

# Memorandum on human rights elements for peace in Ukraine



Memorandum



COMMISSIONER  
FOR HUMAN RIGHTS

COMMISSAIRE AUX  
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# Memorandum on human rights elements for peace in Ukraine

**Michael O'Flaherty**  
**Council of Europe Commissioner**  
**for Human Rights**  
8 July 2025

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# Introduction

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1. The Council of Europe Commissioner for Human Rights (hereinafter the Commissioner) carried out a visit to Ukraine from 17 to 21 March 2025. Building on his previous human rights elements central to a roadmap to peace in Ukraine,<sup>1</sup> the Commissioner focused his visit on the importance of including human rights as guiding principles to any discussions towards peace.<sup>2</sup>
2. According to his mandate, the Commissioner fosters the effective observance of human rights; assists member states in the implementation of Council of Europe human rights instruments, in particular the European Convention on Human Rights (ECHR); identifies possible shortcomings in the law and practice concerning human rights; and provides advice and information regarding the protection of human rights across the region.<sup>3</sup>
3. During his visit to Ukraine, the Commissioner met with the Deputy Prime Minister of Ukraine - Minister of National Unity, Oleksiy Chernyshov; the Deputy Minister of Foreign Affairs, Mariana Betsa; the acting Prosecutor General, Oleksiy Khomenko; the Parliamentary Commissioner for Human Rights, Dmytro Lubinets; the Secretary of the Coordination Headquarters for the Treatment of Prisoners of War, Brigadier General Dmytro Usov; the Presidential Commissioner for the Protection of the Rights of Military Personnel and their Families, Olha Kobylenska; the Gender Advisor of Ukraine's Armed Forces, Olena Hrihoriyeva; and representatives of Ukraine's civil society and international organisations. In Lviv, he met with the First Deputy Mayor of Lviv, Andriy Moskalenko, and spoke to representatives of the Lviv region IDP Council in a local centre for IDPs from Mariupol. In nearby Novyi Rozdil, he met with a group of internally displaced persons living in an IDP collective residence. The Commissioner laid flowers in commemoration of Ukrainian soldiers at Lviv's Lychakiv Cemetery and in Kyiv, accompanied by the Deputy Minister of Health for European Integration, Maryna Slobodnichenko, he visited the Children's Hospital 'Okhmatdyt' which was partly destroyed by a Russian missile strike in July 2024. The Commissioner expressed his gratitude to the Ukrainian authorities for their excellent co-operation in the organisation of this visit. He is also grateful to the civil society representatives and other

interlocutors with whom he met for the information, insights and testimonies they shared.

4. This memorandum spells out the Commissioner's observations and recommendations on certain elements of a human rights roadmap for comprehensive, just, lasting and effective peace and Ukraine's reconstruction and recovery. It also contains observations and recommendations on human rights issues identified by the Commissioner as part of his visit and on-going work.<sup>4</sup>



## I. Human rights and conflict resolution

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5. It is crucial to state from the outset that people are still suffering and dying due to Russia's war of aggression against Ukraine while this memorandum is being written. In light of this, the Commissioner stresses that the priority must be to silence the weapons of war. The Commissioner notes with regret that at the time of finalising this memorandum, the prospects of peace remain elusive, especially in light of Russia's intensified deadly attacks causing high civilian casualties in Ukraine in recent months.<sup>5</sup> Given the ongoing violence, true peace cannot be achieved until fighting stops and lives are protected.
6. Yet, to silence the guns and to stop the physical violence is not enough. No just, lasting and effective peace can be achieved if it is not anchored in the international human rights framework.
7. The Commissioner observes that human rights and conflict resolution are often perceived by some as separate fields, with contradictory principles and conflicting approaches or, at best, mutual wariness and tensions.<sup>6</sup> Human rights are misrepresented as impediments to peace negotiation efforts and deemed to constrain mediators in their efforts to bring the belligerents to the table.<sup>7</sup> While human rights are grounded in an agreed normative framework, conflict resolution is often based on a pragmatic and practical approach, rather than moral or value-based considerations.
8. The Commissioner considers that human rights and conflict resolution should be seen as complementary and mutually reinforcing. Every effort should be made to promote the integration of human rights in peace negotiations and agreements.<sup>8</sup> As the only universally agreed roadmap to honour human dignity, human rights provide the most reliable framework for settling disputes and form a solid cornerstone to just and sustainable peace-making. Peace negotiators and advocates should therefore strive for what academics have referred to as 'positive peace', an ambitious concept of conflict resolution which is based on a holistic interpretation of human rights, justice and gender issues, and not limited to a mere absence of violence.<sup>9</sup> Resolving armed conflict and rebuilding societies should seek to combine the perspectives of both human rights advocates and conflict resolution practitioners.<sup>10</sup>

The value of peace and reconstruction processes integrating attention to human rights should be explicitly acknowledged, including by the promotion of a 'human rights culture' central to the consolidation of peace.<sup>11</sup>

9. The Commissioner further underlines that Russia's aggression, which began with the invasion and illegal annexation of Crimea in 2014 and escalated with the full-scale invasion of Ukraine on 24 February 2022, is a war on values. It is an existential threat to the fabric of democracy, human rights and the rule of law which have been carefully constructed in Europe since the Second World War. If human rights violations are not addressed in the peace process, any agreement thus reached will be fragile. To ignore human rights in the peace process would, in the long run, inevitably undermine peace and democratic security not just in Ukraine, but also the rest of Europe.
10. The present memorandum covers only some of the wide spectrum of issues related to human rights and international humanitarian law resulting from Russia's aggression against Ukraine. In this regard, the Commissioner makes reference to the human rights work related to the war in Ukraine carried out previously, including by his predecessors.<sup>12</sup>

