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ОФІС
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ПРОКУРОРА**

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**Public Prosecution of Ukraine
PROSECUTOR
GENERAL'S
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Our Ref. No. _____ dated _____

Your Ref. No. _____ dated _____

Attn.: Alice Jill EDWARDS
United Nations Special Rapporteur on
Torture and Other Cruel, Inhuman or
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Dear Dr Edwards,

The Department of Combating Crimes Committed in Conditions of Armed Conflict of the Prosecutor General's Office presents its compliments to you and addresses you with the following.

The Prosecutor General's Office continues to play a coordinating role under martial law. We unite the efforts of law enforcement officers, experts, representatives of public and international organizations, mass media, journalists and everyone who wants to help and record war crimes committed by representatives of the Russian Federation on our land.

Some time ago, your Office published a public call for input in connection with the need to prepare a Report to be presented at the 79th session of the United Nations General Assembly (link <https://www.ohchr.org/en/calls-for-input/2024/identifying-documenting-investigating-and-prosecuting-crimes-sexual-torture>).

The Department of Combating Crimes Committed in Conditions of Armed Conflict, the Prosecutor General's Office, is extremely interested in providing you with thorough information in accordance with your call. In this regard, we inform you of the following (the structure of the answer is given in accordance with the structure of the call).

1. *Challenges, impediments and obstacles to effective identification, documentation, investigation and prosecution of crimes of sexual torture and related ill-treatment: What are the main impediments preventing full and prompt investigations and prosecutions into allegations of sexual torture and related crimes committed*

during an armed conflict – consider matters such as gaps in civil or military legal and regulatory frameworks (see next), political-cultural-leadership, institutional, sociological, psychological, practical, forensic, health, other challenges? What are some examples of the strategies or good practices for addressing these challenges?

The biggest obstacle in detecting and documenting crimes of sexual torture is the very fact of mass commission of such crimes in the territory not under the control of the Ukrainian government (in the occupied territories, in places of deprivation of liberty, so-called “torture chambers”). These crimes can be detected and documented only after the de-occupation of the territory by working directly with the civilian population. Thus, several years may pass from the moment of the crime to the moment of de-occupation of the territory, and this makes the process of information gathering and documentation very difficult.

Another possible way of documenting such crimes (if they are committed against Ukrainian prisoners of war) is the direct interview of prisoners of war after their exchange, if such an exchange is agreed to by the Russian Federation, but such exchanges take place extremely rarely due to the reluctance of the Russian Federation to grant official permission for the exchange of prisoners of war.

Another challenge is the very fact of reluctance to report sexualized torture by a person who suffered as a result of such a crime. There are several factors of such reluctance: 1. The person does not feel safe, is not in a protected environment (for example, lives in a territory that, although de-occupied, is close to the line of combat clashes); 2. Stigmatization and condemnation by society (for example, if a man has suffered sexualized torture, he may not want to report the crime in order not to question his masculinity, which is quite traditional in a patriarchal society); 3. A person’s fear of testifying officially before law enforcement agencies (fear of being re-traumatization due to improper handling of the injured person).

Thus, the small number of appeals to law enforcement agencies about the commission of CRSV (including sexualized torture) is due to a number of reasons. Most of the victims do not want to mention their traumatizing experience, nor do they want to talk about what they experienced, fearing stigmatization and condemnation by the community in which they live. It is expected that a large number of victims of sexualized torture are currently in the occupied territory and, for obvious reasons, cannot contact the law enforcement authorities, as they are unable to leave the occupied territories. In addition, the victims worry about the safety of their lives and the lives of their relatives and friends in the event that the occupying authorities become aware of their intention to cooperate with Ukrainian law enforcement agencies.

Ukrainian law enforcement agencies do not have access to the occupied territories and start working with the population living there only in case of de-occupation of the territory. Joint mobile teams of prosecutors of the specialized department of the Prosecutor General’s Office, investigators, international experts and psychologists have been formed in order to identify the facts of the CRSV commission, which systematically travel to the de-occupied territories and discover new facts of the CRSV. At the same time, the officially recorded number of cases of sexual violence does not reflect the scale of these crimes.

Documenting facts of CRSV (including sexualized torture) in the de-occupied territories is carried out in accordance with the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict and the Murad Code. To help victims, the algorithm and principles of behavior for persons collecting information from victims, laid down in the Murad Code, are used.

