



A GLOBAL FUND FOR SURVIVORS OF
CONFLICT-RELATED SEXUAL VIOLENCE

UKRAINE STUDY ON THE STATUS OF AND OPPORTUNITIES FOR REPARATIONS FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE



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May 2022

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UKRAINE

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ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome	IHL	International Humanitarian Law
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	LGBTQI+	Lesbian, gay, bisexual, transgender, queer and intersex
CEDAW	The Convention on the Elimination of All Forms and Discrimination against Women	LPR	Luhansk People's Republic
CRC	The Convention on the Rights of the Child	NGCA	Non-Government Controlled Areas
CRSV	Conflict-Related Sexual Violence	NGO	Non-Governmental Organisation
DPR	Donetsk People's Republic	OSCE	Organization for Security and Co-operation in Europe
ECHR	The European Convention on Human Rights	OHCHR	The Office of the United Nations High Commissioner for Human Rights
EU	European Union	POW	Prisoner of War
EUCCI	Eastern-Ukrainian Center for Civic Initiatives	PTSD	Post-Traumatic Stress Disorder
FSB	Federal Security Service	SBU	Security Service of Ukraine
GCA	Government controlled area	SGBC	Sexual and Gender Based Crimes
GSF	The Global Fund for Survivors of Conflict-Related Sexual Violence	SGBV	Sexual and Gender Based Violence
HRC	Human Rights Council	SMM	OSCE Special Monitoring Mission
HRMMU	Human Rights Monitoring Mission in Ukraine	SSI	Semi Structured Interview
ICC	International Criminal Court	STDs	Sexually Transmitted Diseases
JRR	Justice Rapid Response	The Guidance Note	The Guidance Note of the UN Secretary General on Reparations for Conflict-Related Sexual Violence
IDP	Internationally Displaced People	UAF	Ukrainian Armed Forces
ICCPR	The International Covenant on Civil and Political Rights	UAH	Ukrainian hryvnia, The Ukrainian Currency
ICESCR	The International Covenant on Economic, Social and Cultural Rights	UN	United Nations
ICRC	International Committee of the Red Cross	UNGA	United Nations General Assembly
		UNHCR	United Nations High Commissioner for Refugees
		UNFPA	United Nations Population Fund
		UNSG	United Nations Secretary General



EXECUTIVE SUMMARY

The armed conflict in Ukraine has been ongoing since 2014 with little to no progress in achieving a political solution.¹ If anything, the situation on the ground has continued to worsen since the Russian Federation's full-fledged invasion of Ukraine on 24 February 2022, causing the destruction of infrastructure, mass displacement, and significant harm to civilians and other protected persons.² In early April 2022, the United Nations High Commissioner for Human Rights (OHCHR) estimated that 15,600 to 16,000 have been killed and 39,000 to 41,000 people injured.³ As of May 2022, 7.7 million persons are estimated to have been internally displaced,⁴ more than 4.5 million refugees registered across Europe, and nearly 3 million refugees registered for temporary protection schemes in Europe.⁵ As the armed conflict continues to unfold, reports of conflict-related sexual violence (CRSV) perpetrated by Russian soldiers are growing.⁶ Accurate estimates are unavailable due to a myriad of challenges, including ongoing hostilities and the trauma experienced by victims which inhibits disclosure. Nevertheless, available information indicates that CRSV is happening in a gruesome manner, and that the reported incidents are feared to be the tip of the iceberg.

The commission of CRSV in Ukraine is not new. It was perpetrated by all parties to the conflict since 2014 (yet on a lower scale by Ukrainian forces) in detention facilities, checkpoints across the contact line, and within communities with increased military presence.⁷ Areas temporarily controlled by Russian forces in 2022 reported incidents of rape and other forms of sexual

violence which appear to have taken place in civilians' homes as well as in places used by civilians as shelters.⁸ It will however take time to investigate and understand the full scope and patterns of CRSV committed since the start of the invasion.

This Study's initial focus was on assessing the status of and opportunities for reparations for CRSV survivors in Ukraine in the context prior to the 2022 Russian full-fledged invasion of Ukraine, including through engagement with CRSV survivors from the conflict since 2014, but prior to 2022. However, given the current situation, the Study now explores how reparations can still be established in light of the new circumstances, and the increasing urgency to do so.

The Study finds that CRSV is ongoing in Ukraine, with devastating effects on individuals, families, and society. Survivors of CRSV committed since 2014 were interviewed as part of this Study, indicating extreme unmet medical, psychological, and economic needs. Not all participating survivors were familiar with the right to reparation, yet they indicated that it should be an entitlement, and that for them, it is part of justice. Consulted survivors prioritised individual forms of redress, such as compensation and rehabilitation, but also demanded collective symbolic reparations such as a public acknowledgment of the harms CRSV survivors have suffered, and being granted victim status. Displaced survivors emphasised the urgent need for housing assistance, document recovery, and support in securing employment. At the time of consulting survivors, prior to the 2022

1 OHCHR, 'Report on the Human Rights Situation in Ukraine 15 June 2014' (15 June 2014) para 3 www.ohchr.org/Documents/Countries/UA/HRMMURReport15June2014.pdf accessed 6 May 2022.

2 Situation in Ukraine (Jurisdiction) ICC-01/22 (2022) paras 2, 4 www.icc-cpi.int/ukraine accessed 8 June 2022.

3 'Ukraine: Civilian Casualty Update 3 April 2022' (OHCHR News, 3 April 2022) www.ohchr.org/en/news/2022/04/ukraine-civilian-casualty-update-3-april-2022 accessed 6 May 2022.

4 These numbers change on a daily basis. For current figures see: UNHCR, 'Refugees Fleeing Ukraine (since 24 February 2022)' <https://data2.unhcr.org/en/situations/ukraine> accessed 1 May 2022.

5 UNHCR, 'Ukraine Refugee Situation' (1 June 2022) <https://data2.unhcr.org/en/situations/ukraine> accessed 2 June 2022.

6 Insecurity Insight, 'Ukraine Rape as a Weapon of War April 2022' (April 2022) <https://insecurityinsight.org/wp-content/uploads/2022/04/Ukraine-Rape-As-A-Weapon-of-War-April-2022.pdf> accessed 1 May 2022; Weronika Strzyżyńska and Isobel Koshiw, 'Rush to Get Emergency Contraception into Ukraine as Reports of Rape Rise' *The Guardian* www.theguardian.com/global-development/2022/apr/28/russia-ukraine-emergency-contraception-amid-rape-reports accessed 1 May 2022.

7 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (31 January 2017) www.ohchr.org/Documents/Countries/UA/ReportCRSV_EN.pdf accessed 16 May 2022.

8 Emma Farge, 'UN to Set Up Inquiry into Possible Russian War Crimes in Ukraine' Reuters (12 May 2022) www.reuters.com/world/europe/un-rights-chief-says-many-ukraine-abuses-may-among-war-crimes-2022-05-12/ accessed 19 May 2022.

Russian invasion, survivors expressed their fear of the repetition of crimes and demanded guarantees of non-recurrence. Importantly, CRSV survivors agreed that in order to effectively redress the harms they have experienced, the process for developing reparation programmes should ensure their meaningful and effective participation.

There has been no comprehensive state policy in Ukraine for remedy and reparation for the benefit of victims and survivors affected by the conflict since 2014, including for CRSV survivors.⁹ As the number of victims and survivors continues to grow, laying the ground for an adequate and comprehensive reparations programme is ever more urgent. While faced with challenges to the establishment of reparation programmes, not least of which is the ongoing conflict and commission of CRSV, opportunities also exist. Current domestic and international efforts, including in the areas of accountability, humanitarian assistance, and sanctions regimes, all represent significant avenues to advance the establishment and financing of reparation programmes.

The heightened attention by the international community to the situation in Ukraine and the expressed political support to Ukraine and the Ukrainian people must be accompanied by action to support all necessary steps to advance the rights of victims and survivors, including to comprehensive and adequate reparation. Urgent interim reparations are also needed to address the urgent needs of CRSV victims and survivors and prevent irreparable harm. In this respect, support, technical assistance, and funding are needed from the international community to advance President Zelenskyy's proposal for the establishment of a compensation fund, which could lead to advancing compensation and other forms of reparations. By providing urgent interim reparations, and commencing the work for the establishment of a comprehensive reparation programme without delay, Ukraine can set an example in ensuring that harm suffered by victims and survivors is redressed in a timely manner, and when survivors need it the most.

Key recommendations for advancing victims' right to reparation in Ukraine include

- **To the President of Ukraine:** Publicly acknowledge the gravity of crimes and violations suffered by CRSV victims and survivors and the distinct harm they suffer, indicating that such violations and crimes are wrongful acts that will not be tolerated and will be addressed. Pass a presidential decree to set up a comprehensive as well as an urgent interim reparation programmes, a reparations fund and a registry for victims;
- **To the Ukrainian Government:** Ensure that victims' right to a remedy and reparations is embedded in the government's overall legal and policy framework put in place to respond to the conflict, including in accountability frameworks;
- **To the Ukrainian Parliament:** Draft and approve legislation for the acknowledgment of CRSV and the provision of reparations to victims, through the establishment of a comprehensive administrative reparations programme comprising various forms of reparations;
- **To Ukraine's Office of the Prosecutor General:** Take steps to ensure that CRSV investigations and prosecutions contribute to 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;
- **To the international community:** Take concrete action to further survivors' access to a remedy and reparations including through the provision of technical assistance to the Ukrainian Government and by exploring means to finance reparations, for example through the repurposing of sanctioned assets.

9 OHCHR, 'Report on the Human Rights Situation in Ukraine 1 August 2020- 31 January 2021' (01 March 2021) para 32 <https://www.ohchr.org/sites/default/files/Documents/Countries/UA/31stReportUkraine-en.pdf> accessed 8 April 2022.



I. BACKGROUND AND METHODOLOGY

1. About the project, project partners, authors, and acknowledgments

1.2. About the project partners

1.1. About the project

The Global Survivors Fund (GSF), in collaboration with Blue Bird, the Eastern-Ukrainian Center for Civic Initiatives (EUCCI), and Truth Hounds have conducted a study to identify the reparations' needs of CRSV survivors in Ukraine, as well as the opportunities for delivering reparations to survivors through judicial and administrative processes. This study presents and analyses survivors' perceptions and expectations for reparations and offers practical, concrete, and context specific recommendations to policy makers and other relevant actors at national and global levels to inform the design and delivery of survivor-centred reparations in Ukraine. As an objective in itself, the Ukraine Reparations Study process further aimed to increase the understanding and awareness of survivors' rights to reparations and to create further momentum for the delivery of meaningful survivor-centred reparations to CRSV victims in Ukraine.

The Ukraine Reparations Study is part of a global study on reparations (the Global Reparations Study) launched by GSF in 2020, which focusses on the status of and opportunities for reparations for CRSV in over 25 countries.¹⁰ The Global Reparations Study is a multi-actor effort led by GSF in collaboration with over 40 national and international partners, including survivors' networks and groups. It seeks to make recommendations for further action based on survivors' needs and aspirations and to identify potential support available among key actors and concrete action to enhance access to reparations for CRSV survivors around the world.



GSF was launched in October 2019 by Dr Denis Mukwege and Ms Nadia Murad, the 2018 Nobel Peace Prize laureates. Its mission is to enhance access to reparations for survivors of conflict-related sexual violence around the globe, thus seeking to fill a gap long identified by survivors. GSF acts to provide interim reparative measures in situations where states or other parties are unable or unwilling to meet their responsibilities. GSF advocates also for duty bearers, as well as the international community, to develop reparations programmes, and provides expertise and technical support to guide states and civil society in the design of reparations programmes. GSF's survivor-centric approach is the cornerstone of its work. For more information, visit www.globalsurvivorsfund.org.



Blue Bird is a non-governmental organisation that was established in August 2015 and focuses on comprehensive and systematic work with people who have survived captivity and torture, as well as members of their families and families of missing persons. Blue Bird provides crisis counselling, psychological support and qualified psychotherapy, and social and legal services. Blue Bird advocates for the rights of victims of torture at the national and international levels, and for the provision of sustainable psychological counselling to released prisoners of war and civilian detainees. For more information, visit <https://bluebird.com.ua/en/>.

¹⁰ GSF, 'Global Reparations Study' www.globalsurvivorsfund.org/guide accessed 29 May 2022.



The Eastern-Ukrainian Center for Civic Initiatives (EUCCI)

is a non-governmental, non-profit organisation established in December 2002 in Luhansk, Ukraine. The mission of EUCCI is to develop and maintain the ability of the Ukrainian society to face current challenges based on the principles of democracy and the rule of law through research, education, and advocacy. Since the beginning of the armed conflict in Eastern Ukraine in 2014, the main activities of the organisation include documentation of gross human rights *inter alia* sexual and gender-based violence, illegal detention, torture, involvement of children in armed groups, etc. In its work EUCCI pays considerable attention to the gender analysis of the conflict, preparation of thematic reports and informing society. EUCCI is one of the founding organisations of the Justice for Peace in Donbas Coalition that documents war crimes committed in the armed conflict in the Donbas region of eastern Ukraine since 2014. For more information, visit www.totalaction.org.ua.



Truth Hounds is a team of human rights defenders, working on documenting war crimes and crimes against humanity in war contexts since 2014. With the mission to hunt for the truth, chase the perpetrators and protect the unprotected, Truth Hounds aims at enhancing the quality of domestic justice in prosecuting international crimes committed in Ukraine; bringing to national and international justice the perpetrators of international crimes committed in Ukraine; protecting the victims of war; documenting international crimes and other grave human rights breaches in the conflict-affected areas of the former USSR. For more information, visit <https://truth-hounds.org/en/start-2/>.

1.3. About the authors

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Dr Kateryna Busol is a Ukrainian lawyer specialising in international human rights, humanitarian, criminal law, transitional justice, gender and cultural heritage. Currently, she is a Senior Lecturer at the National University of Kyiv-Mohyla Academy and a fellow at the Leibniz Institute for East and Southeast European Studies. Kateryna consulted with various international organisations including UN Women on Transitional Justice and Prevention of and Response to Conflict-Related Sexual Violence. She was a fellow at Chatham House, a legal consultant at Global Rights Compliance and a Visiting Professional at the Office of the Prosecutor of the International Criminal Court.

Alexa Sydor-Czartorysky is a recent graduate of the Graduate Institute of Geneva, with a Master's Degree in Development Studies. She worked as a Research Assistant at GSF's Ukraine Reparation Study team and had prior experience on the internal response to and treatment of internally displaced people (IDP) in Ukraine (preceding the February 2022 escalation). Her interest in Ukraine comes from her Ukrainian-American upbringing in New Jersey, U.S.A., having been raised in a tight-knit diaspora community, celebrating Ukrainian culture and language.

1.4. Acknowledgements

GSF, Blue Bird, EUCCI, and Truth Hounds would like to thank all survivors for their courage and determination in participating in this Study. In doing so, they have ensured that the Study findings are meaningful and in line with the lived reality of those affected by CRSV.

We would like to thank Johanna Amaya Panche, GSF Data Analysis Lead, for her efforts in the design of data systemisation and analysis process, as well as Vishnu Varatharajan, GSF Research Officer, for his support in the presentation of the Study's findings. The authors and GSF are grateful to Cameron Kays and Elizabeth Sturley, Global Reparations Study interns at GSF and students of the Masters in Transitional Justice at the Geneva Academy, for their research and drafting support. The authors extend their deep appreciation for the expertise and guidance received from Esther Dingemans, Clara Sandoval, Danaé van der Straten Ponthoz, and Delia Sanchez del Ángel of the GSF team; Volodymyr Shcherbachenko and the EUCCI team; Roman Avramenko and the Truth Hounds team; Nataliia Melnik, Anna Mokrousova and the Blue Bird team.

We would also like to thank Erin Rosenberg, Senior Legal and Policy Advisor to the Mukwege Foundation and Frederika Schweighoferova, Senior Legal Officer and Director of the Rome Statute Campaign at Parliamentarians for Global Action for their expert review and comments to this report.

2. Methodology

2.1. Aim of the Ukraine Reparations Study

The Study aimed to identify the remedies available in Ukraine for accessing reparations for CRSV, both judicial and non-judicial, and the challenges that survivors face to access reparations, as well as the opportunities that exist to ensure that survivors receive prompt, adequate, and effective reparation.

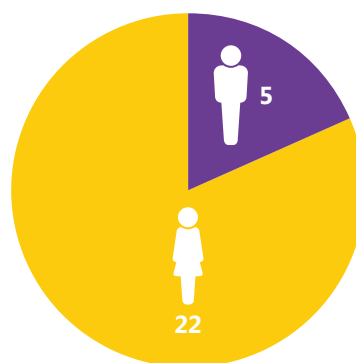
2.2. Specific objectives of the Ukraine Reparations Study

1. Provide an overview, to the extent possible, of the scope and extent of CRSV committed since 2014, taking into account reports of CRSV committed since the start of the Russian invasion of Ukraine from 24 February 2022.
2. Identify and assess legal and administrative remedies for awarding reparations to survivors of CRSV in place prior to the full-fledged Russian invasion of Ukraine on 24 February 2022. Consider the new context's impact on access to remedies and reparations including exploring opportunities for, as well as challenges to access to reparations.
3. Provide insights into survivors' perspectives, needs, and expectations in relation to reparation through engagement with survivors of CRSV committed since 2014, but prior to 2022.
4. Provide contextual recommendations for ensuring that reparations and interim reparative measures are provided to all survivors of CRSV in Ukraine.

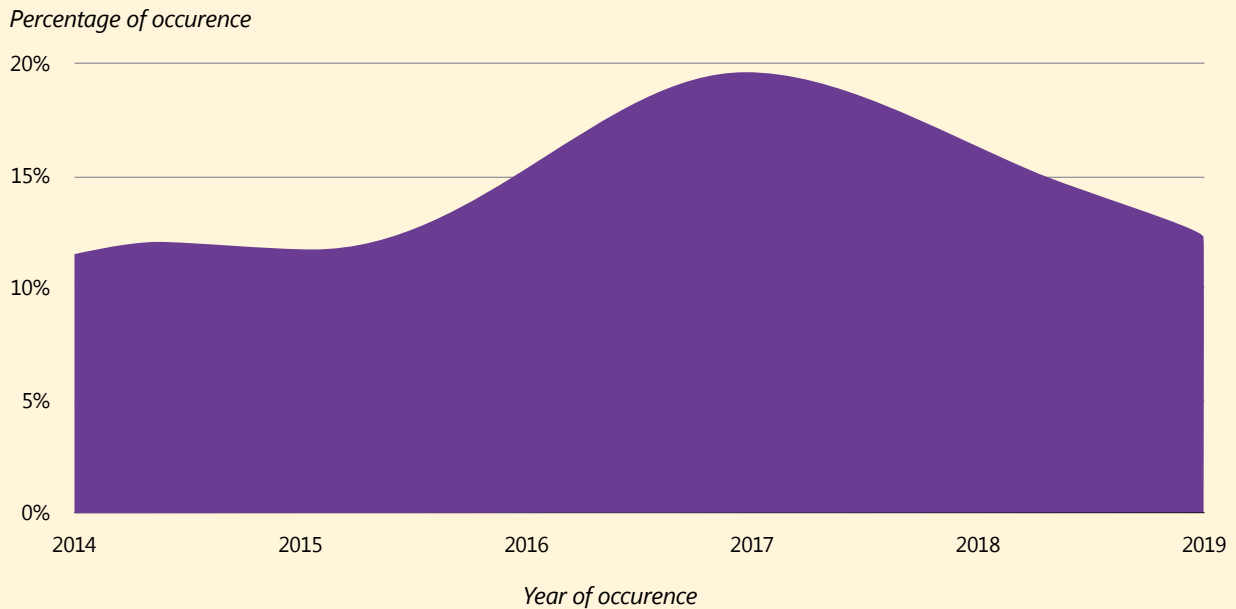
2.3. Study methodology

The Ukraine Reparations Study was carried out using mixed research methods, both quantitative and qualitative. Semi-structured interviews and two focus group discussions were conducted, and survivor's demographic profiles were also gathered and analysed. Extensive desk research of primary and secondary data was also conducted.

GENDER OF SURVIVOR PARTICIPANTS



TIME PERIOD OF CRSV FACED BY THE SURVIVOR PARTICIPANTS



Source: GSF Study

Number of survivor participants (Total = 20 participants)

The Study was carried out in various stages. First, desk-based review of reports, studies, and other materials from human rights organisations and international bodies was conducted to examine available information on CRSV in Ukraine committed between 2014 and 2021, its impact, and available remedies. The Ukraine Reparations Study Lead conducted a scoping mission to Kyiv, Ukraine in November 2020, during which she met with representatives of Ukrainian civil society organisations, international organisations, and SEMA Ukraine, part of the Global Network of Victims and Survivors to End Wartime Sexual Violence. The SEMA network represents survivors of conflict-related sexual violence of different countries and seeks *“to draw attention to the use of sexual violence as a weapon of war, and call for the changes needed to end the violence and achieve justice.”*¹¹ GSF discussed the Study’s objectives with the SEMA network members, and considered how, from their perspective, it should be carried out in a trauma-sensitive manner.

A total of 27 survivors participated in the Ukraine Reparations Study. 20 out of the 27 survivors participated in semi-structured interviews (SSI) administered by researchers from the Ukraine Reparations Study partners, which were later coded and analysed. These survivors responded to a standardised questionnaire developed by GSF, which was adapted to the Ukrainian context through consultation with the Study partners. The seven other survivors, who were members of the SEMA Network in Ukraine, participated in a one-day unrecorded focus-group discussion in July 2021, facilitated by EUCCI and GSF, which followed selected parts of the standardised questionnaire and informed in particular the recommendations of this Study.

The research questions sought to understand survivors’ experiences of the harms suffered as a result of CRSV and to assess their understanding of and expectations for reparations. The interviews were conducted following a ‘Do No Harm’ approach and

¹¹ For further information see: SEMA Global Network of Victims and Survivors to End Wartime Sexual Violence www.semanetwork.org/the-sema-global-network/, accessed 9 June 2022.

in line with key principles set out in the Murad Code,¹² 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. They also considered gender and cultural contexts to minimise additional harm or risk to respondents, informed consent requirements, and survivor-sensitive approaches to data collection.

The research was conducted in a trauma-informed manner and sought to have a reparative effect. All survivors were offered the opportunity to have a psychologist present while the interviews were conducted. The psychologists offered support to survivors and advised facilitators on how to address potential re-traumatisation. The focus group discussion facilitators and data collectors also took steps to protect the privacy and confidentiality of respondents and discussion participants, for example through anonymisation or use of pseudonyms, and holding focus group discussions at venues that were safe and offered privacy. Additional activities were organised in the focus group discussions to allow survivors to connect and express solidarity.

The responses from interviews were uploaded to a secure server. They were coded and subjected to theme recurrence and word frequency analysis, using NVivo, a qualitative data analysis software, to identify the most relevant impacts of CRSV, concerns, perceptions, needs, risks, and demands in terms of reparations from survivors, as well assessing their agency.

Quantitative data from the survivor's demographic profiles was also gathered and entered into the online surveying software KoBo Toolbox. This was then used to understand the sample of survivors participating in the Study, to produce graphs, and to analyse patterns between survivors' profiles and their perceptions, needs, and expectations. RStudio software was used to create charts based on the demographic data. Finally, GSF researchers combed through transcripts and software-produced data to inform the drafting of the Study's sections, and in particular, Section IV on Survivors' Perceptions, Needs, Priorities, and Risks.

The Study's recommendations emerged from both GSF research and from survivors. Survivors proposed recommendations during the semi-structured interviews and in a second focus group discussion that took place in September 2021, where GSF researchers and partners presented preliminary findings of the research to survivors who previously participated in semi-structured interviews for this Study. The information gathered from the first focus group discussion was also used to inform the recommendations of this Study.

2.4. Study limitations

The findings of this Study are based on views and experiences of CRSV survivors victimised from 2014 onwards but prior to 2022. While the Study partners, GSF, Blue Bird, EUCCI, and Truth Hounds, tried to consult a diverse sample of survivors, there was no participation from survivors of CRSV that took place in Crimea, due to access challenges and limitations in documenting such incidents. The particular needs of these survivor groups may therefore not be fully reflected in the following sections.

Ukraine was in its seventh year of political stalemate with the Russian Federation (Russia) when this Study was launched, in 2020. When GSF was finalising the Ukraine Study, Russia launched its full-fledged invasion of Ukraine, on 24 February 2022. Reflection in greater detail on the scale and scope of sexual violence committed in the context of the 2022 invasion has not been possible, although there are many reliable reports of sexual violence.

Most of the recommendations of this Study come from survivors who were interviewed and took part in a focus group discussion in September 2021, prior to the invasion, and mostly address how the Ukrainian Government should redress those subjected to violence from 2014. While a number of the identified recommendations are now challenged by the new surge of hostilities, therefore requiring reflection in light of these changes, many other recommendations have become even more pertinent, particularly with the growing number of CRSV survivors. Due to

¹² Global Code of Conduct for Gathering and using information about systematic and conflict-related sexual violence (Murad Code) (13 April 2022) www.muradcode.com/murad-code accessed 10 June 2022.

ongoing hostilities and heightened security threats, it was not possible for GSF to consult survivors on those needed changes, which instead emerged from GSF researchers and staff and the Study partners.

The Study captures the potential ways forward to ensure reparation for CRSV survivors in Ukraine, particularly in light of the Ukrainian Government's readiness to redress victims. While the Russian Federation and the armed groups in eastern Ukraine also have a legal obligation to provide reparations

to survivors, such obligations have not been fully explored in the present Study. Additionally, the current disregard for obligations under international law and customary international law by the Russian Federation and by armed groups in eastern Ukraine, coupled with the denial of the commission of CRSV and other crimes and attitudes towards victims and affected populations more generally, provide clear indications that these parties to the conflict are unlikely to take voluntary steps to fulfil the victims' right to a remedy and reparations anytime soon.



Evacuees from eastern Ukraine near the railway station in western Ukrainian city of Lviv – March 2, 2022.

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Blocked road to Donetsk, Ocheretino, Ukraine - October 2014.
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II. INTRODUCTION

While preventable and prohibited, conflict-related sexual violence continues to be a common, regrettable feature of armed conflicts and has devastating consequences for survivors across the world.¹³ Since the armed conflict in eastern Ukraine broke out in early 2014 and in occupied Crimea, sexual violence has been committed by all parties to the conflict, albeit on a lower scale by Ukrainian forces.¹⁴ Since then, sexual violence has been perpetrated in the context of detention, at checkpoints, and in other settings to target civilians and protected persons, inflict pain on communities, and disrupt the social fabric. Since Russia's full-fledged invasion of Ukraine on 24 February 2022, reports of CRSV committed by Russian soldiers against civilians have been spiking, and yet is still likely to be underreported.¹⁵

CRSV has grave physical, psychological, and socioeconomic impacts for survivors, their families, and their communities, yet since 2014 there has been limited progress towards redressing or mitigating those harms in Ukraine. While there have been some advances towards a better understanding of CRSV (in distinguishing it from domestic violence and gender-based violence, as an issue affecting only women, or limited only to rape), reparations for CRSV survivors remain elusive. As a direct consequence of this failure to provide reparations, survivors continue to endure the consequences of the harms suffered without redress.

This Study reviews what is known about the scale, scope, and nature of CRSV in Ukraine since 2014, including the limited information available about CRSV committed since the Russian invasion of Ukraine in 2022. Through direct engagement with survivors of CRSV committed since 2014 but before 2022, the Study provides insights into the impacts of CRSV on these survivors, their needs and expectations

in relation to accessing reparations, and how these can be met. While the views of survivors of CRSV committed in 2022 are not reflected in this Study, the gathered insights may nonetheless be relevant and informative to address the needs of all survivors. The Study then provides an overview of Ukraine's legislative and policy frameworks relevant to CRSV and the obstacles and opportunities survivors face to secure reparation. It also makes recommendations on the way forward.

This Study is divided in eight sections. Section I presents the background and methodology of the research and introduced partners. Section II, this roadmap, presents this report's remaining sections. Section III provides an overview of the context, nature, and scope of CRSV perpetrated in Ukraine, including forms and patterns of CRSV, looking in particular at the profile of survivors. Section IV presents several important themes that emerged from the data collected from survivors, examining in particular the impacts CRSV has had on survivors, their families, and their societies. It also presents survivors' perceptions, needs and priorities for reparations, as well as associated challenges in making such priorities a reality. Section V analyses normative frameworks and available avenues for reparations under international and domestic law that are relevant to reparations in Ukraine. Section VI explores both opportunities for, and possible challenges to effective reparations. Section VII on Recommendations details our suggestions on advancing reparations for CRSV survivors. Section VIII concludes this report by providing concrete steps for the way forward. Finally, Annex I provides an overview of the demographic profile of participating survivors, while Annex II offers a glossary of definitions of key terms and concepts referred to in this Study.

13 United Nations Security Council, 'Conflict-Related Sexual Violence Report of the Secretary-General' S/2022/272 (29 March 2022) <https://reliefweb.int/sites/reliefweb.int/files/resources/N2229371.pdf> accessed 16 May 2022.

14 Eastern-Ukrainian Centre for Civic Initiatives (EUCCI), 'War without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine' (2017) 82 https://totalaction.org.ua/public/upload/book/1522852942_gon_eng_web.pdf accessed 6 May 2022.