## **II. Ten elements essential for a human rights roadmap for a just, lasting and effective peace and Ukraine's recovery**

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### **1. Accountability**

11. Perpetrators of gross violations of international human rights law and international crimes must be held to account. The Commissioner considers that this principle should be made a key element of any discussions around a just and sustainable peace, and any possible future peace negotiations must not compromise on it.
12. The Commissioner welcomes international efforts to hold Russia's political and military leadership to account for its war of aggression against Ukraine and for the many other international crimes that have been committed in Ukraine during the war. The Council of Europe Committee of Ministers' recent decision authorising the launch of the process of establishing the Special Tribunal is a paramount step in pursuance of this goal.<sup>13</sup> The Special Tribunal will be set up within the framework of the Council of Europe with the mandate to prosecute senior political and military leaders who are responsible for planning, preparing, initiating, or executing the crime of aggression against Ukraine. It is anticipated that the Special Tribunal will be operational in 2026.<sup>14</sup>
13. In parallel, in the general interest of advancing the global fight against impunity and deterring states from committing acts of aggression, the Commissioner encourages member states who are parties to the Rome Statute to support the proposed amendments that seek to develop the International Criminal Court's jurisdiction over the crime of aggression by applying to it the jurisdictional regime used for other crimes.<sup>15</sup> The Commissioner further notes the pending ICC investigation proceedings on the situation in Ukraine, opened in March 2022 following a referral by 43 States Parties focusing on alleged crimes committed in the context of the situation in Ukraine since 21 November 2013. He notes,

in particular, that the ICC has issued arrest warrants against high-ranking Russian political and military officials, including the President, for various categories of war crimes and crimes against humanity.

14. The Commissioner notes that discussions about peace may bring up the issue of amnesties. He recalls that international law does not allow blanket amnesties for grave breaches of international humanitarian law, which are also not subject to a statute of limitations. He further notes that there is a growing trend in international law to regard amnesties for grave breaches of fundamental human rights as unacceptable, because they are incompatible with the unanimously recognised obligation of states to prosecute and punish them.<sup>16</sup> The Commissioner supports this conclusion and considers that political leaders should not approve amnesties for grave breaches of international humanitarian law or any other proposals which may result in impunity for such acts.
15. The Commissioner commends the use of the international legal principle of universal jurisdiction that allows domestic courts of third states to prosecute international crimes regardless of where these were committed or the nationality of the victim or perpetrator. To the Commissioner's knowledge, such proceedings have been launched in no less than twenty countries into international crimes committed by Russian forces on the territory of Ukraine since the start of the war.<sup>17</sup> He encourages Council of Europe member states to make use of their laws allowing for universal jurisdiction to ensure that perpetrators of international crimes do not enjoy impunity, notably when present on their territories.
16. At the moment, the bulk of criminal proceedings for war crimes committed in result of Russia's aggression are dealt with by Ukraine's judicial system. The Office of Ukraine's Prosecutor General is currently investigating more than 150 000 cases, mostly against alleged direct perpetrators and low-ranking soldiers. As these legal processes are vital for upholding victims' rights to justice, Ukraine's national capacity to investigate and prosecute must be supported. The Commissioner notes challenges raised in this regard by some sources, such as the above-mentioned heavy caseload and insufficient human and material resources.<sup>18</sup> Effective participation of victims and their relatives in investigations regarding Russian international crimes, including relatives of victims of enforced disappearance, should be ensured. In this regard, the Commissioner welcomes the establishment by the Office of the Prosecutor General of Ukraine of the Co-ordination Centre for Victims and Witnesses of War Crimes, which offers psychological, social and legal assistance to victims and witnesses.

17. The Commissioner notes that most of the war crime trials which led to convictions of Russian soldiers by Ukrainian courts have been held *in absentia*. Although trials *in absentia* may raise concerns regarding respect for the right to a fair trial, the Commissioner recalls his position on the conformity of such trials with human rights standards,<sup>19</sup> noting that such trials can reduce the risk of the perpetrators evading justice, help to preserve the quality of evidence, present that evidence to the public and, in some cases, enable victims to seek compensation. *In absentia* trials are not inherently unfair and might be permissible provided that the fair trial guarantees for the accused, identified by the European Court of Human Rights and the United Nations Human Rights Committee, are respected: notably, that every reasonable effort is made to bring the proceedings to the attention of the accused; that fair trial guarantees, including the rights to an appeal, are protected; and that, in cases where the defendant was unable to participate, later retrial opportunities are provided. The Commissioner invites the Ukrainian authorities to ensure that these standards are observed. In this context, he notes the respective concerns and recommendations by Ukrainian civil society organisations.<sup>20</sup>
18. Although on 16 March 2022 Russia ceased to be a member of the Council of Europe,<sup>21</sup> it remains bound by obligations under the Convention. In particular, Russia has to implement judgments of the European Court of Human Rights concerning events that occurred until 16 September 2022 – the date when it ceased to be a party to the Convention. There are currently 2 940 judgments delivered by the Court in respect of Russia which remain not enforced, of which 246 are leading cases. The Commissioner stresses that Russia remains bound by the unconditional obligation to pay the just satisfaction awarded by the Court<sup>22</sup> and to undertake the necessary individual and general measures. The Committee of Ministers, for its part, has urged the Russian authorities to take specific measures, including with regard to Ukrainian prisoners, in its decision adopted in March 2025 in the execution of the *Ukraine v. Russia* inter-state case concerning Crimea.<sup>23</sup>
19. The Commissioner considers that accountability is not solely crucial to address past injustices, but it also serves as a forward-looking measure aimed at securing peace and stability in the future.<sup>24</sup> He further observes that criminal justice alone will not be sufficient. Consequently, any peace talks could pave the way for further transitional justice initiatives and mechanisms building notably on the right to truth. Beyond reparations – which are addressed in the following section – this could also mean drawing on non-judicial measures, such as truth telling, memorialisation, reconciliation, and guarantees of non-recurrence.