In addition, in order to eliminate the above-mentioned obstacles, the Prosecutor General's Office has developed a Strategic Plan for the implementation of the powers of the prosecutor's office in the field of criminal prosecution for sexual violence related to the conflict, approved by the Prosecutor General on June 26, 2023 (see Annex 1). In accordance with this Strategic Plan, new approaches to protecting the interests of victims and witnesses have been implemented:

- Adaptation to the personality of the victims (respect for the uniqueness of each victim, taking into account their personal identities, characteristics, group affiliation, as well as other factors);
- Prioritizing the safety of the victims (safety, health and dignity of the victims before our other goals);
- Ensuring inclusiveness and non-discrimination (intolerance for any form of discrimination, avoidance of persecution, marginalization, wrongfully imposed lack of personal autonomy or capacity);
- Ensuring the possibility for the victim to maintain control over his/her information (respect and support of the victim's right to privacy, control and autonomy in matters related to his/her personal history, identity and image, protection of the confidentiality of any personal information or data of the victim (in any form));
- Prohibition of stigmatization (prohibition of transmission and publication of any information about victims that could lead to actions that accuse, embarrass, insult, condemn, humiliate, ridicule or disrespect victims).

Currently, the mentioned approaches are used by the Prosecutor General's Office and in 2023 they will be implemented in two pilot regions – Kharkiv and Kherson regions.

In addition, on April 11, 2023, the Prosecutor General's Order No. 103 on approval of "Organization of the work of the prosecutor's office on issues of support for victims and witnesses of war and other international crimes", introduced the creation of the Coordination Center for the Support of Victims and Witnesses (hereinafter – the Coordination Center) as a separate independent structural unit within the Prosecutor General's Office (see Annex 2).

It is envisaged that the task of the Coordination Center is to ensure that victims and witnesses can fully and effectively participate in criminal proceedings, are protected from secondary and repeated victimization, from intimidation and revenge, and also obtain appropriate support to facilitate their recovery even in a situation of an ongoing armed conflict, and the lack of access of the Ukrainian authorities to certain territories.

2. *Regulatory frameworks – civilian and military codes: Does the national legislative or regulatory framework account for sexual torture inflicted during armed conflict?*

Sub-questions: How is torture of a sexual nature (and related forms of cruel, inhuman or degrading treatment or punishment, as applicable) prohibited and criminalized in national legislation? Please refer to both general criminal code, as well as any applicable military laws.

The only legal act that provides for liability for sexual torture (sexualized torture) inflicted during armed conflict is the Criminal Code of Ukraine.

Thus, pursuant to Article 1 of the Criminal Code of Ukraine, its purpose is to ensure legal protection of human and civil rights and freedoms, property, public order and public safety, the environment, and the constitutional order of Ukraine from criminal offences, to ensure peace and security of mankind, and to prevent criminal offences. To fulfil this purpose, the Criminal Code of Ukraine defines which socially dangerous acts constitute criminal offences and what penalties are applied to the perpetrators. Article 3 provides that the legislation of Ukraine on criminal liability constitutes the Criminal Code of Ukraine, which is based on the Constitution of Ukraine and the generally recognized principles and norms of international law. The laws of Ukraine on criminal liability adopted after the entry into force of this Code shall be incorporated into it after their entry into force. The criminal unlawfulness of an act, as well as its punishability and other criminal law consequences, shall be determined only by this Code. Application of the law on criminal liability by analogy is prohibited. The laws of Ukraine on criminal liability shall comply with the provisions contained in the international treaties in force and ratified by the Verkhovna Rada of Ukraine. The legislation of Ukraine on criminal liability may be amended only by laws amending this Code and/or the criminal procedure legislation of Ukraine and/or the legislation of Ukraine on administrative offences.

Therefore, other legal acts, including codified ones (the Civil Code, etc.), do not provide for liability for sexualized torture.

If the person who directly committed or ordered sexual violence belongs to a party to the armed conflict or is a civilian and his or her actions are related to the armed conflict, such acts are classified under paragraph 1 of Article 438 “Violation of laws and customs of war” of the Criminal Code of Ukraine, and if they are combined with intentional murder – under paragraph 2 of this Article.

The main provisions of paragraph 1 and paragraph 2 of Article 438 of the Criminal Code of Ukraine are such as only make referral and, with regard to the protection of persons from sexual violence in armed conflict, refer to the provisions of international humanitarian law, in particular the provisions of Article 27 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, Articles 75-77 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I). At the same time, the Rome Statute of the International Criminal Court of 17 July 1998, as well as the document of the International Criminal Court “Elements

of Crimes”, are codified documents that allow for proper interpretation and application of these international documents.