15 Ukrainian President Volodymyr Zelenskyy stated in an address to the Parliament of Lithuania on 12 April 2022, that: "Hundreds of cases of rape have been recorded, including underage girls, very young children. And even a baby! It's just scary to talk about it now. But it's true, it happened." See: Volodymyr Zelenskyy, 'Volodymyr Zelenskyy Address to the Parliament of Lithuania' American Rhetoric (Kyiv, Ukraine 12 April 2022) www.americanrhetoric.com/speeches/volodymyrzelenskylithuanianparliament.htm accessed 12 May 2022.



Having just disembarked a train, people walk with their luggage across the tracks in Lviv, Ukraine – March 3, 2022.

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III. CONFLICT-RELATED SEXUAL VIOLENCE IN UKRAINE

1. Context of the conflict in Ukraine

The armed conflict in the Donbas region of eastern Ukraine erupted in early 2014. It endured eight years of political stalemate until 24 February 2022, when Russia invaded Ukraine leading to a significant escalation of the hostilities in the East and extending to other regions of Ukraine.

Donbas includes the Luhansk oblasts, currently partially under the control of the self-proclaimed Luhansk People's 'Republic' (LPR), and the Donetsk oblasts, partially under the control of the self-proclaimed Donetsk People's 'Republic' (DPR). Both the 'LPR' and 'DPR' have been Russian-backed separatist groups since 2014, and on 21 February 2022, Russian President Vladimir Putin signed decrees recognising them as independent states.¹⁶

Between the 14th of April 2014 and the 31st of December 2021, the OHCHR estimated that between 14,200 to 14,400 persons were killed (of which 3,404 were civilians), 37,000 to 39,000 persons injured,¹⁷ and roughly 1.5 million persons had been displaced.¹⁸ Since the 2022 Russian invasion, casualties have

steadily increased with the OHCHR reporting 977 persons killed, 1,594 persons injured,¹⁹ and about 4 million refugees in just the first month of the invasion.²⁰

In late 2013, protests began in Kyiv following then-President Viktor Yanukoych's abandonment of the Association Agreement between the European Union and Ukraine on 21 November 2013,²¹ in favour of closer economic and political ties with Russia.²² These protests, known as the Revolution of Dignity, continued into 2014 and grew rapidly, particularly in Kyiv at the central Independence Square (Euromaidan). As protests grew, so did police brutality as they attempted to clear and suppress the protesters.²³ In response, the Ukrainian legislative body, Verkhovna Rada, passed anti-protest legislation in January 2014 which exacerbated protestors' outrage.²⁴ During these protests, about 104 protestors were killed and are now honoured as the "Heavenly Hundred."²⁵ On 22 February 2014, the Rada voted to remove President Yanukovich from office on the basis that he could no longer execute his duties as President as he had left Ukraine and escaped to Russia.²⁶ Oleksandr Turchynov was put in place as the new

16 'Donetsk and Luhansk: What to know about Ukraine's rebel regions' Aljazeera (21 February 2022) www.aljazeera.com/news/2022/2/21/donetsk-and-lugansk-heres-what-we-know-about-rebel-regions accessed 8 April 2022.

17 OHCHR, 'Monitoring Mission in Ukraine' (27 January 2022) 3 https://ukraine.un.org/sites/default/files/2022-02/Conflict-related%20civilian%20casualties%20as%20of%2031%20December%202021%20%28rev%2027%20January%202022%29%20corr%20EN_0.pdf accessed 7 April 2022.

18 United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 'Ukraine Analysis: After Years of Displacement Aggravated By COVID-19, Internally Displaced Persons from Eastern Ukraine Remain in Need of Housing Solutions and Predictable Income' (22 October 2021); United Nations Security Council, 'Resolution 2467' S/RES/2467 (2019) para 27 www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/04/resolution/resolution-2467-2019/S_RES_24672019_E.pdf accessed 6 April 2022.

19 'Ukraine: Civilian Casualty Update 23 March 2022' (OHCHR News, 23 March 2022) www.ohchr.org/en/news/2022/03/ukraine-civilian-casualty-update-23-march-2022 accessed 7 April 2022.

20 UNHCR, 'Refugees Fleeing Ukraine (since 24 February 2022)' <https://data2.unhcr.org/en/situations/ukraine> accessed 1 May 2022.

21 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (Official Journal of the European Union, 29 May 2014) <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29> accessed 8 June 2022.

22 OHCHR HRMMU, 'Report on the Human Rights Situation in Ukraine: 15 April 2014' (15 April 2014) para 2 <https://www.ohchr.org/en/documents/country-reports/report-human-rights-situation-ukraine-17> accessed 1 May 2022.

23 Radio Free Europe/Radio Liberty's Ukrainian Service, 'Ukraine Marks 'Heavenly Hundred's Day' On Anniversary of Euromaidan Bloodshed' (20 February 2020) www.rferl.org/a/ukraine-marks-heavenly-hundred-s-day-on-anniversary-of-euromaidan-bloodshed/30445178.html accessed 8 June 2022.

24 Amnesty International, 'Ukraine: Repressive Legislation Threatens Freedom of Expression, Assembly and Association' (17 January 2014) www.amnesty.org/en/documents/EUR50/001/2014/en/ accessed 1 May 2022.

25 'Ukraine Marks 'Heavenly Hundred's Day' On Anniversary of Euromaidan Bloodshed' (n23).

26 'Security Council holds 'urgent' meeting on situation in Ukraine' (UN News, 28 February 2014) <https://news.un.org/en/story/2014/02/462922-security-council-holds-urgent-meeting-situation-ukraine#UxEgE4WgvN0> accessed 1 May 2022.

interim president, and a new prime minister, Arseniy Yatsenyuk, assumed office until the special election in May 2014.²⁷

Days after Yanukovych was removed, armed individuals seized government buildings in Simferopol, the capital of the Autonomous Republic of Crimea.²⁸ As reported by OHCHR: “Ukrainian Authorities alleged that the armed men were Russian armed forces and/or allied local paramilitary groups. The Russian Government insisted that the forces did not include Russian troops, but only local self-defence groups”.²⁹ Later, however, President Putin admitted that he “gave orders to the Defence Ministry to deploy special forces of the Main Intelligence Directorate, along with marines and commandos”³⁰ to facilitate the takeover of the Peninsula. A referendum, widely regarded to be fraudulent, was held in Crimea to join the Russian Federation and passed on 16 March 2014.³¹ Russia’s ongoing control over the Peninsula remains in violation of international law³² and is recognised as occupation.³³

The human rights situation in eastern Ukraine continued to deteriorate as pro-Russia armed groups gained partial control of buildings and territory in Luhansk and

Donetsk oblasts.³⁴ DPR admitted that their armed group included international foreign fighters from Russia, Chechnya, and other North Caucasus citizens.³⁵ Notably, the OHCHR’s Human Rights Monitoring Mission in Ukraine (HRMMU) “observed armed men on trucks and armoured vehicles moving around downtown Donetsk in daylight.”³⁶ On 14 April 2014, the interim Ukrainian president Oleksander Turchynov declared an “anti-terrorist operation” in the territory of eastern Ukraine.³⁷ A month later, in May 2014, separatists in Luhansk and Donetsk also declared independence from Ukraine after holding referendums that have been widely viewed as fraudulent and illegal.³⁸ The separatists’ referendums exacerbated the levels of violence in the region as the Ukrainian military struggled to regain control.³⁹

Numerous agreements aimed at finding a solution to the conflict have since been signed, such as the Minsk I and Minsk II agreements in 2014 and 2015 respectively.⁴⁰ The first Minsk Agreement (Protocol) was signed the 5th of September 2014 by representatives of Ukraine, the Russian Federation, representatives of the ‘DPR’ and the ‘LPR’, and the Organisation of Security and Cooperation in Europe (OSCE) for, *inter alia*, an immediate ceasefire and the halting of the conflict in Eastern Ukraine.⁴¹ The

27 Steven Pifer, ‘Ukraine: Looking forward, five years after the Maidan Revolution’ (The Brookings Institution, 22 February 2019) www.brookings.edu/blog/order-from-chaos/2019/02/22/ukraine-looking-forward-five-years-after-the-maidan-revolution/ accessed 1 May 2022.

28 OHCHR HRMMU, ‘Report on the Human Rights Situation in Ukraine: 15 April 2014’ (n22).

29 Ibid para 18.

30 Ray Furlong, ‘The Changing Story of Russia’s ‘Little Green Men’ Invasion’ (Radio Free Europe/Radio Liberty, 25 February 2019) <https://www.rferl.org/a/russia-ukraine-crimea/29790037.html> accessed 16 May 2022.

31 UNGA, ‘Resolution Adopted by the General Assembly On 27 March 2014’ A/RES/68/262 (1 April 2014) https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf accessed 16 May 2022.

32 ICC, Office of the Prosecutor, ‘Report on Preliminary Examination Activities 2020’ (14 December 2020) paras 277-279 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/2020-PE/2020-pe-report-eng.pdf> accessed 16 May 2022.

33 UNGA, ‘Resolution adopted by the General Assembly on 19 December 2016. Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)’ A/RES/71/205 (1 February 2017) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/455/74/pdf/N1645574.pdf?OpenElement> accessed 19 April 2022.

34 Radio Liberty, “Если не мы, то кто?” – Ткаченко о борьбе Донецка за Украину’ (12 March 2019) www.radiosvoboda.org/a/donbass-reali/29815701.html accessed 16 May 2022. See also, interview (2014) with Igor Vsevolodovich Girkin, Russian military commander, in which he stated that Russia sent his military group to eastern Ukraine to start seizing administrative buildings: www.youtube.com/watch?v=8mGXDcO9ugw&ab_channel=%D0%9A%D0%BE%D0%BC%D1%81%D0%BE%D0%BC%D0%BE%D0%BB%D1%8C%D1%81%D0%BA%D0%80%D1%8F%D0%9F%D1%80%D0%B0%D0%B2%D0%B4%D0%B0 accessed 7 June 2022.

35 OHCHR HRMMU, ‘Report on the Human Rights Situation in Ukraine: 15 June 2014’ (n1).

36 Ibid.

37 ‘Ukraine Crisis: Pro-Russian Attack in Ukraine’s Horlivka’ BBC (14 April 2014) www.bbc.com/news/world-europe-27018199 accessed 1 May 2022; ‘Ukraine Crisis: Turchynov Announces Anti-Terror Operation’ BBC (13 April 2014) www.bbc.com/news/av/world-europe-27013169 accessed 16 May 2022.

38 ‘Concern at the Consequences of the Ongoing Conflict for the Humanitarian Situation in Ukraine’ (Council of Europe News, 24 June 2014) <https://pace.coe.int/en/news/5093> accessed 16 May 2022.

39 Ibid.

40 Naja Bentzen, ‘Ukraine: The Minsk Agreements Five Years On’ (European Parliamentary Research Service, March 2020) [www.europarl.europa.eu/RegData/etudes/ATAG/2020/646203/EPRS_ATAG\(2020\)646203_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646203/EPRS_ATAG(2020)646203_EN.pdf) accessed 16 May 2022.

41 Mission of Ukraine to the European Union, ‘Protocol on The Results of Consultations of the Trilateral Contact Group (Minsk)’ (8 September 2014) <https://ukraine-eu.mfa.gov.ua/en/news/27596-protocolon-the-results-of-consultations-of-the-trilateral-contact-group-minsk-05092014> accessed 16 May 2022.

Minsk Protocol included many positive provisions, such as the release of hostages and unlawfully detained persons,⁴² but also contained problematic provisions, such as prohibiting prosecutions of persons for conflict-related events, which is interpreted differently by the various parties to the conflict in relation to the prosecutions of conflict-related crimes.⁴³ With constant violations of the ceasefire by all parties to the conflict, particularly close to the contact line,⁴⁴ a new ceasefire agreement was agreed upon on 15 February 2015 and is known as the “Minsk II agreement”.⁴⁵ This agreement also includes a package of measures for military demobilization, granting access for humanitarian aid workers, and the implementation of the ceasefire.⁴⁶ Despite lack of progress in implementing the Minsk agreements, they were still considered the basis for the resolution of the conflict in eastern Ukraine.⁴⁷ However, the Minsk agreements were publicly ended by Russian President Vladimir Putin a few days prior to Russia’s full-fledged invasion of Ukraine in 2022, when he recognised the Donetsk and Luhansk regions of Ukraine as independent.⁴⁸

The armed conflict in Ukraine has been long and gruesome, with numerous violations of international law affecting Ukrainians and others living in Ukrainian territory. Since 2014, the OHCHR found that “restrictions on freedom of movement severely affected the rights to education, family life, health, work, social security, adequate standard of living, and access to judicial and civil documentation”⁴⁹ as a result of the conflict. The contact line⁵⁰ restricts Ukrainians’ freedom of movement and the transfer of goods,⁵¹ including government social security, pension payments,⁵² humanitarian aid, and other services.⁵³ Ukrainian’s civil and political rights, such as the rights to liberty and security, freedom of peaceful assembly, freedom of opinion and expression, freedom of religion or belief, and freedom from discrimination, have also been infringed upon and violated by all parties to the conflict.⁵⁴ People in Ukraine have also been subjected to arbitrary detention, torture, sexual violence, and discrimination at the hands of the parties to the conflict.⁵⁵ Civilian infrastructure, such as schools, homes, and hospitals, have been targeted and destroyed.⁵⁶

42 Ibid para 5.

43 “Enact a law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and Luhansk regions of Ukraine” in Ibid para 6.

44 OHCHR, ‘Report on the Human Rights Situation in Ukraine 1 December 2014 to 15 February 2015’ (2 March 2015) paras 2-3 www.ohchr.org/Documents/Countries/UA/9thOHCHRReportUkraine.pdf accessed 16 May 2022; OHCHR, ‘Report on the Human Rights Situation in Ukraine 15 December 2014’ (15 December 2014) paras 7, 37-38 <https://reliefweb.int/report/ukraine/report-human-rights-situation-ukraine-15-december-2014> accessed 16 May 2022.

45 OSCE, ‘Package of Measures for the Implementation of the Minsk Agreements’ (12 February 2015) www.osce.org/cio/140156 accessed 16 May 2022.

46 Ibid.

47 Michael Kimmage and Bruno L  t  , ‘Is the Minsk Process for Eastern Ukraine Dead or Deadlocked?’ (The German Marshall Fund of the United States) www.gmfus.org/news/minsk-process-eastern-ukraine-dead-or-deadlocked accessed 16 May 2022.

48 OSCE, ‘Statement from the OSCE Special Monitoring Mission to Ukraine’ (18 February 2022) www.osce.org/special-monitoring-mission-to-ukraine/512596 accessed 16 May 2022; Rosahlee Bautista, ‘Minsk Peace Agreement on Ukraine No Longer Exist’ *EAC News* (24 February 2022) <https://eacnews.asia/home/details/9254> accessed 14 April 2022.

49 OHCHR, ‘Report on the Human Rights Situation in Ukraine 1 August 2021- 31 January 2022’ (28 March 2022) para 5 <https://reliefweb.int/report/ukraine/report-human-rights-situation-ukraine-1-august-2021-31-january-2022> accessed 8 April 2022.

50 The contact line is a de-facto 500km border created by the Ukrainian Government after the Minsk Agreements that separates the occupied territory from the government-controlled territory. There are five checkpoints that Ukrainians cross often to access medical and social services, among other resources, and to visit family. International Crisis Group, ‘Ukraine: The Line’ (18 July 2016) www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/ukraine-line accessed 6 May 2022; ACCESS Consortium, ‘Eastern Ukraine: Line of Contact – Line of Separation’ (January 2019) 1 www.clovekvtisni.cz/media/publications/1209/file/estern-ukraine-line-of-contact-line-of-separation-2019.pdf accessed 6 May 2022.

51 United Nations: Ukraine ‘Freedom of movement across the line of contact in eastern Ukraine’ (February 2020) 1 www.unhcr.org/ua/wp-content/uploads/sites/38/2020/03/Briefing-Note-Freedom-of-movement_2020.pdf accessed 6 May 2022.

52 Human Rights Watch, ‘Ukraine: Events of 2020’ (n51).

53 ‘UN-led aid convoy brings 23 tonnes of humanitarian goods across contact line in east Ukraine’ (UN News, 23 April 2021) <https://news.un.org/en/story/2021/04/1090472> accessed 6 May 2022.

54 Human Rights Watch, ‘Ukraine: Events of 2020’ (n51).

55 OHCHR, ‘Arbitrary Detention, Torture and Ill-Treatment in the Context of Armed Conflict in Eastern Ukraine 2014-2021’ (2 July 2021) www.ohchr.org/sites/default/files/Documents/Countries/UA/UkraineArbDetTorture_EN.pdf accessed 6 May 2022.

56 Human Rights Watch, ‘Ukraine: Events of 2020’ (n51).

Destruction and grave abuses and crimes by Russian forces in the 2022 invasion are increasingly reported.⁵⁷ Although this report focuses on CRSV, GSF acknowledges the need to provide reparation to victims of all conflict-related crimes. Importantly, while this Study focuses on reparations owed by the Ukrainian Government, GSF underscores that all those responsible for the violations of international law, including Russia, should be brought to account and have a duty to provide reparations to victims.

2. Nature, scale and scope of conflict-related sexual violence in Ukraine

2.1. Attitudes to gender-based and sexual violence

“One time, a guy on a tram was trying to get into my panties. I was in primary school, so maybe I was nine years old. I was too ashamed to tell anyone. I began being careful [on public] transport, [and I] tried to stand far away from strangers.”⁵⁸

Gender-based violence, sexual violence, and harassment were widespread in Ukraine prior to the start of the conflict in 2014 and remain present to date. According to OSCE, seven in ten women in Ukraine have experienced psychological, physical, or sexual violence from the age of 15.⁵⁹ While this

Study focuses on sexual violence with a direct nexus to conflict, understanding attitudes to gender-based and sexual violence in general, including the stigmatisation, rejection, and victim-blaming towards survivors, puts into context CRSV survivors’ reluctance to report or disclose the details of their victimisation, which in turn compounds challenges faced to access justice and essential services.

In an OSCE survey from 2019, 24% of women agreed that “*Violence against women is often provoked by the victim*”.⁶⁰ In a United Nations Populations Fund (UNFPA) survey from 2018, 50% of men agreed that “*If a woman was affected by alcohol or drugs, she is guilty in that situation to some extent*.”⁶¹ These harmful stereotypes which translate to victim-blaming and isolation may result in survivors’ feelings of shame or guilt and discourage them from reporting gender-based and sexual violence. They also demonstrate a societal readiness to reject and stigmatise survivors and thereby impede their access to justice and reparation.

Gender insensitivity and prejudice is also present within public institutions, including law enforcement and the judiciary.⁶² This leads to police reluctance to take up complaints or, at times, miscategorising sexual violence as “disorderly conduct” or “bodily harm”.⁶³ This represents one of the limitations to the reporting of sexual violence in Ukraine.

It should be noted that recent surveys have pointed to changing perspectives on gender roles and social stigmas regarding sexual violence among Ukrainian youth, regardless of gender. Young women are also less likely to blame victims for sexual violence.⁶⁴ That said, it is evident that significant efforts are needed to mitigate stigmatisation and other harmful attitudes towards survivors of gender-based violence, including CRSV, and to ensure their access to justice and essential services.

57 Human Rights Watch, ‘Ukraine: Apparent War Crimes in Russia-Controlled Areas’ (3 April 2022) www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas accessed 16 May 2022; Yulia Gorbunova, ‘Devastation and Loss in Bucha, Ukraine’ (Human Rights Watch, 30 March 2022) www.hrw.org/news/2022/03/30/devastation-and-loss-bucha-ukraine accessed 16 May 2022.

58 OSCE, ‘OSCE-led Survey on Violence Against Women: Ukraine’ (27 November 2019) 39 www.osce.org/secretariat/440312 accessed 6 May 2022.

59 Ibid.

60 Ibid 19.

61 UNFPA, ‘Masculinity Today: Men’s Attitudes to Gender Stereotypes and Violence Against Women’ (June 2018) 75 <https://ukraine.unfpa.org/en/publications/masculinity-today-mens-attitudes-gender-stereotypes-and-violence-against-women> accessed 6 May 2022.

62 Amnesty International, ‘Not A Private Matter: Domestic and Sexual Violence Against Women in Eastern Ukraine’ (11 December 2020) 44, 52 www.amnesty.org/en/documents/eur50/3255/2020/en/ accessed 1 May 2022.

63 Ibid 47.

64 Amnesty International, ‘Not a Private Matter: Domestic and Sexual Violence Against Women in Eastern Ukraine’ (11 December 2020) www.amnesty.org/en/documents/eur50/3255/2020/en/ accessed 6 May 2022.



A march on International Women's Day on 8 March 2021. Poster with the inscription in Ukrainian: "Instead of flowers, Istanbul Convention", in reference to calls on Ukraine to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).⁶⁵

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2.2. Barriers to reporting conflict-related sexual violence

Within Ukraine, many survivors do not report CRSV and other forms of gender-based violence due to a wide variety of legal, psycho-social, and economic barriers present in Ukraine, some of which existed prior to the start of the conflict in 2014. An OSCE survey implemented in 2018 looking into violence

against women in conflict and non-conflict settings, including sexual violence, found that the top three reasons Ukrainian survivors did not report CRSV were: first, that survivors were dealing with the trauma on their own or with someone else; second, that they did not want anyone else to know of the incident;⁶⁶ and third, that they did not believe the violation or crimes they suffered were serious enough to report.⁶⁷

⁶⁵ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), entry into force for 10 states, not including Ukraine and Russia: 1 August 2014.

⁶⁶ OSCE, 'OSCE-led Survey on Violence Against Women: Ukraine' (n58) 53-54.

⁶⁷ Ibid.

Psycho-social barriers to reporting CRSV are extensive. In the mentioned OSCE survey, fear and anger following physical or sexual violence were the two most common emotions female survivors reported.⁶⁸ Survivors felt angry that they were attacked and fearful of others finding out, of being stigmatised, and of retaliation.⁶⁹ Even though four out of five survivors of physical violence experienced long-term mental health disorders⁷⁰ and 40-55% experienced serious physical harm, the overwhelming majority still did not report the incidents.⁷¹ A lack of safe shelters and social or healthcare services available may also contribute to survivors not reporting.⁷²

A final key deterrent to reporting was and is the ever-present armed conflict. In regions with high levels of hostilities, people are often reluctant to talk for fear of reprisal.⁷³ Armed groups have frequently stopped humanitarian services from reaching survivors in conflict areas, denying survivors the opportunity to report or seek vital social and healthcare support.⁷⁴ There are even fewer safe shelters for LGBTQI+ persons⁷⁵ and, as of 2020, none for male survivors of sexual violence.⁷⁶

Since the 2022 full-fledged Russian invasion, armed combat and Russian shelling have forced citizens to hide in their homes, basements, metro stations, and bomb shelters for days and sometimes weeks on end.⁷⁷ Millions have fled their homes as refugees and IDPs, a significant portion of whom are women and girls, leaving behind not only their homes but often

husbands, fathers, brothers, and sons.⁷⁸ In such dire situations, disclosing CRSV incidents will likely occur with a delay.

2.3. Scale, scope, forms, and patterns of crime

Existing documentation of CRSV committed in Ukraine between 2014–2021 shows that it predominantly occurred in the contexts of detention or other deprivations of liberty, at checkpoints, and in regions with a heightened military presence.⁷⁹

For reasons described above, CRSV was reported with delays. Most incidents of CRSV occurred in 2014 and 2015,⁸⁰ yet most comprehensive reports capturing CRSV came out in 2017 and later.⁸¹ Documentation was initially difficult as human rights and international organisations had extremely limited access to areas controlled by pro-Russia armed groups and to Crimea, and because survivors faced numerous barriers to report their attacks, as described in the previous section.⁸²

OHCHR reported that sexual violence was committed by all parties to the conflict between 14 March 2014 and 31 January 2017, in varying levels,⁸³ although Ukraine's civil society reported that CRSV incidents by government actors occurred on a lower scale.⁸⁴ That said, there was no evidence of CRSV being used in that time period for tactical reasons by the

68 Ibid 47.

69 Ibid vi.

70 Ibid 48.

71 Ibid.

72 Ibid vi.

73 Ibid iv.

74 Ibid vi.

75 Wolfgang Benedek, Veronika Bilková and Marco Sassòli, 'Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine since 24 February 2022' (OSCE, 13 April 2022) 83 www.osce.org/files/f/documents/f/a/515868.pdf accessed 16 April 2022.

76 Ibid.

77 Ibid 32, 35.

78 Wolfgang Benedek, Veronika Bilková and Marco Sassòli, 'Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine since 24 February 2022' (OSCE, 13 April 2022) www.osce.org/files/f/documents/f/a/515868.pdf accessed 16 April 2022.

79 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) paras 65-107.

80 Amnesty International, 'Not A Private Matter: Domestic and Sexual Violence Against Women in Eastern Ukraine' (n62) 61.

81 For instance, the UN Human Rights Monitoring Mission in Ukraine (HRMMU) established in 2014 made its first comprehensive report on CRSV in 2016: OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) paras 6-16, 59-119, 124-136, 141.

82 Amnesty International, 'Not A Private Matter: Domestic and Sexual Violence Against Women in Eastern Ukraine' (n62) 60.

83 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) 9.

84 EUCCI, 'War without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine' (n14) 25-66, 73-85.

government forces, armed groups in conflict-affected eastern Ukraine, or by Russia in Crimea.⁸⁵

In the context of the ongoing invasion, significant reports by victims and witnesses of CRSV committed by Russian soldiers are surfacing. The emerging reports indicate that sexual violence is being committed where there is Russian military presence in civilian areas.⁸⁶ Additional settings for CRSV in 2022 might exist but would need time to be comprehensively documented and investigated.

While Ukraine's Prosecutor General and various other actors are carrying out investigations into CRSV,⁸⁷ comprehensive reporting by rights groups

and international bodies is yet to come. As such, accurate estimates are hard to make at this stage, but the current information available indicates that the numbers are significant (see below).

2.3.1. SEXUAL VIOLENCE IN DETENTION FACILITIES

Persons deprived of their liberty are particularly vulnerable to CRSV and other forms of violence due to unequal power dynamics between the detainee and those in control of detention facilities. Places of detention are environments that are inherently coercive and in which genuine consent to sexual acts is essentially impossible.⁸⁸



Illegal detention facility in temporarily occupied territory in Donetsk Oblast, eastern Ukraine, in which allegations of CRSV were reported to EUCCI.

© 2015, "Justice for Peace in Donbas" Coalition

85 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) para 8.

86 Insecurity Insight, 'Ukraine Rape as a Weapon of War April 2022' (n6); Strzyżyńska and Koshiw, 'Rush to Get Emergency Contraception into Ukraine as Reports of Rape Rise' (n6).

87 Iryna Venediktova (@VenediktovaVI), 'Every #CRSV crime of sexual violence by the RF soldiers...' *Twitter* (9 May 2022) <https://twitter.com/VenediktovaVI/status/1523704911023591424> accessed 11 May 2022.

88 Sara Ribeiro and Danaé van der Straten Ponthoz, UK Foreign & Commonwealth Office, 'International Protocol on the Documentation and Investigation of Sexual Violence in Conflict' (2nd edn, March 2017) 59 www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/06/report/international-protocol-on-the-documentation-and-investigation-of-sexual-violence-in-conflict/International_Protocol_2017_2nd_Edition.pdf accessed 6 May 2022.

According to OHCHR, Ukraine, from 14 April 2014 to 30 April 2021, the total number of detentions in the context of the armed conflict in eastern Ukraine is estimated at between 7,900 and 8,700, with government forces responsible for 3,600-4,000 detentions, and armed groups and other actors in territory controlled by the self-proclaimed 'republics' responsible for 4,300-4,700 detentions.⁸⁹ Men comprised 85% of detainees.⁹⁰ The detention of children was rare, estimated to be in the dozens, and short-term, with most occurring at the beginning of the conflict.⁹¹

Of the individuals detained in Ukrainian Government detention centres, the majority were brought in due to suspicion of support for or membership in armed groups.⁹² OHCHR found that 60% of these detentions were arbitrary.⁹³ These detainees were often subjected to acts of sexual violence, in conjunction with torture and other ill-treatment, to punish, humiliate, and/or to extract confessions.⁹⁴ Threats were also directed at detainees' female family members. At times, the perpetrators even detained female family members for a short time, to exert pressure on the male detainees.⁹⁵ In most cases, such threats were used to force the victim to "confess" or otherwise cooperate with the investigators, security, or military actors.⁹⁶ As documented by OHCHR, "*rape, threats of rape, beatings and electrocution of genitals were often used as an interrogation technique*", and in many cases amounted to torture.⁹⁷

One case from May 2015 involved a man detained in the Kharkiv SBU. After hours of torture to extract a confession, a man claiming to be a doctor entered the room with surgical tools and pulled down the detainee's pants, threatening to cut off the detainee's testicles. Consequently, the victim broke down and signed self-incriminating statements.⁹⁸

As for detentions by armed groups and other actors in territory controlled by the self-proclaimed 'republics', the OHCHR report also found that most of these detentions were arbitrary, and that such detentions remain a daily occurrence.⁹⁹ Detainees in detention centres controlled by armed groups experienced sexual violence in addition to torture, ill-treatment, and other gender-based violence. Individuals detained by armed groups, based on their perceived membership or support for Ukrainian forces, were subjected to sexual violence as a method of punishment, to humiliate detainees, and to extract confessions.¹⁰⁰ Armed groups also utilised CRSV to compel citizens to relinquish their property to the armed groups.¹⁰¹ Violation of curfews, public intoxication, or the violation of other social norms were other common grounds for detention established by the armed groups.¹⁰²

89 OHCHR, 'Arbitrary Detention, Torture and Ill-Treatment in the Context of Armed Conflict in Eastern Ukraine, 2014-2021' (n55) para 3.