These measures should be adequate to the context of an inter-state conflict as a means of addressing the wartime legacy of gross violations and abuses of human rights and serious violations of international humanitarian law. This is particularly relevant from the point of view of the victims of the war.

## **2. Reparation for the victims**

20. The Commissioner emphasises that all victims of Russia's internationally wrongful acts in or against Ukraine should receive reparations. This essential principle should guide any conversations around peace so that all victims are assured of receiving reparations in the future.
21. The Council of Europe has already done extensive work to guarantee that all victims are compensated. The Register of Damage for Ukraine has been operationalised. The list of categories of claims eligible for submission has been expanded. For example, the Register has recently launched claims for serious personal injury, sexual violence, torture and deprivation of liberty, in addition to damage or destruction of residential immovable property and death of an immediate family member. The Register has already received 20 256 claims<sup>25</sup> and it is estimated that the total number of claims in the future may reach several million.<sup>26</sup>
22. The Commissioner welcomes the progress in establishing the Register and recommends providing sufficient support to launch the remaining categories of claims.<sup>27</sup> The Register should be provided with resources commensurate with the high number of claims expected in the future. The Commissioner also supports the establishment of a claims commission as the next crucial step, and welcomes the progress made in this regard by the Intergovernmental Negotiation Committee on an International Treaty to establish a Claims Commission for Ukraine.
23. The Commissioner notes the concern expressed to him by civil society assisting victims in Ukraine that the Register only receives claims relating to events that occurred after 24 February 2022. It is true that the Register was set up under an agreement which only allowed for claims relating to damage, loss or injury caused on or after 24 February 2022.<sup>28</sup> However, it cannot be ignored that Russia's aggression against Ukraine began in 2014,<sup>29</sup> resulting in countless victims of serious human rights violations who have not received redress. In this respect, the Commissioner encourages Council of Europe member states to ensure that all victims of Russia's aggression since 2014 can obtain compensation.

24. It is also remarkable that Ukraine has already established national mechanisms to compensate some victims, such as those whose homes have been damaged or destroyed.<sup>30</sup> The Commissioner commends Ukraine's initiatives supporting victims as a matter of urgency. He recommends that Council of Europe member states support Ukraine in providing compensation to the most vulnerable victims, such as those who have lost their homes or suffered injuries due to Russia's attacks.
25. The Commissioner also recalls that effective reparation is not limited to compensation and should include the following other forms: restitution, rehabilitation, satisfaction and guarantees of non-repetition. All these forms of reparation need to be reflected and implemented according to their comprehensive interpretation in respective international standards.<sup>31</sup> As recognised by the UN General Assembly, the Russian Federation must be held to account for any violations of international law in or against Ukraine, including its aggression in violation of the Charter of the United Nations, as well as any violations of international humanitarian law and international human rights law, and it must bear the legal consequences of all of its internationally wrongful acts, including making reparation for the injury, including any damage, caused by such acts.<sup>32</sup>

### **3. Prisoners, children, and missing persons**

26. Independent human rights monitoring bodies, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Independent International Commission of Inquiry on Ukraine, have found that Russian authorities have subjected Ukrainian prisoners of war to widespread and systematic torture and ill-treatment, pervasive throughout all stages of captivity, and denied access to internment facilities for independent monitors.<sup>33</sup> Public figures in Russia have reportedly explicitly called for inhumane treatment and the execution of Ukrainian prisoners of war, often using dehumanising terms.<sup>34</sup> The OHCHR also documented multiple cases of executions of captured Ukrainian prisoners of war.<sup>35</sup>
27. In addition to prisoners of war, Ukrainian civilians have also been detained illegally or arbitrarily in Russia and in Russian-occupied territories of Ukraine. The OHCHR has documented over 1 200 such cases, though the true number is likely higher. By some accounts, there may be as many as 7 000 Ukrainian civilians missing or illegally detained in Russia in connection with the war, including civilian detainees transferred from the territories temporarily controlled or occupied by Russia to detention facilities in Russia.<sup>36</sup> Rather than as part of formal

internment, these detentions frequently occur incommunicado or in unofficial places of detention. Many civilians released from Russian detention have shared with UN human rights monitors credible testimonies of torture or inhuman or degrading treatment.