Therefore, if the victim is a prisoner of war and sexualized and gender-based torture committed by the perpetrator against him or her is qualified under paragraph 1 (or paragraph 2) of Article 438 of the Criminal Code of Ukraine with reference to the provisions of the Geneva Convention relative to the Treatment of Prisoners of War (GC III), namely: Article 13 – physical mutilation, acts of violence or intimidation; Article 14 – respect for the person and honor, protection of women prisoners of war; Article 130 – torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health) and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (PA I), namely: Article 11(4) – acts or omissions seriously endangering the physical or mental health or integrity of any person.

If the victim is a civilian, sexualized and gender-based torture committed by the perpetrator against him or her is qualified under paragraph 1 (or paragraph 2) of Article 438 of the Criminal Code of Ukraine with reference to the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (GC IV), namely: Article 27 – protection of women from rape and other forms of violation of their morality; Article 147 – gross violations such as torture or inhuman treatment, including biological experiments, intentionally causing great suffering or serious injury to body or health; Article 32 – physical suffering such as torture, corporal punishment, mutilation and medical or scientific experiments), as well as PA I (Article 11(4) – acts or omissions seriously endangering the physical or mental health or integrity of any person; Article 75(2) – torture – physical or psychological, mutilation, outrages on human dignity; Article 76 – protection of women from rape and other forms of indecent assault).

Is “sexual torture” defined explicitly in national law? If so, is it a separate offence, or has your national law defined ‘discrimination’ as contained in the definition of torture in Article 1 of the UN Convention against Torture?

The concept of sexual torture is not defined in national legislation. The provisions of Article 127 of the Criminal Code of Ukraine, which applies in the case of torture as an ordinary crime (not related to the armed conflict), defines torture as any intentional act aimed at causing severe physical pain or mental suffering to a person, committed with the aim of forcing him or her or another person to do something against their will, including obtaining information or a confession, or with the aim of punishing him or her or another person for acts committed or suspected of being committed by him or her or another person, or with the aim of intimidating him or her or another person.

If there is no explicit crime of sexual torture, does the general crime of torture include the sexualized nature of the torture as an aggravating factor that may increase any criminal penalties? Does the law incorporate any other approaches that specifically address the sexualized nature of the crime?

When we talk about sexual torture as an ordinary crime (not related to the armed conflict), at the national level, such cases are usually classified under a combination of crimes under Article 127 of the Criminal Code of Ukraine (torture) and Articles 152 of the Criminal Code of Ukraine (rape) or Article 153 of the Criminal Code of Ukraine (sexual violence). When we talk about sexual torture as a war crime (related to the armed conflict), at the national level, such cases are qualified under Article 438 of the Criminal Code of Ukraine, as mentioned above.

Article 67 of the Criminal Code of Ukraine provides for a number of aggravating circumstances (committing a criminal offence on the grounds of gender; committing a crime with particular cruelty), but given the provisions of Articles 127, 152, 153, as well as referral nature of Article 438 of the Criminal Code of Ukraine, the sexualized nature of these crimes is fully covered by these provisions. Therefore, such aggravating circumstances do not apply.

Please provide examples (and copies) of national laws, or leading judgments, that criminalize sexual torture (and related forms of cruel, inhuman or degrading treatment or punishment, as applicable), and the penalties applied.

To date, only 2 guilty verdicts have been handed down in Ukraine against members of the Armed Forces of the Russian Federation who were convicted of committing CRSV, including such forms of CRSV as rape and threats of rape (without signs of torture). As mentioned above, sexualized torture committed in connection with the armed conflict is qualified exclusively under Article 438 of the Criminal Code of Ukraine (see Annex 3).

At the same time, sexual violence in the form of torture (sexualized torture) has taken place and continues to take place in the actions of representatives of the Russian Federation against Ukrainian prisoners of war and civilians, all of which are currently under investigation or pending in court, and no final decisions have been made in these proceedings.

Along with this, the national judiciary has a practice of applying the provisions of the Criminal Code of Ukraine, which provide for liability for torture and sexual violence as ordinary (general criminal) offences committed by citizens of Ukraine not in the context of armed conflict (not in connection with armed conflict).