90 Ibid.

91 Ibid para 37.

92 EUCCI, 'War without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine' (n14) 25-66, 73.

93 OHCHR, 'Arbitrary Detention, Torture and Ill-Treatment in the Context of Armed Conflict in Eastern Ukraine, 2014-2021' (n55) para 5.

94 All Survivors Project Foundation, 'Ukraine' (August 2017) para 60 <https://allsurvivorsproject.org/wp-content/uploads/2017/08/Ukraine.pdf> accessed 6 May 2022.

95 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) para 65.

96 Ibid.

97 Ibid paras 65-66.

98 OHCHR HRMMU, 'Report on the Human Rights Situation in Ukraine 16 May to 15 August 2017' (12 September 2017) para 64 www.ohchr.org/Documents/Countries/UA/UAReport19th_EN.pdf accessed 6 May 2022.

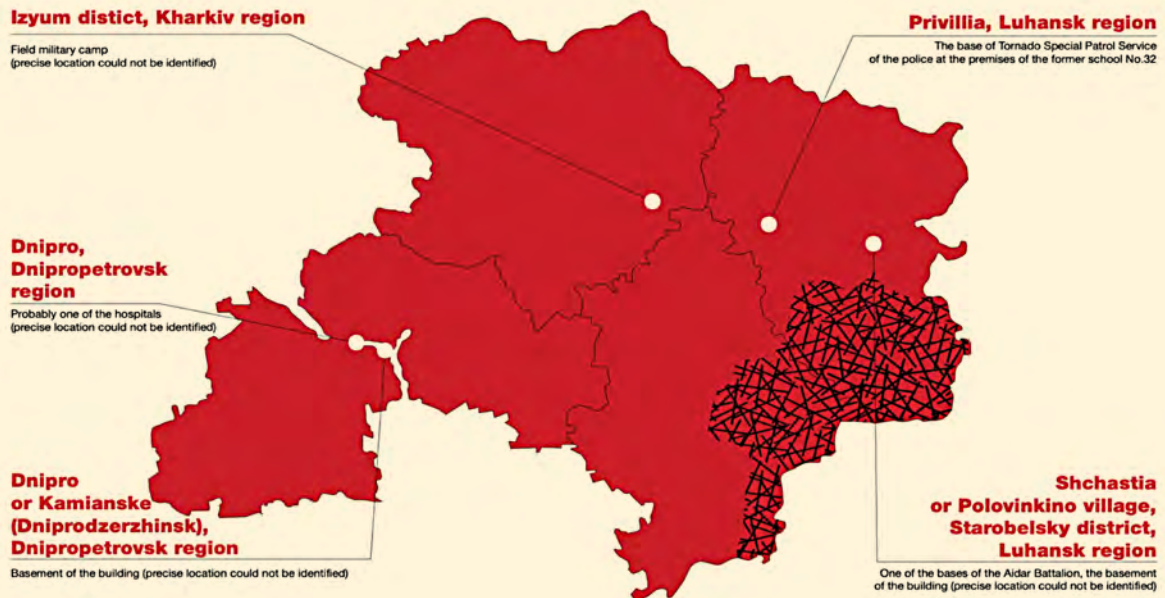
99 OHCHR, 'Arbitrary Detention, Torture and Ill-Treatment in the Context of Armed Conflict in Eastern Ukraine 2014-2021' (n55) paras 3-5, 37- 53, 71-72; OHCHR 'Monitoring Mission in Ukraine' (27 January 2022) 3, 7 https://ukraine.un.org/sites/default/files/2022-02/Conflict-related%20civilian%20casualties%20as%20of%2031%20December%202021%20%28rev%2027%20January%202022%29%20corr%20EN_0.pdf accessed 7 April 2022.

100 All Survivors Project Foundation, 'Ukraine' (n94) para 86.

101 OHCHR, 'Report of the Office of the United Nations High Commissioner for Human Rights, Conflict-Related Sexual Violence in Ukraine' (16 March 2017) 19, 20 www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session34/Documents/A_HRC_34_CRP4_E.docx accessed 6 May 2022.

102 EUCCI, 'War Without Rules: Gender-Based Violence in Context of the Armed Conflict in Eastern Ukraine' (n14) 46-47.

MAP OF UKRAINIAN ARMED FORCES (UAF)-CONTROLLED DETENTION CENTRES WHERE SEXUAL VIOLENCE TOOK PLACE¹⁰³



© EUCCI, 'War without Rules: Gender Based Violence in Context of the Armed Conflict in Eastern Ukraine' (2017)

Available research from 2017 showed that women in illegal detention facilities are likely to experience rape, threats of rape, attempted rape, gang rape, damage to a pregnant woman's womb, enforced prostitution, forced nudity, coercion to watch sexual violence against others, and coercion to watch naked men.¹⁰⁴ There were reports both of singular instances of sexual violence and patterns of repeated sexual violence.¹⁰⁵ Men were likely to experience forced nudity, rape, attempted rape, threats of rape (including

with objects), blows or electric shocks to the genitalia, threats of castration, sexualised insults, humiliation, intimidation of a sexual nature, and threats of sexual violence against family members.¹⁰⁶ In December 2015, for example, a man being held in detention facility SIZO No. 5 was beaten and raped. He then was stripped naked, mocked, insulted, and forced to bend over to endure a "rectal examination" in below freezing weather.¹⁰⁷

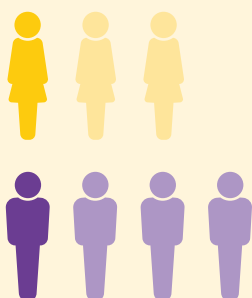
103 Ibid 75.

104 Ibid 49.

105 Ibid.

106 Ibid 48.

107 OHCHR HRMMU, 'Report on the human rights situation in Ukraine' Ukraine 16 February to 15 May 2016' (3 June 2016) para 51 www.ohchr.org/Documents/Countries/UA/Ukraine_14th_HRMMU_Report.pdf accessed 6 May 2022.



ACCORDING TO A STUDY CONDUCTED BY THE JUSTICE FOR PEACE IN DONBASS COALITION, **ONE OUT OF THREE INTERVIEWED FEMALE DETAINEE WAS A SURVIVOR OF OR A WITNESS OF SEXUAL VIOLENCE,**¹⁰⁸

COMPARED TO **ONE OUT OF FOUR MALES.**¹⁰⁹



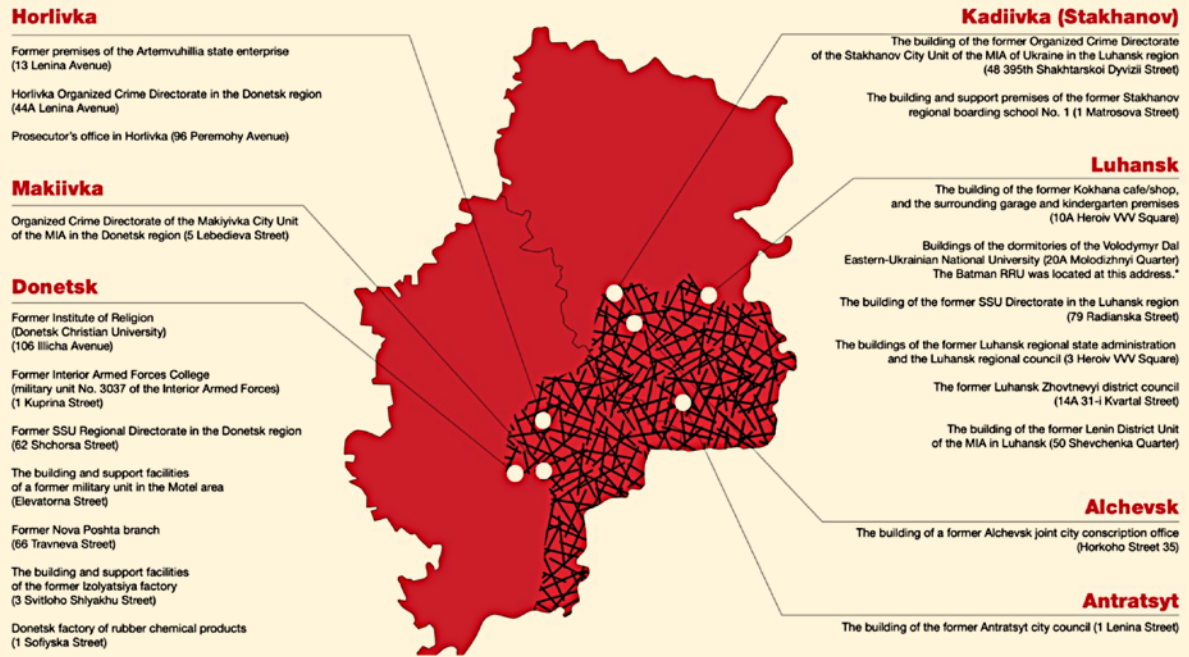
People crossing checkpoint in Stanytsia Luhanska in Donbass, Ukraine – April 2019.

© 2019 Kutsenko Volodymyr / Shutterstock

108 The Justice for Peace in Donbass Coalition of Human Rights Organisations and Initiatives was created in December 2014. It is a voluntary informal union of 17 public organisations in Ukraine, primarily from the Donetsk and Luhansk regions.

109 EUCCI, 'War without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine' (n14) 84-85.

MAP OF ARMED GROUPS-CONTROLLED DETENTION CENTRES IN THE NON-GOVERNMENT CONTROLLED AREA WHERE SEXUAL VIOLENCE TOOK PLACE



© EUCCI, 'War without Rules: Gender Based Violence in Context of the Armed Conflict in Eastern Ukraine' (2017).

There is significantly less information available regarding sexual violence perpetrated in Crimea including in the context of detention, due to lack of access to the Peninsula by human rights groups and other reporting bodies.¹¹⁰ The limited available information indicates that members of the Federal Security Service (FSB) of the Russian Federation

and paramilitary groups, such as the Crimean Self-Defence Militia,¹¹¹ have detained Ukrainian and Crimean Tatar.¹¹² Additionally, LGBTQI+ people in the Peninsula have been targeted.¹¹³ Documented forms of sexual violence included rape (including with objects), blows or electric shocks to the genitals, and forced nudity.¹¹⁴

110 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) para 108.

111 International Partnership for Human Rights (IPHR), 'International Crimes in Crimea: An Assessment of Two and a Half Years of Russian Occupation' (September 2016) para 115 <https://iphronline.org/wp-content/uploads/2016/09/Crimea-report-Sept-2016.pdf> accessed 6 May 2022.

112 OHCHR HRMMU, 'Report on the Human Rights Situation in Ukraine 16 August to 15 November 2017' (12 December 2017) para 16 www.ohchr.org/Documents/Countries/UA/UARreport20th_EN.pdf accessed 8 June 2022; All Survivors Project Foundation, 'Ukraine' (n94) para 108.

113 All Survivors Project Foundation, 'Ukraine' (n94) para 107.

114 Ibid paras 109-111.

Among the documented cases by HRMMU relating to Crimea is that of Genadii Afanasiev, a known pro-Ukrainian activist, who was abducted by armed men and tortured, which included beatings, electrical shocks, choking, and threats of sexual violence, while detained for two years. He was finally released during a prisoner exchange in June 2016.¹¹⁵ Another case involves a Crimean Tatar man who was detained by the Crimean FSB in September 2017 after being beaten, tortured, and threatened with sexual violence to extract information for the FSB.¹¹⁶

Although it is still too early to understand the full scope and scale of CRSV in detention centres in the context of Russia's full-fledged invasion of Ukraine, initial reports are beginning to provide a picture. In early April 2022, reports emerged that 15 servicewomen were taken as prisoners of war where they were forced to undress and do squats in front of men, as well as experiencing other forms of gender-based violence such as having their heads shaved.¹¹⁷

2.3.2. SEXUAL VIOLENCE OUTSIDE OF DETENTION SETTINGS

Conflict-related sexual violence has also been committed outside of detention settings, in particular at checkpoints along the contact line that are controlled, from different sides, by the Ukrainian forces and pro-Russia armed groups. The checkpoints are frequently crossed as Ukrainian citizens residing in the temporarily Non-government controlled area (NGCA) must cross the contact line to receive social benefits and medical care, among other services.¹¹⁸ A 2017 OHCHR report noted that very few checkpoints were open, leading to long queues, lasting hours or even nights.¹¹⁹ Difficulties crossing the contact line continues to be a reality, and was particularly so during the COVID-19 pandemic.¹²⁰ This, in conjunction with restrictions on liberty and freedom of movement, made anyone crossing the contact line vulnerable to members of the forces and groups controlling the checkpoints.

115 OHCHR HRMMU, 'Report on the Human Rights Situation in Ukraine 16 May to 15 August 2016' (15 September 2016) paras 158-162 www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf accessed 6 May 2022.

116 OHCHR, 'Report on the Human Rights Situation in Ukraine 16 August to 15 November 2019' (15 November 2019) para 138 https://reliefweb.int/attachments/0573550b-2fef-3eb9-9398-bb1f9483f66b/28thReportUkraine_EN.pdf accessed 16 May 2022.

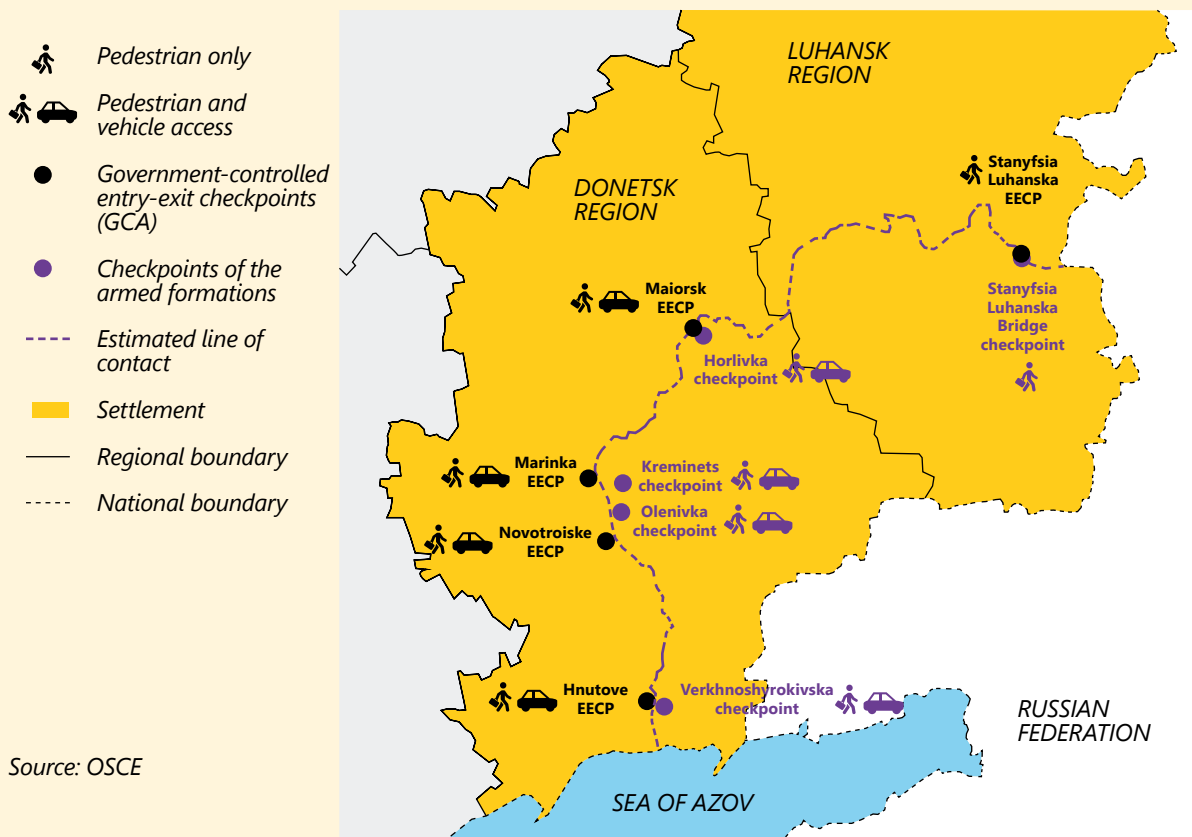
117 '15 servicewomen returned from Russian captivity. The Russians tortured, mistreated them, and shaved their hair' *Official Website of Ukraine: war.ukraine.ua* (2 April 2022) <https://war.ukraine.ua/crimes/15-servicewomen-returned-from-russian-captivity-the-russians-tortured-mistreated-them-and-shaved-their-hair/> accessed 8 June 2022.

118 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) paras 78-81, 99-101.

119 Ibid para 78.

120 Human Rights Watch, 'Ukraine: Trapped in a War Zone for Lacking a Smartphone' (26 June 2020) www.hrw.org/news/2020/06/26/ukraine-trapped-war-zone-lacking-smartphone accessed 16 May 2022.

MAP OF CHECKPOINTS ALONG THE CONTACT LINE.¹²¹



Source: OSCE

Incidents of sexual violence and harassment at the contact line's checkpoints were mostly committed against women, including civilians and humanitarian workers.¹²² For instance, in May 2017 in Petrivske, a member of an armed group with an assault rifle threatened an unarmed female patrol member of the OSCE Special Monitoring Mission (SMM) by making sexual comments and demands.¹²³ At checkpoints controlled by Ukrainian forces, women and girls have also been subjected to forms of

sexual harassment and intimidation, including requests for sex in exchange for passage.¹²⁴ At checkpoints controlled by armed groups, forms of sexual violence documented include rape, gang rape, threat of rape, in addition to gender-based humiliation, insults, and threats.¹²⁵ According to available information, these cases of sexual violence mostly occurred in vehicles, containers that served as offices,¹²⁶ armed bunkers,¹²⁷ and nearby makeshift illegal detention facilities.¹²⁸

121 OSCE, 'Checkpoints Along the Contact Line: Challenges Civilians Face When Crossing 1 November 2019 - 15 November 2020' (29 December 2020) 6 www.osce.org/files/f/documents/9/0/475010_0.pdf accessed 16 May 2022.

122 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) paras 78-79.

123 OHCHR HRMMU, 'Report on the Human Rights Situation in Ukraine 16 February to 15 May 2017' (13 June 2017) para 67 www.ohchr.org/Documents/Countries/UA/UAReport18th_EN.pdf accessed 16 May 2022.

124 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) paras 78-81; EUCCI, 'War Without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine' (n14) 25.

125 OHCHR, 'Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017' (n7) paras 99-101.

126 Ibid para 81.

127 Ibid para 100.

128 Ukraine Centre for Social Reforms, 'Gender-Based Violence in the Conflict-Affected Regions of Ukraine' (UNFPA, 2018) 35 <https://ukraine.unfpa.org/en/publications/gender-based-violence-conflict-affected-regions> accessed 6 May 2022.

In September 2016, a woman was trying to cross the contact line in Donetsk from a NGCA to a government-controlled area (GCA) but was told there was a problem with her permit. A Ukrainian officer told her that he had noticed her and had intentionally made a mistake with her permit renewal and subsequently demanded that she go with him to a hotel room or otherwise be kidnapped and buried alive. The perpetrator made her sit on his lap and touched her body, as she cried and begged him to stop. He agreed to let her go on the condition that she come back to the checkpoint, threatening physical violence and blackmail. OHCHR assisted the survivor in filing a complaint with the police.¹²⁹

The increased military and armed group presence in residential communities since 2014 has also resulted in incidents of sexual violence against local civilians. The perpetrators tend to be members of the Ukrainian military¹³⁰ and armed groups.¹³¹ For example, in Marinka, in October 2016, a woman was alone in her house in the Government-Controlled Areas (GCA) when drunk members of the Ukrainian armed forces broke into her house and started touching her and trying to pull her skirt down. When she struggled, one of the perpetrators hit her in the face with a metal bowl. She managed to escape and call her landlord, who called the police and the commander of the military unit. Although a case was filed, the police told the survivor it was her fault, and the case was closed due to a lack of evidence.¹³²

In the temporarily NGCA, members of the armed groups prevented free movement in some residential areas and kept women “for entertainment”.¹³³ According to documentation reports published prior

to 2022, CRSV in NGCA is most often perpetrated against women¹³⁴ and perceived LGBTQI+ people, who are particularly vulnerable in the NGCA because persecution and violence against LGBTQI+ people are sanctioned by the armed groups’ policies.¹³⁵

In Donetsk, in June 2014, armed groups attacked an LGBTQI+ nightclub. They forced the patrons outside and made them form a line. The armed groups then demanded that the patrons kiss while being recorded, or else they would be shot.¹³⁶

Shortly after the start of the Russian Invasion of Ukraine in 2022, reports of rape and other forms of sexual violence against women and children by Russian soldiers began to surface, particularly in residential areas with significant Russian military presence.¹³⁷ In April 2022, Kateryna Cherepakha, the President of La Strada-Ukraine, which operates a national helpline for the prevention of domestic violence and human trafficking, stated that:

“Since early March, La Strada alone has received calls relating to the rape of 10 women and 3 girls by Russian soldiers. The youngest of the girls is only 12-years old. Some of these rapes have taken place in front of family members, in one case a child, in another the husband of the survivor who was then killed.”¹³⁸

Accurate estimates of CRSV incidents committed in the context of the invasion are unavailable due to a myriad of challenges, including ongoing hostilities and the trauma experienced by victims which inhibits disclosure. Nevertheless, available information indicates that CRSV is happening in a particularly

129 OHCHR HRMMU, ‘Report on the Human Rights Situation in Ukraine 16 August to 15 November 2016’ (8 December 2016) para 59 www.ohchr.org/Documents/Countries/UA/UAReport16th_EN.pdf accessed 6 May 2022.

130 EUCCI, ‘War Without Rules: Gender-Based Violence in Context of the Armed Conflict in Eastern Ukraine’ (n14) 76.

131 OHCHR, ‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’ (n7) paras 102-107.

132 OHCHR HRMMU, ‘Report on the Human Rights Situation in Ukraine 16 February to 15 May 2017’ (n123) para 66.

133 OHCHR, ‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’ (n7) para 102.

134 Ibid paras 82-84, 102-106.

135 EUCCI, ‘War without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine’ (n14) 45-46.

136 OHCHR HRMMU, ‘Report on the Human Rights Situation in Ukraine 16 August to 15 November 2016’ (n129) para 46.

137 OSCE, ‘Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes against Humanity Committed in Ukraine since 4 February 2022’ (12 April 2022) 76 www.osce.org/files/f/documents/f/a/515868.pdf accessed 6 May 2022.

138 GSF, ‘The Global Survivors Fund Calls for More Action from the International Community to Address the Harms Suffered by Survivors of Conflict-related Sexual Violence in Ukraine’ (13 April 2022) www.globalsurvivorsfund.org/media/h48hoxyi0xolujuh6ii613f4c432gv accessed 6 May 2022.

gruesome manner and is likely to be widespread. As of 3 June 2022, OHCHR's human rights monitoring team has received reports of 124 alleged CRSV acts in Ukraine.¹³⁹ OHCHR reported that the majority of victims are women and girls, while noting that men and boys were also victimised.¹⁴⁰ Reported incidents of CRSV acts include rape, gang rape, and other forms of sexual violence, often in the presence of family members who were made to watch.¹⁴¹ In some incidents, family members were killed during the incident in which CRSV was perpetrated.¹⁴²

The settings for CRSV committed by Russian soldiers during the invasion include places that are used as shelters by civilians, such as schools and basements, but also civilians' homes in areas that Russian forces temporarily occupied, and where civilians were terrorised with a myriad of crimes, including sexual violence.¹⁴³ As Russian troops withdrew from territories they previously occupied, harrowing details of CRSV incidents have been revealed. Bucha is one gruesome example, where the body of a killed Ukrainian woman was found after the retreat of Russian troops, covered with nothing but a fur coat, next to condom wrappers and a used condom.¹⁴⁴

While reports of CRSV mount, and as the conflict rages on, information currently available on CRSV is unlikely to be reflective of its true scale and scope.

2.3.3. SEXUAL VIOLENCE INDIRECTLY LINKED TO THE CONFLICT

While not part of this Study's focus, indirect links have also been made between the conflict since 2014 and sex work, sex trafficking, and sexual domestic violence. Many women who live in the temporarily NGCA were forced to resort to sex work to support their families, and have experienced sexual violence while engaging in prostitution with the military, law enforcement personnel, and armed groups.¹⁴⁵ Women also experience barriers to reporting this violence due to the criminalisation and stigmatisation of sex work.¹⁴⁶

Human trafficking increased after 2014 as a result of economic hardship due to the conflict, and was further compounded by displacement and the weakening of social cohesion.¹⁴⁷ While trafficking has affected both men and women, women make up the majority of registered sexual exploitation victims.¹⁴⁸ Despite the prevalence of sex trafficking in Ukraine, there is a lack of centralised data, and a lack of capacity of state agencies.¹⁴⁹ Displaced children or children separated from their parents have also been vulnerable to trafficking in Ukraine.¹⁵⁰ Any investigation into the rise in human trafficking was hampered by the poor relationship between Ukraine and the Russian Federation.¹⁵¹

139 'Reports of sexual violence in Ukraine rising fast, Security Council hears' (UN News, 6 June 2022) <https://news.un.org/en/story/2022/06/1119832> accessed 6 June 2022.

140 Ibid.

141 Emma Farge, 'UN to set up inquiry into possible Russian war crimes in Ukraine' *Reuters* (12 May 2022) www.reuters.com/world/europe/un-rights-chief-says-many-ukraine-abuses-may-among-war-crimes-2022-05-12/ accessed 19 May 2022; Charlie Parker, 'Widow 'raped in front of child by Russian soldiers'' *The Times UK* (28 March 2022) www.thetimes.co.uk/article/widow-raped-in-front-of-child-by-russian-soldiers-8gcd5t2wn 1 May 2022.

142 Yogita Limaye, 'Ukraine conflict: 'Russian soldiers raped me and killed my husband'' *BBC News* (11 April 2022) www.bbc.com/news/world-europe-61071243 accessed 5 May 2022.

143 Human Rights Watch, 'Ukraine: Apparent War Crimes in Russia-Controlled Areas' (n57).

144 Taiyler Mitchell, 'Russian Troops in Bucha Turned to Sexual Violence Against Ukrainian Women — Killing Some and Impregnating Others — According to Reports' *Business Insider* (12 April 2022) www.npwj.org/content/Russian-troops-Bucha-turned-sexual-violence-against-Ukrainian-women-%E2%80%94-killing-some-and-impre accessed 6 May 2022.

145 Amnesty International, 'Not A Private Matter: Domestic and Sexual Violence Against Women in Eastern Ukraine' (n62) 11-65.

146 Ibid 65.

147 OSCE, 'Gender Dimensions of SMM Monitoring (1 January 2017 – 1 November 2018)' (27 December 2018) 17 www.osce.org/special-monitoring-mission-to-ukraine/407804 accessed 6 May 2022.

148 Ibid.

149 Council of Europe, Group of Experts on Action Against Trafficking of Human Beings, 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ukraine' (22 November 2018) paras 49, 64, 121 <https://rm.coe.int/greta-2018-20-fgr-ukr-en/16808f0b82> accessed 6 May 2022.

150 Ibid para 78.

151 OSCE, 'Gender Dimensions of SMM Monitoring (1 January 2017 – 1 November 2018)' (n147) 18.

On 16 March 2022, the United Nations (UN) Special Rapporteur on trafficking in persons, especially women and children, the UN Special Rapporteur on violence against women, its causes and consequences, and the UN Under-Secretary-General and Special Representative of the Secretary-General on Sexual Violence in Conflict issued a statement expressing “serious concerns at the heightened risks of sexual violence, especially trafficking in persons, impacting significantly women and children fleeing the conflict in Ukraine and forcibly displaced”.¹⁵²

2.3.4. PROFILE AND MAPPING OF VICTIMS

Victims of the 2014 conflict include people of all genders and ages. Survivors of CRSV in Ukrainian government-controlled detention centres tend to be young to middle-aged men who face conflict-related charges or have perceived affiliations to armed groups.¹⁵³

Armed groups target those with perceived affiliation with the Ukrainian Government,¹⁵⁴ Ukrainian servicemen, and women who are captured and detained.¹⁵⁵ Those detained also include those who were kidnapped for ransom, or were caught violating norms and rules, such as breaking curfews or being intoxicated.¹⁵⁶ If perpetrators found out that a detainee had a different sexual or gender orientation, the likelihood of violence, including sexual violence, increased.¹⁵⁷

Outside detention contexts, including areas around the contact line and communities with a heavy presence of armed forces or armed groups, women are the overwhelming majority of CRSV survivors. As mentioned above, LGBTQI+ persons are also particularly vulnerable in the NGCA due to the armed groups’ policies and sanctioning of persecution.¹⁵⁸

152 Siobhán Mullally, Reem Alsalem and Pramila Patten, Press Release, ‘Ukraine: Armed conflict and displacement heightens risks of all forms of sexual violence including trafficking in persons, say UN experts’ (16 March 2022) www.ohchr.org/en/press-releases/2022/03/ukraine-armed-conflict-and-displacement-heightens-risks-all-forms-sexual accessed 16 May 2022.