28. During his visit, the Commissioner visited Ukraine's Coordination Headquarters for the Treatment of Prisoners of War. The Headquarters is in charge of exchanges and releases of Ukrainian detainees from Russia. Between the start of the full-scale invasion and May 2025, Ukraine and Russia have carried out 65 exchanges of persons held in their respective custody. The exchanges mostly concerned prisoners of war (4 379 people by end of April 2025); the number of released civilians only amounted to 173 (130 men and 43 women). In May 2025, an exchange of 880 prisoners of war and 120 civilians from each side took place.
29. The Commissioner notes that thousands of Ukrainian children have been taken to or ended up in the Russian Federation or in Russian-occupied territories of Ukraine, and that Russia has violated their human rights by failing to return the vast majority of them to their families and legal guardians in Ukraine.<sup>37</sup> Some Ukrainian children taken to Russia were assigned Russian citizenship and some of them have been adopted, in a practice supported by Russian public officials. The Commissioner further notes that children held in Russia or in Russian-occupied territories of Ukraine are reportedly being subjected to militarised education and indoctrination into a pro-Russian worldview, a historical narrative demeaning Ukrainian identity. Due to the unwillingness of the Russian authorities to grant international organisations and human rights monitoring mechanisms access to such children or to cooperate in facilitating their return, the return of individual children has been extremely difficult. According to information provided by the Ukrainian authorities, of the 19 546 children subjected since 2022 to unlawful deportations and forced transfers to Russia, Belarus or Ukraine's temporarily occupied territories, only 1 347 have been returned to date.<sup>38</sup>
30. The United Nations Convention on the Rights of the Child (CRC) protects children's right to preserve their identity, including nationality, name and family relations, as recognised by law, without unlawful interference. Forcible transfers of protected persons and the changing of children's personal status, including their nationality, by an occupying force is further prohibited by Articles 49 and 50 of the Convention (IV) relative to the Protection of Civilian Persons in Time of War. The Commissioner observes that such practice may amount to a crime against humanity of 'deportation or forcible transfer of population'<sup>39</sup> and that the ICC has



issued arrest warrants against high-ranking Russian officials suspected of the war crime of unlawful deportation of population and that of unlawful transfer of population from occupied areas of Ukraine to the Russian Federation, in prejudice of Ukrainian children.<sup>40</sup>

31. The Commissioner welcomes the appointment of the Special Envoy of the Secretary General of the Council of Europe on the situation of children of Ukraine and her work in addressing the plight of Ukrainian children.<sup>41</sup> He further notes the work of the International Commission on Missing Persons (ICMP) on tracking persons missing in Ukraine, including missing children.<sup>42</sup>
32. Ukraine's Unified Register of Persons Missing in Special Circumstances, established in April 2023 within Ukraine's Ministry of Internal Affairs and overseen by the Office of the Commissioner for Missing Persons in Special Circumstances, tracks persons missing in special circumstances which include armed conflict, temporary occupation, and natural or human-made emergencies. As of February 2025, almost 63 000 persons were being searched for.
33. The Commissioner notes that all too often, the need to resolve and prevent missing persons cases is neglected in peace processes. As noted by the ICRC, the unaddressed issue of missing persons can turn into obstacles to sustainable peace by perpetuating distrust and resentment among communities and former conflicting parties.<sup>43</sup> He recalls that, under international humanitarian law, all parties to the conflict are under the obligation to make their best efforts to search for and to facilitate the search for persons reported missing as a result of a conflict. Failure to disclose information on the fate and whereabouts of missing persons can amount to enforced disappearance.
34. The Commissioner supports the position that any discussions around peace should address the issue of the release of all prisoners of war and all civilian detainees, including those previously held in penal, psychiatric and other institutions, the search for missing persons, and the unconditional return of all Ukrainian children transferred to Russia, Belarus or occupied territories of Ukraine.<sup>44</sup> While under IHL all prisoners of war ought to be returned without delay after the cessation of active hostilities, the Commissioner considers that the immediate release and return of all prisoners of war and captive civilians, including children, even before the end of active hostilities, could help to build trust and should support any discussions around peace. Moreover, Russian nationals sentenced in Russia to prison terms or awaiting sentences in connection to their anti-war statements and actions should also be

released.<sup>45</sup> At a minimum, the relevant actors, such as the International Committee of the Red Cross (ICRC) and the OHCHR, should be granted full access to all persons detained in Russia in connection with the war and provided with a complete list of their names, locations, and health status. This should include access to records and information about all Ukrainian children taken to Russia and Russian-occupied territories to enable their identification and the search for their whereabouts.

#### **4. Internally displaced persons (IDPs) and refugees**

35. According to the data provided by the Ukrainian authorities, over 10 million people remain affected by large-scale displacement due to the war. In addition to millions of Ukrainians who have sought refuge abroad, this includes 4.6 million internally displaced persons (IDPs) who remained in the country. Most of the IDPs are from territories of Ukraine temporarily occupied by Russia, and most currently reside in the Dnipropetrovsk, Kharkiv and Kyiv regions of Ukraine. The war forced the IDPs to leave their homes and undermined their human rights, such as the right to health, housing, work, private and family life, and access to social services. The Commissioner notes that Ukraine, with the support of the international community, in particular the European Union (EU), has been able to provide IDPs with salaries, pensions and basic public services.
36. The Commissioner observes that, following the abolition in December 2024 of the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine, there is no single government ministry or body in Ukraine with overall responsibility for matters related to the situation of IDPs. IDP matters appear to be divided between the new Ministry of National Unity, the Ministry for Development of Communities and Territories of Ukraine, and the Ministry of Social Policy, with unclear distribution of responsibilities. Although a Coordination Headquarters for Ensuring the Implementation of the Rights and Freedoms of Internally Displaced Persons was established in April 2023 to facilitate the coordination of the activities of executive bodies in protecting IDP rights, it is only a temporary advisory and consultative body. The Commissioner considers that all human rights issues facing IDPs should be clearly attributed to a governmental authority and invites Ukraine to take steps to that end.
37. Only a just and sustainable peace can provide a solid basis for the return of Ukrainian refugees and IDPs. The Commissioner considers that respect for human rights must be at the heart of all planning for the return of IDPs and refugees, including as part of any discussions