In particular, the Obukhiv District Court of Kyiv Region found two former officers of the Kaharlyk Police Station of the Obukhiv Unit of the Main Department of the National Police in Kyiv Region guilty of torture, enforced disappearance and rape (Article 127, Article 146-1, Article 152 of the Criminal Code of Ukraine) and sentenced the former chief of the criminal police and the operative investigator to 11 years in prison. Prosecutors proved in court that these officials tortured and illegally detained people. Thus, law enforcement officers tortured a woman who was summoned to the police station as a witness. They put a gas mask and handcuffs on her and fired their service weapons over her head. After that, the victim was raped several times. Moreover, one of the accused, in order to obtain a confession for the alleged thefts

committed by the victim, found a kitchen appliance, steel colander with handle, and began to push the handle into the victim's anus.

3. Victim participation and protection during investigation and prosecution: What special arrangements (procedures, standards, protocols, good practices) and protections are available for victims of sexual torture and related ill-treatment in armed conflicts?

The Division for Procedural Guidance of Pre-Trial Investigations and Maintenance of Public Prosecutions in Criminal Proceedings on Crimes Related to Sexual Violence of the Department of Combating Crimes Committed in Conditions of Armed Conflict of the Prosecutor General' Office uses the following procedures in its work.

To carry out a pre-trial investigation in criminal proceedings about crimes of the CRSV, national police bodies are involved, although according to the general rule of investigation of crimes provided for in Article 438 of the Criminal Code of Ukraine, the pre-trial investigation of crimes with the specified qualification is under the jurisdiction of the investigators of the Security Service of Ukraine. The decision on entrusting the pre-trial investigation in CRSV cases to the investigative bodies of the national police was made taking into account the availability of previous knowledge and skills of the national police investigators in communicating with victims of domestic violence.

Prosecutors of the specialized Division engage a psychologist (if necessary) to work with victims of this category of crimes, who tries to normalize the psycho-emotional state of individuals, prepares them for investigative (procedural) actions, and also informs about the possibility of engaging a victim's representative (lawyer) free of charge from the Ukrainian Women Lawyers Association (JurFem).

The interview takes place in the form of a procedural interview (according to the PEACE standard). Taking into account the vulnerability of victims of CRSV crimes, an investigator/prosecutor prepares for such interview in advance, including the beforehand articulation of questions to be asked.

Prosecutors of the Division provide victim confidentiality in order to make the victim feel more protected in criminal proceedings. Thus, victims of CRSV crimes are informed that, at their request, security measures may be applied to them: change of real personal data and change of data on place of their residence.

Application of such measures is possible on the basis of Paragraph 8, Part 1, Article 56 of the Criminal Procedure Code of Ukraine (hereinafter – the CPC of Ukraine) for victims and Paragraph 8, Part 1 of Article 66 of the CPC of Ukraine for witnesses, as well as a special legal act the Law of Ukraine “On ensuring the safety of persons participating in criminal proceedings”.

Such security measures are important given the fact that the entire procedure of criminal proceedings in cases with a CRSV component takes place in accordance with the in absentia procedure. According to the national legislation of Ukraine, if it is impossible to deliver a written notice of suspicion (charging document), it is delivered in the manner provided by this Code for the delivery of such notifications.

Thus, in accordance with Paragraph 8 of Article 135 of the CPC of Ukraine, a subpoena to summon a person with regard to whom there are sufficient grounds to believe that such a person has left and/or is in the temporarily occupied territory of Ukraine, the territory of a state recognized by the Verkhovna Rada of Ukraine as an aggressor state, in the case of the justified impossibility of serving such a summons to him/her, is published in mass media of nationwide distribution and on the official website of the Prosecutor General's Office.

Therefore, in order to observe the suspect's right to defense, the legislator introduced the need to publish the full text of the notice of suspicion (charging document) on the official website of the Prosecutor General's Office.

That is, taking such measures as changing the real profile data and place of residence of the affected person makes it impossible to leak their personal information.

In addition, a notice of suspicion (charging document) does not indicate the specific place of the crime (address), which is also done in order to avoid re-traumatization of the person, publicity, condemnation and stigmatization.

Along with this, the prosecutors of the specialized Division of the Prosecutor General's Office moved away from the obligation to appoint a forensic medical examination, since enough time can pass from the occurrence of the crime to the application to the law enforcement authorities, and in this way we will not obtain any evidence, but only once again traumatize that person. At the same time, special attention is paid to conducting a forensic psychological examination.

