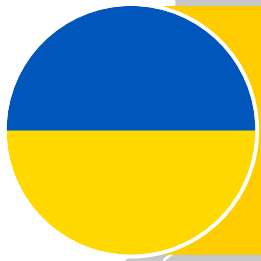


# REPARATIONS FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE



## COUNTRY BRIEFING UKRAINE

**Official Register of Survivors of conflict-related sexual violence (CRSV):** None.

**Commonly cited number of CRSV Survivors:** No formal estimates exist.

**Estimated Real Number of CRSV Survivors:** The only available estimate relates to survivors of CRSV experienced in arbitrary detention and is of approx. 340 people. This does not include CRSV at checkpoints and other contexts, and the actual number of detention-related CRSV survivors is also likely to be higher.

**Domestic Legal Framework for Administrative Reparations Programme:** None.

**Mechanism to implement Administrative Reparations Framework:** Not applicable.

**Domestic Avenues for Reparations through Courts:** Limited to compensation awards by civil courts.

**Approximate Number of Survivors having received any formal Reparations for CRSV:** 0.

**Survivor Perception regarding state of Implementation of Reparations:** Not applicable.

**Ongoing CRSV:** Yes.



## Nature and Scope of CRSV

The armed conflict(s) in eastern Ukraine broke out in early 2014 between the Ukrainian government and the self-proclaimed “Donetsk and Luhansk People’s Republics” armed groups who claimed “independence” from Ukraine and received support from the Russian Federation. In parallel, the Russian Federation engaged militarily in the Crimean Peninsula, leading to territorial control amounting to an ongoing state of occupation. Access to territories controlled by the armed groups and to Crimea remains extremely limited. Available information nonetheless indicates that CRSV has been perpetrated since the start of the armed conflict in both eastern Ukraine and Crimea.

CRSV has been and continues to be perpetrated in detention centres both in the Government-Controlled Area and the temporarily Non-Government-Controlled Area (NGCA). [According to OHCHR](#), the Ukrainian government is responsible for roughly 2,300 arbitrary detentions with an estimated 4,6 % of those arbitrarily detained being subjected to CRSV. Armed groups are responsible for approximately 4,300-4,700 conflict-related detentions in the NGCA with an estimated 3,9 % rate of CRSV occurrence. That said, the lack of safe access to the NGCA - most notably to rights groups - insecurity and fear of retaliation are all barriers to CRSV reporting in the NGCA. [Government agents](#) detained mostly men, but also women, and subjected them to forced nudity, unwanted touching, and sexualised torture by blows or electric shocks. Women and men were threatened by rape and threats that female members of their family would also be subjected to rape should they not cooperate in interrogation.

Armed groups in the NGCA have detained men and women on suspicion of supporting Ukraine, as well as to obtain ransom and force the relinquishment of property. [According to OHCHR](#), men are subjected to more severe and prolonged torture than women, but women are more vulnerable to becoming victims of rape, gang rape and attempted rape. Other forms of sexual violence experienced by both men and women at the hands of armed groups include forced nudity, sexual torture with blows or electric shocks to the genitalia, threats of castration, unwanted touching, sexualised insults and intimidation of a sexual nature, including threats of sexual violence against family members.

CRSV also occurs in occupied Crimea, although again, limited information is available about this because of restricted access to the Peninsula for humanitarian and human rights organisations and the UN Human Rights Monitoring Mission in Ukraine (HRMMU). [Such information](#) shows that members of the Federal Security Service of the Russian Federation or paramilitary groups such as the Crimean Self-Defence Militia have been detaining Crimean Tatar and other men suspected of supporting Ukraine, and subjecting them to sexual violence as a method of torture, notably to extract information and confessions. LGBTI people have also been targeted. Forced nudity, threats of rape and blows or electric shocks to the genitals have been reported in limited documented incidents.

CRSV also occurs at checkpoints along the contact line controlled by the Ukrainian government and armed groups, although information available suggests this occurs on a lesser scale than in detention and is also less reported. Incidents of sexual violence and harassment at checkpoints are mostly committed against women, including civilians and humanitarian workers. At checkpoints administered by the Ukrainian government, [OHCHR reported](#) sexual violence, harassment and intimidation of a sexual nature, including requests for sex in exchange for passage. At checkpoints established arbitrarily by armed groups, OHCHR [reports](#) incidents of women experiencing rape and gang rape in a broader context of gender-based humiliation.