surrounding the peace process. All persons displaced by the conflict have the right to return to their homes or places of habitual residence. Any returns should take place in conditions of safety and dignity. They should result from a truly voluntary and well-informed decision, based on the provision of accurate information from authorities, and in the absence of any undue legal, physical, or psychological pressure. At the same time, those who are unable to return or who choose not to do so should be provided with an effective opportunity to integrate in their host communities or another community of their choice. The Commissioner further notes the various recommendations made with regard to IDPs and refugees by the Parliamentary Assembly of the Council of Europe.<sup>46</sup>

38. As regards Ukrainians currently enjoying protection in other Council of Europe member states, including under temporary protection schemes, the Commissioner considers that such protection is in recognition of the fact that its beneficiaries cannot, for the time being, return in safe and durable conditions. The protection should therefore continue to be extended for as long as the situation requires. In this regard, the Commissioner notes that on 4 March 2022 the EU activated Council Directive 2001/55/EC of 20 July 2001 (the 'Temporary Protection Directive') for people displaced as a result of Russia's full-scale invasion of Ukraine. The EU temporary protection, initially applied for a period of one year, was then extended several times, each time for a further period of one year. On 13 June 2025, the Temporary Protection Directive was once again extended by an additional year – until 4 March 2027 – while, at the same time, it was announced that a discussion would begin on a strategy to phase out temporary protection when "the conditions in Ukraine are conducive to allow temporary protection to end".<sup>47</sup> The Commissioner also considers that steps should already be envisaged for when the temporary protection ends to uphold Ukrainians' right to respect for private and family life, taking into account their individual family and integration circumstances.
39. Notwithstanding the current political discussions, states should plan their programmes in support of Ukrainian beneficiaries of temporary protection keeping in mind that protection needs may continue for a considerable time.<sup>48</sup> Member states must fully uphold in such a situation the principle that return must be truly voluntary. The Commissioner notes that some member states have taken steps to reduce assistance to Ukrainians, possibly in an attempt to incentivise rapid returns. He cautions that certain measures may result in undue pressure on some persons currently enjoying protection in Council of Europe member states - and particularly among the most vulnerable,

such as older persons or people with disabilities - which is incompatible with the principle of voluntary return. This may result in precipitated returns, potentially exposing people to human rights violations. In this regard, the Commissioner welcomes the commitment expressed by the Minister of National Unity of Ukraine to creating conditions for the voluntary return to Ukraine of Ukrainians living abroad, including through the so-called 'Unity Hubs' initiative designed to provide counselling, information and access to legal aid regarding issues of return or continued stay.

## **5. People living in temporarily occupied territories**

40. As found by the 2024 report of the Secretary General of the Council of Europe on the human rights situation in the territories of Ukraine temporarily controlled or occupied by the Russian Federation,<sup>49</sup> Russia controls or occupies parts of Ukraine's Donetsk, Kherson, Luhansk and Zaporizhzhia regions as well as Ukraine's Autonomous Republic of Crimea and the City of Sevastopol. In September 2022, Russia carried out so-called referendums in an attempt to annex the Donetsk, Kherson, Luhansk and Zaporizhzhia regions of Ukraine, in violation of the principles and norms of international law.<sup>50</sup>
41. In violation of international obligations incumbent on an occupying power, Russia proceeded to impose its legal, political and administrative systems in these regions and used various means to force residents to acquire Russian citizenship.<sup>51</sup> A decree issued by the Russian president in early 2025 has forced Ukrainian residents to apply for Russian passports, or risk expulsion.<sup>52</sup> The occupation appears to have been carried out in an atmosphere of generalised violence and fear, and multiple and grave violations of international human rights and humanitarian law have been committed in the process. Impunity for human rights violations has remained pervasive.<sup>53</sup> The Commissioner notes that there are currently four inter-state cases pending before the European Court of Human Rights and 7 400 individual applications which appear to be related to the events in Crimea, eastern Ukraine, and Russia's military operations on the territory of Ukraine since 24 February 2022.<sup>54</sup>
42. The Commissioner deplores the continued lack of safe and unfettered physical access for regional and international human rights organisations and bodies mandated to monitor and investigate human rights violations to territories of Ukraine controlled or occupied by Russia, and a general deterioration of access to information about the human rights situation in those territories.<sup>55</sup>

