centre (2022), pp. 3-4 and 18, available at: [https://drive.google.com/file/d/1tJyyae\\_9eBF\\_lfkPiDb5i9D2Bqb-2n5w/view](https://drive.google.com/file/d/1tJyyae_9eBF_lfkPiDb5i9D2Bqb-2n5w/view). Note that the UHC collected information about points of healthcare services provision (PHPs), i.e., medical units that provide healthcare services to patients, which may belong to bigger health facilities and operate in different locations. The report’s methodology states that they managed to include over 90% all the PHPs and medical care facilities operating in Mariupol (pp. 5-7).

<sup>138</sup> In this sense see, for instance, *Destruction and Devastation – One Year of Russia’s Assault on Ukraine’s Health Care System*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre (February 2023), p. 47, available at: <https://phr.org/wp-content/uploads/2023/02/REPORT-Destruction-and-Devastation-Ukraine-Feb-21-2023-ENG-WebOptimized.pdf>; *Attacks on Health Care in Ukraine*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre, *Attacks on Health Care in Ukraine*, Event ID: 34322, <https://www.attacksonhealthukraine.org/>. Note that the facility was then occupied by Russian forces who forbade both medical personnel and civilians sheltering on the premises to leave under the threat of being shot. See also GRC-122; GRC-123; GRC-124.

<sup>139</sup> GRC-125; *Attacks on Health Care in Ukraine*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre, Event ID: 34713, <https://www.attacksonhealthukraine.org/>.

<sup>140</sup> GRC-125; GRC-126

<sup>141</sup> *Destruction and Devastation – One Year of Russia’s Assault on Ukraine’s Health Care System*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre (February 2023), p. 47, available at: <https://phr.org/wp-content/uploads/2023/02/REPORT-Destruction-and-Devastation-Ukraine-Feb-21-2023-ENG-WebOptimized.pdf>.

<sup>142</sup> *Ibid.*

<sup>143</sup> *Attacks on Health Care in Ukraine*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre, Event ID: 34322, available at: <https://www.attacksonhealthukraine.org/>.

<sup>144</sup> *Destruction and Devastation – One Year of Russia’s Assault on Ukraine’s Health Care System*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre (February 2023), p. 47, available at: <https://phr.org/wp-content/uploads/2023/02/REPORT-Destruction-and-Devastation-Ukraine-Feb-21-2023-ENG-WebOptimized.pdf>.

<sup>145</sup> *Ibid.*; GRC-122; GRC-123; GRC-124.

<sup>146</sup> *Attacks on Health Care in Ukraine*, eyeWitness to Atrocities, Insecurity Insight, Media Initiative for Human Rights, Physicians for Human Rights and Ukrainian Healthcare Centre, Event ID: 34756, available at: <https://www.attacksonhealthukraine.org/>.

<sup>147</sup> *Ibid.* Event ID: 34713.

<sup>148</sup> GRC-127

<sup>149</sup> *Ibid.*

<sup>150</sup> GRC-125; GRC-126

<sup>151</sup> GRC-128

<sup>152</sup> GRC-129

<sup>153</sup> GRC-130

<sup>154</sup> GRC-131; GRC-132

<sup>155</sup> AP I, Art. 54.

<sup>156</sup> GRC-133

<sup>157</sup> GRC-134; GRC-135

<sup>158</sup> GRC-136

<sup>159</sup> GRC-137; GRC-138

<sup>160</sup> GRC-139

<sup>161</sup> Photograph shared confidentially by individual present at the scene (name and details withheld by GRC).

<sup>162</sup> Photograph shared confidentially by individual present at the scene (name and details withheld by GRC).

<sup>163</sup> GRC-140; GRC-141

<sup>164</sup> GRC-141; GRC-142; GRC-143; GRC-144

<sup>165</sup> GRC-143

<sup>166</sup> GRC-137; GRC-138

<sup>167</sup> GRC-145; GRC-146.

<sup>168</sup> GRC-146; GRC-147

<sup>169</sup> GRC-148

<sup>170</sup> GRC-149

<sup>171</sup> *"Our City Was Gone, "Russia's Devastation of Mariupol, Ukraine*, Human Rights Watch (2024), Section IV, available at: [https://www.hrw.org/feature/russia-ukraine-war-mariupol/report#\\_Toc157091166](https://www.hrw.org/feature/russia-ukraine-war-mariupol/report#_Toc157091166).

<sup>172</sup> See Additional Protocol I, Art. 58(a).

