

CommHR(2023)14

Presentation of the 2022 Annual Activity Report of the Commissioner for Human Rights to the Council of Europe Parliamentary Assembly

by Dunja Mijatović

Council of Europe Commissioner for Human Rights

Strasbourg, 24 April 2023

Mr President, honourable members of PACE, dear colleagues,

2022 will be remembered as the year of mass atrocities on European soil. Exactly fourteen months ago today, the people of Ukraine woke up to the sound of explosions and shelling. For more than 400 days now, Russian forces have been killing, injuring and displacing tens of thousands of people, including many children.

The Russian Federation's military attack on Ukraine has resulted in serious and massive violations of human rights and international humanitarian law, with disastrous effects on the enjoyment of virtually all human rights by people in Ukraine. It affected the whole of Europe and beyond.

Since the outset of Russia's war against Ukraine my Office and I have been engaged in responding to its human rights consequences.

At the beginning of March last year, we conducted [six emergency missions](#) to countries neighbouring Ukraine hosting people fleeing the war, went to 15 border crossings, visited many reception centres and engaged with people fleeing the war. We met with human rights defenders, activists and international organisations present at the border and with national and local authorities.

During the visit to Ukraine from 2 to 7 May 2022, together with my team, I witnessed that in only two months, the war had caused widespread human suffering, including the death of thousands of civilians, the displacement of millions, the abduction of children, and numerous cases of torture, extra-judicial executions, arbitrary detention and sexual violence. In Irpin, Bucha, and Borodyanka, I saw evidence of the destruction and heard shocking accounts of the human rights violations that Russian forces caused.

In a [memorandum](#) on the human rights consequences of the war, that I published in July 2022, I warned about the danger of forcible transfer of Ukrainian citizens, including children, to the Russian Federation or temporarily occupied territories.

Already at that time, I noted with concern reports that following a legislative change to facilitate the granting of Russian citizenship to Ukrainian children, some of them had been adopted in Russia in what appears as a deliberate exploitation of these children's vulnerability.

In this regard, I emphasised that international humanitarian law prohibits the changing of children's personal status, including nationality, by an occupying force.

During the visit I conducted interviews with victims and witnesses of serious human rights violations and their relatives and travelled to several localities in the Kyiv region which had previously been under the control of Russian troops or witnessed heavy fighting.

During the PACE summer session from 20 to 24 June 2022, together with the President, I hosted a pop-up exhibition called LISTEN in the lobby of the Hemicycle to underline the necessity of having the voices of children affected by war heard.

The President and Founder of the [War Childhood Museum](#), Jasminko Halilović, and the Museum's Ukraine project manager, Svitlana Osipchuk asked for stronger European support for the children of Ukraine and expressed hope "that every visitor to this exhibition will be more motivated to demand concrete help with which Ukraine can ensure the safety of its children."

The War Childhood Museum – the world's only museum focused exclusively on childhood as affected by armed conflict – opened its doors in 2017 in Sarajevo. The WCM's collection today features over 5,000 objects from 16 armed conflicts. With offices in Sarajevo, Kyiv, the Hague, and New York City, and activities centring on research, exhibition, and education implemented in other countries, the WCM is gradually becoming an international platform for all whose childhood has been affected by war. In 2018, the War Childhood Museum received The Council of Europe Museum Prize under the European Museum of the Year Scheme.

By recognising the multi-layered consequences of conflicts, we can better understand our responsibility to ensure the safety and wellbeing of all children

Last month I carried out my second visit to Ukraine since Russia's full-scale invasion of the country. This visit focused mainly on the human rights of children who have been separated from their families or legal guardians and transferred to Russia or temporarily occupied territories of Ukraine. I hope that the findings and recommendations from this visit can be useful in the context of your upcoming discussions on "The situation of Ukrainian civilians, including children, forcibly displaced or transferred to the Russian Federation or Ukrainian territories under the de facto control of the Russian Federation". Several categories of children are affected, including unaccompanied children, orphans, and children in care institutions. In Russia, they have often been placed in foster care without sufficient efforts being made to establish contact with their relatives or legal guardians in Ukraine. Some children have been given Russian citizenship and have been adopted by Russian families, a practice encouraged by Russian public officials, even though children separated from their parents during a humanitarian emergency can never be considered orphans and are therefore not available for adoption.

