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*UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*

**Protection Fundamental Freedoms and Russian Terroristic Activities in Ukraine**

Our Association of Reintegration of Crimea (ARC)<sup>1</sup>, is non-governmental expert and human rights organisation<sup>2</sup>, our expert researches are related with human rights and humanitarian issues, including their fundamental rights, informational rights, right to development, also as with issues of the transitional justice for Crimean peninsula, with relevant humanitarian, informational, economic, social and financial impacts.

Since 2020 we sent more than 50 submissions and proposals to UN human rights' strictures, major part of them were published in the official web-sources. Our experts researched the issues of terroristic aspects of the Russian aggression against Ukraine, including activities of Russia-financed and Russian-controlled activities of terroristic groups on the Russia-occupied territories<sup>3</sup>.

Our Association presented own submission to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, on issue of the situation of systematic human rights violation by Russia in the Crimea in the framework of so-called "countering extremism and terrorism".

We pointed that after the occupation of Crimea in 2014, Russia, in violation of the requirements of the IV Geneva Convention, extended the action of its own criminal legislation and legislation on administrative offenses to the occupied territory. This legislation contains the concepts of "countering the extremism" and "countering the ideology of terrorism".

We informed the UN Rapporteur that the accusations of "terrorism" are actively used by the Russia's "authorities" to persecute dissent, in particular Crimean Tatars and Ukrainians who oppose the occupation, representatives of some religious communities, and other individuals and groups deemed undesirable by the occupiers. The very existence of such a concept as "ideology of terrorism" in the criminal legislation of Russia can be considered a marker of the authoritarian nature of the Russian political regime. As we stressed this fake concept does not exist in international criminal law and criminal law of democratic countries<sup>4</sup>.

As it is well-known, since 24<sup>th</sup> of February 2022 Russia committed broad and open military aggression to all Ukraine's territory. Due last three months of fights Russia occupied some territories of Donetsk, Kharkiv, Kherson, Luhansk, Zaporizhzhya regions and strong fights are going near cities of Kharkiv, Mykolaiv and others with total population more than 8 millions persons near the frontline<sup>56789</sup>

Ukraine immediately filed an Application with the International Court of Justice (ICJ) on 25 February 2022, instituting proceedings against Russian in a dispute concerning the interpretation,

<sup>1</sup> <https://arc.construction/>

<sup>2</sup> [https://www.journal-officiel.gouv.fr/associations/detail-annonce/associations\\_b/20210005/1348](https://www.journal-officiel.gouv.fr/associations/detail-annonce/associations_b/20210005/1348)

<sup>3</sup> <https://www.ohchr.org/en/calls-for-input/calls-input/2021/report-human-rights-dimensions-technical-assistance-and-capacity>

<sup>4</sup> <https://arc.construction/16791>

<sup>5</sup> <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea-ukraine-minnesota-protocol.pdf>

<sup>6</sup> <https://www.ohchr.org/sites/default/files/2022-04/AssociationReintegrationCrimeaSubmission.pdf>

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

<sup>8</sup> <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea.pdf>

<sup>9</sup> [https://www.ohchr.org/sites/default/files/2022-05/arc\\_replies-dp.pdf](https://www.ohchr.org/sites/default/files/2022-05/arc_replies-dp.pdf)

application or fulfillment of the UN Convention on the Prevention and Punishment of the Crime of Genocide. Russia refused to execute the ICJ order in this case to stop the aggression<sup>10</sup>.

Russia-controlled troops and mercenaries committed in Ukraine, during this invasion, gross violation of international humanitarian law and international human rights' law already, including broad crimes against property, social and cultural rights and environment, attacks on medics, teachers, and journalists, social, medical, educational and informational infrastructure<sup>1112131415161718</sup>.

All war crimes, committed by Russian invaders during ongoing hostilities, including crimes against displaced persons, are connected with absolutely clear Russia's war targets in maximal destruction the population and civil infrastructure, including objects, essential for all Ukrainian ethnic and social groups that is a clear terroristic activities<sup>19</sup>.

Those issues now are the subject of the investigation the International Criminal Court<sup>20</sup> Due to gross violation the human rights Ukraine filed an application to the European Court of Human Rights also<sup>21</sup>. Russian government refused to execute the demand of the ECtHR and the order of ICJ to immediately suspend the military operations that it commenced on 24 February 2022.<sup>22</sup>

On March 16 2022, Russia was excluded from the Council of Europe and refused officially to execute the demands of European Convention on Human Rights<sup>23</sup> that guarantees rights to life. UN Human Rights Council (HRC) adopted its resolution 49/1 on 4 March 2022 where it expressed grave concern at the documented harm to the enjoyment of many human rights, resulting from the aggression against Ukraine by Russia<sup>24</sup>.