43. Russia is legally obliged to uphold human rights and international humanitarian law in territories of Ukraine it controls or occupies.<sup>56</sup> The Commissioner considers that established regional and international human rights monitoring bodies and groups should be provided immediate, safe and unfettered access to all of Ukraine's territories controlled or occupied by Russia. The human rights situation of people living in areas of Ukraine temporarily occupied by Russia to the extent that these areas may continue to be under temporary occupation by Russia must be made part of the peace equation.
44. The Commissioner observes that the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine was disbanded in 2024 and replaced by the newly established Ministry of National Unity. He further observes that some of the issues concerning residents of temporarily occupied territories of Ukraine, including matters related to the reintegration of these territories after de-occupation, the provision of a humanitarian response to their residents and residents of the frontline areas, or ensuring information sharing with residents of these territories, frontline areas, and de-occupied territories, have not been clearly reattributed. The Commissioner invites the Ukrainian authorities to provide for a clear attribution of all the tasks previously handled by the Ministry of Reintegration to other government entities.
45. The Commissioner remains concerned about the criminal prosecution by the Ukrainian authorities of persons resident in Ukraine's controlled territories, including de-occupied areas, and its territories occupied by Russia, for alleged collaboration with the Russian occupying authorities, based on the overly broad provisions of Ukraine's criminal law. An analysis of court rulings, carried out by the OHCHR, found that some defendants in collaboration cases were convicted for performing work that may be lawfully required by the occupying power under international humanitarian law.<sup>57</sup> The Commissioner was informed that in May 2024, instructions were issued to prosecutors by the Prosecutor-General of Ukraine to insist on compliance with international human rights and humanitarian law in cases involving alleged collaboration. It appears that the number of prosecutions of such cases has dropped in recent times.
46. The Commissioner considers that reliance on an overly broad understanding of the notion of collaboration may provoke tensions and acrimony, splintering communities in the occupied or de-occupied territories and imperilling future reintegration and reconciliation efforts.<sup>58</sup> Addressing the problem would require amending legislation.<sup>59</sup> As the Commissioner understands, a set of amendments to that end

is currently under consideration before Ukraine's parliament, and he encourages the pursuance of this work. Further, he invites the Ukrainian authorities to consider other transitional justice measures, alternative to criminalisation, which may serve the purpose of safeguarding national security and preventing impunity while restoring peace and preserving social bonds among people who have experienced Russian occupation.

## **6. Martial law**

47. Since 24 February 2022, Ukraine has declared martial law and announced a general mobilisation. This has been coupled with significant restrictions on human rights. Ukraine has formally derogated from the European Convention on Human Rights.<sup>60</sup> The derogation concerns the right to respect for private and family life (Art. 8), freedom of expression (Art. 10), freedom of assembly and association (Art. 11), protection of property (Art. 1 of Protocol 1), right to education (Art. 2 Protocol 1), right to free elections (Art. 3 of Protocol 1), and freedom of movement (Art. 2 of Protocol 4).
48. In light of this derogation, the Commissioner stresses that any restrictions on human rights should be strictly required by the exigencies of the situation and must not be inconsistent with the state's obligations under international law.<sup>61</sup> Moreover, the Convention does not allow derogations from the right to life (Art. 2 - except for lawful acts of war), the prohibition of torture and other ill-treatment and the prohibition of slavery (Art. 4). Furthermore, the prohibition of torture and other ill-treatment is absolute and the right to be free from torture and other ill-treatment (Art. 3) cannot be restricted under any circumstances.
49. The Commissioner notes the recent statement by the Parliamentary Commissioner for Human Rights, Dmytro Lubinets, that human rights violations by Ukrainian military recruitment officials have become "systematic and widespread". According to that statement, such violations include physical violence, such as beatings, brutal arrests, denial of access to a lawyer, incommunicado detention, mobilisation of people with disabilities and other unacceptable acts.<sup>62</sup>
50. The Commissioner has been receiving similar reports, including allegations of torture and death during military recruitment. While Ukraine is entitled to lawfully recruit its military, the Commissioner finds these reports alarming and urges the Ukrainian authorities to effectively investigate them. Furthermore, the Ukrainian authorities should put in place a mechanism to prevent human rights violations during mobilisation, including by introducing independent oversight

to monitor military recruitment and visit any places where recruits may be deprived of their liberty. All military recruitment officers should receive a firm message of “zero tolerance” of torture or other ill-treatment and undergo training on human rights compliant treatment of people. While noting Ukraine’s efforts to provide guidance to military recruiters, the Commissioner believes that the scope of the issue requires a wider range of measures to effectively address the problem. The Commissioner also recommends that Ukraine uphold international standards on conscientious objection, summarised by the Venice Commission in its *amicus curiae* brief on alternative (non-military) service.<sup>63</sup>

51. During the visit, the Commissioner met Olha Kobylenska (Reshetylova), Commissioner of the President of Ukraine for the Protection of the Rights of Servicemen and Members of Their Families – a newly established institution dealing with complaints about military service conditions. Ms Kobylenska informed the Commissioner of the high number of complaints received by her office (over 6 000 in 2.5 months). Given this workload and the importance of the human rights involved, the Commissioner recommends that this new institution be provided with adequate resources and that its mandate be strengthened.
52. Under martial law, Ukraine has also introduced a streamlined format for TV news by establishing “United News” – a joint forum of several national media. In its 2024 report on EU enlargement, the European Commission recommended that Ukraine continue its efforts to maintain and gradually restore a transparent, pluralistic and independent media landscape, ensuring that restrictions imposed on security grounds are in compliance with key public rights and interests, such as access to information and media freedom.<sup>64</sup> The Commissioner encourages the Ukrainian authorities to ensure that any restrictions to freedom of expression are in compliance with the requirements of the Convention.
53. The Commissioner is concerned by reported instances of alleged intimidation and other forms of harassment of Ukrainian journalists, lawyers, civil society, political and opinion leaders critical of the government.<sup>65</sup> In several cases, the Ukrainian authorities have imposed so-called ‘personal sanctions’ on some of these individuals, restricting their freedom of movement, expression, and property rights, among others. The Commissioner is concerned about the use of personal sanctions against Ukrainian citizens, as these entail significant restrictions of human rights and bypass regular judicial mechanisms.<sup>66</sup> Furthermore, the Commissioner recommends that the reports of intimidation and harassment be effectively investigated.