Prosecutors of the specialized Division during the trial of criminal proceedings in crimes of the CRSV file a request for a closed (non-public) trial.

Along with this, the Division is actively working in the direction of advocacy for the introduction of changes to the current legislation regarding the implementation of a people-centered approach during court proceedings, since the procedure for pre-trial investigation and court proceedings determined by the current Criminal Procedure Code of Ukraine does not contain mechanisms for ensuring the safety of victims and witnesses in criminal proceedings regarding the CRSV crimes.

In this regard, a corresponding draft law was developed with the participation of the Division for Procedural Guidance of Pre-Trial Investigations and Maintenance of Public Prosecutions in Criminal Proceedings on Crimes Related to Sexual Violence of the Department of Combating Crimes Committed in Conditions of Armed Conflict of the Prosecutor General's Office and was referred by the Members of Parliament to the Verkhovna Rada of Ukraine for consideration.

Thus, the purpose of draft law No. 9351 dated May 6, 2023 "On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Pre-trial Investigation and Court Proceedings in Criminal Proceedings on Crimes Related to Conflict-Related Sexual Violence" is to implement changes, which indicate the intention of the legislator to bring the national legislation in the field of protection of victims of CRSV closer to the international rules of evidence and criminal justice, focused on victims, with the aim of avoiding re-traumatization and stereotypes and aimed at providing comprehensive compensation to survivors and victims, which goes beyond the limits of criminal prosecution.

Draft Law No. 9351 provides for the normalization of sensitive treatment of CRSV victims and the observance of their rights with the help of legal instruments and their application, including the right to respect for private and family life and protection of the identity of victims, as well as the prevention of repeated trauma and humiliation of their dignity.

In this regard, the draft law provides for the examination by the investigating judge of claims, motions and complaints in criminal proceedings regarding CRSV crimes, as well as the judicial review of criminal proceedings of this category in a closed court session, except in cases where the court makes a decision to conduct criminal proceedings in open court meetings at the written request of the victim.

In addition, the specified draft law provides for alternative investigation in CRSV crimes both by the investigators of the National Police and by the investigators of the security agencies. The proposed changes to the article will allow the National Police of Ukraine, which currently investigates such crimes, to initiate proceedings independently, without turning to the Security Service of Ukraine to transfer the case for investigation. Amendments to Article 216 of the CPC will create an effective mechanism that will affect the efficiency and timelines of criminal investigations, eliminating procedural difficulties for victims.

Alongside this, one of the most important provisions of draft law No. 9351 for the protection of the rights of CRSV victims is the possibility to conduct court hearings remotely, for example, with the participation of the victim or witness(es) via video conference instead of being physically present in the courtroom, which helps to normalize the administration of justice in wartime.

Given the special nature of cases with CRSV component, the in-person participation of the victim or witness in the court can be dangerous, harmful and re-traumatizing for them. It can also affect the quality of their testimony in court. Thus, the opportunity to participate in the meeting online is a necessary and mandatory special measure that must be considered and approved by the court after providing the necessary and sufficient grounds for participating in the meeting via video conference. This addition is fully in line with the best practices of the participation of the victim at various stages of the trial at the International Criminal Court (ICC).

Are there any consultation and/or discussion platforms to enable victims and survivors of sexual torture crimes committed in armed conflicts to actively participate in the design, implementation and evaluation of the legal and/or administrative processes specifically established for justice and reparations of such crimes?

Draft law No. 10132 “On the status of victims of sexual violence related to the armed aggression of the Russian Federation against Ukraine and urgent interim reparations” dated October 9, 2023 is under consideration by the Verkhovna Rada. This is the first legal act that defines sexual violence (see Annex 4).

This draft law establishes that the victim has the right to “receive the status of a victim of sexual violence” (the right to recognition or approval, which is a form of satisfaction) in order to receive compensation for material and moral damage “caused by sexual violence” and undergo “free rehabilitation, which includes a complex of

medical, psychological, social, legal and other measures aimed at restoring the physical and psychological integrity and social functions of a person”.

The draft law also provides for the creation of a Commission for Consideration of Issues Related to Recognition of Victims (hereinafter referred to as the Commission). Thus, in accordance with the content of the specified statutory legal act, members of the Commission are determined and approved by the order of the central executive body, which ensures the formation and implementation of state policy in the field of social policy. The Consideration of Issues Related to Recognition of Victims also includes representatives of public associations with experience in the field of human rights protection and assistance to persons who have suffered from gender-based and/or sexual violence, including organizations that represent the victims.