153 EUCCI, ‘War Without Rules: Gender-Based Violence in Context of the Armed Conflict in Eastern Ukraine’ (n14) 73.

154 All Survivors Project Foundation, ‘Ukraine’ (n94) para 86.

155 Stanislav Aseyev and Andreas Umland, ‘Prisoners as Political Commodities in the Occupied Areas of the Donbas’ (UI: The Swedish Institute of International Affairs, February 2021) www.ui.se/globalassets/ui.se-eng/publications/ui-publications/2021/ui-report-no-2-2021.pdf accessed 15 May 2022.

156 OHCHR HRMMU, ‘Report on the Human Rights Situation in Ukraine 16 August to 15 November 2017’ (n112) paras 78–80, 83–84, 102–106.

157 Before the conflict, LGBTI people in what is now the NGCA were already vulnerable and experienced high levels of homophobia. After the conflict, the situation for LGBTI people has only deteriorated. According to the study by the Anti-Discrimination Centre (ADC) Memorial, a source who has since left Donetsk said that if the armed groups learned of an LGBTI person’s identity, they would take the LGBTI person to a basement, debase them, and try to get labour or ransom out of them. ADC Memorial and the Center for Civil Liberties, ‘Violation of LGBTI Rights in Crimea and Donbas: The Problem of Homophobia in Territories Beyond Ukraine’s Control’ (13 June 2016) <https://adcmemorial.org/en/publications/violation-of-lgbti-rights-in-crimea-and-donbas-the-problem-of-homophobia-in-territories-beyond-ukraine-s-control/> accessed 16 May 2022; EUCCI, ‘War without Rules: Gender-Based Violence in the Context of the Armed Conflict in Eastern Ukraine’ (n14) 46.

158 EUCCI, ‘War Without Rules: Gender-Based Violence in Context of the Armed Conflict in Eastern Ukraine’ (n14) 45–46.



Ukrainian families flee the war across the border in Beregsurany to a peaceful area – February 26, 2022.
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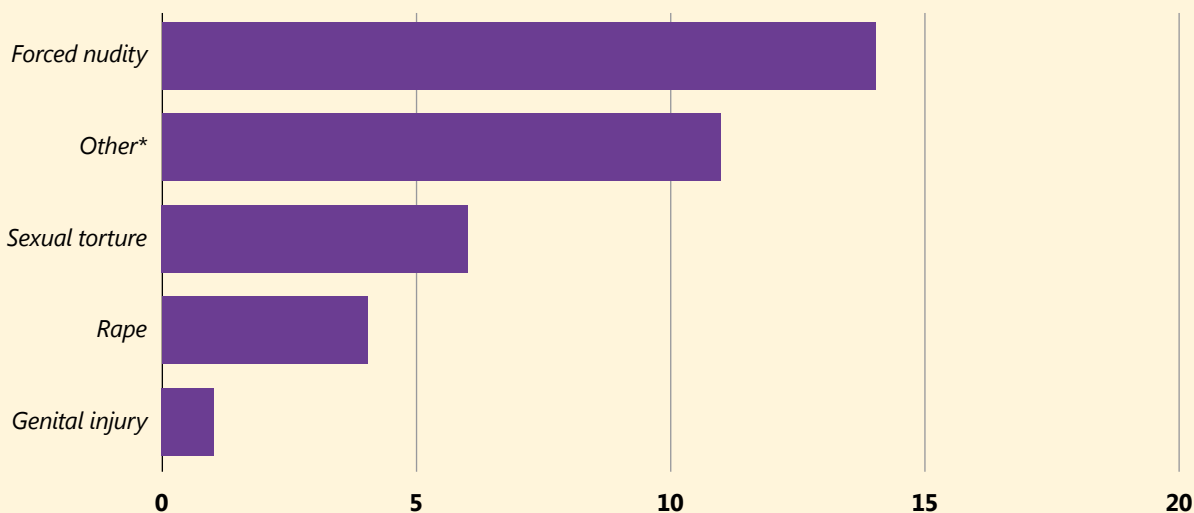


IV. SURVIVORS’ PERCEPTIONS, NEEDS, PRIORITIES, AND RISKS

This section is based on the 20 semi-structured interviews conducted in 2021 with survivors of CRSV committed from 2014, and prior to 2022. In the interviews, there were 15 women and five men. Information about the demographic profiles of participating survivors is available in Annex I. Survivors

participating in this Study experienced multiple forms of CRSV, often in conjunction with other conflict-related crimes, particularly arbitrary detention. Their experiences have been aggravated by events after the occurrence of CRSV, including displacement, the loss of housing, livelihood, and the disruption of societal and family ties.

ACTS OF SEXUAL VIOLENCE EXPERIENCED BY THE SURVIVOR PARTICIPANTS

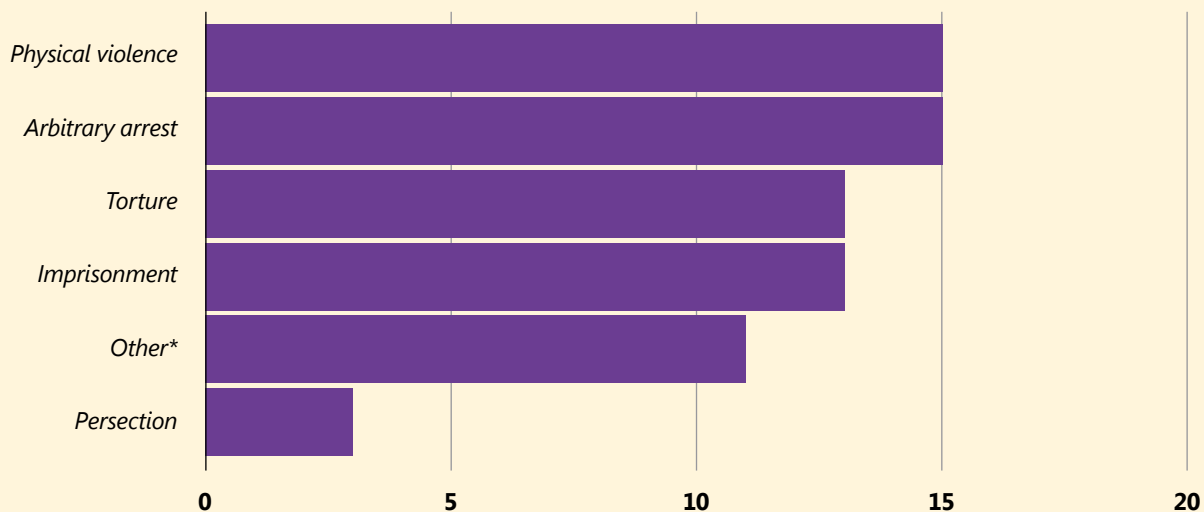


Source: GSF Study

Number of survivor participants (Total = 20 participants)

*Other acts of sexual violence include threat of rape, gang rape and sexual violence, threat of rape of underage daughter, forced observation of rape, deprivation of reproductive hormonal therapy, verbal insults, bathroom under surveillance, forced examination of genitals, forced search, co-detainment of men and women, being photographed and videotaped, ridiculing physical features.

ACTS OF OTHER VIOLENCE EXPERIENCED BY THE SURVIVOR PARTICIPANTS



Source: GSF Study *Number of survivor participants (Total = 20 participants)*

*Other forms of violence include mock execution, deprivation of potable water, forced labour, electric shocks and beatings, knife cuts, broken fingers, psychological violence, abduction, suffocation, splashing cold water, torturing teeth, solitary confinement, being blindfolded, extreme intimidation, imprisonment of family members.

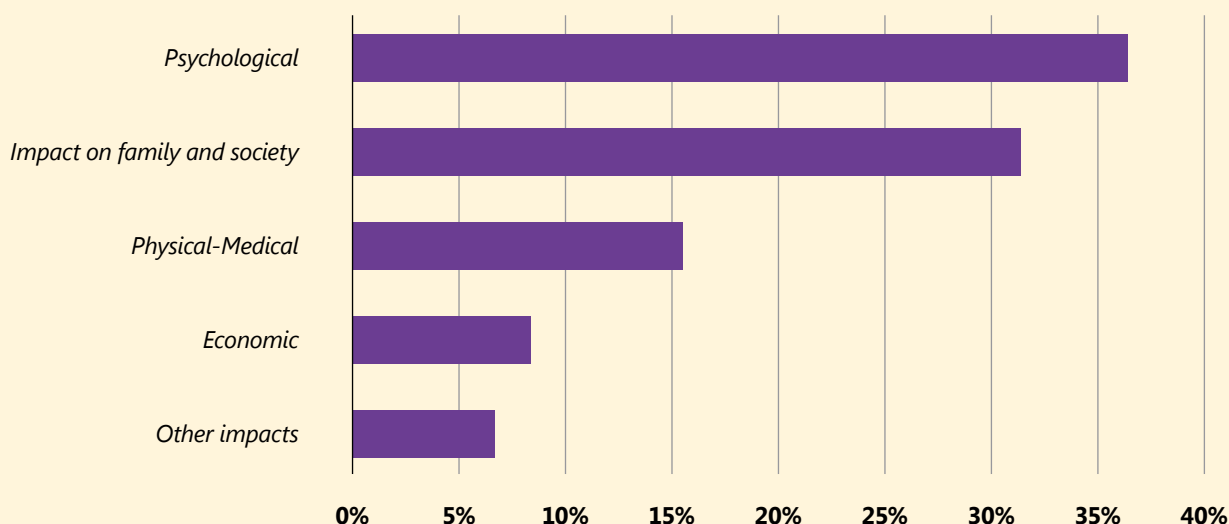
In 2021, at the time the interviews for this Study were carried out, survivors expressed their fears of an escalated Russian invasion and how it might worsen conditions for themselves and their loved ones. In February 2022, those fears became a reality. Despite limited contact between GSF and the previously interviewed survivors, it is clear that the invasion has led to the worsening of their conditions.¹⁵⁹ At the time of finalisation of this report in May 2022, the Study partners have not had a chance to speak

with survivors of CRSV perpetrated during the 2022 invasion for the purposes of this Study. The findings of the section below result from the analysis of the 20 semi-structured interviews. They are based on what was said directly by participating survivors, drawing conclusions from the number of mentions of certain words, themes, or concepts in interview transcripts. As such, percentages indicated in the charts below do not refer to the number of survivors, but rather, to the total number of identified responses relating to one theme.

¹⁵⁹ This was expressed, for instance, in an informal conversation between Lead Researcher of the Ukraine Study and a member of the SEMA network in March 2022, as well as in meetings conducted with members of the SEMA network during a GSF mission to Ukraine in April 2022.

| 1. Impact of conflict-related sexual violence

TYPES OF PERSONAL IMPACT ON THE VICTIM



■ Percentage per category %

Source: GSF's elaboration based on semi-structured interviews data

1.1. Psychological impacts

Survivors appear to be most affected by the psychological impacts of CRSV. When commenting on their traumatic experiences and resulting needs, survivors generally did not separate the impacts of CRSV from those of detention.¹⁶⁰ They spoke about how deep the overall impact was, with one survivor stating that her life in 2014 “was divided into life BEFORE captivity and AFTER captivity” and that she “became a completely different person.”¹⁶¹ Additionally, some survivors explained their experiences and feelings, without being able to specifically place labels on them. For instance, seven survivors out of the twenty interviewed spoke of the general impact of their experience but were not able to or

did not categorise it as psychological trauma, nor directly name anxiety, suicidal thoughts, and self-esteem issues, even if those were the symptoms they described.¹⁶²

Survivors discussed their anxiety as connected to the fear of potential future sexual violence perpetrated against themselves or their families.¹⁶³ One survivor illustrated her constant fear:

“I saw three men at the bus stop talking and looking at me all the time. And when I went down into the underground passage, one of them ran – I stopped, my heart began to pound, I think: ‘Well, that’s it!’ – I understand: this is for me.”¹⁶⁴

160 Focus Group Discussion, Ukraine (4 September 2021).

161 EUCCI07 (24 June 2021).

162 EUCCI02 (3 June 2021); EUCCI09 (2 July 2021); EUCCI10 (3 July 2021); EUCCI11 (11 July 2021); THBLSSI01 (13 June 2021); THBLSSI03 (14 June 2021); THBLSSI07 (23 June 2021).

163 EUCCI01 (3 June 2021); EUCCI03 (4 June 2021); EUCCI07 (24 June 2021); EUCCI09 (2 July 2021).

164 EUCCI01 (3 June 2021).

Other causes of anxiety included a considerable fear of being in public places, in large crowds,¹⁶⁵ or with new acquaintances.¹⁶⁶ One survivor noted the inability to return to employment, among other ordinary activities.¹⁶⁷ Several survivors described feeling unsafe, uneasy, and uncertain.¹⁶⁸

*"It seems to me that I am not living my life. I was active, sociable, able-bodied, I have two children, I am the only money earner in the family and the main one who deals with ... money. And ... now life has gone a little differently. That is, I no longer have a resource, as it were, with age, and this stress that I have endured."*¹⁶⁹

A few survivors specifically described depression as a psychological effect they experienced.¹⁷⁰ Several also confessed having suicidal thoughts at different points both in detention and upon release.¹⁷¹ A survivor claimed it was hard not to go mad in detention and not to take one's own life at the realisation that it was being wasted away in captivity.¹⁷² The extreme humiliation experienced while in detention also contributed to survivors' suicidal ideation.¹⁷³ Another survivor

explained that coping with the traumatic experience was so challenging that significant effort was required to not take one's own life amid all that burden.¹⁷⁴

A number of participating survivors also reported post-traumatic stress disorder (PTSD) and specific CRSV-related trauma.¹⁷⁵ Survivors described irritability, unpredictable, drastic emotional fluctuations,¹⁷⁶ and having trouble sleeping.¹⁷⁷

Some survivors also referred to the effects of CRSV on their self-esteem. One survivor described the gender-insensitive strip-searching upon her capture in front of overwhelmingly male guards. The onlookers made degrading comments about her physical appearance, clothes, and cleanliness.¹⁷⁸ About the experience, she said:

*"It just humiliates people, it just humiliates people... They laughed at the fact that I was not quite well dressed there... It simply humiliates a person."*¹⁷⁹

Another survivor's CRSV experience led her to feel disgust towards her own body.¹⁸⁰ In her own words:

"I had some intolerance of my body at some point, I couldn't handle it... I couldn't take my body completely naked. Normally. Somehow. It was strange. I was ashamed to look at myself."¹⁸¹

165 EUCCI06 (23 June 2021); THBLSSI07 (23 June 2021).

166 EUCCI07 (24 June 2021); THBLSSI03 (14 June 2021).

167 THBLSSI03 (14 June 2021).

168 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI09 (2 July 2021); THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021).

169 EUCCI01 (3 June 2021).

170 EUCCI10 (3 June 2021); THBLSSI01 (13 June 2021).

171 EUCCI07 (24 June 2021); THBLSSI01 (13 June 2021); Focus group discussion, Ukraine (4 September 2021).

172 EUCCI07 (24 June 2021).

173 EUCCI07 (24 June 2021).

174 THBLSSI01 (13 June 2021).

175 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI05 (18 June 2021); EUCCI07 (24 June 2021); EUCCI09 (2 July 2021); EUCCI11 (11 July 2021); THBLSSI03 (14 June 2021).

176 EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI10 (3 July 2021); THBLSSI03 (14 June 2021).

177 EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI07 (24 June 2021); EUCCI11 (11 July 2021); THBLSSI04 (15 June 2021); THBLSSI07 (23 June 2021).

178 EUCCI12 (15 July 2021).

179 EUCCI12 (15 July 2021).

180 EUCCI04 (7 June 2021).

181 EUCCI04 (7 June 2021).

Several survivors developed trust issues relating to people¹⁸² and institutions,¹⁸³ such as courts,¹⁸⁴ and a reluctance to socialise,¹⁸⁵ with one survivor specifically citing her lack of trust in men.¹⁸⁶ A few survivors discussed how their experiences were questioned because they had received aid,¹⁸⁷ creating a lack of trust.¹⁸⁸ As expressed by a survivor:

“Well, I’m telling you, I lost trust in absolutely everyone. In terms of relationships, I trust no one.”¹⁸⁹

Some survivors also reported a significant psychological impact on their children because of the stress of having a parent in detention and not knowing if they were alive¹⁹⁰ and because of the forced displacement afterwards.¹⁹¹ Survivors’ children became closed off and anti-social.¹⁹² They also became targets of harassment at school by other children.¹⁹³ One survivor shared about the experience of her daughter:

“For three days she lay face to the wall and did not turn around. She did not eat, did not go out, for three days she lay statically facing the wall, not moving at all and not communicating with anyone, not responding. We tried to somehow to speak to her, she did not react at all.”

After going to a psychotherapist in 2016, her daughter said to her:

“Mom, please tell me where this woman, this psychotherapist, was then, in [20]14, when all this happened? Why wasn’t she there when I really needed her?”¹⁹⁴

1.2. Impact on family and society

Survivors reported that their experiences with CRSV impacted their relationships with spouses and partners, families, and society. Survivors discussed emotional and physical distancing from family and friends¹⁹⁵ because of the stigmatisation of CRSV;¹⁹⁶ family, friends, and acquaintances’ fearing backlash if they were to help the survivor;¹⁹⁷ and geographical distance from family due to displacement.¹⁹⁸

An example of stigmatisation faced by survivors is others’ presumption that the survivor has sexually transmitted diseases (STDs) or acquired immunodeficiency syndrome (AIDS).¹⁹⁹ Survivors have experienced a mix of reactions from loved ones – some were belittled,²⁰⁰ while some received compassion and support.²⁰¹

182 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI09 (2 July 2021).

183 EUCCI01 (3 June 2021); EUCCI07 (24 June 2021); EUCCI12 (15 July 2021); THBLSSI03 (14 June 2021).

184 THBLSSI03 (14 June 2021).

185 EUCCI01 (3 June 2021).

186 EUCCI09 (2 July 2021).

187 EUCCI01 (3 June 2021); THBLSSI07 (23 June 2021).

188 EUCCI10 (3 July 2021); THBLSSI07 (23 June 2021).

189 EUCCI09 (2 July 2021).

190 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); THBLSSI05 (15 June 2021).

191 EUCCI07 (24 June 2021); EUCCI10 (15 July 2021); THBLSSI01 (13 June 2021); THBLSSI02 (14 June 2021); THBLSSI03 (14 June 2021).

192 EUCCI07 (24 June 2021); EUCCI12 (15 July 2021).

193 EUCCI03 (4 June 2021); EUCCI07 (25 January 2021); THBLSSI03 (14 June 2021).

194 EUCCI07 (24 June 2021).

195 EUCCI01 (3 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); EUCCI10 (3 July 2021); THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021); THBLSSI07 (23 June 2021).

196 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI08 (25 June 2021); THBLSSI03 (14 June 2021).

197 EUCCI02 (3 June 2021); EUCCI07 (24 June 2021); THBLSSI07 (23 June 2021).

198 EUCCI01 (3 June 2021); EUCCI08 (25 June 2021); THBLSSI01 (13 June 2021); THBLSSI02 (14 June 2021).

199 EUCCI01 (3 June 2021).

200 EUCCI02 (3 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021).

201 EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); THBLSSI04 (15 June 2021).



Survivors participating in trauma alleviating activity during a focus group discussion organised by Blue Bird with the participation of Truth Hounds, EUCCI and GSF.

© 2021 Blue Bird

As expressed by a survivor:

“My social circle narrowed due to the fact of my captivity. After the captivity, I was given a phone with the numbers of all my acquaintances. And some did not answer me. Some just threw me out of their lives.”²⁰²

202 THBLSSI04 (15 June 2021).

A few survivors described their hesitancy to connect with loved ones or to discuss their CRSV experience out of fear of burdening or traumatising their loved ones.²⁰³ Regarding relationships with spouses and intimate partners, a few survivors detailed an end to their relationship, but none say that it directly resulted from their CRSV experience.²⁰⁴ A few other survivors detailed tensions with their partners for reasons including survivors' increased sensitivity²⁰⁵ and spouses' perpetual questioning about what had happened in detention.²⁰⁶ Such tension sometimes manifested as aggression or emotional distance.²⁰⁷ Other reported causes were financial stress,²⁰⁸ displacement,²⁰⁹ and fallout as a result of the survivor's PTSD.²¹⁰ One survivor shared:

"I woke up every night from some kind of nightmare and screamed in the middle of the night. And on the third night, [my husband] told me in such a rude way that 'I can't live like this. What is it? I can't live like this. Get a grip, do something. Stop behaving like that. I can't sleep at night because of you.'"²¹¹

A few survivors reported on the impact of CRSV on their relationships with their societies. Due to political and ideological differences, societal ties were broken, and dynamics changed.²¹² The conflict created extreme mistrust and an environment perceived by survivors as unreceptive to sharing their experiences.²¹³ Survivors also reported that the government failed to engage with survivors and that there was a lack of sensitivity from the government.²¹⁴

1.3. Physical and medical impacts

Survivors participating in the Study shared about their direct physical injuries and secondary health issues due to CRSV from 2014 onwards and the continued neglect of survivors' health needs. These included both acute injuries that required urgent attention²¹⁵ and chronic illnesses and injuries,²¹⁶ sometimes residual from the initial injury.²¹⁷ Survivors gave examples such as a hematoma from physical beatings²¹⁸ and the development and worsening of health conditions due to the withholding of medication and treatment.²¹⁹ One survivor developed a tumour from the lack of hormonal therapy crucial for their thyroid condition:

203 EUCCI04 (7 June 2021); EUCCI06 (23 June 2021); EUCCI08 (25 June 2021); EUCCI10 (3 July 2021).

204 EUCCI05 (18 June 2021); EUCCI09 (2 July 2021); THBLSSI04 (15 June 2021).

205 THBLSSI03 (14 June 2021).

206 EUCCI11 (11 July 2021).

207 EUCCI11 (11 July 2021).

208 EUCCI07 (24 June 2021).

209 EUCCI07 (24 June 2021); THBLSSI02 (14 June 2021).

210 EUCCI05 (18 June 2021); THBLSSI03 (14 June 2021).

211 EUCCI07 (24 June 2021).

212 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI10 (3 July 2021); THBLSSI04 (15 June 2021); THBLSSI07 (23 June 2021).

213 EUCCI07 (24 June 2021); THBLSSI03 (14 June 2021); THBLSSI07 (23 June 2021).

214 EUCCI01 (3 June 2021); EUCCI07 (24 June 2021); THBLSSI03 (14 June 2021).

215 EUCCI02 (3 June 2021); EUCCI10 (3 July 2021); THBLSSI04 (13 June 2021); THBLSSI07 (23 June 2021).

216 EUCCI05 (18 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021); EUCCI11 (11 July 2021); EUCCI12 (15 July 2021); THBLSSI04 (15 June 2021); THBLSSI07 (23 June 2021); THBLSSI08 (26 June 2021).

217 EUCCI03 (4 June 2021); EUCCI08 (25 June 2021); EUCCI11 (11 July 2021); EUCCI12 (15 July 2021); THBLSSI01 (13 June 2021); THBLSSI08 (26 June 2021).

218 THBLSSI06 (22 June 2021).

219 EUCCI01 (3 June 2021); EUCCI3 (4 June 2021).

"I generally have a thyroid disease, and I was on hormonal treatment. But when I was taken prisoner, of course, all this stopped – not only the treatment, but even the observation by the doctor ... stopped Well, the hormone ... the hormonal system, it is interconnected – one cannot say that only the thyroid gland. The thyroid gland is what worried me at that moment. But [it is connected to] all the hormonal organs, so ... failures began in some ... Well, what do I feel? Here I have this constant tickling, coughing ... my thyroid gland has enlarged due to the fact that the tumour has doubled in size ... I did not take treatment: neither iodine-containing drugs, nor hormonal drugs – and the tumour grew. Well, plus – [it led to] complications [in] other organs ... female genital organs..."²²⁰

Due to periods spent in detention, where CRSV took place, a few others developed dental issues due to the lack of dentistry services.²²¹ Two survivors mentioned reproductive issues, such as difficulties with fertility and menstruation.²²² Survivors also discussed other medical long-term implications that were not necessarily connected to CRSV but that had a grave impact on their physical and emotional wellbeing.²²³

1.4. Economic impacts

Some survivors were displaced after being subjected to violence, including CRSV, with many experiencing loss of housing in the NGCA²²⁴ and living in poor housing conditions, such as having no heating in brutally cold winters.²²⁵ Survivors have also lost employment, either due to displacement or because industries were affected by the conflict, such as in realty and construction.²²⁶ One survivor stated that they no longer felt safe at their place of employment due to differing political views.²²⁷

Survivors also experienced loss of subsistence, leading to financial instability and associated difficulties.²²⁸ For instance, one survivor lost the job and farm animals that used to generate some income for him,²²⁹ while another survivor had difficulty finding employment due to disability.²³⁰ Other economic impacts discussed resulted from the lack of necessary documents to apply for employment, such as diplomas and licenses, because they were left in the NGCA,²³¹ and injuries affecting employment prospects.²³² Furthermore, many people had saved for decades to buy property, but had to leave everything behind in the NGCA.²³³ This meant they could not sell their property, nor would the government assess the lost value, so participating survivors were never compensated for this material loss.²³⁴

220 EUCCI01 (3 June 2021).

221 EUCCI03 (4 June 2021); EUCCI11 (11 July 2021); EUCCI12 (15 July 2021).

222 EUCCI06 (23 June 2021); THBLSSI08 (26 June 2021).

223 EUCCI03 (4 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); EUCCI11 (11 July 2021); THBLSSI01 (13 June 2021).

224 EUCCI02 (3 June 2021); EUCCI10 (3 July 2021); EUCCI11 (11 July 2021); THBLSSI07 (23 June 2021).

225 EUCCI01 (3 June 2021); EUCCI10 (3 July 2021).

226 EUCCI03 (4 June 2021); EUCCI11 (11 July 2021); THBLSSI01 (13 June 2021).

227 EUCCI11 (11 July 2021).

228 EUCCI01 (3 June 2021); EUCCI07 (24 June 2021); EUCCI12 (15 July 2021); THBLSSI07 (23 June 2021); THBLSSI08 (26 June 2021).

229 THBLSSI1 (13 June 2021).

230 THBLSSI03 (14 June 2021).

231 EUCCI01 (3 June 2021).

232 EUCCI08 (25 June 2021); THBLSSI01 (13 June 2021); THBLSSI08 (26 June 2021).

233 EUCCI11 (11 July 2021).

234 THBLSSI04 (15 June 2021).



Survivors using drawings to express the impact of CRSV in a focus group discussion organised by Blue Bird with the participation of Truth Hounds, EUCCI and GSF.
© 2021 Blue Bird

Survivors reported the significant impact of displacement connected to their CRSV experience. Beyond the difficulty of being forced to leave their homes and start

new lives in unfamiliar places without knowing anyone, survivors had trouble adjusting due to struggles with finances and employment.²³⁵

“I don’t have a home, I don’t know where to go. And it’s like a scream, a scream in my head... this tension is just oozing.”²³⁶

235 EUCCI08 (25 July 2021).

236 THBLSSI03 (14 June 2021).

2. Survivors' needs

"You have no one to turn to... no one cares about you. Nobody... And so... if you want to live, then you somehow cope, work with it yourself."²³⁷

The most prominent needs reported by survivors were medical assistance, psychological support, and social services. Regarding medical needs, survivors discussed the need for affordable, high quality medical²³⁸ and dental care²³⁹, especially those resulting from CRSV and detention,²⁴⁰ and affordable access to medications.²⁴¹ Additionally, survivors emphasised the importance of affordable,²⁴² accessible,²⁴³ and good quality²⁴⁴ psychological and psychiatric professionals,²⁴⁵ and the availability of psychological support during court processes.²⁴⁶ They highlighted the need for long-term psychological assistance, as short-term is not enough for survivors.²⁴⁷ Survivors also discussed the need for these services for their families.²⁴⁸

"An acquaintance of mine recommended a psychologist to me. But they are 500 hryvnias [approximately \$16.78] per session, I don't have such an opportunity to pamper myself like that."²⁴⁹

Regarding social services, survivors mostly reported the need for housing assistance,²⁵⁰ whether through financial assistance for paying rent²⁵¹ and other housing costs²⁵² or by providing housing in a lending program.²⁵³ Survivors also detailed the need for stable, fulfilling,²⁵⁴ and reliable employment,²⁵⁵ and assistance in the job search process.²⁵⁶ Additionally, survivors expressed their need for assistance in receiving pensions²⁵⁷ and formalising documents,²⁵⁸ as well as general financial support.²⁵⁹ One survivor discussed the issue of losing financial aid granted to displaced persons if they work, which makes it harder to live day-to-day.²⁶⁰

"The need for housing is a security need. A person should be in one's own house."²⁶¹

237 EUCCI07 (24 June 2021).

238 EUCCI01 (3 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); THBLSSI02 (14 June 2021); THBLSSI03 (14 June 2021); THBLSSI06 (22 June 2021); THBLSSI08 (26 June 21).

