

# Update by the Chair of the Independent International Commission of Inquiry on Ukraine, at the 51st session of the Human Rights Council

[Back](#)

[русский](#)

[Ukrainian version](#) (Word)

Distinguished President,

Excellencies,

Together with Ms. Jasminka Džumhur and Mr. Pablo de Greiff, I will present an update on the progress of the work of the Independent International Commission of Inquiry on Ukraine, in conformity with this Council's resolution 49/1, adopted in March 2022.

Last time the Commissioners were present at the Human Rights Council was in May this year. The Council then requested the Commission, in resolution S-34/1, to address events that took place in late February and March 2022 in the areas of Kyiv, Chernihiv, Kharkiv and Sumy, and to brief the Council on the progress of that inquiry as part of its oral update in September. Consequently, we have so far mainly focused on events in those four regions.

Tomorrow will mark seven months since the outset of the hostilities in Ukraine. We are concerned by the suffering that the armed conflict in Ukraine has imposed on the civilian population. This is illustrated by the figures updated regularly by the OHCHR concerning deaths and injuries and by the UNHCR with respect to refugees and internally displaced persons. The recent discovery of yet additional graves illustrates the gravity of the situation.

Allow me first to make some general remarks.

The Commission has focused on events in view of their gravity, their significance in demonstrating patterns of alleged violations, and the possibility to gain access to victims, witnesses, and supporting documentation.

It seeks to coordinate its efforts with the many entities carrying out investigations in order to avoid duplication and re-traumatization of victims.

The security of victims is at the centre of our work, and we ensure a strict respect of the “do no harm” and confidentiality principles. We would like to express our deep appreciation to victims and witnesses who have shared their stories.

The Commission, which is independent and impartial, has sought cooperation and dialogue with relevant Governments. We appreciate the access and cooperation extended to us by the Government of Ukraine. Our attempts to engage in a constructive dialogue with Russian Federation authorities have, regrettably, so far not been successful, but we will persist in our efforts.

Distinguished President,

Excellencies,

I will now return to our investigations in the regions of Kyiv, Chernihiv, Kharkiv, and Sumy. The Commission has visited 27 towns and settlements and has interviewed more than 150 victims and witnesses. We have inspected sites of destruction, graves, places of detention and torture, as well as weapon remnants, and consulted a large number of documents and reports. The Commission met with Government authorities, international organisations, civil society, and other relevant stakeholders.

Based on the evidence gathered by the Commission, it has concluded that war crimes have been committed in Ukraine.

The following is a sample of the findings and observations we have made thus far.

Starting with **the conduct of hostilities**.

Regarding the conduct of hostilities, the use of explosive weapons with wide area effects in populated areas is a source of immense harm and suffering for civilians. We observed first-hand the damage that explosive weapons have caused to residential buildings and infrastructure, including schools and hospitals. In Kharkiv city, explosive weapons devastated entire areas of the city.

We note that according to the Office of High Commissioner for Human Rights, most of the recorded deaths were caused by the use of such weapons. This devastation is one of the factors explaining why a third of the Ukrainian population has been forced to flee. One older woman, who fled as hostilities raged in Kharkiv area, told us: “I don’t live, I just exist; I have nothing left in my soul.”

### **Indiscriminate attacks**

A number of the attacks we investigated had been carried out without distinguishing between

civilians and combatants. This included some attacks with cluster munitions or multi-launch rocket systems and airstrikes in populated areas.

As for violations against personal integrity, we were struck by the large number of executions in the areas that we visited. The Commission is currently investigating such deaths in 16 towns and settlements. We have received credible allegations regarding many more cases of executions, which we are documenting further.

Common elements of such crimes include the prior detention of the victims as well as visible signs of executions on bodies, such as hands tied behind backs, gunshot wounds to the head, and slit throats.

Witnesses provided us with consistent accounts of ill-treatment and torture, which were carried out during unlawful confinement. Some of the victims reported that after initial detention by Russian forces in Ukraine, they were transferred to the Russian Federation and held for weeks in prisons. Interlocutors described beatings, electric shocks, and forced nudity, as well as other types of violations in such detention facilities.

After being reportedly transferred into detention in the Russian Federation, some victims have disappeared.

As regard these four areas, we have processed two incidents of ill-treatment against Russian Federation soldiers by Ukrainian forces. While few in numbers, such cases continue to be the subject of our attention.

### **Sexual and gender-based violence**

Investigating cases related to sexual and gender-based violence present specific challenges. The Commission has found that some Russian Federation soldiers committed such crimes. These acts amounted to different types of violations of rights, including sexual violence, torture, and cruel and inhuman treatment. There are examples of cases where relatives were forced to witness the crimes. In the cases we have investigated, the age of victims of sexual and gendered-based violence ranged from four to 82 years.

The Commission has documented cases in which children have been raped, tortured, and unlawfully confined. Children have also been killed and injured in indiscriminate attacks with explosive weapons. The exposure to repeated explosions, crimes, forced displacement and separation from family members deeply affected their well-being and mental health.

Distinguished President,

Excellencies,

The Commission will continue its inquiry related to the four regions mentioned in the resolution of May 2022 and will gradually devote more of its resources to its general mandate in the first resolution, which is both geographically and thematically broader. Issues of interest will include filtration camps, alleged forced transfer of people, and the conditions under which expedited adoption of children are

allegedly taking place.

In this brief update we have concentrated mainly on violations against personal integrity. Depending on the availability of evidence, the Commission will seek to investigate other types of violations, including the destruction of civilian infrastructure; the appropriation or destruction of economic resources; violations of the right to food; and the legality of changes in local administration, which may have far-reaching consequences. In addition to making recommendations regarding criminal accountability, the Commission will, consistent with its victim-centered approach, make recommendations about other dimensions of accountability, to which victims also have rights.

We look forward to further cooperation with all relevant actors to pursue the task entrusted to us by the Human Rights Council.

Thank you.

[Back](#)

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