Another setting for CRSV is in residential communities where there is an increased presence of military and armed groups. Such incidents are also underreported due to, inter alia, survivors’ fear of retaliation. In areas controlled by armed groups in eastern Ukraine, [OHCHR reports](#) allegations by women of armed groups keeping women “for entertainment” in a seized kindergarten, as well as other incidents and allegations of rape including some instances where women were killed following the rape. Further, LGBTI persons, in particular women, are at a heightened risk of sexual violence at the hands of the armed groups based on their gender identity and sexual orientation. In areas controlled by the government’s military, incidents reported by OHCHR include drunken soldiers or patrol officers who physically attacked and beat women and insulted them sexually, including one incident involving a pregnant woman. [OHCHR reports](#) a lack of response or effective investigation into these cases by the Ukrainian police.

### FACTS AND FIGURES

- OHCHR estimates approx. 340 survivors of CRSV in detention centres: 190-230 men and 120-140 women. The actual number is likely to be much higher.
- A study by NGO Eastern-Ukrainian Centre for Civic Initiatives (EUCCI) estimates that one in three female interviewees and one in four male interviewees is a survivor of, or witness to, sexual violence.



## Harm caused to Survivors, Families and Communities

CRSV survivors in eastern Ukraine have experienced serious physical, psychological, and emotional harm. As a result, survivors live with physical injuries and related physical illnesses. Psychologically, survivors note symptoms of depression and anxiety which interfere with their ability to hold employment. More often than not, survivors are also displaced due to the lack of security caused by the conflict, and are often physically separated from loved ones, particularly children, which has caused immeasurable emotional harm and stress. Many of the survivors experienced CRSV in unlawful detention, which has further impacted them and their family members psychologically. Furthermore, survivors report an emotional distance or tension between themselves and the family members, friends and communities they end up living with following displacement because of what they have lived through.



## Survivors' Perspectives

### Needs and Expectations

Needs expressed by survivors include comprehensive and sustainable medical and psychological support, financial assistance, professional training and employment opportunities and, importantly, housing. Additional short-term needs include assistance with family reunification and information on what resources are available to survivors. Long-term needs include being granted a victim status, which would guarantee state protection, as well as justice through effective investigation of conflict-related crimes.

Overall, survivors' demands cover all general categories of reparation, namely rehabilitation, restitution, compensation, satisfaction, and guarantees of non-repetition.



Art work during training with survivors, Ukraine, 2021 © Blue Bird



## Survivors' Initiatives

In 2019, a network of survivors known as the Ukrainian Network of Women Affected by Violence ([SEMA Ukraine](#)) was formed and has since been active in raising awareness about CRSV among decision-makers, law enforcement, the army and the general public. Members of the SEMA network also highlight the importance of reparations to CRSV survivors and have participated in an educational trip to Kosovo and Bosnia to identify good practices and lessons learned which can be of use in the Ukrainian context. SEMA Ukraine is supported by the [Mukwege Foundation](#) and EUCCI to participate, and present the survivor perspective, in policy discussions in Ukraine.

*"Communicating with victims like me allows me to speak out and listen to others. It makes these problems easier to bear. It may hurt, but this kind of interaction [with the network] unites. It hurts to remember, but you speak up and it gets easier."*

A CRSV Survivor



## Reparations

### IN THEORY

The Ukrainian government is required under [international human rights](#) and international humanitarian law treaties and [customary international law](#), to prevent, protect from and respond to CRSV, as well as provide full and adequate reparations to victims and survivors of the conflict, including for acts committed by other conflict parties where such parties are unwilling or unable to provide reparation.

Establishing reparation schemes is not dependant on the end of the conflict, the creation of truth commissions or any comprehensive transitional justice framework. Ukraine should promptly make judicial and administrative reparations frameworks available for CRSV survivors, who should meaningfully participate in the process, in line with [international guidance](#).

### IN PRACTICE

The right to remedy and reparations for CRSV survivors is largely unfulfilled, with CRSV by all conflict parties being under-investigated and under-prosecuted. CRSV survivors have no access to reparations via judicial channels and the government has not established a comprehensive or specific reparations programme that addresses either the harm caused by CRSV or the needs of survivors.

Several legislative and policy initiatives still in progress may pave the way for reparation programmes to be established in the future, but eight years into the conflict, reparation processes are not yet in place for survivors whose needs remain urgent.