Attention should also be paid to reports of the selective use of military recruitment,<sup>67</sup> which could have a chilling effect on freedom of expression and, more generally, civil society.

54. The Commissioner recognises Ukraine's right to self-defence and the legitimate reasons for human rights restrictions to counter Russia's aggression. As the peace process advances and Ukraine transitions out of martial law, it should be supported in easing and lifting these restrictions. The Commissioner hopes that, as the first true signs of peace emerge, Ukraine will promptly restore the democratic environment as a whole in full compliance with its international human rights obligations.

## **7. Reconstruction and recovery**

55. To ensure that Ukraine's reconstruction and recovery are sustainable, human rights must be embedded in all reconstruction and recovery efforts. Urgent reconstruction should prioritise those most in need, such as those whose homes have been damaged or destroyed. Initial reconstruction should focus on social infrastructure, like schools and hospitals. Appropriate resources should be allocated to cover such needs in any eventual peace agreement. Moreover, recovery efforts aimed at restoring the normal functioning of society should be afforded the same importance as material reconstruction.
56. The Commissioner's view is that reconstruction and recovery efforts should be based on human rights and take into account the different forms that victimisation may take for different groups of people.<sup>68</sup> Therefore, these efforts should be inclusive and participatory. Affected communities, especially vulnerable groups such as IDPs, women, families with children, and older persons, should have a voice in decision-making and shape the rebuilding of their lives and environment. This inclusive approach would promote their ownership, trust and long-term sustainability.
57. Particular attention must be paid to women and children, who are often in a vulnerable situation, and at an increased risk of exploitation, violence and discrimination. The recovery process should also include providing psychosocial support, restoring education systems to enable children to continue their normal learning and creating safe spaces for women.<sup>69</sup>
58. A key part of Ukraine's recovery is the support of veterans, who need vocational training, employment and other social support to reintegrate successfully into civilian life. Mental health and psychosocial support



services (MHPSS) are also crucial to address the psychological trauma of veterans. By providing these services, Ukraine can ensure the well-being of veterans and contribute to social stability in the recovery process.

59. As of end-December 2024, Ukraine's reconstruction and recovery needs for 10 years were estimated at almost US\$524 billion (ca. €506 billion), approximately 2.8 times Ukraine's estimated nominal GDP for 2024.<sup>70</sup> Most of these needs include housing, energy, transport, social protection and livelihoods, health, and other sectors that directly impact people's everyday lives. No effort should be spared to ensure these needs are met.<sup>71</sup>
60. The Commissioner commends the reconstruction and recovery initiatives already undertaken with the support of the Council of Europe and its member states. For example, in March 2024, the Council of Europe Development Bank granted a €100 million loan to the Ukrainian state mechanism for compensating owners of destroyed housing. This loan funded some 3 000 housing certificates for the purchase of residential property. The Council of Europe Bank has also recently approved a €200 million loan to governmental projects aiding vulnerable IDPs, many of whom cannot return to their homes.<sup>72</sup> The Commissioner encourages Council of Europe member states to continue to support initiatives so that all those who have lost their homes receive appropriate assistance.
61. Earlier this year, the Commissioner published a short statement ('shout out') on the negative impact of the USAID funding freeze across the Council of Europe.<sup>73</sup> This freeze has had a particularly detrimental impact on Ukraine. The Commissioner reiterates the need for Council of Europe member states to fill the funding gap left by the freeze, notably by supporting humanitarian action in Ukraine.
62. Successful reconstruction and recovery require that victims be at the centre of these efforts. As mentioned, priority should be given to those who have suffered the most. Therefore, early recovery and reconstruction should prioritise humanitarian action while thinking about longer-term sustainable recovery. In this context, humanitarian interventions should be guided by relevant standards, such as the UN Resolution on strengthening humanitarian emergency assistance,<sup>74</sup> and be based on humanitarian principles such as humanity, neutrality and impartiality.

## 8. EU accession pathway

63. For the first time, an EU candidate country is pursuing its accession into the EU while simultaneously defending itself against a war of aggression. As a result, new questions have arisen that have not been previously addressed, such as how the EU accession and peace talks are related. In the Commissioner's view, Ukraine's EU accession path carries with it human rights obligations, as should any peace agreement. These two sets of commitments need to be aligned. This means that any peace agreement must be compatible with Ukraine's human rights commitments in the process of its accession to the EU.
64. Any country wishing to join the EU must meet key accession criteria, including stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. As Ukraine moves on the accession path, it is required to implement EU acquis, undertaking legal, judicial, anti-corruption and other reforms primarily under Chapters 23 and 24 of the EU acquis. According to the European Commission, Ukraine has made progress in respecting fundamental rights. However, there are some outstanding issues. For example, Ukraine needs to fully implement the Istanbul Convention, adopt legislation on data protection in line with EU acquis, improve prison conditions in line with CPT standards, advance the deinstitutionalisation of adults with disabilities and older persons, and improve the situation of freedom of the media.<sup>75</sup> While Ukraine's post-conflict transition has not yet begun, it is crucial that these issues are addressed.
65. The peace talks must ensure that any agreement reached supports Ukraine's EU integration goals relating to human rights. Aligning the peace settlement with Ukraine's EU accession path contributes to preserving the integrity of its democratic and legal systems rooted in human rights.
66. In addition, peace negotiations should create a framework for post-conflict reconstruction supporting Ukraine's long-term goals of human rights protection and EU integration. As the country rebuilds, it will need international assistance to meet the human rights benchmarks set by the EU.