239 EUCCI01 (3 June 2021); EUCCI05 (18 June 2021); EUCCI12 (15 July 2021).

240 THBLSSI07 (23 June 2021).

241 EUCCI03 (4 June 2021); THBLSSI01 (13 June 2021); THBLSSI04 (15 June 2021).

242 EUCCI04 (7 June 2021); EUCCI06 (23 June 2021).

243 EUCCI11 (11 July 2021).

244 EUCCI06 (23 June 2021).

245 EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI12 (15 July 2021); THBLSSI04 (15 June 2021).

246 THBLSSI03 (14 June 2021).

247 EUCCI04 (7 June 2021); THBLSSI04 (15 June 2021).

248 EUCCI04 (7 June 2021); EUCCI07 (24 June 2021).

249 EUCCI06 (23 June 2021).

250 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI12 (15 July 2021); THBLSSI02 (14 June 2021); THBLSSI04 (15 June 2021); THBLSSI06 (22 June 2021); THBLSSI07 (23 June 2021); THBLSSI08 (26 June 2021).

251 EUCCI01 (3 June 2021); EUCCI05 (18 June 2021).

252 EUCCI05 (18 June 2021); EUCCI12 (15 July 2021).

253 THBLSSI03 (14 June 2021).

254 EUCCI08 (25 June 2021); THBLSSI07 (23 June 2021).

255 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI08 (25 June 2021); THBLSSI01 (13 June 2021); THBLSSI04 (15 June 2021); THBLSSI08 (26 June 2021); THBLSSI07 (23 June 2021).

256 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI12 (15 July 2021).

257 EUCCI02 (3 June 2021); EUCCI12 (15 July 2021); THBLSSI04 (14 June 2021); THBLSSI06 (22 June 2021); THBLSSI07 (23 June 2021).

258 EUCCI01 (3 June 2021).

259 EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); EUCCI12 (15 July 2021); THBLSSI01 (13 June 2021).

260 EUCCI05 (18 June 2021).

261 THBLSSI04 (15 June 2021).

Other needs substantially discussed by survivors included legal assistance and security assistance. Survivors struggled to find competent lawyers²⁶² to understand different judicial and administrative procedures,²⁶³ such as proving their detention,²⁶⁴ which is required to qualify for governmental assistance schemes. Survivors also described needing to feel safe and protected.²⁶⁵ They additionally reported the need for a victim status that acknowledges survivors and their rights.²⁶⁶ One survivor described a victim status as necessary to protect her from stigma,²⁶⁷ and another survivor saw this status as an acknowledgement by the government of the harms that survivors suffered.²⁶⁸

“Having a documented status of a war victim, a victim of my position, a prisoner, which would give me social self-awareness, which would protect me from stigma. Recognising me as victim for my position.”²⁶⁹

Other miscellaneous needs included assistance in document recovery,²⁷⁰ professional requalification,²⁷¹ and an information packet detailing survivors’ rights, resources, and services.²⁷² One survivor also stated a need for essential goods, from homeware to clothes, since survivors lost their property and personal items that were left in the NGCA.²⁷³ Another survivor described their family’s need for assistance with advocacy efforts in trying to free a person from detention,²⁷⁴ and another expressed wanting instructions on how to file cases to the European Court of Human Rights.²⁷⁵

“Taking into account the fact that I was left without anything, everything that I had was left in Donetsk, in the occupied territory, and starting life from scratch, when every single household appliance, pots, plates, everything, everything needs to be bought again. The same for bedding, plus repairs and so on, then of course – this is terrible poverty, because too much is needed.”²⁷⁶

The remaining needs survivors reported involved justice for survivors of CRSV.²⁷⁷ Specific legal assistance was mentioned for representation at court hearings, and not only for assisting in applications and documents.²⁷⁸

262 EUCCI01 (3 June 2021); EUCCI11 (11 July 2021).

263 THBLSSI03 (14 June 2021).

264 THBLSSI07 (24 June 2021).

265 EUCCI04 (7 June 2021); THBLSSI06 (22 June 2021).

266 EUCCI05 (18 June 2021); THBLSSI07 (23 June 2021).

267 THBLSSI03 (14 June 2021).

268 EUCCI04 (7 June 2021).

269 THBLSSI03 (14 June 2021).

270 EUCCI01 (3 June 2021).

271 EUCCI08 (25 June 2021).

272 THBLSSI03 (14 June 2021).

273 THBLSSI07 (23 June 2021).

274 EUCCI01 (3 June 2021).

275 EUCCI01 (3 June 2021).

276 THBLSSI07 (23 June 2021).

277 THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021).

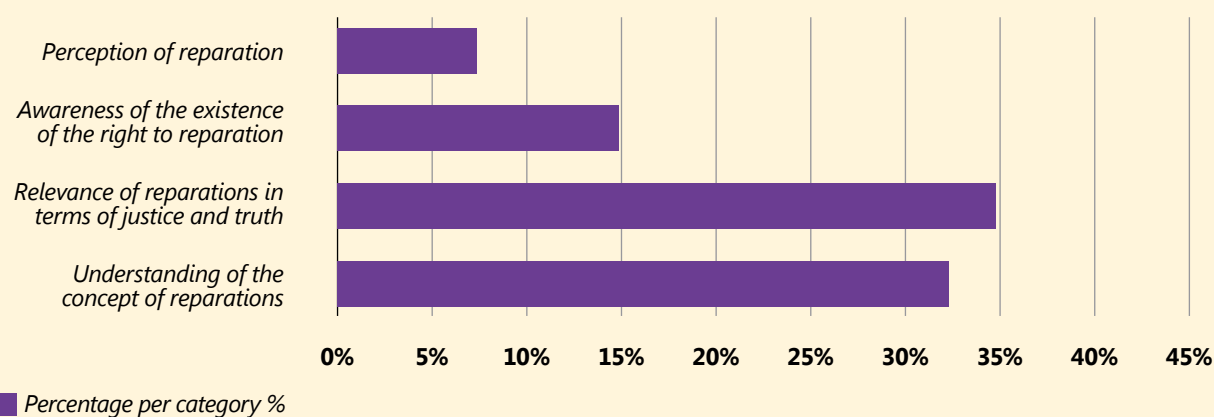
278 THBLSSI04 (15 June 2021).



A residential building damaged by an aircraft in the Ukrainian capital Kyiv – February 25, 2022.
© 2022 Drop of Light / Shutterstock

| 3. Survivors' knowledge of reparations

KNOWLEDGE OF REPARATIONS



Source: GSF's elaboration based on semi-structured interviews data

Almost half of the twenty survivors had very little to no understanding of reparations as a legal concept,²⁷⁹ with a few having not even heard of it.²⁸⁰ Several survivors primarily understood reparations as compensation,²⁸¹ as a result of World War II.²⁸² Several other survivors do not define reparations and go on to detail desired programmes and services, which are discussed in the next section.²⁸³ Some survivors viewed justice and reparations as intertwined.²⁸⁴

“Reparation is the continuation of justice or the completion or logical completion of the justice process.”²⁸⁵

Those who did see justice and reparations as connected also believed that survivors have the right to demand reparations. One of the survivors aware of the right reported that they only became aware of it because of efforts by NGOs.²⁸⁶ Another acknowledged the crucial role of NGOs, saying *“if it weren't for NGOs, I would maybe not have survived.”*²⁸⁷ A few survivors outlined their perception of reparations,²⁸⁸ one of whom mentioned that reparations are essential and should be based on law.²⁸⁹

To build survivors' understanding of reparations and awareness of their rights, including to reparation, facilitators conducting semi-structured interviews provided participating survivors with information about the right to reparation as well as examples from other countries where reparation programmes

279 EUSSI02 (3 June 2021); EUSSI03 (4 June 2021); EUSSI09 (2 July 2021); THBLSSI05 (15 June 2021).

280 EUSSI01 (3 June 2021); EUSSI05 (18 June 2021); THBLSSI07 (23 June 2021); THBLSSI08 (26 June 2021).

281 EUSSI06 (23 June 2021); EUSSI07 (24 June 2021); EUSSI11 (11 July 2021); EUSSI12 (15 July 2021).

282 EUSSI04 (7 June 2021); EUSSI08 (25 June 2021); EUSSI10 (3 July 2021).

283 THBLSSI01 (13 June 2021); THBLSSI02 (14 June 2021); THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021); THBLSSI06 (22 June 2021).

284 EUSSI04 (7 June 2021); EUSSI07 (24 June 2021); EUSSI12 (15 July 2021).

285 EUCCI07 (24 June 2021).

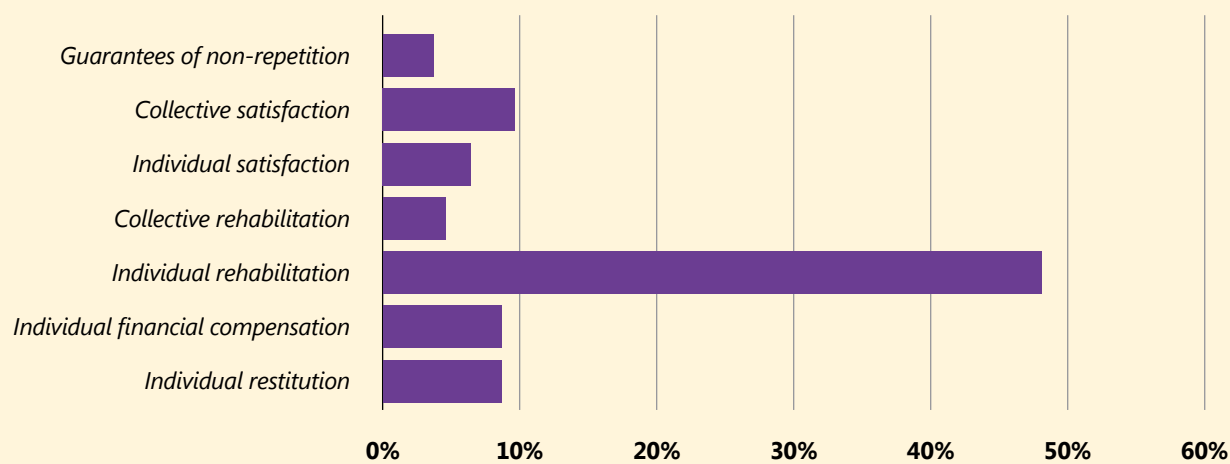
286 EUCCI01 (3 June 2021).

287 THBLSSI01 (13 June 2021).

288 EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI7 (24 June 2021).

289 EUCCI07 (24 June 2021).

FORMS OF REPARATIONS



■ Percentage per category %

Source: GSF's elaboration based on semi-structured interviews data

were established. To avoid influencing their answers, this short presentation was conducted after questions were asked on survivors' perception and knowledge of reparation.

importance of material reparations so that people could rebuild their houses and their lives, which could not be done by only honouring survivors, a type of collective symbolic reparation.²⁹²

4. Survivors' views, expectations, and recommendations

"I saved money. I built a house. This house was taken away from me. That is, I have another thirty years to build for a new home?"²⁹³

4.1. Types of reparations

Survivors discussed the importance of both material and symbolic reparations. For material reparations, survivors leaned more towards individual material reparations,²⁹⁰ rather than collective material reparations.²⁹¹ One survivor emphasised the

Regarding symbolic reparations, survivors discussed obtaining victim status and other forms of recognition and acknowledgment.²⁹⁴ A few survivors specified a Prisoner of War status,²⁹⁵ while one survivor said they wanted a separate category for IDPs in captivity.²⁹⁶ Other survivors wanted a sexual violence victim status, but there was no consensus on the status among those participating in this Study.²⁹⁷

290 A few of the references made by survivors were not specific to individual material reparations, and they asked for material reparations; however, we have inferred that they likely mean individual material reparations by the other demands given. EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI08 (25 June 2021); EUCCI09 (2 July 2021); EUCCI11 (11 July 2021); THBLSSI02 (14 June 2021); THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021); THBLSSI05 (15 June 2021); THBLSSI06 (22 June 2021).

291 EUCCI05 (18 June 2021); EUCCI12 (15 July 2021).

292 EUCCI04 (7 June 2021).

293 THBLSSI04 (15 June 2021).

294 EUCCI04 (7 June 2021); EUCCI06 (23 June 2021); EUCCI11 (11 July 2021); THBLSSI02 (14 June 2021); THBLSSI04 (15 June 2021); THBLSSI06 (22 June 2021).

295 EUCCI04 (7 June 2021); EUCCI06 (23 June 2021); THBLSSI06 (22 June 2021).

296 EUCCI11 (11 July 2021).

297 EUCCI12 (15 July 2021); Focus group discussion, Ukraine (4 September 2021).

4.2. Forms of reparations

4.2.1. RESTITUTION

Restitution was significant to survivors participating in the Study. As stated by survivors, it was imperative “to restore everything that was stolen, what was taken away”,²⁹⁸ and to “get them as close to their life before as possible”.²⁹⁹ The two most common restitution demands related to the restitution of housing and other property,³⁰⁰ and the restoration of personal documents.³⁰¹ Survivors stated that the process for the restitution of civil documentation must be simplified, provided for locally³⁰² and/or centralised electronically,³⁰³ and available for as many documents as possible.³⁰⁴ It is relatively easy to restore passports and driving licenses, but more difficult for education diplomas, property documents, and “trudova knyzhka”, the document certifying one’s history of employment and tax payments.³⁰⁵ A survivor also discussed the importance of restoring the infrastructure in conflict-affected areas, especially in places close to the contact line.³⁰⁶

4.2.2. COMPENSATION

Survivors seek financial compensation for lost housing,³⁰⁷ particularly for material damages, so that they can buy new housing.³⁰⁸ They also mentioned

compensation to access rehabilitation services³⁰⁹ and medical testing.³¹⁰ A survivor explained that under certain programmes, they could go only to certain hospitals or practitioners, which limited their agency and ability to choose their desired medical care.³¹¹ They thus explained the importance of providing financial compensation in order not to restrict their ability to choose where to go for medical services.³¹² Compensation for psychological support was also reported.³¹³ One survivor discussed compensation for the loss of ability to engage in employment, with additional compensation in cases where survivors have children.³¹⁴ Another stated that additional compensation must be paid to loved ones and family.³¹⁵

“I want to transport my mother, because she is sitting there [in Donetsk], she is guarding the house there so that everything is not looted there. I say, mom, come on ... no, she says, I can’t and won’t leave, right there everything is dear, everything will be plundered, everything will be plundered right there. Now, if we were given this compensation for that house, we would calmly come, make normal repairs here and live in peace. And for that apartment in Donetsk, [my mother] would have forgotten about it.”³¹⁶

298 THBLSSI01 (13 June 2021).

299 EUCCI03 (4 June 2021).

300 EUCCI02 (3 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); EUCCI11 (11 July 2021).

301 EUCCI01 (3 June 2021); EUCCI08 (25 June 2021); THBLSSI07 (23 June 2021).

302 EUCCI01 (3 June 2021).

303 EUCCI08 (25 June 2021).

304 EUCCI08 (25 June 2021).

305 EUCCI08 (25 June 2021).

306 EUCCI10 (3 July 2021).

307 EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021); THBLSSI04 (15 June 2021).

308 EUCCI02 (3 June 2021); EUCCI08 (25 June 2021); EUCCI11 (11 July 2021); EUCCI12 (15 July 2021); THBLSSI07 (23 June 2021).

309 EUCCI01 (3 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021).

310 EUCCI01 (3 June 2021); EUCCI05 (18 June 2021).

311 EUCCI08 (25 June 2021).

312 EUCCI08 (25 June 2021).

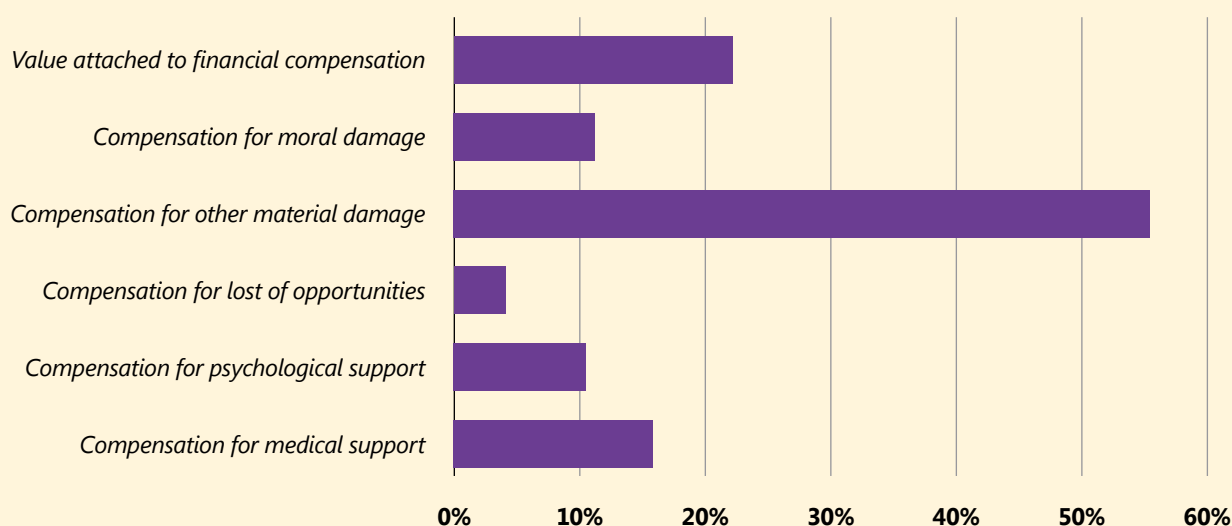
313 EUCCI03 (4 June 2021); EUCCI08 (25 June 2021).

314 EUCCI08 (25 June 2021).

315 EUCCI06 (23 June 2021).

316 THBLSSI07 (23 June 2021).

FORMS OF REPARATIONS – INDIVIDUAL FINANCIAL COMPENSATION



■ Percentage per category %

Source: GSF's elaboration based on semi-structured interviews data

In regard to modalities of payments, survivors who discussed their preferences mostly preferred monthly pensions.³¹⁷ A few survivors supported free access to services³¹⁸ and instalment payments,³¹⁹ but only one survivor was in favour of a lump sum payment.³²⁰ One survivor drew comparisons in using monthly pensions with what CRSV survivors in Bosnia and Herzegovina receive.³²¹

4.2.3. REHABILITATION

Survivors mentioned rehabilitation services as part of reparations,³²² including medical and psychological rehabilitation, as well as employment, legal, and educational support. With regard to medical rehabilitation, survivors identified wanting free, sustainable, and holistic medical assistance,³²³ including tests, scans, and mammograms.³²⁴ All pre-check and pre-medical formalities, such as registration with a doctor, should be made easy for survivors.³²⁵

317 EUCCI07 (24 June 2021); EUCCI11 (11 July 2021); EUCCI12 (15 July 2021); THBLSSI07 (23 June 2021).

318 EUCCI05 (18 June 2021); THBLSSI07 (23 June 2021).

319 EUCCI04 (7 June 2021); EUCCI11 (11 July 2021).

320 EUCCI06 (23 June 2021).

321 EUCCI11 (11 July 2021).

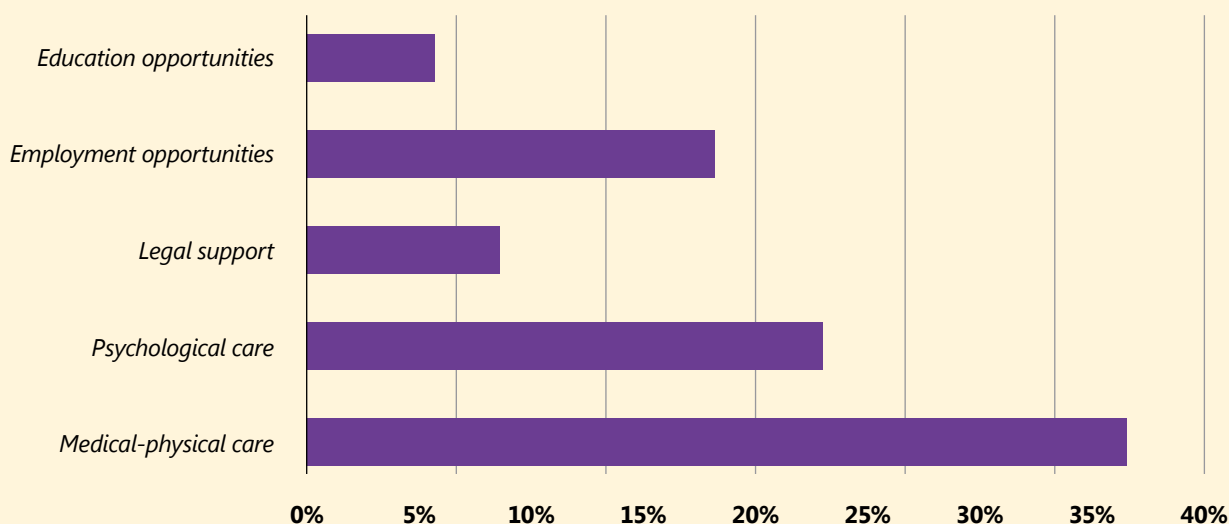
322 EUCCI03 (4 June 2021); THBLSSI07 (23 June 2021).

323 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI07 (24 June 2021); EUCCI09 (2 July 2021); EUCCI11 (11 July 2021); THBLSSI01 (13 June 2021); THBLSSI03 (14 June 2021); THBLSSI06 (22 June 2021); THBLSSI07 (23 June 2021); THBLSSI08 (26 June 2021).

324 EUCCI07 (24 June 2021).

325 EUCCI05 (18 June 2021).

FORMS OF REPARATIONS – INDIVIDUAL REHABILITATION



■ Percentage per category %
 Source: GSF's elaboration based on semi-structured interviews data

Survivors expressed the need for reparations to include psychological support for themselves³²⁶ and for their family members.³²⁷ One survivor expressed some of the challenges of re-engaging with life after captivity:

"For a very long time I could not come to my senses. Everything was a shock for me, I learned everything again, I didn't cook [in detention] for a year, I learned to cook again. I learned to eat with a fork, because [we could only eat] with spoons, and for a long time I couldn't somehow come to my senses, I considered myself, I had some terrible complexes, I learned to communicate with people again, here."³²⁸

Professional empowerment was the third most pressing demand for survivors.³²⁹ Survivors recommended the establishment of programmes to open up a wide array of professions ensuring good income and not just for occupations that would grant mere survival.³³⁰ Another recommendation was to have big employers connect specific employment opportunities to the provision of at least temporary housing.³³¹ Survivors also needed professional development programmes with individualised support.³³² Support for education or skills development were brought up in the context of potential impacts on professional opportunities, employment, and earning income,³³³ which in turn would lead to greater feelings of self-worth and a higher self-esteem.

326 EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021); EUCCI09 (2 July 2021); EUCCI11 (11 July 2021); THBLSSI01 (13 June 2021); THBLSSI03 (14 June 2021); THBLSSI06 (22 June 2021); THBLSSI07 (23 June 2021); THBLSSI08 (26 June 2021).

327 EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI07 (24 June 2021); EUCCI08 (26 June 2021); THBLSSI06 (22 June 2021).

328 THBLSSI07 (23 June 2021).

329 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI05 (7 June 2021); EUCCI08 (25 June 2021); EUCCI10 (11 July 2021); EUCCI12 (15 July 2021); THBLSSI01 (13 June 2021); THBLSSI03 (14 June 2021); THBLSSI05 (15 June 2021); THBLSSI06 (22 June 2021); THBLSSI07 (23 June 2021).

330 EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); EUCCI10 (3 July 2021); THBLSSI02 (14 June 2021); THBLSSI06 (22 June 2021).

331 EUCCI01 (3 June 2021).

332 EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); EUCCI10 (3 July 2021); THBLSSI05 (15 June 2021); THBLSSI06 (22 June 2021); THBLSSI07 (23 June 2021).

333 EUCCI04 (7 June 2021); EUCCI11 (11 July 2021); THBLSSI03 (15 June 2021); THBLSSI06 (22 June 2021).

"Maybe learn a new profession. Maybe they lost their jobs... Maybe they decided to change their lives altogether. They were so influenced by this, and there, to change the profession as well. Let's say. That is, it should be a kind of "window" so that they can somehow rethink and understand themselves and live in peace. And feel safe."³³⁴

"And status is needed! In fact, status is an important thing, I think. Not only is it important to me or others, so status recognises, status is an acknowledgment that it happened to you. Not that 'well, there was something. And they are not there.' ... I would like to have status. And I think it's important for everyone."³⁴⁶

Survivors discussed free legal aid upon the release from unlawful detention,³³⁵ including through private legal advisors assigned to them³³⁶ and special courses on the basics of law and policymaking³³⁷ that would contribute to survivors' rights awareness, restoration of agency, and the empowerment of survivors to meaningfully participate in policymaking discussions.

4.2.4. SATISFACTION

Survivors mentioned public awareness³³⁸ and acknowledgement³³⁹ as an essential form of satisfaction, especially by the Ukrainian Government³⁴⁰ and its security forces.³⁴¹ Justice for survivors of CRSV was also highlighted as a form of satisfaction.³⁴² Other means of individual satisfaction for survivors were connected to receiving a special victim status³⁴³ and the benefits tied to that.³⁴⁴ One survivor mentioned that granting such a status and raising awareness about survivors' activities are vital for their children so that they could see the motivations, sacrifice, and heroism of their parents.³⁴⁵

4.2.5. GUARANTEES OF NON-RECURRENCE

"The non-repetition factor. This is very important for me, because, probably, as one of my psychological ... fears or some of my unhealed wounds. This is what my brain tells me that if you think that nothing like this will happen, then you are very naive."³⁴⁷

Survivors who mentioned guarantees of non-recurrence discussed various measures aimed at ensuring accountability for CRSV, and thereby contributing to its prevention, such as training

334 EUCCI04 (7 June 2021).

335 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI05 (18 June 2021); EUCCI08 (25 June 2021); THBLSSI03 (14 June 2021).

336 EUCCI03 (4 June 2021); EUCCI05 (18 June 2021); THBLSSI07 (23 June 2021).

337 EUCCI08 (25 June 2021).

338 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI04 (7 June 2021); EUCCI08 (25 June 2021).

339 EUCCI02 (3 June 2021); EUCCI04 (7 June 2021); EUCCI08 (25 June 2021); EUCCI12 (15 July 2021).

340 EUCCI08 (25 June 2021).

341 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021).

342 THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021).

343 EUCCI02 (3 June 2021); EUCCI04 (7 June 2021); EUCCI07 (24 June 2021); EUCCI12 (15 July 2021); THBLSSI03 (14 June 2021); THBLSSI07 (23 June 2021).

344 EUCCI02 (3 June 2021); EUCCI07 (24 June 2021); EUCCI12 (15 July 2021); THBLSSI02 (14 June 2021); THBLSSI07 (23 June 2021).

345 EUCCI02 (3 June 2021).

346 EUCCI04 (7 June 2021).

347 EUCCI07 (24 June 2021).

state officials on international standards relevant to CRSV³⁴⁸ and reforming security forces.³⁴⁹ Survivors also stressed the need for deep institutional reform of the Security Service of Ukraine, law enforcement authorities, and the army, as well as ensuring their sustainable training on international law.³⁵⁰ One survivor expressed her demand for guarantees to ensure that her child never experiences war.³⁵¹

5. Responsibility for reparations

Although survivors expressed doubt about the State's practical will to design and implement a reparation programme,³⁵² most believed that the Ukrainian Government³⁵³ should ensure and provide reparations, with the help of international organisations³⁵⁴ and NGOs,³⁵⁵ and that ultimately Russia³⁵⁶ should pay for these reparations.³⁵⁷ As one participant survivor said:

"At this stage, the state must first take on this mission, and then the country [Russia] that is the aggressor and that provoked what happened – the war and our broken destinies."³⁵⁸

6. Survivors' agency

6.1. Participation

"I think the victims should be involved in this process. Why for us but without us?"³⁵⁹

Survivors agreed that survivor participation was not just relevant but crucial: *a conditio sine qua non* for elaborating and implementing reparation policies.³⁶⁰ All the respondents were ready to participate in such processes,³⁶¹ and one had already participated in specific reparation discussions.³⁶² Survivors' participation was considered vital because they have experienced the trauma first-hand and could help policymakers and advocates in developing and implementing reparation programmes in a survivor-sensitive manner.³⁶³ One survivor specified that those who are supposed to benefit from a particular policy, especially such an important one as reparations, must indeed actively participate in the process developing it as opposed to being passive recipients.³⁶⁴ To genuinely enable participation, survivors specified that any participation in consultations on

348 EUCCI11 (11 July 2021).

349 EUCCI11 (11 July 2021).

350 EUCCI07 (24 June 2021); EUCCI11 (11 July 2021); THBLSSI04 (7 June 2021).

351 EUCCI06 (23 June 2021).

352 EUCCI08 (25 June 2021); EUCCI11 (11 July 2021); THBLSSI02 (14 June 2021).

353 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI05 (18 June 2021); EUCCI06 (23 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021); EUCCI09 (2 July 2021); EUCCI12 (15 July 2021); THBLSSI01 (13 June 2021); THBLSSI02 (14 June 2021); THBLSSI03 (14 June 2021); THBLSSI05 (15 June 2021).