Such initiatives have not consulted survivors on their needs and expectations in relation to reparations, which risks resulting in future programmes that do not meet the needs or expectations of survivors.



## Opportunities

- **Avenues for the establishment of an administrative reparation programme in Ukraine:** President Volodymyr Zelenskyy's 2022 proposal for the creation of [Special International Mechanism of Justice](#) to award victims with compensation and other forms of reparations including rehabilitation, satisfaction, restitution, and guarantees of non-recurrence, represents an opportunity for the realisation of victims' right to reparation. While the development of this proposal is still ongoing, its development may lead to the prompt establishment of an administrative reparation programme that awards victims of CRSV committed since 2014.
- **Current investigations of conflict-related crimes:** Investigations carried out by the Office of the Prosecutor General in Ukraine and by the ICC, as well as investigations in third countries, may constitute a form of satisfaction for CRSV survivors, should they effectively investigate and prosecute CRSV committed since 2014 as war crimes and/or crimes against humanity. However, as seen from other cases before the ICC, it could take years, if not decades, for reparations to reach victims. To ensure that victims and survivors receive "adequate, effective and prompt reparation for harm suffered", as articulated in the 2005 UN Basic Principles, investigations at the domestic level should be maximised to deliver not only justice, but also other forms of reparations for victims and survivors.
- **Humanitarian assistance and development programmes:** Although the right to reparation is clearly distinct from the right to development and humanitarian assistance, the need for synergies between development and humanitarian assistance actors and those working on reparations, and transitional justice more broadly, is increasingly recognised. There are numerous examples of development and assistance projects that seek to respond to the needs of victims and survivors in contexts with massive numbers of victims of conflict-related crimes, with some of them conducted at the governmental level. GSF projects providing [interim reparative measures](#) have also built upon the foundation of humanitarian assistance and development programmes.
- **Sanctions as an avenue for financing reparations:** In response to Russia's illegal invasion of Ukraine, various governments around the world announced forms of sanctions against Russia and Russian individuals and businesses, including financial sanctions and the freezing of assets. In addition to their deterrence objective, sanctions can also put pressure on states to meet their obligations to award reparations, by conditioning the removal of sanctions to the payment of reparations. Where states have the requisite legislation, sanctioned and ill-gotten assets that are frozen by states may be seized and confiscated, and repurposed for financing reparations. It must, however, be acknowledged that while repurposing sanctioned assets for reparations may be possible, it is a complex process and presents multiple challenges and legal procedures that may take years to navigate.

*"I am still afraid to take a bus when I see there are no women in it".*

A CRSV Survivor



## Key Challenges

- **Ongoing conflict and lack of access to occupied territories:** Many areas in eastern Ukraine and Crimea that since 2014 have remained inaccessible to the government, rights groups, and humanitarian actors. This was compounded since the escalation of the Russian invasion of Ukraine in 2022, further impeding the reporting of CRSV, critical healthcare services, and provisions of assistance and relief to survivors and their families.
- **Impunity and limited specialised capacity:** To date, there has been no official acknowledgment of CRSV committed from 2014 nor of its victims. There has been very little investigation and no prosecution of CRSV incidents committed between 2014-2021 at the domestic and international levels. A lack of specialised training for law enforcement, including on evidence standards, along with negative attitudes towards CRSV survivors and gender-based crimes, are further barriers to such investigations and prosecutions. However, following the Russian invasion of Ukraine and the mounting reports of CRSV, on 9 May 2022, Ukraine's [Prosecutor General expressed](#) a commitment to holding to account perpetrators of CRSV committed by Russian forces. The Russian Federation and armed groups in eastern Ukraine continue to deny the occurrence of CRSV and by extension, deprive victims and survivors of CRSV of redress including reparations.
- **Lack of survivor consultation:** Survivors' perspectives are not being represented in ongoing policy and legal discussions with an impact on their rights and interests. Survivors have not been adequately consulted about their priorities, needs and expectations. This also contributes to a feeling of exclusion amongst survivors.



*Survivors drawing a common portrait during a workshop on CRSV reparations, Ukraine, 2021 © Blue Bird*



# Recommendations

## To the Russian Federation:

- Suspend military operations in Ukraine and cease attacks against civilian populations, objects and protected persons;
- Comply with international obligations to provide adequate, prompt, and effective access to reparations to victims of the 2014 occupation and the 2022 invasion;
- Ensure compliance with obligations under international humanitarian and human rights law by Russian armed forces and all armed groups controlled or supported by Russia. Effectively investigate allegations of violations of international humanitarian law, including allegations of CRSV;
- Comply with the interim measures adopted by the International Court of Justice, including on suspending the military action commenced in Ukraine on 24 February 2022, as well as with United Nations resolutions. Fully cooperate with the International Criminal Court, as well as with United Nations bodies in the discharge of their mandates.