## 9. Role of women in peace processes

67. Consecutive UN resolutions, starting with Security Council Resolution 1325 ('SCR 1325'), have recognised the crucial role women play in

conflict prevention and resolution.<sup>76</sup> Global practice persistently shows that women's participation in peace agreements not only increases the likelihood of reaching a peace agreement, but also produces more sustainable outcomes, including increased durability and quality of peace, and a better implementation of agreed measures.<sup>77</sup> For example, according to one research study, women's participation increases the probability of a peace agreement lasting at least two years by 20% and a peace agreement lasting fifteen years by 35%.<sup>78</sup> However, in spite of their critical contribution, women continue to be largely sidelined or excluded from peace processes worldwide.

68. In that regard, it is important to acknowledge the specific impact conflict has on women and girls. They are disproportionately affected by conflict-related sexual violence, including as a tactic of war; as well as by the loss of health care infrastructure, resulting in a lack of access to critical sexual and reproductive health services. Conflict can also exacerbate existing gaps in gender equality that further disturb women's lives and livelihoods, including due to forced displacement. Russia's aggression against Ukraine has resulted in the violation of the right to life of many Ukrainian women as well as their ability to enjoy basic human rights. It put many of them at a particular risk of insecurity, trafficking and violence, including war-related sexual violence, and has had a particularly disproportionate impact on older women and women with disabilities.<sup>79</sup>
69. However, women should not only be considered passive victims or observers of war.<sup>80</sup> Their roles as active agents in formal and informal peacebuilding and recovery processes are paramount to ensure a gender-sensitive approach in all efforts towards peace, including by addressing their specific needs, and to equally harness women's power in fostering peace, stability and security for all.
70. The Commissioner therefore considers that any process towards a peace based on human rights must involve the meaningful participation of women, recognise their key role in the resolution of conflicts, and include a gender perspective. Not to include women in the peace process would ignore their critical contribution and reduce the likelihood of achieving a lasting outcome. Therefore, there should be full, equal and effective participation of women right from the outset and through all stages of the peace process including, crucially, directly at the negotiating table. Moreover, women and gender experts should be involved in the technical work around every component of a peace deal, including ceasefire-monitoring agreements, provisions on justice and reparations, and socio-economic recovery.<sup>81</sup>

## 10. Involvement of actors

71. As the victim of aggression, Ukraine should always be at the negotiating table, with the full involvement of its civil society.
72. Further, external actors can have a beneficial impact over the inclusion of human rights in the conflict resolution process. The Commissioner considers that the international community has a responsibility to push those at the helm of the process to incorporate human rights in conflict resolution efforts and to insist on the inclusion of clear provisions on human rights in any future peace agreement. The human rights dimensions of peace will be better addressed if appropriate multilateral organisations, like the United Nations, the Council of Europe, or the Organization for Security and Co-operation in Europe, are engaged by setting the tone, influencing the proceedings, and sharing expertise on human rights standards and ways in which they may be embedded in peace agreements.
73. By involving civil society, the resulting negotiations and agreements are more likely to reflect the needs of the Ukrainian people and contribute to a more inclusive, sustainable and just post-conflict future.<sup>82</sup> The Commissioner acknowledges the Ukrainian government's efforts to engage certain civil society organisations in national discussions about future peace. However, these consultations have been limited, with little representation of human rights organisations. The Commissioner invites the Ukrainian government to include the country's civil society working on human rights in talks on human rights issues relevant to the peace process. In addition, the Parliamentary Commissioner for Human Rights should be regularly engaged given his key role in the field of human rights.
74. Victims of human rights violations should also have a voice in the peace discussions. The experience of other past armed conflicts shows that victims' direct participation in peace talks, in particular, can have a direct and positive impact in acknowledging the importance of addressing the grievances of victims as an element of sustaining peace.<sup>83</sup>
75. With regard to the Commissioner's role, he stands ready to support the embedding of human rights in peace processes by offering advice and other assistance within the scope of his mandate. Protecting human rights in the context of Russia's war against Ukraine is and will remain his top priority.

## Endnotes

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- 14 [Frequently Asked Questions](#) - Special Tribunal for the Crime of Aggression against Ukraine
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- 16 European Court of Human Rights, Margaš v. Croatia, Application No. 4455/10, [judgment](#) of the Grand Chamber of 27 May 2014, paras. 134-139.
- 17 'Human rights situation in the territories of Ukraine temporarily controlled or occupied by the Russian Federation', [report](#) by the Council of Europe Secretary-General, SG/Inf(2024)18, 24 May 2024, para 90.
- 18 Ibid, para. 93.
- 19 See the Commissioner's [speech](#) delivered at the Informal Conference of the Ministers of Justice of the Council of Europe on accountability in Ukraine on 5 September 2024.
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The activities of this institution focus on three major, closely related areas :

- country visits and dialogue with national authorities and civil society,
- thematic studies and advice on systematic human rights work, and
- awareness-raising activities.

The current Commissioner, Michael O'Flaherty, took up his functions in April 2024. He succeeded Dunja Mijatović (2018-2024), Nils Muižnieks (2012-2018), Thomas Hammarberg (2006-2012) and Álvaro Gil-Robles (1999-2006).



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