354 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI04 (7 June 2021); EUCCI08 (25 June 2021); EUCCI09 (2 July 2021); EUCCI12 (15 July 2021); THBLSSI07 (13 June 2021).

355 EUCCI05 (18 June 2021); THBLSSI07 (23 June 2021).

356 EUCCI02 (3 June 2021); EUCCI03 (4 June 2021); EUCCI04 (7 June 2021); EUCCI06 (23 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021); EUCCI10 (3 July 2021); EUCCI11 (11 July 2021); THBLSSI04 (15 June 2021); THBLSSI07 (23 June 2021).

357 EUCCI02 (3 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021).

358 EUCCI07 (24 June 2021).

359 THBLSSI04 (15 June 2021).

360 EUCCI01 (3 June 2021); EUCCI02 (3 June 2021); EUCCI07 (24 June 2021); EUCCI08 (25 June 2021); EUCCI11 (11 July 2021); EUCCI12 (15 July 2021); THBLSSI03 (14 June 2021); THBLSSI04 (7 June 2021); THBLSSI05 (18 June 2021).

361 EUCCI08 (25 June 2021); Focus group discussion, Ukraine (4 September 2021).

362 EUCCI08 (25 June 2021).

363 EUCCI01 (3 June 2021); EUCCI09 (2 July 2021); THBLSSI07 (23 June 2021).

364 THBLSSI04 (15 June 2021).

reparations by survivors should be compensated and any costs be reimbursed because many survivors would otherwise be unable to participate.³⁶⁵ The state should also ensure clear communication and public awareness about the available reparation programmes.³⁶⁶

6.2. Role

"Well, [survivors] should be getting together. They must discuss, negotiate, speak. In a dispute, truth is born. Write down. And with these demands, requests to go to the higher authorities, well, so that they either help, approve, or somehow, somehow at the state level it was decided. This is how they should act."³⁶⁷

Regarding their specific role, some survivors proposed the establishment of survivor's advisory groups within different policy-making bodies.³⁶⁸ Other suggestions for how survivors may participate included: professionally moderated consultations among different groups of survivors,³⁶⁹ various survivor organisations' delegating representatives to express the group's wishes,³⁷⁰ and questionnaires about possible assistance options to discern survivors' preferences for reparations.³⁷¹

"I think that the representatives of the [survivors] should be in some commissions – at the ministry, somewhere else. So that you can control this process yourself."³⁷²

A few survivors reported the importance of supporting survivors throughout their participation in processes for the establishment of reparation programmes.³⁷³ They suggested that survivors' indispensable participation in the reparation process should be publicly announced and acknowledged to empower survivors themselves, especially those who had not yet been proactive in sharing their experiences.³⁷⁴ Survivors also stated that support should be provided to survivors' organisations to ensure their support of each other.³⁷⁵ Additionally, they stated that survivors' participation should be accompanied by experts and psychological support.³⁷⁶

"Or unite, at least morally support each other. [survivors] At least. Yes, for starters. At least they are, well, it was a circle of people who understand each other. That's it. Something. That she is just like me."³⁷⁷

Some survivors also discussed the possibility of creating one large formal organisation or association for survivors.³⁷⁸ They stated that any such organisation should have lawyers and psychologists to help set up and organise the process sensitively and effectively, as well as be present throughout to ensure psychological assistance for survivors in any triggering moments or to help explain any legalistic complexities or terminology.³⁷⁹

6.3. Support and empowerment

365 EUCCI08 (25 June 2021).

366 EUCCI07 (24 June 2021); THBLSSI02 (14 June 2021).

367 EUCCI02 (3 June 2021).

368 THBLSSI02 (14 June 2021); THBLSSI03 (14 June 2021); THBLSSI04 (15 June 2021); THBLSSI07 (23 June 2021).

369 EUCCI04 (7 June 2021).

370 EUCCI05 (18 June 2021); THBLSSI02 (14 June 2021).

371 EUCCI11 (11 July 2021).

372 THBLSSI02 (14 June 2021).

373 EUCCI02 (3 June 2021).

374 EUCCI01 (3 June 2021).

375 EUCCI02 (3 June 2021).

376 EUCCI07 (24 June 2021); THBLSSI01 (13 June 2021).

377 EUCCI02 (3 June 2021).

378 Focus group discussion, Ukraine (4 September 2021).

379 EUCCI07 (24 June 2021); EUCCI11 (11 July 2021); THBLSSI04 (15 June 2021).



Survivors participating in a trauma alleviating activity during a focus group discussion organised by Blue Bird with the participation of Truth Hounds, EUCCI and GSF.

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V. AVENUES FOR REPARATIONS

1. International human rights obligations, legal and policy frameworks for reparations

1.1. International obligations of the government of Ukraine

Ukraine is party to several international human rights treaties that obligate states to prevent and protect persons from sexual violence and to guarantee victims the right to an effective remedy.

OF PARTICULAR RELEVANCE, UKRAINE IS PARTY TO:³⁸⁰

- The International Covenant on Civil and Political Rights (ICCPR), ratification/accession on 12 November 1973;
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), ratification/accession on 12 November 1973;
- The Convention on the Rights of the Child (CRC) and its two additional protocols ratification/accession on 28 August 1991, 11 July 2005, and 3 July 2003, respectively;
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratification/accession on 12 March 1981;

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratification/accession on 24 February 1987;
- The four Geneva Conventions of 1949, ratification/accession on 03 August 1952;
- Additional Protocols I and II to the Geneva Conventions, ratification/accession on 25 January 1990, and Additional Protocol III to the Geneva Conventions, ratification/accession on 19 January 2020;
- The Genocide Convention, ratification/accession on 15 November 1954;
- The European Convention on Human Rights (ECHR), ratification/accession on 11 September 1997;
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratification/accession on 15 November 1954;
- The Council of Europe Convention on Action against Trafficking in Human Beings, ratification/accession on 29 November 2010.

On 20 October 2015, the Ukrainian Government notified the United Nations Secretary General (UNSG) that the application and implementation of its obligations under 16 human rights treaties on uncontrolled and occupied territory “*is limited and not guaranteed*” until the complete restoration of sovereignty over such territory.³⁸¹ It is important to underscore that the prohibition of torture is absolute,

380 Overview of the ratification/accession status by Ukraine of UN treaties (UN Treaty Body Database) https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=183&Lang=EN accessed 8 June 2022; Overview of the ratification/accession status by Ukraine of international humanitarian law and other relevant treaties (ICRC) https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=UA&nv=4 accessed 8 June 2022; Convention on the Prevention and Punishment of the Crime of Genocide (9 December 1948, entered into force 12 January 1951); Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (entered into Force 3 November 1953); Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (21 March 1950, entered into Force 25 July 1951).

381 United Nations, ‘Convention on the Recognition and Enforcement of Foreign Arbitral Awards, Ukraine: Communication’ C.N.597.2015.TREATIES-XXII.1 (11 November 2015) <https://treaties.un.org/doc/Publication/CN/2015/CN.597.2015-Eng.pdf> accessed 16 May 2022; OHCHR ‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’ (n7) para 35.

and therefore, no limitation or derogation from this right is permitted for any reason.³⁸² As recognised in international jurisprudence and standards, sexual violence can constitute torture.³⁸³

Furthermore, on 9 June 2015, the Ukrainian Government submitted a notification to the Council of Europe in which it stated that it would derogate from the European Convention on Human Rights (ECHR) under Article 15 of the Convention in relation to zones covered by the “anti-terrorist operation”.³⁸⁴ In response to the notification, Secretary General Thorbjørn Jagland reiterated that “[t]he European Convention on Human Rights continues to apply in Ukraine. This decision will not prevent the European Court of Human Rights from examining applications concerning Ukraine”.³⁸⁵

In addition to human rights treaties, Ukraine is a state party to the four Geneva Conventions and their Additional Protocols I, II, and III.³⁸⁶ The Geneva Conventions and Additional Protocols I and II

prohibit all forms of sexual violence in situations of international and non-international armed conflicts,³⁸⁷ and violation of this prohibition can constitute a grave breach or serious violation of international humanitarian law.

Obligations stemming from the above-mentioned treaties are considered to be part of the national legislation of Ukraine, as affirmed by Article 9 of the Constitution of Ukraine.³⁸⁸ The Constitution further stipulates that “[a]ffirming and ensuring human rights and freedoms are the main obligation of the State”,³⁸⁹ and that “[h]uman rights and freedoms are inalienable and inviolable.”³⁹⁰

Finally, the 2014 EU-Ukraine Association Agreement is also of relevance to the prevention of and response to CRSV, as it obliges Ukraine to develop the rule of law framework, commit to human rights, ensure gender equality in all fields of life and policymaking, and promote international justice by ratifying and implementing the Rome Statute of the ICC.³⁹¹

382 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (entered into force 26 June 1987) art 2(2); OHCHR, ‘General Comment No.2, Implementation of Article 2 by State Parties’ CAT/C/GC/2/CRP/1/Rev.4 (23 November 2007) para 1 www2.ohchr.org/english/bodies/cat/docs/CAT.C.GC.2.CRP1.Rev.4_en.pdf accessed 16 May 2022; International Covenant on Civil and Political Rights (adopted 16 December 1966) art 4(2); UN Human Rights Committee ‘General Comment No. 29, State of Emergency (Article 4)’ CCPR/C/21/Rev.1/Add.11 (31 August 2001) para 7 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en accessed 16 May 2022. See also, OHCHR, ‘International Legal Protection of Human Rights in Armed Conflict’ (2011) www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf accessed 20 May 2022.

383 *Prosecutor v. Kunarac et al.* (Appeals Judgment) ICTY, IT-96-23& IT-96-23/1-A (12 June 2002) paras 153-156 www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf accessed 16 May 2022; UN Committee Against Torture, ‘General Comment No. 2: Implementation of Article 2 by State Parties’ (24 January 2008) para 22 www.refworld.org/docid/47ac78ce2.html accessed 16 May 2022; OHCHR, ‘Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (2004) para 145(i) www.ohchr.org/documents/publications/training8rev1en.pdf accessed 16 May 2022.

384 ‘Ukraine derogation from European Convention on Human Rights’ (Council of Europe News, 10 June 2015) www.coe.int/en/web/portal/news-2015/-/asset_publisher/9k8wkRrYhB8C/content/ukraine-derogation-from-european-convention-on-human-rights accessed 16 May 2022.

385 Ibid.

386 Overview of the ratification/accession status by Ukraine of international humanitarian law and other relevant treaties (ICRC) https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=UA&nv=4 accessed 31 March 2022.

387 ICRC, ‘Prevention and criminal repression of rape and other forms of sexual violence during armed conflicts’ (11 March 2015) www.icrc.org/en/document/prevention-and-criminal-repression-rape-and-other-forms-sexual-violence-during-armed accessed 03 June 2021.

388 Constitution of Ukraine (1996, as amended to 2019) art 9 <https://rm.coe.int/constitution-of-ukraine/168071f58b> accessed 6 May 2022.

389 Ibid art 3.

390 Ibid art 21.

391 Association Agreement Between the European Union and its Member States, of the one Part, and Ukraine, of the Other Part (Official Journal of the European Union, 29 May 2014) https://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155103.pdf accessed 6 May 2022.

1.2. International obligations of the Russian Federation

RUSSIA IS PARTY TO THE FOLLOWING TREATIES, WHICH ARE PARTICULARLY RELEVANT:³⁹²

- The International Covenant on Civil and Political Rights (ICCPR), ratification/ accession on 16 October 1973;
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), ratification/ accession on 16 October 1973;
- The Convention on the Rights of the Child (CRC) and its two additional protocols, ratification/ accession on 16 August 1990; 24 September 2008; and 24 September 2008, respectively;
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratification/ accession on 23 January 1981;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratification/ accession on 3 March 1987;
- The four Geneva Conventions of 1949, ratification/ accession on 10 May 1954;

- Additional Protocols I, II, and III to the Geneva Conventions, ratification/ accession on 29 September 1989, 29 September 1989 and 7 December 2008, respectively;
- The Genocide Convention, ratification/ accession on 3 May 1954;
- The European Convention on Human Rights (ECHR), ratification/ accession on 18 May 1954.

As a party to the four Geneva Conventions of 1949 and their Additional Protocols, Russia is obliged to *inter alia*, prevent and address CRSV which could constitute violations of international humanitarian law (IHL), including by carrying out effective investigations into allegations of rape and sexual violence by Russian soldiers in the context of the armed conflict.³⁹³ Russia's IHL obligations are not only relevant in the context of the 2022 Russian invasion of Ukraine; they have been in effect since Russia's illegal occupation and annexation of Crimea, which has been condemned by the UN General Assembly (UNGA) since 2014.³⁹⁴ Furthermore, Russia's involvement in the conflict in eastern Ukraine and its backing of the 'LPR' and 'DPR' in eastern Ukraine, could make Russia an occupying power by proxy, triggering Russia's IHL obligations and responsibility for IHL violations in these territories.³⁹⁵

392 Overview of the ratification/ accession status by Russian Federation of UN treaties (UN Treaty Body Database) https://tinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=183&Lang=EN accessed 6 May 2022; Overview of the ratification/ accession status by Russian Federation of international humanitarian law and other relevant treaties (ICRC) https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=RU accessed 6 May 2022; Convention on the Prevention and Punishment of the Crime of Genocide (9 December 1948, entered into force 12 January 1951); Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (entered into Force 3 November 1953).

393 Geneva Convention IV, 1949 (date of ratification/ accession by Russian Federation 10 May 1954); Additional Protocol 1 to the Geneva Conventions (date of ratification/ accession by Russian Federation 29 September 1989, withdrawal 23 October 2019); Geneva Convention (I) 1949, Article 49; Geneva Convention (II) 1949, Article 50; Geneva Convention (III) 1949, Article 129; Geneva Convention (IV) 1949, Article 146; Additional Protocol (I) to the Geneva Conventions, Article 85. For customary law see Henckaerts, J.-M. and Doswald-Beck, L., ICRC Customary International Humanitarian Law, Rule 158. For customary law see: Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Volume I: Rules* (3rd edn with correction, ICRC, Cambridge University Press 2009) Rule 158: Obligation to Prosecute War Crimes; Noam Lubell, Jelena Pejic, and Claire Simmons, 'Guidelines on Investigating Violations of International Humanitarian Law: Law, Policy, and Good Practice' (The Geneva Academy of International Humanitarian Law and Human Rights and the ICRC, September 2019) www.geneva-academy.ch/joomlaatools-files/docman-files/Guidelines%20on%20Investigating%20Violations%20of%20IHL.pdf accessed 16 May 2022.

394 United Nations, 'General Assembly Adopts Resolution Urging Russian Federation to Withdraw Its Armed Forces from Crimea, Expressing Grave Concern about Growing Military Presence' (9 December 2019) www.un.org/press/en/2019/gal2223.doc.htm accessed 17 May 2022; Human Rights Watch, 'Crimea: Conscription Violates International Law' (1 November 2019) www.hrw.org/news/2019/11/01/crimea-conscription-violates-international-law accessed 6 May 2022; UNGA, 'Resolution adopted by the General Assembly on 22 December 2018. Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine' A/RES/73/263 (21 January 2019) 2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/464/75/PDF/N1846475.pdf?OpenElement> accessed 8 June 2022.

395 Donbas & Crimea: Legal Uncertainty and Global Rights Compliance, 'International Law and Russia Involvement in Crimea and Donbas' (13 February 2022) 298-305 https://globalrightscpliance.com/wp-content/uploads/2022/05/International-Law-and-Russia-Involvement-in-Crimea-and-Donbas.pdf?fbclid=IwAR1uC0KAsEW_T_ZRT7tFCUrvjdBonx-SgC3MdekYomxCsjr-u2zDb4wxr1s accessed 16 May 2022.

As an occupying power of Crimea, and potentially of parts of eastern Ukraine, directly and/or by proxy before the 2022 Russian invasion, Russia's human rights obligations extend to this territory.³⁹⁶ This means that Russia is responsible for protecting all persons from sexual violence, investigating all allegations of sexual violence, prosecuting and punishing those responsible for human rights violations or violations of IHL, and providing assistance, remedy, and reparations to victims and survivors.³⁹⁷ Russia's human rights obligations are applicable concurrently with its IHL obligations.³⁹⁸

However, Russia's disregard for its international obligations has been evident since 2014,³⁹⁹ and even more so now as it continues – undisguised and undeterred – in its full-fledged invasion of Ukraine, marked by crimes against civilians and protected persons. Notably, on 15 March 2022, Russia announced its withdrawal from the Council of Europe pursuant to Article 58(1) of the ECHR, following the unanimous adoption of a Parliamentary Assembly opinion which noted that Russia has “committed serious violations of the Statute of the Council of Europe that are incompatible with the status of a Council of Europe member State, does not honour its undertakings to the Council of Europe and does not comply with its commitments”, and as such, requested Russia's withdrawal from the Council.⁴⁰⁰ In line with the resolution on the cessation

of the membership of the Russian Federation to the Council of Europe⁴⁰¹ and Article 58(3) of the ECHR, Russia will cease to be a High Contracting Party to the ECHR on 16 September 2022.⁴⁰² Consequently, the ECtHR will be able to deal with applications directed against Russia in relation to alleged violations of the Convention that occurred until 16 September 2022.⁴⁰³ In addition, on 7 April 2022, UN General Assembly voted to suspend Russia's membership in the UN Human Rights Council.⁴⁰⁴

1.3. Obligations of armed groups in eastern Ukraine

Pro-Russia armed groups in eastern Ukraine are not parties to international human rights instruments. However, given their level of organisation, territorial control, and some state functions in areas of Luhansk and Donetsk, they must respect human rights standards as their conduct affects the rights of individuals under their control.⁴⁰⁵ However, and as noted in Section III, allegations of sexual violence by members of the ‘LPR’ and ‘DPR’ are well documented since 2014 and continue in the conflict today, demonstrating a general disregard for human rights standards. Moreover, victims' right to a remedy in areas under armed groups' control, including access to justice and reparations, is nearly non-existent.

396 UNGA, ‘Situation of Human Rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine): Resolution / Adopted by the General Assembly’ (n33).

397 UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: resolution adopted by the General Assembly, 21 March 2006, A/RES/60/147 (‘Basic Principles and Guidelines on the Right to a Remedy and Reparation’); UN Human Rights Committee, ‘General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant (2004)’ CCPR/C/21/Rev.1/Add.13 (26 May 2004), paras 8 and 15; UN Human Rights Committee, ‘General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life’ CCPR/C/GC/36 (10 October 2018) paras 27-29.

398 Noam Lubell, ‘Human Rights Obligations in Military Occupation’ (2012) 94 (885) *International Review of the Red Cross* 319 <https://international-review.icrc.org/sites/default/files/irrc-885-lubell.pdf> accessed 14 April 2022.

399 See UNGA, ‘Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol’, Report of the Secretary-General A/76/260 (Ukraine, 2 August 2021) https://reliefweb.int/sites/reliefweb.int/files/resources/A_76_260_E.pdf accessed 6 May 2022.

400 Parliamentary Assembly of the Council of Europe, ‘Consequences of the Russian Federation's aggression against Ukraine’ (15 March 2022) <https://pace.coe.int/en/files/29885/html> accessed 6 May 2022.

401 European Court of Human Rights, ‘Resolution of the European Court of Human Rights on the consequences of the cessation of membership of the Russian Federation to the Council of Europe in light of Article 58 of the European Convention on Human Rights’ (22 March 2022) https://echr.coe.int/Documents/Resolution_ECHR_cessation_membership_Russia_CoE_ENG.pdf accessed 6 June 2022.

402 Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms (entered into Force 3 November 1953) art 58(3) www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=005 accessed 16 May 2022.

403 European Court of Human Rights, ‘Resolution of the European Court of Human Rights on the consequences of the cessation of membership of the Russian Federation to the Council of Europe in light of Article 58 of the European Convention on Human Rights’ (22 March 2022) https://echr.coe.int/Documents/Resolution_ECHR_cessation_membership_Russia_CoE_ENG.pdf accessed 6 June 2022.

404 ‘UN General Assembly Votes to Suspend Russia from the Human Rights Council’ (UN News, 7 April 2022) <https://news.un.org/en/story/2022/04/1115782> accessed 6 May 2022.

405 Tilman Rodenhäuser, ‘Human Rights Obligations of Non-State Armed Groups in Other Situations of Violence: The Syria Example’ (1 January 2012) 3(2) *Journal of International Humanitarian Legal Studies* 263. See also, Daragh Murray, *Human Rights Obligations of Non-State Armed Groups* (Bloomsbury Publishing, 5 May 2016) 323 and Andrew Clapham, ‘The Rights and Responsibilities of Armed Non-State Actors: The Legal Landscape & Issues Surrounding Engagement’ *Geneva Academy of International Humanitarian Law and Human Rights* (1 February 2010).

For instance, the Phantom Brigade in the Luhansk region has put in place several ‘processes’ to address cases of sexual violence, including a ‘people’s trial’ where 340 residents voted on the punishment of perpetrators, who were sentenced to death, in contravention to Protocol No. 6 to ECHR.⁴⁰⁶ Moreover, these mechanisms were neither independent nor impartial, and instead blamed the victims and were derogatory towards them.⁴⁰⁷

The “Prizrak” Brigade (“Ghost” or “Phantom” Brigade) organised ‘the first people’s trial’ to consider two cases of sexual violence on 25 October 2014, in Alchevsk (Luhansk region). Both cases accused men, one of whom was a member of an armed group, of raping young girls, one 15 years old, the other 20 years old. In the recorded video of the ‘trial’ published online, the two alleged perpetrators were “sentenced to death.” The accused member of the armed group was allowed to “go to the front-line to pay his guilt with blood”. The fate of the two men was unknown at the time of writing this report.

During the ‘trial’, the commander of the ‘Phantom brigade’ stated that “*from now on any woman seen in a café or a bar will be immediately detained and punished*”, adding that women should sit at home if they want to remain loyal to their husbands and be a good example to their children.⁴⁰⁸

As stressed by the International Committee of the Red Cross (ICRC), armed groups exercising control over a territory for an extended period of time are bound by IHL rules for the entire duration of conflict.⁴⁰⁹ As such, armed groups must comply with IHL in the conduct of hostilities including on the prohibition of all forms of sexual violence in situations of armed conflict.

To conclude, all parties to the conflict have obligations under international law to prevent and address CRSV. Survivors of CRSV in the conflict in Ukraine have the right to a remedy and reparations, as CRSV could be a violation of international humanitarian, criminal, and human rights law. Dealing with the consequences of the conflict includes guaranteeing victims’ right to a remedy in its dual components of access to justice and reparations.

2. The right to a remedy and reparations in Ukraine

International human rights law and international humanitarian law enshrine victims’ right to an effective remedy, including reparation,⁴¹⁰ which is recognised as an obligation upon states.⁴¹¹ The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles on the Right to a Remedy and Reparations) outline restitution, compensation, rehabilitation, satisfaction, and guarantees of non-recurrence as types of reparation measures that victims should have access to.⁴¹² The Guidance Note of the UN Secretary General on Reparations for Conflict-Related Sexual Violence (the Guidance Note) states that for reparations to be adequate, a combination of these different forms should be made available to CRSV survivors, through judicial and administrative channels.⁴¹³

As set out in the guidance note, “*reparations should be provided by a State for acts or omissions that can be attributed to it and that violate its obligations under international human rights law or international*

406 Council of Europe, ‘The ECHR and The Death Penalty: A Timeline’ www.coe.int/en/web/portal/death-penalty accessed 6 May 2022.

407 OHCHR, ‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’ (n7) paras 126-127.

408 Ibid 127.

409 ICRC, ‘Non-International Armed Conflict’ https://casebook.icrc.org/law/non-international-armed-conflict#_ftn_viii_003 accessed 6 May 2022.

410 See Article 8 of the Universal Declaration of Human Rights (UDHR); Article 2 of the International Covenant on Civil and Political Rights (ICCPR); Article 14 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearances (ICPPED); Article 75 of the Rome Statute of the International Criminal Court (Rome Statute); Article 91 of Additional Protocol I to the Geneva Conventions; and Rule 150 of ICRC Customary International Humanitarian Law.

411 Views to the contrary also exist, finding that adequate redress for victims is not a binding commitment on States, even if it is a ‘desirable objective’. See Christian Tomuschat, ‘Darfur—Compensation for the Victims’ (2005) 3(3) Journal of International Criminal Justice 582–587.

412 See the glossary in Annex II for definitions of these terms.

413 United Nations, ‘Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence’ (June 2014) Guiding principles 1 and 2 www.ohchr.org/sites/default/files/Documents/Press/GuidanceNoteReparationsJune-2014.pdf accessed 6 May 2022.

humanitarian law, or a person, a legal person, or other entity found liable for violations of international humanitarian law and making reparation. In the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations, States should endeavour to establish programmes for reparations and assistance to victims.⁴¹⁴ This section, therefore, looks at current and developing frameworks for reparations in Ukraine and how they may be a foundation for the establishment of reparations programmes for survivors of CRSV committed in Ukraine since 2014.

2.1. Policy frameworks for remedy and reparation in Ukraine

There has been no comprehensive state policy in Ukraine for remedy and reparation for the benefit of civilian victims and survivors affected by the conflict since 2014, including CRSV survivors.⁴¹⁵ As such, the section below deals with developing frameworks and strategies that promote or may lead to the establishment of reparation programmes.

In 2019, the President of Ukraine tasked the Law Reform Commission's Working Group on the Reintegration of Temporarily Occupied Territories with creating a comprehensive transitional justice framework, which could lead to or include a reparations framework.⁴¹⁶ The outcome document titled 'State Policy Concept 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' was submitted to the Office of the President in September 2020 and has not yet been adopted by the President of Ukraine.⁴¹⁷ Although the document is not publicly available, the OHCHR

found its "provisions related to remedy and reparation generally in line with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" and "welcomes [the document's] development."⁴¹⁸ While this policy document may need to be updated in light of the escalation of the armed conflict, its adoption would nonetheless advance the legal response to the consequences of the armed conflict.

The right to a remedy and reparation is also addressed in other policy frameworks adopted by the Ukrainian Government before 2022. This includes the *Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine* developed in consultation with the Office of the Deputy Prime Minister on European and Euro-Atlantic Integration, the Ministry of Foreign Affairs and Ministry of Justice of Ukraine.⁴¹⁹ The strategy's fourth component addresses access to justice for victims and survivors, including the setting up of a reparation programme. It stresses that the setting up of a reparation programme is not dependent on the end of a conflict and does not need to be linked to transitional justice frameworks. Importantly, the strategy underscores that: "It will be beneficial for Ukraine to hold consultations with affected communities, civil society and experts before deciding on the format and reach the best possible solution for the Ukrainian context. It is important to note that it is recommended that reparation programmes be initiated as soon as possible to support survivors before the harm becomes irreparable."⁴²⁰

Ukraine's *National Action Plan on the Implementation of the UNSC Resolution 1325 on Women, Peace and Security until 2025*⁴²¹ and the *National Strategy in*

414 Ibid 4.

415 OHCHR, 'Report on the Human Rights Situation in Ukraine 1 August 2020 - 31 January 2021' (n9) para 32.

416 The Working Group took the 2018 Draft Law on the Principles of State Policy on Protecting Human Rights in the Context of Overcoming the Consequences of the Armed Conflict prepared by civil society as the foundation for the roadmap. Apart from the comments about the incorporation of the four transitional justice pillars to the Roadmap, no more detailed information or the Roadmap's draft text is publicly available.

417 As of 20 May 2022.

418 OHCHR, 'Report on the Human Rights Situation in Ukraine 1 August 2020 - 31 January 2021' (n9) para 32.

419 OHCHR, 'Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine' (UN Women Ukraine and UN Human Rights Monitoring Mission in Ukraine, 14 March 2018) 2 <https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/Country/Ukraine/CRSV%20Strategy%20EN.pdf> accessed 6 May 2022.

420 Ibid 21.

421 Legislation of Ukraine (Order) Cabinet of Ministers of Ukraine on approval of the National Action Plan for the implementation of UN Security Council Resolution 1325 "Women, Peace, Security" for the period up to 2025 No. 1544-rKyiv (28 October 2020) <https://zakon.rada.gov.ua/laws/show/1544-2020-%D1%80#Text> accessed 6 May 2022.

*the Field of Human Rights*⁴²² reiterate the need for a comprehensive transitional justice framework for Ukraine. The National Action Plan urges to “[i]dentify appropriate mechanisms for documenting, assessing and compensating victims of conflict-related violence, taking into account the gender perspective and bringing the perpetrators to justice.”⁴²³ Such a framework entails the prosecution of conflict-related crimes, including sexual violence, truth-seeking measures, guarantees of non-repetition, and institutional reforms, all of which require a survivor-centric approach.