<sup>173</sup> GRC-150

<sup>174</sup> *Ibid.*; GRC-151

<sup>175</sup> GRC-152

<sup>176</sup> GRC-153

<sup>177</sup> *Humanitarian aid convoy hits problems trying to reach Mariupol - Ukrainian deputy PM*, Reuters (15 March 2022), available at: <https://www.reuters.com/world/humanitarian-aid-convoy-hits-problems-trying-reach-mariupol-ukrainian-deputy-pm-2022-03-15/>.

<sup>178</sup> *Ukraine: Ensure Safe Passage, Aid for Mariupol Civilians*, Human Rights Watch (21 March 2022), available at: <https://www.hrw.org/news/2022/03/21/ukraine-ensure-safe-passage-aid-mariupol-civilians#:~:text=Russian%20and%20Ukrainian%20forces%20reportedly,failed%20as%20ceasefires%20were%20broken>.

<sup>179</sup> GRC-154

<sup>180</sup> GRC-155

<sup>181</sup> GRC-156

<sup>182</sup> GRC-157

<sup>183</sup> GRC-158; See also *Russian forces stole buses driving to rescue people from Mariupol, Ukraine says*, CNN (22 March 2022), available at: [https://edition.cnn.com/europe/live-news/ukraine-russia-putin-news-03-22-22/h\\_8b97ee680fd4597051590dde80945ce2](https://edition.cnn.com/europe/live-news/ukraine-russia-putin-news-03-22-22/h_8b97ee680fd4597051590dde80945ce2), claiming however that the buses were empty.

<sup>184</sup> *Russian forces stole buses driving to rescue people from Mariupol, Ukraine says*, CNN (22 March 2022), available at: [https://edition.cnn.com/europe/live-news/ukraine-russia-putin-news-03-22-22/h\\_8b97ee680fd4597051590dde80945ce2](https://edition.cnn.com/europe/live-news/ukraine-russia-putin-news-03-22-22/h_8b97ee680fd4597051590dde80945ce2).

<sup>185</sup> GRC-159

<sup>186</sup> GRC-003

<sup>187</sup> GRC-073

<sup>188</sup> GRC-160

<sup>189</sup> GRC-160

<sup>190</sup> *"Up to 1,700 people were hiding in the drama theater. We lived in a lodge on the 1st floor. It was scary"* («У драмтеатрі ховалися до 1700 чоловік. Ми жили у ложі на 1 поверсі. Було страшно»),

Museum of Civilian Voices (7 November 2022), available at: <https://civilvoicesmuseum.org/stories/v-dramteatre-pryatalis-do-1700-chelovek-my-zhili-v-lozhe-na-1-etazhe-bylo-strashno>; *"It was shocking when the enemy purposefully hit a crowd*



- of people” (“Шокувало, коли ворог цілеспрямовано бив по скупченням людей”), Museum of Civilian Voices (29 March 2022), available at: <https://civilvoicesmuseum.org/stories/shokovalo-koli-vorog-cilespryamovano-biv-po-skupchennyam-lyudej>; “Rainwater is tasteless, even if you boil it” (“Дождова вода несмачна, навіть якщо її закип’ятити”), Museum of Civilian Voices (4 August 2022), available at: <https://civilvoicesmuseum.org/stories/%22dozhdevaya-voda-nevkusnaya-dazhe-esli-ee-zakipyatit%22>; GRC-161
- <sup>191</sup> Museum of Civilian Voices, «Мама померла в окупації від голоду та нестачі води» (22 February 2023), available at: <https://civilvoicesmuseum.org/stories/mama-umerla-v-okkupacii-ot-goloda-i-nehvatki-vody>.
- <sup>192</sup> GRC-162; GRC-163; GRC-164; GRC-165.
- <sup>193</sup> GRC-162; GRC-163; GRC-166 See also GRC-167; GRC-170
- <sup>194</sup> GRC-168
- <sup>195</sup> GRC-169
- <sup>196</sup> GRC-170
- <sup>197</sup> Photograph shared confidentially by individual present at the scene (name and details withheld by GRC).
- <sup>198</sup> GRC-171; GRC-172; GRC-173; GRC-174; GRC-175; GRC-176; GRC-177; GRC-178; GRC-179; GRC-180; GRC-181; GRC-182; GRC-183; GRC-184; GRC-185; GRC-186; GRC-187; GRC-189
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- <sup>200</sup> GRC-192
- <sup>201</sup> GRC-193
- <sup>202</sup> GRC-194
- <sup>203</sup> GRC-171
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- <sup>216</sup> 47.036074, 37.470794.
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<sup>265</sup> *Starvation Training Manual*, Global Rights Compliance, (2022), page 15.