Given that some CRSV victims are part of NGOs, they will have the opportunity to actively participate in the development, implementation and evaluation of legal and/or administrative processes from the time the said Commission is established.

4. Evidence collection and documentation pursuant to the Istanbul Protocol: What are the practical, logistical or other challenges in evidence collection of sexual torture in armed conflict? What good practices are used to address such challenges?

In the course of interviewing witnesses and victims of CRSV crimes there are high chances of their re-traumatization and therefore the investigators use various methods of interviewing, including with the participation of a psychologist, which are designed to reduce the corresponding risk.

A serious obstacle that negatively affects the implementation of pre-trial investigation in criminal proceedings related to the CRSV is that quite often the places where the crime commission happened, physical evidence, victims and most of the witnesses are located in the territory not under the control of Ukraine.

Due to the above and the fact that a long time passes between the moment of the crime commission and the application with a statement about its commission, significant difficulties arise in confirming the relevant facts and persons involved in the commission of crimes.

Please provide examples of the specialized policies, protocols and practices used to identify, document and secure evidence collection in respect of crimes of sexual torture in armed conflict and related ill-treatment and the damages caused to individuals, families, and communities. Please provide information on any specialist skills sets or interviewing techniques applied.

When conducting investigative actions with the participation of persons who became witnesses or victims of CRSV, investigators and prosecutors in criminal proceedings adhere to the principles of effective investigation and documentation of torture and other cruel, inhuman or degrading treatment and punishment, while applying the provisions of the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, provisions of the Murad Code, standards for conducting interrogations of vulnerable categories of persons under the PEACE program.

Has your country recognized the Istanbul Protocol? Have your authorities identified any specific challenges with applying the Istanbul Protocol to victims and

survivors of sexual torture or related ill-treatment? What are some of their best practices in implementing the Istanbul Protocol to victims and survivors of sexual torture?

The order of the Ministry of Health of Ukraine dated February 2, 2024 No. 186 “On Amendments to Part1 of the Order of the Ministry of Health of February 14, 2012 No. 110” (hereinafter – the order), which entered into force on March 13, 2024, approved the form of primary accounting documentation No. 511/o “Form No. ___ on documentation of physical injuries” and the Instructions for its completion (hereinafter – the Instructions). The order was developed with the participation of the Prosecutor General’s Office for the implementation of Paragraph 8 of the Action Plan for the Implementation of the Strategy for Combating Torture in the Criminal Justice System, approved by Order of the Cabinet of Ministers of Ukraine No. 1344 dated October 28, 2021, and Paragraph 8 of the Action Plan for the Implementation of the National Strategy in the Criminal Justice System of Human Rights for the years 2021-2023, approved by the order of the Cabinet of Ministers of Ukraine dated June 23, 2021 No. 756. The adoption of this document is in fact the implementation of the provisions of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which is one of the tasks of the National Strategy in the Field of Human Rights, approved by Presidential Decree of Ukraine dated March 24, 2021 No. 119/2021.

This order is aimed at ensuring the implementation of a single form for all health care institutions for recording physical injuries that may indicate the illegal nature of their occurrence, and international standards for documenting torture and other cruel, inhuman or degrading treatment or punishment. According to Paragraph 14 of the Instructions, in the section “Bodily injuries mapping chart” a graphic display of the injuries discovered during the examination on the diagram of the human body is made, which will clearly demonstrate the distribution of injury by anatomical location and contribute to increasing the efficiency of conducting forensic examinations.

Also, the Prosecutor General’s Office, in order to bring the guilty to justice and prevent impunity for international crimes, approved the Strategic Plan for the implementation of the powers of the prosecutor’s office in the field of criminal prosecution for the commission of international crimes for the years 2023-2025 (see Annex 5).

The main goals of the Strategic Plan are defined as:

- Ensure structured and effective approach to criminal prosecution for international crimes committed in the context of an armed conflict, which includes the implementation of a system of prioritization and selection of criminal proceedings based on clear and transparent criteria, which will ensure fair justice in compliance with the principle of reasonable terms, as well as protecting the interests of particularly vulnerable population groups, such as survivors of conflict-related sexual violence (CRSV), children, etc.;

- Strengthen capacity of the national system of criminal prosecution for international crimes, including the prosecutor’s office and pre-trial investigation bodies;

- Promote proper support and protection of victims and witnesses;
- Develop sustainable partnership and effective interaction by international organizations, foreign partners and civil society for the purpose of effective criminal prosecution for international crimes.