In the absence of a comprehensive reparations programme, or a dedicated reparation programme for CRSV, survivors are left with limited schemes of governmental assistance (not reparation), including on the basis of being a survivor of a crime intersecting with CRSV, such as arbitrary detention. For instance, the Cabinet of Ministers’ 2019 Resolution No. 1122 “On Certain Issues of Social and Legal Protection of Persons Deprived of Their Liberty as a Result of the Armed Aggression against Ukraine after Their Release” qualifies persons who were deprived of liberty in the conflict for a one-time payment of 100 000 UAH (about 3138.56 EUR⁴²⁴).⁴²⁵ Other benefits include being escorted to hospitals after release, free legal aid, and activities aimed at social and professional adaptation of the released for a period of several weeks. As of December 2021, only 209 survivors had received the one-time 100,000 UAH compensation and 46 more persons are expected to receive it once they have submitted the lacking documentation.⁴²⁶

The escalation of the armed conflict in Ukraine since the Russian full-fledged invasion on 24 February 2022 has also prompted new initiatives that may lead to the establishment of a reparation programme. For instance, in April 2022, the President of Ukraine convened a meeting with a group of experts in which the creation of a special mechanism for the prosecution of conflict-related crimes and the compensation of victims were discussed.⁴²⁷ While the proposal is still developing, it represents an opportunity for the advancement of victims’ right to a remedy and reparation and is discussed in the section on opportunities below. On 20 May 2022, Ukrainian President invited states to sign an agreement for the establishment of an international compensation mechanism, specifying that: “*Under such an agreement, Russian funds and property under the jurisdiction of partner countries must be seized or frozen, and then confiscated and directed to a specially created fund from which all victims of Russian aggression can receive appropriate compensation.*”⁴²⁸ In advancing this proposal, lessons must be drawn from the numerous mechanisms set up in other situations to address large-scale compensation and reparation needs in an international legal framework.⁴²⁹

The significant increase of conflict-related crimes, including CRSV, make the adoption and/or implementation of the above-mentioned policy frameworks and the establishment of a reparation programme more pertinent. Current interventions across multiple domestic and international layers should be maximised to meet this goal in laying the foundation for a prompt, adequate, and effective comprehensive reparation programme.

422 Official website of the President of Ukraine, ‘The National Strategy in the Field of Human Rights No. 119/2021’ (24 May 2021) para 10 www.president.gov.ua/documents/1192021-37537 accessed 16 May 2022.

423 Legislation of Ukraine (Order) Cabinet of Ministers of Ukraine on approval of the National Action Plan for the implementation of UN Security Council Resolution 1325 “Women, Peace, Security” for the period up to 2025 No. 1544-rKyiv (28 October 2020) operational goal 3.3, part 3: “Post-conflict reconstruction and transitional justice” (translated from Ukrainian) <https://zakon.rada.gov.ua/laws/show/1544-2020-%D1%80#Text> accessed 6 May 2022.

424 Exchange rate as of 6 August 2021.

425 Cabinet of Ministers of Ukraine, (Resolution) Regulation on Certain Issues of Social and Legal Protection of Persons Deprived of Their Liberty as a Result of the Armed Aggression against Ukraine after Their Release, *Resolution* <https://zakon.rada.gov.ua/laws/show/1122-2019-%D0%BF#Text> accessed 6 May 2022.

426 Response of the Ministry for the Reintegration of the Temporarily Occupied Territories to a GSF information request of 25 December 2021.

427 Official website of the President of Ukraine, ‘Volodymyr Zelenskyy Met with an Expert Group on the Creation of a Special International Mechanism of Justice’ (11 April 2022) www.president.gov.ua/en/news/volodymyr-zelenskij-zustrivsvya-z-ekspertnoyu-grupoyu-shodo-s-74261 accessed 6 May 2022.

428 Legislation of Ukraine (Order) Cabinet of Ministers of Ukraine on approval of the National Action Plan for the implementation of UN Security Council Resolution 1325 “Women, Peace, Security” for the period up to 2025 No. 1544-rKyiv (28 October 2020) <https://zakon.rada.gov.ua/laws/show/1544-2020-%D1%80#Text> accessed 1 May 2022.

429 Chiara Giorgetti, Markiyani Kliuchkovsky and Patrick Pearsall, ‘Launching an International Claims Commission for Ukraine’ (Just Security, 20 May 2022) www.justsecurity.org/81558/launching-an-international-claims-commission-for-ukraine/ accessed 25 May 2022.

Finally, through direct engagement in 2022 with governmental stakeholders and other actors in Ukraine, GSF identified a pressing need for the establishment of an urgent interim reparation programme. Such a programme, which would be in line with President Zelenskyy's 2022 proposal for the creation of a compensation fund for conflict victims, should comprise interim measures provided by states to victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law to address the most urgent and immediate consequences of such violations and avoid irreparable harm.⁴³⁰ Urgent interim reparations are granted while victims/survivors wait for comprehensive reparation, and their establishment is among the guiding principles for establishing reparations for victims of CRSV.⁴³¹ For instance, in South Africa, urgent measures were put in place for victims with urgent needs, including medical and material, upon the recommendation of the Reparations and Rehabilitation Committee.⁴³²

2.2. Judicial avenues to reparations

Case-based reparation frameworks exist in various domestic and international criminal courts,⁴³³ but such a framework does not exist in Ukraine as criminal courts do not issue decisions on reparations relating to the cases before them. Nevertheless, domestic criminal investigations and prosecutions are considered, including by some survivors participating in the Study, as a form of satisfaction

and a guarantee of non-recurrence, and thereby constitute a form of reparation. As such, those will be explored in section 2.3. International remedies before the ICC and the European Court for Human Rights also constitute a measure of satisfaction and guarantees of non-recurrence. However, these courts can also order other forms of reparation to benefit victims, as will be explored in section 2.4.

In Ukraine, claims for compensation from the State for material, moral, and non-pecuniary damages can be brought through civil lawsuits.⁴³⁴ Conflict-related compensation claims have been brought before Ukrainian courts, in which compensation was requested by victims or their family members, primarily for damaged property or for harm resulting from the injury or killing of civilians since 2014. The Norwegian Refugee Council reported that as of October 2018, it had identified 146 pending civil cases relating to compensation for damaged or destroyed property before Ukrainian courts.⁴³⁵ OHCHR reported that between 16 May and 15 August 2019, Ukrainian courts awarded the requested reparation (compensation) in four cases brought by families of persons killed during the conflict, to be implemented by the government.⁴³⁶ However, OHCHR also expressed concern over the lack of implementation of these judgments, as the government appealed the decisions.⁴³⁷ Shortly after this concern was expressed, however, the state budget included for the first time an allocation of 40 million UAH (approximately 1.3 million EURO) for compensation to civilian victims of the armed conflict.⁴³⁸

430 'Guidance Note of the Secretary General on Reparations for Conflict-Related Sexual Violence' (n413) Guiding Principle 7.

431 Ibid Guiding Principles 7, 12.

432 Truth and Reconciliation Commission of South Africa, *Truth and Reconciliation Commission of South Africa Report* (1998) Vol 5, chap 5 <https://www.justice.gov.za/trc/report/finalreport/Volume5.pdf> accessed 1 May 2022.

433 Rome Statute of the International Criminal Court art 75; Extraordinary Chambers in the Courts of Cambodia, 'Internal Rules of The Court' (12 June 2007) rule 23 <https://www.eccc.gov.kh/sites/default/files/legal-documents/ECCC%20Internal%20Rules%20%28Rev.8%29%20English.pdf> accessed 8 June 2022.

434 Legislation of Ukraine, 'Civil Code of Ukraine' Vidomosti Verkhovnoi Rady Ukrainy (VVR), 2003 no. 435-IV (7 May 2022) arts 1167, 1168, 1173 <https://zakon.rada.gov.ua/laws/show/435-15#Text> accessed 6 May 2022.

435 Norwegian Refugee Council, 'Pursuing Compensation for Properties Damaged or Destroyed as a Result of Hostilities in the Armed Conflict in Eastern Ukraine: Gaps and Opportunities' (March-October 2018) 2 www.nrc.no/globalassets/pdf/reports/0_2-pursuing-compensation-for-properties-damaged-or-destroyed-as-a-result-of-hostilities-in-the-armed-conflict-in-eastern-ukraine-gaps-and-opportunities/nrc-study_pursuing-compensation-for-damaged-or-destroyed-property_eng.pdf accessed 6 May 2022.

436 OHCHR, 'Report on the Human Rights Situation in Ukraine 16 May to 15 August 2019' (1 September 2019) para 32 www.ohchr.org/sites/default/files/Documents/Countries/UA/ReportUkraine16May-15Aug2019_EN.pdf accessed 6 May 2022.

437 Ibid.

438 OHCHR, 'Report on the Human Rights Situation in Ukraine 16 August to 15 November 2019' (n116) para 32.

In 2019, OHCHR reported on a case before the Supreme Court relating to a woman seeking reparation for the killing of her daughter in the armed conflict in the Luhansk region. An earlier ruling by the appeals court obliging the government to award compensation for the family was maintained by the Supreme Court. While positive, OHCHR notes the continued need for a comprehensive mechanism for remedy and reparation for injured individuals or the family members of those killed during the armed conflict.⁴³⁹

However, these avenues often prove to be complex and, at best, can cater only to a small portion of the conflict's victims and survivors. As OHCHR notes in relation to compensation claims in Ukraine: "*obtaining such judgements is a long, complex process and the right to remedy and reparation would be better upheld through the introduction of an administrative procedure for reparations claims*".⁴⁴² Establishing a domestic reparation programme for reparation, which includes but also goes beyond compensation, is in line with international guidance for reparations for CRSV.⁴⁴³

Despite this progress, victims and survivors face numerous challenges to bringing compensation claims. A significant hurdle relates to the payment of the court fees, a failure of which results in the dismissal of the compensation claim.⁴⁴⁰ Another significant challenge relates to the applicable statute of limitation to these cases under the Civil Code, which requires plaintiffs to bring compensation claims within three years of the occurrence of the violation.⁴⁴¹ This limitation is a major obstacle for victims and survivors of conflict-related crimes, a majority of whom would not be able to meet this deadline due to the ongoing conflict, insecurity, lived trauma, displacement, or the time needed for learning about this legal possibility to obtain compensation. Finally, while compensation for damages resulting from sexual violence may be possible in a civil case, GSF is unaware of any such cases.

Judicial channels for obtaining compensation and other forms of reparations must be available to victims and survivors as part of their right to a remedy.

2.3. Access to criminal justice for conflict-related sexual violence in Ukraine

Concern was expressed at the 2018 Universal Periodic Review for Ukraine at the Human Rights Council (HRC) over the continued commission of sexual and gender-based violence (SGBV),⁴⁴⁴ including conflict-related violence, both in GCA and NGCA.⁴⁴⁵ As such, Ukraine was recommended to, *inter alia*, ensure accountability for CRSV and provide victims with adequate support and rehabilitation.⁴⁴⁶ Relatedly, the HRC also noted that the Criminal Code was not in line with international standards regarding its provisions on sexual violence.⁴⁴⁷ Since then, however, Ukraine has remedied this by reforming the criminal code including through ensuring a gender-neutral and broader definition of rape.⁴⁴⁸

Due to the large scale of conflict-related crimes and the limited domestic capacity to address international crimes, the Ukrainian Government focused, in parallel, on triggering the jurisdiction of the ICC and developing domestic capacity. However,

439 OHCHR, 'Report on the Human Rights Situation in Ukraine 16 November 2018 to 15 February 2019' (21 March 2019) 11 www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Documents/A_HRC_40_CRP3.docx accessed 18 May 2022.

440 Norwegian Refugee Council, 'Pursuing Compensation for Properties Damaged or Destroyed as a Result of Hostilities in the Armed Conflict in Eastern Ukraine: Gaps and Opportunities' (n435) 5.

441 Legislation of Ukraine, 'Civil Code of Ukraine' Vidomosti Verkhovnoi Rady Ukrainy (VVR) 2003 no. 435-IV (7 May 2022) art 257 <https://zakon.rada.gov.ua/laws/show/435-15#Text> accessed 6 May 2022.

442 OHCHR, 'Report on the Human Rights Situation in Ukraine 16 May to 15 August 2019' (n436) para 32.

443 See 'Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence' (n413) Principle 2 stating that "*Judicial and/or administrative reparations should be available to victims of conflict-related sexual violence as part of their right to obtain prompt, adequate and effective remedies*".

444 UNGA, Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Ukraine' Thirty-seventh session 26 February – 23 March 2018, A/HRC/37/16 (3 January 2018) para 61 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/000/33/PDF/G1800033.pdf?OpenElement> accessed 18 May 2022.

445 Ibid paras 10, 96; United Nations, Committee on the Elimination of All Forms of Discrimination Against Women, 'Concluding observations on the eight periodic report of Ukraine' Sixty-sixth session 13 February – 3 March 2017 CEDAW/C/UKR/CO/8 (9 March 2017) paras 9, 14.

446 UNGA, Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Ukraine' (n444) paras 66, 116, 148, and 149.

447 Ibid paras 116, 146, 148.

448 Criminal Code of Ukraine, arts 152, 153 <https://zakon.rada.gov.ua/laws/show/2341-14#Text> accessed 8 June 2022.

given the complementary nature of the ICC, which dictates that national jurisdictions bear the primary responsibility for investigating and prosecuting Rome Statute crimes,⁴⁴⁹ various civil society groups have mobilised and called upon the Ukrainian Government to build the domestic legal and institutional capacity necessary to conduct such investigations and prosecutions.⁴⁵⁰ These efforts were also carried out in parallel to a prosecutorial reform that took place in 2019, recognising the importance of conflict-related investigations at the domestic level.⁴⁵¹

In 2019, the Department of Supervision of Criminal Proceedings concerning Crimes Committed during the Armed Conflict – The War Crimes Unit – was established within the Office of the Prosecutor General.⁴⁵² War crimes departments were also created within the regional Luhansk and Donetsk Regional Prosecutor's Offices. However, there remain legal, procedural, and practical gaps in investigating and prosecuting sexual violence committed since 2014 at the domestic level.

The Ukrainian Criminal Code contains three provisions under which CRSV can be prosecuted as an international crime.⁴⁵³ First, Article 433 governs violence against the civilian population by Ukrainian servicepeople. Second, Article 434 governs the ill-treatment of prisoners of war, also by Ukrainian servicepeople. Finally, Article 438 governs the violations of laws and customs of warfare with no specification on the perpetrator. Currently, the

Criminal Code does not criminalise CRSV as a crime against humanity, nor does it include modes of liability beyond direct perpetrators.

While limited in scope, the aforementioned articles, and Article 438 in particular, permit the investigation and prosecution of a significant majority of CRSV incidents. However, as Article 438 is a 'blanket article', it does not list the underlying acts or definitions of sexual violence crimes. This has created hesitancy in using it to investigate and prosecute CRSV amongst law enforcement professionals, many of whom lack specialised training on international legal standards relevant to CRSV.⁴⁵⁴ Instead, law enforcement professionals have relied on ordinary sexual violence provisions listed below.

PROVISIONS ON SEXUAL VIOLENCE AS ORDINARY CRIMES IN THE CRIMINAL CODE:⁴⁵⁵

- Art. 134: Illegal abortion or sterilisation
- Art. 149: Human trafficking
- Art. 152: Rape
- Art. 153: Sexual violence
- Art. 154: Forced sexual intercourse
- Art. 155: Sexual intercourse with a person under the age of 16
- Art. 156: Molestation of minors
- Art. 156-1: Harassment of a child for sexual purposes

449 Rome Statute of the International Criminal Court, art 1.

450 'Demands to Sign the Law on the Accountability for War Crimes Voiced near the Office of the President (in Ukrainian)' (Ukrinform, 19 August 2020) www.ukrinform.ua/rubric-kyiv/3300432-pid-ofisom-prezidenta-vimagaut-pidpisati-zakon-pro-pokaranna-za-voenni-zlocini.html accessed 6 May 2022; Ukrainian Legal Advisory Group, 'Principle of Complementarity: International Justice in Ukraine' (9 Dec 2019) 17 http://justiceforthefuture.org.ua/uploads/MaterialDocument/ULAG_complementarity_web_en_002_1594211912.pdf accessed 16 May 2022; Human Rights Watch, 'Ukraine: Joint NGO Letter on Aligning Domestic Legislation with International Criminal Law and International Humanitarian Law' (16 September 2020) www.hrw.org/news/2020/09/16/ukraine-joint-ngo-letter-aligning-domestic-legislation-international-criminal-law accessed 1 May 2022.

451 Office of the Prosecutor General, 'Reform' Law of Ukraine 'On amendments to some legislative acts of Ukraine on priority measures to reform the prosecutor's office' No 113-IX (19 September 2019).

452 GPU Press Service, 'The GPU Has Set Up a Department to Oversee Crimes in Armed Conflict' *Pravda* (2 December 2019) www.pravda.com.ua/news/2019/12/2/7233637/ accessed 16 May 2022.

453 Criminal Code of the Republic of Ukraine (1 September 2001) https://sherloc.unodc.org/cld/uploads/res/document/ukr/2001/criminal-code-of-the-republic-of-ukraine-en.html/Ukraine_Criminal_Code_as_of_2010_EN.pdf accessed 27 May 2022.

454 Verkhovna Rada of Ukraine, (Information about the Implementation of the Tasks and Activities) The National Action Plan on the Implementation of the UNSC Resolution 1325 Women, Peace and Security until 2020 (19 March 2020) 28, 49 https://docs.google.com/viewer?embedded=true&url=http://www.msp.gov.ua/files/gend_pol/zvit1325-2019.docx accessed 18 May 2022; Alina Pavliuk, Prosecutor, the Office of the Prosecutor General of Ukraine in Roundtable 'Conflict-Related Sexual Violence in Ukraine: a Transitional Justice Prism' (22 June 2021) 52:30 www.facebook.com/1568562916710855/videos/199124418768235 accessed 10 June 2022; Wayne Jordash QC, Managing Partner, Global Rights Compliance LLP in Roundtable 'Conflict-Related Sexual Violence in Ukraine: a Transitional Justice Prism' (22 June 2021) 1:10:30, 1:14:00, 1:16:12, 1:18:00, 1:19:30, 1:24:00 www.facebook.com/1568562916710855/videos/199124418768235 accessed 10 June 2022.

455 Criminal Code of Ukraine, arts 134, 149, 153, 154, 155, 156 <https://zakon.rada.gov.ua/laws/show/2341-14#Text> accessed 27 May 2022.

Relying on ordinary crimes provisions not only fails to fully capture the gravity of sexual violence as a conflict-related crime, but also enables the use of formal and informal evidentiary standards that are not in line with international best practice for sexual violence cases in general, and even more so for conflict-related crimes.⁴⁵⁶ For instance, while Article 84 of the Criminal Procedure Code lists testimony and other types of evidence as possible sources of evidence, they are generally not deemed to have sufficient probative value by prosecutors and courts.⁴⁵⁷ Instead, for cases of sexual violence, including conflict-related, “investigators and prosecutors rely exclusively on certain types of forensic evidence,” such as tests that can determine penetration and the presence of a struggle.⁴⁵⁸ However, this type of evidence is unlikely to be available in CRSV cases, which are often reported months, if not years, following the incidents. Without it, though, the cases rarely reach the trial stage.⁴⁵⁹

On 20 May 2021, a crucial step was taken by the Verkhovna Rada, Ukraine’s Parliament, in passing a

long-overdue criminal law reform⁴⁶⁰ (Bill 2689) that aligns Ukraine’s Criminal Code with international humanitarian and criminal law. The reform, which will come into effect once signed by the President of Ukraine,⁴⁶¹ was requested, *inter alia*, by the EU⁴⁶² and the Council of Europe.⁴⁶³ Once in effect,⁴⁶⁴ the Bill will criminalise CRSV crimes as war crimes⁴⁶⁵ and crimes against humanity,⁴⁶⁶ including by outlining the underlying acts and definitions as per the Rome Statute. It will also introduce command responsibility as a mode of liability,⁴⁶⁷ give primacy to international law over domestic law in prosecuting aggression, genocide, war crimes, or crimes against humanity,⁴⁶⁸ and ensure that amnesties are inapplicable to the crime of aggression, genocide, war crimes, crimes against humanity, and torture, including CRSV.⁴⁶⁹ Following the full-fledged Russian invasion of Ukraine, civil society organisations reiterated their call on the President to sign Bill 2689,⁴⁷⁰ and expressed concern over the content of a new draft bill that was introduced in 2022 and that also seeks to amend the criminal code.⁴⁷¹

456 Ribeiro and van der Straten Ponthoz, ‘International Protocol on the Documentation and Investigation of Sexual Violence in Conflict’ (n88) 141-154.

457 OHCHR, ‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’ (n7) para 119.

458 Ibid para. 117; Alina Pavliuk, Roundtable “Conflict-Related Sexual Violence in Ukraine: a Transitional Justice Prism” 55:30 (n454); Wayne Jordash QC, Managing Partner, Global Rights Compliance LLP, Roundtable “Conflict-Related Sexual Violence in Ukraine: a Transitional Justice Prism” 1:17:35 (n454).

459 Ibid.

460 Verkhovna Rada Of Ukraine, ‘Draft Law Amending Certain Legislative Acts of Ukraine concerning the Implementation of the Rules of International Criminal and Humanitarian Law’ No. 2689 (27 December 2019) http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67804 accessed 16 May 2022.

461 As of 9 August 2021, the Bill has not yet been signed by the President of Ukraine.

462 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, Article 6- Dialogue and cooperation on domestic reform: “The Parties shall cooperate in order to ensure that their internal policies are based on principles common to the Parties, in particular stability and effectiveness of democratic institutions and the rule of law, and on respect for human rights and fundamental freedoms, in particular as referred to in Article 14 of this Agreement.” Article 8- International Criminal Court: “The Parties shall cooperate in promoting peace and international justice by ratifying and implementing the Rome Statute of the International Criminal Court (ICC) of 1998 and its related instruments.” Association Agreement between the European Union and its Member States, of the one part and Ukraine, of the Other Part’ (Official EN Journal of the European Union, 29 May 2014) paras 2, 7, 9, arts. 1.2(e), 2, 4.2(e), 6, 8, 13, 14, 420(l) https://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155103.pdf accessed 16 May 2022.

463 Parliamentary Assembly of the Council of Europe, Resolution 2198 (2018), para. 11: “The Assembly urges Ukrainian authorities to: 11.1. bring the Criminal Code and Code on Criminal Procedure of Ukraine into line with the provisions of international humanitarian law and international criminal law; 11.2. ratify the Rome Statute of the International Criminal Court as soon as possible, which will make it possible to carry out effective investigations into concrete cases of violations of international humanitarian law during the war in Ukraine.” Parliamentary Assembly of the Council of Europe, ‘Humanitarian consequences of the war in Ukraine’, Resolution 2198 (2018) <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24432> accessed 16 May 2022.

464 Although the Parliament adopted the Bill on 20 May 2021, as of June 2021, the President has not enacted it with his signature yet.

465 Verkhovna Rada of Ukraine (Legal Policy) ‘Draft Law Amending Certain Legislative Acts of Ukraine Concerning the Implementation of the Rules of International Criminal and Humanitarian Law’ No. 2689 (27 December 2019) arts 4, 31, 438, 442 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67804 accessed 16 May 2022.

466 Ibid art 442.

467 Ibid art 311.

468 Ibid arts 4, 31, 438, 442.

469 Ibid.

470 Coalition for the ICC, ‘With State Party referrals, ICC Prosecutor opens an investigation into the Ukraine situation’ (8 March 2022) www.coalitionfortheicc.org/news/20220308/state-party-referrals-icc-prosecutor-opens-investigation-ukraine-situation accessed 8 June 2022.

471 Centre for Civil Liberties, ‘Euromaidan SOS: a new government bill № 7290 artificially reduces opportunities to prosecute Russian military commanders and civilian superiors liable for war crimes’ (20 April 2022) <https://cdl.org.ua/en/claims/euromaidan-sos-a-new-government-bill-%e2%84%96-7290-artificially-reduces-opportunities-to-prosecute-russian-military-commanders-and-civilian-superiors-liable-for-war-crimes/> accessed 8 June 2022.

Despite the progress that Bill 2689 might achieve, several gaps remain. For example, Ukraine's pending amendment to the Criminal Code does not list the crime against humanity of "other inhumane acts", which, as seen in international jurisprudence, can be used for prosecuting gender-based crimes such as forced marriage that often lead to the commission of sexual violence.⁴⁷² Moreover, while the Bill may remedy certain legal gaps in the Criminal Code, further practical work is needed to raise domestic capacity, to ensure that CRSV is part of current investigations, and that this is done in a survivor-centric and gender-sensitive manner.

2.4. International remedies

While neither Ukraine nor Russia is a State Party to the Rome Statute, Ukraine has accepted the ICC jurisdiction indefinitely on its territories from 21 November 2013 through two *ad hoc* declarations made to the ICC pursuant to Article 12(3) of the Rome Statute.⁴⁷³ On this basis, former ICC Prosecutor Fatou Bensouda initiated in 2014 a preliminary examination into the Situation.⁴⁷⁴

The 2018 ICC Report on Preliminary Examination Activities highlighted sexual and gender-based crimes in Ukraine, such as "*rapes, beatings and electric shocks in the genital area, threats of rape and castration, and forced nudity*", a vast majority of which

were committed by non-state actors in the context of detention.⁴⁷⁵ The report also acknowledged the likely underreporting of such crimes due to "*fear of retaliation or persecution by alleged perpetrators, social stigma, lack of services for victims and/or other reasons*."⁴⁷⁶ On 11 December 2020, Prosecutor Bensouda determined that the statutory criteria for opening an investigation into the Situation in Ukraine had been met, finding conduct that might constitute war crimes and crimes against humanity.⁴⁷⁷

The 2021-elected ICC Prosecutor, Karim Khan, announced on 28 February 2022 that, given the prior findings of the Office, he would proceed with an investigation into the situation in Ukraine.⁴⁷⁸ On 2 March 2022, and following an unprecedented referral of the situation in Ukraine to the ICC Office of the Prosecutor by 43 ICC states Parties, the ICC Prosecutor was able to proceed with an investigation without the need for judicial authorisation.⁴⁷⁹ The investigation into the situation in Ukraine covers alleged Rome Statute crimes committed since 2014.

The ICC investigation could pave the way for reparations to victims of those cases that result in the conviction of the accused.⁴⁸⁰ However, as reparations in the Rome Statute system are based on individual criminal responsibility, states are not obligated to fund ordered reparations when the convicted person is unable to do so. As a result, reparations orders at the ICC have to date not been fully funded, despite ICC

472 *Prosecutor v. Ongwen* (Trial Judgement) International Criminal Court ICC-02/04-01/15-1762-Red (4 February 2021) www.icc-cpi.int/court-record/icc-02/04-01/15-1762-red accessed 16 May 2022; Alexandra Lily Kather and Amal Nassar, 'The Ongwen Case: A Prism Glass for the Concurrent Commission of Gender-Based Crimes' *Volksrechtblog* (15 May 2021) <https://voelkerrechtsblog.org/the-ongwen-case-a-prism-glass-for-the-concurrent-commission-of-gender-based-crimes/> accessed 19 April 2022.

473 Letter of the Embassy of Ukraine to the Netherlands to the Registrar of the International Criminal Court (9 April 2014) www.icc-cpi.int/sites/default/files/itemsDocuments/997/declarationRecognitionJurisdiction09-04-2014.pdf accessed 8 June 2022; ICC, Office of the Prosecutor, 'ICC Prosecutor Extends Preliminary Examination of The Situation in Ukraine Following Second Article 12(3) Declaration' (29 September 2015) www.icc-cpi.int/news/icc-prosecutor-extends-preliminary-examination-situation-ukraine-following-second-article-123 accessed 16 May 2022.

474 ICC, Office of the Prosecutor, 'The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination in Ukraine' (25 April 2014) www.icc-cpi.int/Pages/item.aspx?name=pr9999&ln=en accessed 16 May 2022.

475 ICC, Office of the Prosecutor, 'Report on Preliminary Examination Activities' (5 December 2018) para 92 www.icc-cpi.int/itemsDocuments/181205-rep-otp-PE-ENG.pdf accessed 16 May 2022.

476 *Ibid.*

477 ICC, Office of the Prosecutor, 'Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine' (11 December 2020) www.icc-cpi.int/Pages/item.aspx?name=201211-otp-statement-ukraine accessed 16 May 2022.

478 ICC, Office of the Prosecutor, 'Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: "I Have Decided to Proceed with Opening an Investigation"' (28 February 2022) www.icc-cpi.int/Pages/item.aspx?name=20220228-prosecutor-statement-ukraine accessed 7 April 2022.

479 ICC, Ukraine, Situation in Ukraine, ICC-01/22 (March-April 2022) paras 2, 4 www.icc-cpi.int/ukraine accessed 16 May 2022.

480 Rome Statute of the International Criminal Court, art 75.

States Parties making voluntary donations.⁴⁸¹ The ICC Trust Fund for Victims could also initiate assistance programmes that are not tied to cases but rather are geared towards assistance to victims of the Situation more broadly, including victims of sexual and gender-based crimes (SGBC).⁴⁸²

Additionally, there are currently five inter-State applications pending before the European Court of Human Rights brought by Ukraine against Russia, and another application brought by Russia against Ukraine.⁴⁸³ The cases brought by Ukraine raise ECHR violations by Russia including in relation to events in eastern Ukraine, Crimea, and the 2022 Russian invasion of Ukraine. Should Russia be found in violation of the rights enshrined in the Convention, the Court can order Russia to pay compensation among other forms

of reparation to victims for both pecuniary and non-pecuniary damages. For instance, in *Georgia v. Russia (I)*, the Court ordered Russia to pay 10,000,000 euros to Georgia for non-pecuniary damage to be distributed to a group of at least 1,500 victims.⁴⁸⁴ There are also more than 8,500 individual applications before the Court which appear to be related to the events in Crimea, eastern Ukraine, and the Sea of Azov.⁴⁸⁵ Inter-State applications should strive to include CRSV as a violation of the Convention, particularly as a violation of Article 3 on the prohibition of torture, which may constitute a measure of satisfaction and lead to other forms of reparation to victims. As mentioned above, obligations upon Russia under the ECHR, including in relation to making reparation, remain applicable to events that took place before the denouncement of the Convention comes into effect, namely prior to 16 September 2022.