## To the Ukrainian Government:

- Ensure that CRSV victims' right to an adequate and effective remedy, including reparation, is embedded in the government's overall response to the conflict through judicial and non-judicial avenues, and in all proposals relating to dealing with the consequences of the armed conflict;
- Ensure compliance with international humanitarian and human rights law by Ukrainian armed forces and actors under its control, including foreign legions;
- Take meaningful steps to address impunity for CRSV including by acknowledging CRSV and integrating specialised training modules on CRSV definitions, applicable legal frameworks, and international practices in the training curriculum for key stakeholders including the military, police, prosecutors, and judges;
- Continue to comply and cooperate with the orders and requests of the International Court of Justice and the International Criminal Court, as well as with United Nations bodies and mandate holders.

## To the President of Ukraine:

- Acknowledge CRSV victims and the distinct harm they suffer, including by granting survivors a victim status with forms of reparations attached to it, considering survivors' perspectives and demands in this respect;
- Issue a presidential decree setting up a comprehensive as well as interim reparation programmes, establishing a reparation fund and a registry of victims, including victims of CRSV, and the appointment of a working group tasked with monitoring the implementation of the Decree in a participatory manner, particularly with the participation of victims;
- Sign Bill no. 2689 On Amendments to Certain Legislative Acts on the Enforcement of International Criminal and Humanitarian Law adopted by the Parliament in May 2021 to enhance accountability for conflict-related crimes, including sexual violence;
- Adopt the State Policy Concepts on the Protection and Restitution of Human Rights and Fundamental Freedoms in the Context of the Armed Conflict on the Territory of Ukraine and on Overcoming Its Consequences with a view of advancing a framework of reparations in Ukraine, including for CRS.

## To the Members of the Ukrainian Parliament:

- Draft and approve a legislation for the acknowledgment of CRSV and the provision of reparations to victims, through the establishment of comprehensive administrative programme comprising various forms of reparations.

## To the Ukraine's Office of the Prosecutor General:

- Carry out effective, thorough, and impartial investigations and prosecutions of CRSV committed by all parties to the conflict since 2014 in a trauma-informed, gender-sensitive manner;
- Take steps to ensure that CRSV investigations and prosecutions contribute to the work of administrative reparation programmes and other transitional justice mechanisms in the future, for example by including key documentation of harm suffered by CRSV survivors and registering victims.



## Recommendations (continued)

### To the Office of The Prosecutor of the International Criminal Court:

- Investigate, in a comprehensive, trauma-informed and gender-sensitive manner, allegations of CRSV committed in the Ukraine situation since 2014.

### To humanitarian assistance and development actors:

- Initiate assistance and relief programmes that respond to the urgent needs of CRSV victims and survivors with a 'do no harm' approach that ensures that victims and survivors are not subjected to stigmatisation or further harm in the course of the implementation of such projects;
- Adopt a rights-based approach in the design, implementation, monitoring, and evaluation of all projects, including by contributing to raising rights-awareness in general, and to the right to a remedy and reparations in particular;
- Explore synergies between development and assistance programmes on the one hand, and efforts for the establishment of reparation programmes on the other, including through incorporating targeted assistance to victims and survivors as part of development projects that may in their structure and resulting experience pave the way for full reparations.

### To the international and donor community:

- Support and fund projects and initiatives aimed at responding to the needs of CRSV victims and survivors while ensuring that all such initiatives and projects are survivor-centred, trauma-informed, and gender-sensitive, in line with key principles set out in the [Murad Code](#), a global code of conduct distilling existing minimum standards to ensure information from survivors of conflict-related sexual violence is collected in a safe, effective, and ethical way;
- Take concrete action to further survivors' access to a remedy and reparations including through the provision of technical assistance to the Ukrainian Government and exploring means to finance interim and comprehensive reparations, including through the repurposing of sanctioned assets;
- Provide victims and survivors with a platform to engage on policy and legal initiatives wherever their rights and interests are affected. Support, fund, and provide technical assistance to victim and survivors groups, associations, and activists, as well as to civil society engaged in supporting them.