<sup>266</sup> AP I, Arts. 48, 51(2), and 52(2); AP II, Art. 13(2); ICRC Rules 1 and 7.

<sup>267</sup> Art. 54(3)(b).

<sup>268</sup> AP I, Arts. 51(5)(b) and 57(2)(a)(iii); Customary IHL Rule 14.

<sup>269</sup> See ICRC Rule 8.

<sup>270</sup> AP I, Arts. 51(5)(b) and 57(2)(a)(iii); Customary IHL Rule 14.

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<sup>273</sup> See *The Starvation Makers: The Use of Starvation by Warring Parties in Yemen as a Method of Warfare*, Mwatana for Human Rights and Global Rights Compliance, (September 2021), pp. 94-95.

<sup>274</sup> *Q&A and Lexicon on Humanitarian Access*, ICRC, (June 2014), p. 6.

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<sup>278</sup> This is reiterated in Kosovo Specialist Chambers Law, Art 14 (1)(b)(xxv) and Malabo Protocol, Art 28D(b)(xxvi).

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<sup>281</sup> Wayne Jordash, Catriona Murdoch and Joe Holmes, ‘*Strategies for Prosecuting Mass Starvation*’ [2019] 17(4) *Journal of International Criminal Justice (JICJ)* 849; Bridget Conley, Alex De Waal, Catriona Murdoch, and Wayne Jordash (eds), *Accountability for Mass Starvation: Testing the Limits of the Law* (OUP 2022), chapters 5 and 10.

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<sup>286</sup> ICRC Rules 25 and 28-29.

<sup>287</sup> *Ibid.* at Rule 8.

<sup>288</sup> *Ibid.*, at Rule 14.

<sup>289</sup> Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, ¶ 1971 (Yves Sandoz, Christophe Swinarski & Bruno Zimmermann eds., 1987).

<sup>290</sup> Additional Protocol I, Art. 51(3).

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<sup>292</sup> ICRC DPH Guidance, p. 55.

<sup>293</sup> Niels Melzer, *Keeping the balance between military necessity and humanity: a response to four critiques of the ICRC's interpretive guidance on the notion of direct participation in hostilities*, International Law and Politics 42, 914 (2010).

<sup>294</sup> Additional Protocol I, Arts. 86(1) and 87.

<sup>295</sup> ICRC Rules 152–153.

<sup>296</sup> Rome Statute, Art 28.

<sup>297</sup> *Prosecutor v Jean-Pierre Bemba Gombo* (Judgment), ICC-01/05-01/08-3343, (21 March 2016), para. 180, available at [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2016\\_02238.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2016_02238.PDF); *Prosecutor v Jean-Pierre Bemba Gombo* (Confirmation Decision), ICC-01/05-01/08-424, (15 June 2009), paras. 413 and 417, available at: [https://icc-cpi.int/sites/default/files/CourtRecords/CR2009\\_04528.PDF](https://icc-cpi.int/sites/default/files/CourtRecords/CR2009_04528.PDF)

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<sup>299</sup> *Prosecutor v Jean-Pierre Bemba Gombo* (Judgment), paras. 205-207.

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<sup>301</sup> *Prosecutor v Jean-Pierre Bemba Gombo* (Judgment), para. 170; *Prosecutor v Jean-Pierre Bemba Gombo* (Confirmation Decision) para. 407.

<sup>302</sup> *Prosecutor v Jean-Pierre Bemba Gombo* (Confirmation Decision), para. 432.

<sup>303</sup> Zejnil Delalid ("Čelebidri"), International Criminal Tribunal for the former Yugoslavia, Case No. IT-96-21-A, Appeal Judgement, 20 Feb. 2001, paras. 239, 313.

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<sup>305</sup> *Prosecutor v Jean-Pierre Bemba Gombo* (Judgment), paras. 202-204. Where a commander/superior failed in preventing the crime, after-the-fact punishment does not negate the breach of this obligation. See *Prosecutor v Naser Orić*, (Judgment), IT-03-68-T, (30 June 2006), para. 326.

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<sup>307</sup> *Vidoje Blagojević and Dragan Jokić*, International Criminal Tribunal for the former Yugoslavia, Case No. IT-02-60-A, Appeal Judgement, 9 May 2007, para 280.

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<sup>312</sup> *Ukraine: Grave Concerns*, OHCHR, (12 March 2022), available at : <https://www.ohchr.org/en/press-briefing-notes/2022/03/ukraine-grave-concerns>.

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