5. What specialized rehabilitation approaches and services are available to victims, witnesses, families and communities affected by sexual torture and related ill-treatment during armed conflict?

The urgent task of the Prosecutor General's Office under martial law is to increase the effectiveness of the investigation of war crimes by ensuring comfortable conditions for victims and witnesses, namely the use of rehabilitation approaches.

At present, law enforcement agencies during the pre-trial investigation of CRSV crimes use an approach focused on the victim, whose role is key in the process of gathering evidence. This approach ensures comprehensive assistance to CRSV victims in order to minimize the risks of re-traumatization.

As already mentioned, in 2023, the Coordination Center for the Support of Victims and Witnesses was established within the structure of the Prosecutor General's Office (a specialized unit that will assist participants in criminal proceedings). Among the urgent tasks of its employees is full information support, as well as coordination of the provision of psychological, social, and legal assistance together with a wide range of partners from the state and public sector.

When helping the victims, the coordinators ensure: informing the victims about what assistance can be provided to them; clarifying to victims their status in criminal proceedings and expectations from the criminal justice system; assistance in obtaining legal advice and representation, including referral to free legal aid centers, information on the status of pre-trial investigation and court proceedings, the time, date, place and results of any court hearings within the limits provided by criminal procedural legislation; counseling on the risk and prevention of secondary and repeat victimization, intimidation and retaliation; referral to the relevant services for the provision of psychological, medical and social assistance; physical support in court, etc.

In some cases, coordinators may accompany affected persons to the relevant services and institutions (health care institutions, social and psychological assistance services, legal aid providers and administrative services) to observe and ensure that their rights are fulfilled.

In addition, the support of local civil society is extremely important to ensure access to justice for victims of CRSV. Civil society organizations are an important partner of the Prosecutor General's Office in providing assistance to victims of CRSV who need support from specialized services. The Prosecutor General's Office cooperates on an ongoing basis with stakeholders such as international and domestic partners who directly provide assistance to victims of CRSV (La Strada – Ukraine, JurFem, Eleos-Ukraine, Andrieiev Family Foundation).

Rehabilitation of victims of sexual violence during armed conflict includes providing psychological, medical, social, pecuniary, and legal aid. In addition, assistance with employment and housing is possible. It should be noted that assistance

to victims should be comprehensive, take into account their needs, while ensuring safety and confidentiality.

How do these differ from other rehabilitation support provided to victims of torture?

Responding to conflict-related sexual violence in the form of rehabilitation support requires a comprehensive, cross-sectoral approach that includes coordinated provision of medical services, protection, psychosocial support and access to justice for victims.

International and civil service organizations emphasize that many victims of CRSV usually first seek humanitarian assistance, medical services and basic legal assistance to restore their documents.

Due to the trauma and stigma associated with rape, many victims do not disclose their experiences until after a long period of time and after receiving psychosocial support. According to available information, survivors of violence, especially military personnel, will mostly hide from service providers even the very fact of being in the custody of armed groups. Victims report the sexual abuse they have experienced only when they need medical or other special assistance.

Also, it should be noted that qualified specialists (psychologists, medical and social workers) with experience of working with the specified category of persons should be involved in working with victims of CRSV.

In general, employees of state institutions lack special knowledge and skills in working with victims of torture and sexual violence. Accordingly, services to these categories of persons are provided by civil society organizations through donor-funded programs. In addition, quality services are available mainly in large cities, in particular, in Kyiv, while in smaller cities and rural areas such assistance is available only in a limited form or not at all. Availability of medical care is especially critical for vital post-exposure prophylaxis, which must be provided immediately.

That is why rehabilitation support for victims of CRSV has an individual nature, significantly differs from the provision of other rehabilitation support and is aimed at taking into account all the peculiarities of the psychological, medical, and social condition of victims of CRSV.

How do they differ from rehabilitation provided in non-armed conflict situations?

Documenting conflict-related sexual violence in accordance with a trauma-informed approach means that practitioners have to:

- Understand the nature and impact of trauma on victims of conflict-related sexual violence;
- Adequately respond to any trauma-related needs before, during and after interviewing victims and other witnesses;
- Implement strategies to reduce the possibility of re-traumatization;
- Understand how trauma can affect the memory of witnesses and the testimony itself.