On 8 March 2022 UN human rights experts called on Russia to immediately end its invasion of Ukraine to avoid further bloodshed; experts recalled that intentional attacks against civilian objects amount to war crimes<sup>25</sup>, that are terroristic by their nature. In other UN experts' statements the negative impact of Russia's aggression on persons with disabilities and older persons was condemned<sup>26</sup>, and relevant risks for women's right to life were pointed<sup>2728</sup>.

UN Special Rapporteur on the right to adequate housing expressed on 9th of March the grave concerns about the serious violations of the right to adequate housing in Ukraine<sup>29</sup> that is directly connected with activities of Russia-controlled fake terroristic "Donetsk peoples republic" and "Luhansk peoples republic".

UN General Assembly in its resolution ES-11/1 on 2 March 2022 recognized that the military operations of Russia inside the sovereign territory of Ukraine are on a scale that the international community has not seen in Europe in decades and that urgent action is needed to save this generation from the scourge of war. In article 9 of this resolution UN General Assembly demanded to protect civilians, including persons in vulnerable situations<sup>30</sup>.

UN General Assembly in its resolution ES-11/2 on 24 March 2022, articles 5 and 8, demanded again full respect for and protection of objects indispensable to the survival of the civilian population and civilian infrastructure that is critical to the delivery of essential services in armed conflict;

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<sup>10</sup> <https://www.icj-cij.org/en/case/182>

<sup>11</sup> <https://sofrep.com/news/russian-soldiers-gang-raped-ukrainian-woman-as-her-child-was-crying-in-the-next-room/>

<sup>12</sup> <https://www.icj-cij.org/public/files/case-related/182/182-20220307-PRE-01-00-EN.pdf>

<sup>13</sup> <https://www.bbc.com/ukrainian/features-60888528>

<sup>14</sup> <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

<sup>15</sup> <https://www.bbc.com/news/world-europe-60547807>

<sup>16</sup> <https://arc.construction/26892>

<sup>17</sup> <https://news.un.org/en/story/2022/03/1113652>

<sup>18</sup> <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

<sup>19</sup> <https://www.washingtonpost.com/world/interactive/2022/ukraine-before-after-destruction-photos/>

<sup>20</sup> <https://www.icc-cpi.int/ukraine>

<sup>21</sup> <https://hudoc.echr.coe.int/eng-press?i=003-7282553-9922068>

<sup>22</sup> <https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf>

<sup>23</sup> <https://arc.construction/26897>

<sup>24</sup> <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session49/Pages/ResDecStat.aspx>

<sup>25</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28231&LangID=E>

<sup>26</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28200&LangID=E>

<sup>27</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28201&LangID=E>

<sup>28</sup> <https://www.ohchr.org/en/press-releases/2022/05/ukraine-millions-displaced-traumatised-and-urgently-need-help-say-experts>

<sup>29</sup> <https://arc.construction/26902>

<sup>30</sup> <https://digitallibrary.un.org/record/3959039?ln=ru>

stressed that the sieges of cities in Ukraine further aggravate the humanitarian situation for the civilian population and hamper evacuation efforts, and therefore demands to put an end to sieges<sup>31</sup>.

On 7 April 2022 the UN General Assembly adopted a resolution ES-11/3<sup>32</sup> calling for Russia to be suspended from the Human Rights Council<sup>33</sup>.

The UN Human Rights Council adopted on 12th of May a resolution on the deteriorating human rights situation in Ukraine where pointed that Russia should immediately cease its aggression, withdraw all its forces from the whole territory of Ukraine, and provide international human rights and humanitarian institutions with unhindered, immediate and safe access to persons transferred from conflict-affected areas<sup>34</sup>.

Those decisions are not executed by Russian troops, Russia-controlled mercenaries and terroristic groups, which established policy of terror and repressions over the Russia-occupied territories of Ukraine, especially in Kherson and Zaporizhzhya regions.

Russian troops, fake “military-civil administrations” and “military commandant’s offices” created by Russian invaders in Kherson and Zaporizhzhya regions use actively the practice of extrajudicial executions of local civil population, including persons who tried to evacuate themselves from hostilities zones<sup>3536</sup>. As it was pointed on the special session of UN General Assembly on 28<sup>th</sup> February 2022, more than 350 civil citizens, including 16 children were killed by the Russian troops during first five days of war, more that 2000 civil citizens were wounded. Now more than 300 Ukrainian children are killed by Russian invaders during hostilities and in the Russia-occupied areas, many of them were killed during their evacuation from the hostilities zones.

Till June, 2022 more new was crimes were committed by the Russian troops, including usage civil population as hostages and “human shield”, destruction objects of civil infrastructure, including pipe electric lines, bomb the civil objects, including kindergartens, schools and hospitals, TV and mobile broadcasting equipment by missiles and artillery.