In the statement I issued after my visit, I condemned Russia's failure to return these children as a clear violation of their human rights. I called for unimpeded access to be given to records and information about all affected Ukrainian children. I also called for more urgent action and international co-operation on the family reunification of the affected children

Concrete solutions should be identified to support the reunification of these children, including:

- by establishing and supporting a mechanism for reuniting Ukrainian children with their families and legal guardians,
- by providing more clarity regarding the entities and procedures through which parents, relatives, legal guardians, and children can seek assistance in family reunification.
- by supporting and cooperating with reliable organisations and networks of Ukrainian and Russian human rights defenders and civil societies who are involved in facilitating the family reunification work (this is a crucial step)
- and by assisting Ukraine in pursuing a comprehensive deinstitutionalisation reform and the creation, as soon as the situation allows, of a nurturing environment in which children are raised in families. This is something I discussed with the Adviser-Commissioner to the President of Ukraine for Children's Rights, and I intend to continue working with her on it.

I note in this respect that, since then, the International Criminal Court judges have issued arrest warrants against the President and the Russian Commissioner for Children's Rights, in relation to the war crime of unlawful deportation of children and that of unlawful transfer of children from occupied areas of Ukraine to the Russian Federation.

During my last visit to Ukraine, I also focused on the human rights situation of the Crimean Tatars. Last week, on 18 April, I published a report on this issue. The aim of my report is to amplify the voice of Crimean Tatar human rights defenders and victims, and to draw attention to Crimean Tatars' long-standing struggle for dignity and human rights. It provides a brief historical overview of the persecution of the Crimean Tatar people. It also identifies multiple patterns of human rights violations suffered by Crimean Tatars, especially after the illegal annexation of Crimea in March 2014 and following Russia's full-scale invasion of Ukraine in February 2022.

I welcome the strong emphasis of the Council of Europe Summit on accountability and the need to investigate and prosecute the perpetrators of violations of international humanitarian and human rights law committed in Ukraine. Continued international support for the national justice system in Ukraine and Ukrainian human rights defenders who document crimes and human rights violations is also important, as are universal jurisdiction investigations in several European countries. Justice, remembrance of past human rights violations, and recognition of the suffering of the victims are necessary foundations for a long-term peace based on respect for human rights and the rule of law.

Russia's war of aggression against Ukraine should also provide the context for reflection on lessons learnt about the effectiveness of our work and on priority thematic areas of focus going forward. This is necessary as human rights backsliding, with its accompanying progressive relinquishment of multilateralism and distancing from democratic and rule of law principles, is putting hard-fought rights and freedoms at peril elsewhere in Europe, too. While the emphasis on supporting Ukraine is both right and necessary, it is crucial that it does not translate, including inadvertently, into a loss of focus on ensuring respect for human rights in all our member states.

I would like to highlight some areas where this is particularly important, based on my country and thematic work throughout my mandate.

The first is the obligation to fully implement the judgments of the European Court of Human Rights. Failure to do so would be an outright rejection of the commitment to upholding human rights. As highlighted in the latest report of the Committee of Ministers of the Council of Europe on the execution of the Court's judgments, more than 6,000 cases remained to be implemented at the end of 2022. Almost 1,300 of these are leading cases. Delaying or failing to implement court judgments results in repeated human rights violations continuing to occur.

Another long-standing problem is the continued violation of the human rights of migrants and their instrumentalisation for political purposes. Some authorities have proposed or adopted laws that violate established human rights standards and the basic principles of human dignity.

This is a very dangerous path. Removing cornerstones from the edifice of international human rights law runs the risk of others falling, until the whole edifice collapses. Politicians have to be more far-sighted. In particular, parliamentarians should pass laws and monitor government practices to prevent pushbacks and ensure that asylum seekers have access to individualised and efficient asylum procedures. Search and rescue efforts also need to be strengthened. Loss of life at sea is a tragedy that can and should be prevented. State authorities must also improve reception conditions and integration.

In addition to failing to meet international standards on migration, some member states compound the problems by preventing human rights defenders from working freely. In some countries human rights defenders who protect migrants are stigmatised and harassed for purely political reasons. It is worth repeating that when human rights defenders, civil society and individuals help save lives and provide assistance to migrants, it is largely because the state has failed in its obligations to do so. Those who attack them are not only violating human rights obligations. They are also doing a disservice to democracy and the rule of law.

Protecting human rights is also inextricably linked to protecting the environment. The degradation of our ecosystems not only poses a direct threat to our physical health and well-being, but also undermines people's ability to enjoy a range of human rights, including the rights to life and health.

I am concerned about the increasing repression of environmental human rights defenders, especially young people, who demand to be heard, sometimes through unconventional means. Instead of being listened to and given a place at the table, they are all too often silenced through violence, abusive litigation (SLAPPs), arrests, and smear campaigns. This is the wrong response to one of the most pressing

challenges facing humanity. There is a need for greater commitment, including by national parliaments, to address the root causes of environmental degradation and to promote social justice and equality, as well as a recognition of the multiple ways in which people are affected by environmental degradation.