Taking into account the above, rehabilitation approaches to work with victims of CRSV are significantly different from the usual rehabilitation provided in situations of non-armed conflict, for example, rehabilitation of victims of domestic violence.

At the same time, rehabilitation approaches in situations of armed conflict can often be limited in nature.

Thus, access to services for victims of sexual violence living in territory under the control of the occupiers is limited and sometimes impossible. Although most health and social care facilities continue to operate, there is a shortage of health workers as many have left the area due to the conflict. The quality of services of these institutions has significantly decreased due to the constant lack of necessary specialized equipment and available medicines. In rural areas, the situation is the most critical. Medical facilities in the territory controlled by the occupiers are still heavily dependent on humanitarian aid.

How should the nature or process of rehabilitation be tailored to different groups of victims (e.g. take into account intersecting characteristics as sex/gender, age, other health circumstances, civilian versus military victims, etc.), or the types of sexual torture suffered during armed conflict?

Society can help in various ways, it could be morally, by providing psychological help, and financially, by taking into account that part of the victims of the war were left were left without the basic means to ensure their livelihood, the most important thing is that such help is only with the consent of the victim, does not harm his/her mental state, and was also not a way to obtain from this person information of interest to the assisting party.

Society should support survivors of CRSV, and in no case condemn or harass them for what happened to them, and to have this, it is necessary to clarify with the population at the local level about the norms of behavior with the such survivors.

Rehabilitation approaches should be adapted taking into account the intersecting characteristics of victims of CRSV such as their sex/gender, age, other health conditions, and their status in armed conflict.

Thus, the rehabilitation process should be tailored to different groups of victims, such as children, teenagers, people with disabilities, the LGBT community, and the elderly.

How do these relate to the provision of other forms of reparation (compensation, restitution, satisfaction, and non-repetition)?

Rehabilitation of victims of CRSV is only one of the components of compensation and restoration of the rights of victims.

The victims do need more far-reaching support, in particular, the introduction of a system of reparations, which provides for a wide range of measures aimed at human recovery. And in this process, the state plays a key role, as the appropriate legal acts and mechanisms have to be developed.

Currently, the state already provides assistance to victims of CRSV. They receive it at the Survivor Relief Centers, which were created with the assistance of the United Nations Population Fund (UNFPA) and offer legal, medical, other aid, as well as in

other public organizations. Although it is not called a reparations system, it performs a significant part of its functions.

The system of reparations involves a wide range of measures aimed at restoring a person, his/her ability to continue to develop, live and work and never again experience violence. Therefore, one of the main tasks for the state to support victims of CRSV is the introduction of immediate reparations, to which certain financial payments may be added.

As of now, Member of Ukrainian Parliament, M.O. Bardina and other Ukrainian MPs have introduced the draft Law of Ukraine "On the status of victims of sexual violence related to the armed aggression of the Russian Federation against Ukraine and urgent interim reparations" dated October 9, 2023", reg. No. 10132 dated October 9, 2023.

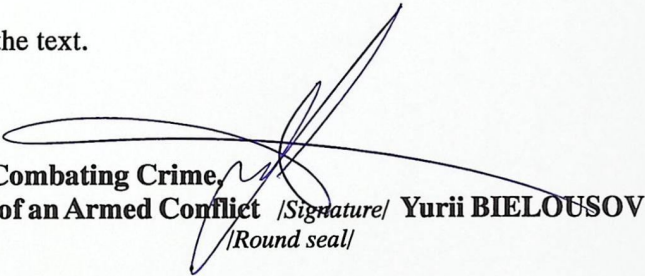
I assure you that we are ready to assist you and your team in the preparation of the Report and will be happy to provide you with the necessary additional information in accordance with your request.

For further inquiries, related to matters mentioned in this letter, please feel free to contact Anna Sosonska, Head of the Division for Procedural Guidance of Pre-Trial Investigations and Maintenance of Public Prosecutions in Criminal Proceedings on Crimes Related to Sexual Violence, Prosecutor General' Office Anna Sosonska (email: sosonska.ai@gp.gov.ua).

Enclosure: according to the text.

Sincerely

**Head of the Department for Combating Crime,
Committed in the Conditions of an Armed Conflict**


/Signature/ **Yurii BIELOUSOV**
/Round seal/