A lot of persons, including them who tried to evacuate themselves from conflict zone, were killed or kidnapped as “non-loyal” ones or during looting their property. Russian occupation of Kherson, Melitopol and other cities in Southern Ukraine in March-May 2022 led to mass actions of resistance to the aggressor<sup>37</sup>. Russian troops block the humanitarian corridors established to evacuate civil population from hostilities zones and occupied territories of Kherson and Zaporizhzhya regions and block any information about such corridors.

On 8 April, at around 10:10 shortly before the bombing of the railway station in Kramatorsk, the Russian Ministry of Defence announced that they had hit railway stations in Sloviansk, Pokrovsk, and Barvinkove with “high-precision air-based missiles”. According to the Ukrainian government, between 1000 and 4000 civilians, mainly women and children, were present at the station awaiting evacuation from the region, which was being subjected to heavy Russian shelling. Missile kills at least 52 at crowded Ukrainian train station.

European Commission President Ursula von der Leyen, who visited Ukraine on the day of the attack, condemned the attack as despicable. French Foreign Minister Jean-Yves Le Drian described the attack as a crime against humanity, saying that it could not remain unpunished, while British Defence Secretary Ben Wallace condemned it as a war crime. UN Secretary-General António Guterres described the missile strike as completely unacceptable<sup>38</sup>.

On 14 July 2022, Russian missiles hit the city center of Vinnitsa, Ukraine. 22 people are known to be killed and 25 wounded, including three children. An office building, medical center and nearby residential buildings were damaged, about 50 cars burnt<sup>39</sup>.

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<sup>31</sup> <https://digitallibrary.un.org/record/3966630?ln=en>

<sup>32</sup> <https://digitallibrary.un.org/record/3967950?ln=ru>

<sup>33</sup> <https://news.un.org/en/story/2022/04/1115782>

<sup>34</sup> <https://arc.construction/31039>

<sup>35</sup> <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

<sup>36</sup> <https://www.bbc.com/news/world-europe-60547807>

<sup>37</sup> <https://arc.construction/26918>

<sup>38</sup> <https://apnews.com/article/russia-ukraine-europe-ap-top-news-migration-united-nations-ee2fa37bb0ace7b4714c084998765f65>

<sup>39</sup> <https://www.pravda.com.ua/eng/news/2022/07/14/7358046/>

From the point of view of international law, such acts can be considered as terrorism. According to the International Convention for the Suppression of the Financing of Terrorism, terrorism is considered, among other things, “any act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act”<sup>40</sup>.

In the form of Article 51 of Additional Protocol I to the Geneva Conventions, a link exists between the definition of terrorism in the Convention and the description of these war crimes in the Rome Statute.

This article establishes a general duty to protect civilians and lists the same crimes against civilians as the Rome Statute, including indiscriminate attacks that are not directed at military objectives, or that affect both military goals and civilians, as well as attacks on civilian objects without a distinction between them. The article’s second section states that “The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited”.

International law has also recognized the link between indiscriminate assaults on civilians and terrorism. Thus, in the case of Stanislav Galich, the International Tribunal for the Former Yugoslavia examined the development of viewpoints on the definition of terrorism as a strategy for warfare and noted that terror need not be the sole objective of an act of terrorism; rather, the intent to commit acts of terrorism against civilians can be connected to other objectives in armed conflict<sup>41</sup>.

All Ukraine’s attempts for the peace-building, including peace talks and negotiations with Russian government were unsuccessful and Russia rejects all peace propositions and it refuses to execute the demands of ICJ and ECtHR orders to stop the aggression and hostilities that are directly pointed against the Ukrainians’ rights to life, freedom, movement, health and not to become a victim of enforced disappearance.

*Our Association believes that UN Special Rapporteur should take into account the above-pointed issues regarding terroristic acts, committed by Russia-controlled structures in Ukraine during ongoing Russian aggression during preparation report to GA77 on the Impact of Counter-Terrorism on Peacemaking, Peacebuilding, Sustaining Peace, Conflict Prevention and Resolution, October 2022 and taking to account the Report of the Panel on UN Peace Operations (“Brahimi Report”).*

Next urgent, immediate steps of the UN Special Rapporteur must be done in Ukraine, in condition of ongoing interstate conflict and hostilities, of ongoing Russia’s terroristic criminal, discriminative and racist policy against Ukrainians citizens’ rights must be done, including all observation procedures and visits to Ukraine.

15<sup>th</sup> of July, 2022

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<sup>40</sup> <https://arc.construction/16791>

<sup>41</sup> <https://casebook.icrc.org/case-study/icty-prosecutor-v-galic>