Environmental problems often have social and political root causes. They require collective action to be addressed effectively. The lack of such action has often led to protest, including in Europe. Regrettably, I have observed that all too often state authorities in Europe unduly restrict the right to peaceful assembly, including through the use of excessive force and the criminalisation of peaceful demonstrators.

Freedom of assembly is not only an important right in itself, but also in the context of other human rights, such as freedom of expression, association, and participation in public affairs.

In this context, it is also important to better protect media freedom. Last December, I had an exchange of views with your Committee on Culture, Science, Education and Media, during which I underlined the important role that parliamentarians can play in ensuring the safety of journalists. This is crucial for the resilience of democracies, especially in the face of an alarming decline in the safety of journalists and an increasingly restrictive environment hampering their work in many European countries.

I have also observed a worrying decline in the safety of human rights defenders and increasing restrictions on their ability to work in a growing number of European countries. They face various forms of reprisals, including judicial harassment, prosecution, illegal deprivation of liberty, abusive controls and surveillance, smear campaigns, threats and intimidation. This situation undermines democracy. If human rights defenders cannot work freely and safely it becomes more difficult to shed light on human rights violations, corruption or abuse of power, and undemocratic forces thrive.

The climate of hostility against them is also part of a wider problem of polarisation in society characterised by hate speech against different social or minority groups. A dramatic example of this is the pervasive climate of intolerance against LGBTI people who face a variety of threats to their dignity, safety and freedoms. Instead of addressing this problem, some politicians are surfing or even creating this wave of intolerance by instrumentalising fundamental issues related to their human rights, such as the legal recognition of same-sex couples or their right to family life.

Another area where progress is still needed is the protection and promotion of women's rights and gender equality. Women and girls in Europe today still face significant challenges, from gender-based violence to obstacles in accessing their sexual and reproductive health and rights, from discrimination to unequal pay and limited representation in leadership positions. Moreover, the COVID-19 pandemic and the war in Ukraine have highlighted the impact that crises can have on women, exacerbating existing inequalities and putting them at risk of further marginalisation.

A multi-pronged approach is needed to address these challenges. First, there is a need to better address gender-based violence in all its forms. This includes not only physical violence, but also sexual harassment and online abuse. Legislation must be strengthened to hold perpetrators accountable, provide effective remedies and support services for survivors, and promote the respect and upholding of women and girls' sexual and reproductive health and rights.

Second, the gender pay gap must be tackled head on. It is illegal, unjust, and unsustainable for women to be paid less than men for work of equal value.

Third, more efforts are needed to ensure that women are not left behind in the recovery process after the impact of COVID-19 on their professional and personal lives. This means investing more in social protection, supporting women who have lost their jobs or are struggling to reconcile work and private life, and promoting women's leadership in the recovery process.

We must also act to break down the many barriers that still prevent persons with disabilities from participating fully in society. I have urged member states to prioritise legal capacity reforms and to put in place adequately designed and funded community-based services to support independent living. More generally, there is a need to close gaps in laws and policies and to improve their implementation so that persons with disabilities have access to education, employment and health care on an equal basis with others. I invite you to ensure that persons with disabilities are effectively involved in these processes. Last but not least, your efforts are needed to push for more investment in education, awareness-raising and capacity-building to promote inclusion and respect for diversity.

Mr President, honourable members of PACE,

Commitment to upholding human rights standards has been waning in many of our member states for several years. But this is no reason to give up. As I have often stressed, amid the gloomy picture, there are also reasons for hope. I see this when states ratify conventions, protect their national human rights structures, and co-operate effectively at the multilateral level. In all the countries I visit, I meet NGOs, journalists, human rights defenders, activists, national human rights and Ombudsman institutions, who continue to defend the rights of others, despite the grave dangers they often face for their commitment.

This is a sign that the European system of human rights protection contains the necessary antibodies. We need to make better use of them to improve the lives of millions of people in Europe. Our continent is in dire need of more, not less, human rights. The Council of Europe must remain the guardian of human rights, democracy, and the rule of law. The Summit will hopefully also commit to better harnessing the power of youth, whose right to participate leads not only to better and more effective decisions but also enriches democracy and helps develop citizenship competencies for life. Now is the time to truly recommit to the values of our organisation and it is the responsibility of member states to do so. The founding principles and values of the Council of Europe continue to be the cornerstones of our societies. Putting them into practice must become a top priority for us all, including Council of Europe member states. Together, we need to strengthen freedoms, promote participation, and enable all people to enjoy their human rights. Only united, will we rise to the challenges of our time.