481 ICC, Assembly of State Parties, 'Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2020 to 30 June 2021' (8 September 2021) 13 https://asp.icc-cpi.int/sites/default/files/iccdocs/asp_docs/ASP20/ICC-ASP-20-14-ENG.pdf accessed 6 June 2022; ICC, the Appeals Chamber, 'Situation in the Democratic Republic of the Congo, In the Case of the Prosecutor V. Thomas Lubanga Dyilo, Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2' (3 March 2015) para 105 www.icc-cpi.int/sites/default/files/CourtRecords/CR2015_02631.PDF accessed 6 June 2022.

482 The Trust Fund for Victims, 'Assistance Mandate' www.trustfundforvictims.org/node/50 accessed 7 April 2022.

483 European Court of Human Rights, 'Inter-State applications' <https://echr.coe.int/Pages/home.aspx?p=caselaw/interstate&c=> accessed 1 May 2022. GSF has not fully assessed whether the applications include CRSV amongst the violations of the Convention's provisions.

484 European Court of Human Rights, 'Just satisfaction judgment in the case of Georgia v. Russia (I)' ECHR 050 (2019) [https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6316647-8251341&filename=Grand%20Chamber%20judgment%20Georgia%20v.%20Russia%20\(I\)%20-%20just%20satisfaction.pdf](https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-6316647-8251341&filename=Grand%20Chamber%20judgment%20Georgia%20v.%20Russia%20(I)%20-%20just%20satisfaction.pdf) accessed 1 May 2022.

485 European Court of Human Rights, 'Q & A on Inter-State Cases' Press Unit (May 2022) 3 https://echr.coe.int/Documents/Press_Q_A_Inter-State_cases_ENG.pdf accessed 1 May 2022.



Premises of the International Criminal Court in the Hague, Netherlands.
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VI. ANALYSIS OF OPPORTUNITIES AND THREATS FOR REPARATIONS

1. Threats to effective reparations for conflict-related sexual violence

1.1 Ongoing conflict and lack of access to temporarily occupied or out of government control territories

The annexation of Crimea and the Russian occupation of territories in Ukraine remain ongoing, affecting the lives of hundreds of thousands of Ukrainians. Moreover, the 2022 Russian invasion of Ukraine is in the spotlight of the political world and the wider public. The current conflict continues to carry a threat of CRSV to civilians and protected persons, particularly considering the blatant impunity for crimes that occurred from 2014. As noted in Section III, reports already show the ongoing commission of CRSV by Russian soldiers. Furthermore, an increased lack of access to conflict-affected areas impedes CRSV reporting and the provision of assistance and relief to survivors and their families.

1.2 Impunity and lack of acknowledgment and redress

Impunity continues for CRSV, with limited investigations and prosecutions of CRSV incidents committed between 2014-2021 at the domestic and international levels. On 9 May 2022, following the Russian invasion of Ukraine and the mounting reports of CRSV, Ukraine's Prosecutor General expressed a commitment to holding to account perpetrators of CRSV committed by Russian forces.⁴⁸⁶ Technical assistance to the Office of Prosecutor General, including on evidence standards and on trauma-informed and gender-sensitive approaches to

investigations, is essential to overcome the challenges presented in section V.2.3, and thereby to ensure accountability, a demand by CRSV survivors as part of reparations. Moreover, the proposed amendments to the Criminal Code discussed in the same section, and which would enable enhanced prosecutions of CRSV, have not yet come into effect and are pending the signature of the President of Ukraine.

There has been no official acknowledgment of CRSV committed from 2014, nor of its victims. Acknowledgment is a key demand of survivors as outlined in section IV, and a starting point for the establishment of a reparation programme. The Russian Federation and pro-Russia armed groups continue to deny the occurrence of conflict-related crimes, and by extension, deprive victims and survivors of CRSV of redress including reparations.

1.3. Lack of survivor consultation

In consultations with survivors participating in the Study, as well as with Study partners, it has been expressed that survivors' perspectives are not being sufficiently represented in policy and legal discussions taking place prior to 2022, with an impact on their rights and interests. Survivors lacked opportunities to present their views about their priorities, needs, and expectations. This contributes to a feeling of exclusion and frustration among survivors and leads to interventions that do not adequately correspond to survivors' views, visions, and needs. The lack of survivor consultations represents a threat to the adequacy of reparation programmes, and the effective and meaningful participation of survivors must, therefore, be a cornerstone of their establishment.

486 Iryna Venediktova (@VenediktovaVI), 'Every #CRSV crime of sexual violence by the RF soldiers...' (n87).

| 2. Opportunities for reparations

2.1. Avenues for the establishment of an administrative reparation programme in Ukraine

President Zelenskyy's 2022 proposal for the creation of a mechanism and a fund to award victims with compensation represents an opportunity for the realisation of victims' right to reparation.⁴⁸⁷ 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 with compensation, but also other forms of reparations including rehabilitation, satisfaction, restitution, and guarantees of non-recurrence.⁴⁸⁸ This proposal can move forward through a presidential decree that provides the necessary framework for laying out the foundation on which a prompt reparation programme can be established, including the establishment of a reparations fund and a registry for victims of the conflict from 2014 onwards. The decree could also appoint a working group, with representatives from civil society and survivors, tasked with the preparatory work for advancing reparations, such as identifying legislative and policy needs and acting as a coordination body. The decree in itself can be a form of acknowledgement of conflict-related crimes, including CRSV, and of victims and survivors, and may thereby constitute a measure of satisfaction.

2.2. 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. The investigation and prosecution of these crimes may also serve as deterrence to ongoing and future commission of CRSV, contributing to survivors' demands for guarantees of non-recurrence. Depending on the applicable legal framework, they may also lead to awarding victims and survivors with other forms of reparations.

If the ICC investigation develops into cases that include SGBC charges and conclude with the trial and conviction of the accused, ICC judges would then award victims participating in the case with reparations. 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*,⁴⁸⁹ investigations at the domestic level should be maximised to deliver not only justice, but also other forms of reparations for victims and survivors. Firstly, the criminal justice system in Ukraine should be reformed to allow for the provision of reparations in connection with prosecuted cases and in accordance with international standards. Secondly, the Office of the Prosecutor General in Ukraine can take steps to document harms suffered by survivors, information that would also be significant for the design of administrative reparation programmes.⁴⁹⁰ Comparative experiences include that of Colombia under the Justice and Peace Law Jurisdiction, created by Law 975/2005⁴⁹¹, or the Special Jurisdiction for Peace, created by the Colombian Peace Agreement between the Colombian Government and the FARC-EP (2016).⁴⁹² Moreover, the Office can already begin registering victims. If well managed, this could allow victims and survivors to access reparations through an administrative process more easily in the future, as those that were part of justice processes would not need to register again to access administrative reparations.

487 Official website of the President of Ukraine, 'Volodymyr Zelenskyy Met with an Expert Group on the Creation of a Special International Mechanism of Justice' (11 April 2022) www.president.gov.ua/en/news/volodimir-zelenskij-zustrivysya-z-ekspertnoyu-grupoyu-shodo-s-74261 accessed 1 May 2022.

488 See Annex II for a glossary for definitions of these terms.

489 Basic Principles on the Right to a Remedy and Reparations.

490 Ribeiro and van der Straten Ponthoz, 'International Protocol on the Documentation and Investigation of Sexual Violence in Conflict' (n88) 82.

491 Congress of Colombia, Law No. 975 Issuing Provisions For The Reincorporation Of Members Of Illegal Armed Groups Who Effectively Contribute To The Attainment Of National Peace, And Other Provisions For Humanitarian Accords Are Issued (25 July 2005) <https://reparations.qub.ac.uk/assets/uploads/law-975-ingles-1.pdf> accessed 1 May 2022.

492 National Government of Colombia and FARC-EP (Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo), 'Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace' (24 November 2016) <https://www.peaceagreements.org/viewmasterdocument/184> accessed 1 May 2022.

2.3. Humanitarian assistance and development programmes

The right to reparation is clearly distinct from the right to development and humanitarian assistance, with *“reparations characterized by an element of redress, which acknowledges the harm suffered and provides benefits to remedy that harm, with some component of State responsibility.”*⁴⁹³ Nevertheless, the need for synergies between development and humanitarian assistance actors and those working on reparations, and transitional justice more broadly, is increasingly recognised. A study by the International Center for Transitional Justice demonstrates that:

*“Maintaining a focus on victims in development programs, pending the establishment of comprehensive reparations programs, provides interim relief to victims and survivors, mitigating the enduring consequences of conflict-related harms and protecting their rights and dignity. By embedding a victim focus in ongoing development programs or the delivery of government services and by consulting affected communities about the ways to most effectively target development assistance, the government can leverage these programs to promote socioeconomic inclusion and address the urgent needs of victims of gross human rights violations. If they are appropriately designed, local recovery and reconstruction programs can form a foundation upon which reparative approaches can be based and built in the future.”*⁴⁹⁴

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.⁴⁹⁵ Some of these projects are conducted at the governmental level, such as Chile’s targeted assistance to victims

of torture, former political prisoners, and family members of the disappeared, where a mental health programme was administered by the Ministry of Health.⁴⁹⁶

GSF projects providing interim reparative measures have also built upon the foundation of humanitarian assistance and development programmes.⁴⁹⁷ They provided survivors in Guinea with livelihood support, school fees for children, psychological care, and medical rehabilitation, without losing sight of victims and survivors’ right to full reparations. Indeed, in the Democratic Republic of Congo, GSF, in partnership with a range of actors including survivors, is carrying out advocacy aimed at the adoption of a national reparation policy for survivors of sexual violence while advocating for a response to victims’ urgent needs.

2.4. 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.⁴⁹⁸ As Moffett describes, *“[t]he purpose of sanctions are to censure wrongdoing and to have consequences for the wrongdoer. As a countermeasure to another party’s breach of an international legal obligation, sanctions revolve around expressing moral messages and as a means to vindicate the law.”*⁴⁹⁹ 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.⁵⁰⁰ For instance, in 2020, Sudan was removed from the list of State Sponsors of Terrorism which it had been on for 27 years, after paying

493 OHCHR, ‘Report on the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo to the High Commission for Human Rights’ (March 2011) www.refworld.org/docid/4d708ae32.html accessed 16 May 2022.

494 Sarah Kihika and Eva Kallweit, ‘Building Blocks for Reparations, Providing Interim Relief to Victims Through Targeted Development Assistance’ (International Centre for Transitional Justice, September 2020) 8 <https://www.ictj.org/publication/building-blocks-reparations-providing-interim-relief-victims-through-targeted> accessed 16 May 2022.

495 Ibid 16-19.

496 Ibid 18.

497 GSF, ‘Projects’ www.globalsurvivorsfund.org/projects accessed 16 May 2022.

498 European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, ‘Freeze and Seize Task Force’: Almost €30 Billion of Assets of Russian and Belarussian Oligarchs and Entities Frozen by the EU so Far’ (8 April 2022) https://ec.europa.eu/neighbourhood-enlargement/news/freeze-and-seize-task-force-almost-eu30-billion-assets-russian-and-belarussian-oligarchs-and-2022-04-08_en accessed 1 May 2022.

499 Luke Moffett, ‘Sanctions for War, Reparations for Peace?’ *OpinioJuris* (1 April 2022) <http://opiniojuris.org/2022/04/01/sanctions-for-war-reparations-for-peace/> accessed 16 May 2022.

500 Ibid.

\$335 million to victims of al-Qaeda attacks on U.S. embassies in East Africa.⁵⁰¹

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. In this respect, a lawful confiscation and repurposing regime could have two purposes: first, to contribute to halting and preventing international human rights and criminal law violations; and second, to address reparation needs.⁵⁰² Insofar as reparations are one of the least-funded post-conflict or transitional justice measures,⁵⁰³ this approach may be an avenue to financing reparations for conflict-related crimes, including CRSV, in the Ukraine-Russia situation. This is even more poignant given Russia's refusal to acknowledge conflict-related crimes to start with, let alone to remedy them.

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. Legislation in most jurisdictions requires proof that the assets are 'ill-gotten gains' or the proceeds of criminal conduct.⁵⁰⁴ It is therefore not adequately equipped to confiscate the assets of Russian oligarchs, whose wealth results from historical corruption and is now entwined in purportedly lawful

businesses. Another key challenge relates to the lack of transparency from states about the presence of frozen assets in their jurisdiction, including their amount. This lack of transparency and access to information creates an obstacle for litigation efforts on behalf of victims.⁵⁰⁵ Moreover, states must ensure that the process of confiscation and repurposing is anchored in due process and is respectful of property rights, while striking a balance with the rights of victims to effective reparations.⁵⁰⁶

On 17 March 2022, a group of ministers and commissioners⁵⁰⁷ issued a joint statement expressing commitment to "*prioritizing [our] resources and working together to take all available legal steps to find, restrain, freeze, seize, and, where appropriate, confiscate or forfeit the assets of those individuals and entities that have been sanctioned in connection with Russia's premeditated, unjust, and unprovoked invasion of Ukraine and the continuing aggression of the Russian regime.*"⁵⁰⁸

Bills recently introduced in Canada⁵⁰⁹ and the United States of America⁵¹⁰ represent concrete actions towards ensuring that the proceeds of any confiscated Russian assets can be used, at least in part, for the benefit of victims and survivors of conflict-related crimes, including CRSV survivors. Additional states should follow with similar action to further enable the financing of reparations.

501 Ibid; Khalid Abdelaziz, 'United States Takes Sudan Off Terrorism List After 27 Years' *Reuters* (14 December 2020) www.reuters.com/article/sudan-usa-idUSKBN2800TG accessed 16 May 2022.

502 Hogan Lovells, Global Survivors Fund, REDRESS and Goldsmith Chambers, 'Finance for Restorative Justice: Volume II' (19 June 2021) 14 www.hoganlovells.com/-/media/hogan-lovells/pdf/2021-pdfs/2021_06_25_finance_for_restorative_justice-volume_ii_stage_5.pdf accessed 16 May 2022.

503 'Lack of Aid Funds for Amputees, Rape Survivors, War Widows' *The New Humanitarian* (23 February 2009) www.thenewhumanitarian.org/report/83100/sierra-leone-lack-aid-funds-amputees-rape-survivors-war-widows accessed 1 May 2022.

504 Maria Nizerro, 'From Freeze to Seize: Dealing with Oligarchs' Assets in the UK' RUSI (13 April 2022) www.rusi.org/explore-our-research/publications/commentary/freeze-seize-dealing-oligarchs-assets-uk accessed 8 June 2022.

505 Hogan Lovells, Global Survivors Fund, REDRESS and Goldsmith Chambers, 'Finance for Restorative Justice: Volume II' (n502) 8.

506 Ibid 26.

507 The statement was signed by Dan Tehan MP, Minister for Trade Tourism and Investment, Australia; Chrystia Freeland, Deputy Prime Minister and Minister of Finance, Canada; Didier Reynders, Commissioner for Justice/Maired McGinness, Commissioner for financial services, financial stability and Capital Markets Union, European Commission; Bruno Le Maire, Minister for Economy, Finance and Recovery, France; Eric Dupond-Moretti, Minister of Justice, France; Christian Lindner, Federal Minister of Finance, Germany; Robert Habeck, Federal Minister for Economic Affairs and Climate Action, Germany; Marta Cartabia, Minister of Justice, Italy; Daniele Franco, Minister of Economy and Finance, Italy; NINOYU Satoshi, Chairperson of the National Public Safety Commission, Japan; FURUKAWA Yoshihisa, Minister of Justice, Japan; SUZUKI Shunichi, Minister of Finance and Minister of State for Financial Services, Japan; Priti Patel MP, Secretary of State for the Home Department, United Kingdom; Rishi Sunak MP, Chancellor of the Exchequer, United Kingdom; Janet L. Yellen, Secretary of the Treasury, United States; and Merrick B. Garland, Attorney General, United States

508 Government of Canada, 'Russian Elites, Proxies, and Oligarchs Task Force Ministerial Joint Statement' (17 March 2022) www.canada.ca/en/department-finance/news/2022/03/russian-elites-proxies-and-oligarchs-task-force-ministerial-joint-statement.html accessed 8 June 2022.

509 Parliament of Canada, First Session, Forty-fourth Parliament, 70 Elizabeth II, 2021 BILL S-217 'An Act respecting the repurposing of certain seized, frozen or sequestrated assets' (24 November 2021) www.parl.ca/DocumentViewer/en/44-1/bill/S-217/first-reading accessed 1 May 2022.

510 Congressman Tom Malinowski, 'House Passes Representatives Malinowski and Wilson's Bill to Sell Assets of Putin's Cronies to Help Ukrainian People' (27 April 2022) <https://malinowski.house.gov/media/press-releases/house-passes-representatives-malinowski-and-wilsons-bill-sell-assets-putins> accessed 1 May 2022.

2.5. Technical assistance and lessons learned

As mentioned in section V, UN agencies and other international organisations are providing technical assistance to the Ukrainian Government and, in doing so, are generating important guidance on preventing and responding to CRSV, including through

reparations. The available technical assistance, as well as lessons learned from countries in the region and beyond,⁵¹¹ are valuable to the government in ensuring that reparation frameworks are designed based on good practices and lessons learned, while recognising that any reparation framework should be tailored to the Ukrainian context and informed by survivors' views.



People with luggage stand on a train station platform at night in Lviv, Ukraine – March 4, 2022.

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511 UN Women, 'Reparations for conflict-related sexual violence: Lessons from the Western Balkans' (2017) <https://www.unwomen.org/en/digital-library/publications/2017/10/reparations-for-conflict-related-sexual-violence-lessons-from-the-western-balkans> accessed 6 May, 2022.



VII. 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,⁵¹² 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 CRSV.

⁵¹² *Ukraine v. Russian Federation* (Order) ICJ No.182/2022 (16 March 2022) www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf accessed 31 May 2022.

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.

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;⁵¹³
- 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.

513 Global Code of Conduct for Gathering and using information about systematic and conflict-related sexual violence (Murad Code) (13 April 2022) www.muradcode.com/murad-code accessed 10 June 2022.



Red Cross mission in Lviv, Ukraine – March 3, 2022.
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VIII. CONCLUSION

This Study and the voices of participating survivors demonstrate the grave impacts of CRSV on survivors, families, and society, and the urgent need for redress through the establishment of comprehensive and adequate reparation programmes. Reparations are acknowledged as one of the most victim-centric measures to deal with the consequences of conflict and conflict-related crimes, and what victims and survivors demand the most. Nevertheless, the establishment of reparation programmes is often unprioritised, insufficiently funded, or fail to acknowledge and redress the harms experienced by CRSV survivors.

In demonstrating the grave consequences of CRSV in Ukraine and the reality that it continues to be committed in a gruesome manner, the Study submits that reparations for survivors of CRSV committed since 2014 cannot wait. Urgent action by the Ukrainian Government, the international community, and Ukrainian civil society organisations is needed to obtain implementation of the above recommendations

and achieve effective reparation. This starts with the recognition of CRSV and of its survivors, and continues by laying the ground for the prompt establishment of a comprehensive reparation programme in line with international best practice and lessons learned from reparation programmes in other contexts. The promotion of survivors' agency and an active role for survivors in the design and implementation of reparation programmes is the foundation for ensuring that reparations achieve their desired purpose.

While working towards the establishment of reparation programmes, victims and survivors must be provided with urgent interim reparations to prevent irreparable and further harm. The frameworks for humanitarian assistance and domestic and international accountability must also promote rights-based, trauma-informed, and gender-sensitive approaches to working with victims and survivors. Doing so would enable responding to survivors' needs, offer lessons-learned, and provide a foundation to build upon for future reparation programmes.

“But first of all – to restore everything that was stolen, what was taken away, those lives that were taken away.”⁵¹⁴

514 THBLSSI01 (13 June 2021).

ANNEX I: DEMOGRAPHIC PROFILE OF PARTICIPATING SURVIVORS

Demographic Information		Number of Participants (total number: 20)	Percentage of Participants
Age at Time of Incident	Up to 17	1	5
	18-29	3	15
	30-39	3	15
	40+	10	50
	NA	3	15
Current Age	20-24	1	5
	25-29	2	10
	30-34	2	10
	35-39	3	15
	40-44	0	0
	45-49	2	10
	50-54	2	10
	55-59	4	20
	60+	4	20
Education	NA	1	5
	Secondary school	5	25
	Higher education	14	70
Marital Status	Unmarried	1	5
	Married	11	55
	Widowed	3	15
	Divorced	5	25
Number of Children	None	0	0
	1	6	30
	2	7	35
	3	1	5
	4	0	0
	5	1	5
	NA	5	25
Occupation at time of Incident	Employed	15	75
	Self-employed/Freelance/ Irregular work	2	10
	Studying	3	15
Occupation after CRSV, 2021	Employed	13	65
	Retired	1	5
	Self-employed/ Freelance/ Irregular work	4	20
	Unemployed and looking for work	1	5
	Unemployed and not looking for work	1	5

ANNEX II: GLOSSARY

The definitions in this glossary are limited to the use of these terms in the context of the Global Reparations Study and other projects of the Global Survivors Fund (GSF).

Survivors and Victims

Survivors. Persons who individually or collectively suffered harm as a result of violations of their fundamental rights through acts or omissions that constitute gross violations of international human rights law and/or serious violations of international humanitarian law. This non-legal term is often used interchangeably with the term victim (see *infra*), as the latter is the one most generally used in legal instruments. The term survivor is seen by many as empowering as it emphasises their strength and resilience instead of focusing on their suffering, but it is narrower and does not include deceased victims or indirect victims. Those who suffered or suffer harm are the ones who should decide which term best describes their situation. GSF uses both terms, depending on the context and the wishes of those who suffered harm.

Victims. Persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law and/or serious violations of international humanitarian law. The term ‘victims’ also includes the immediate family or dependants of the direct victim and persons who have suffered harm while intervening to assist victims in distress or prevent

victimisation.⁵¹⁵ Victims include not only natural persons but also organisations or institutions, and the environment.

Reparations and Remedies

Administrative remedies. Non-judicial mechanisms or procedures that victims/survivors of violations of gross international human rights law and/or serious violations of international humanitarian law can use to access their right to reparations and/or to prevent violations.

Comprehensive reparations. All measures needed to adequately address the harms suffered by victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law. Comprehensive reparations require a combination of measures of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. The notion of comprehensive reparations comes from the concept of ‘integral reparation’ as developed by the Inter-American Court of Human Rights; its use has now expanded to other bodies and legal instruments.

Collective reparations. Forms of reparation owed to groups of people who have suffered collective forms of harm as a result of gross violations of international human rights law and/or serious violations of international humanitarian law. Such groups are often bound by a common identity, culture, or ancestry. They may also have shared experiences, such as living in a community of those with such bonds or being subjected to similar violations. These collective measures can be symbolic and/or material.

⁵¹⁵ Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle 8.

Domestic/administrative reparation programmes.

Out-of-court/non-judicial processes or mechanisms established at the domestic level by states to provide reparation to certain categories of victims/survivors when large-scale, gross violations of international human rights law and/or serious violations of international humanitarian law occur. Such programmes are more sensitive to victims' situations and the realities of armed conflict as they are, in theory, meant to provide prompt access to reparations at no cost and with a lower evidential threshold than required before a court. In such programmes, states identify the violations and the victims/survivors to be redressed and provide them with reparation through an established procedure.

Judicial remedies. All judicial and quasi-judicial mechanisms and procedures at the national or international level to protect survivors' rights or to adjudicate cases involving the international crimes they have suffered. Many of these mechanisms can also order or recommend forms of reparation for the survivors. Their decisions are, per se, a form of satisfaction.

Judicial reparations. Measures awarded by judicial or quasi-judicial bodies to redress victims/survivors through a judgment or decision at the end of a legal process.

Remedies. Appropriate mechanisms that seek to address a gross violation of international human rights law and/or serious violation of international humanitarian law and are provided by the State or other duty-bearers.

Right to reparation. Right of victims of gross violations of international human rights law and/or serious violations of international humanitarian law. It consists of measures that the State or other duty-bearers must provide in response to those violations to recognise and address their consequences and the society's structural and gender inequalities that uphold systems of discrimination and violence. Reparations that victims/survivors are entitled to are generally recognised to include the five following

forms: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. These five forms of reparation are not mutually exclusive but complement each other as each addresses different needs that victims/survivors may have.

Reparation fund. Legal body or entity established at the domestic, regional, or international level to manage funds and provide reparation to specific categories of victims/survivors of international human rights law and/or international humanitarian law violations. A reparation fund can have different purposes depending on the mandate given, such as providing reparations to victims/survivors or assisting them in meeting their needs (e.g., physical rehabilitation, material support, or psychological rehabilitation).

Symbolic reparations. Measures aimed to acknowledge and facilitate the recognition of victims/survivors and the violations of international human rights law and/or international humanitarian law violations that have occurred. Fully symbolic reparation measures can include public apologies, commemoration initiatives, preservation of memory, the change of names of public spaces, and the creation of museums, parks, or memorials dedicated to the victims/survivors. All reparation measures should include a symbolic dimension (e.g., providing compensation along with an act of acknowledgement of responsibility).

Transformative reparations. Reparation measures that aim to have a transformative effect by addressing socio-cultural injustices, political, economic, gender, and structural inequalities, rather than simply bringing victims/survivors back to the *status quo ante*, one of inequality and discrimination. Doing so would merely reinstate or reinforce the structural conditions within society that allowed the violations to occur in the first place.⁵¹⁶

Urgent interim reparation. Interim measures provided by states to victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law to address the most urgent and immediate consequences of such violations and avoid irreparable harm.⁵¹⁷ It

516 United Nations, 'Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence' (n413) Guiding Principle 4; Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation (March 2007) International Meeting on Women's and Girls' Right to a Remedy and Reparation, Nairobi, Kenya; *González et al. ("Cotton Field") v. Mexico* (Preliminary Objections, Merits, Reparations and Costs) Inter-American Court of Human Rights Series C No. 205 para. 450.

517 United Nations, 'Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence' (n413) Guiding Principle 7.

should not be confused with humanitarian or other assistance measures. Urgent interim reparation is based on the recognition of State responsibility and requires State and political support. It is granted while victims/survivors wait for comprehensive reparation. Such measures have been provided by states in, for example, South Africa or Timor-Leste.

Forms of Reparation

Compensation. Monetary measures that seek to address harms by economically assessing and quantifying them. These harms can include economic loss, loss of one's life plan, physical and mental harm, and moral damage.⁵¹⁸

Guarantees of non-repetition/non-recurrence. A key form of reparation that includes different measures aimed at addressing the structural causes of the violation, including any kind of discrimination, that can contribute to preventing further violations, such as (a) ensuring effective civilian control of military and security forces; (b) ensuring/putting in place justice system reforms and strengthening the independence of the judiciary; (c) providing international human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; (d) reviewing and reforming laws and practices contributing to or allowing violations of international human rights and/or international humanitarian law; (e) working with all sectors of society to challenge expressions of patriarchal power and transform masculinities; (f) fostering an enabling environment for civil society; (g) investing in education, arts, and other cultural interventions.⁵¹⁹ Guarantees of non-repetition do not depend exclusively on State actors: civil society organisations, religious and community leaders, artists, and educators, among others, have a crucial preventive role and contribute to creating and sustaining an environment conducive to the full realisation of rights.

Recognition. Form of satisfaction for victims/survivors. It is the acknowledgement of the victim/survivor as an individual, who has a value of their own, and an acknowledgement of the fact that they have suffered gross violations of international human rights law and/or serious violations of international humanitarian law, that they are not responsible for what happened, and that they are entitled to reparations to address the harms they suffered. It implies the consideration and acknowledgement of how the person has been affected and has suffered due to the environment and actions of others. Recognition can take place through different measures such as the investigation, prosecution, and punishment of perpetrators; a public apology; or the provision of reparations as part of a domestic reparations programme.

Rehabilitation. Measures that include all essential services that victims/survivors need to carry out their lives in a dignified way. It includes adequate, comprehensive, and timely medical and psychological care, as well as legal and social services.⁵²⁰

Restitution. Measures that, whenever possible and advisable, seek to restore the victim/survivor to the original situation prior to the violations. Restitution can include measures such as restoring someone's liberty or enjoyment of rights, return to their place of residence, or restoring employment.⁵²¹

Satisfaction. Forms of reparation that aim to provide victims and survivors with a sense of dignity and recognition. Different types include (a) measures aimed to stop continuing violations; (b) full and public disclosure of the truth; (c) search for the whereabouts of disappeared persons and the remains of those killed; (d) official declarations or judicial decisions that restore the dignity, reputation, and rights of the victims and their next of kin; (e) public apologies, including acknowledgement of the facts and acceptance of responsibility.⁵²²

518 Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle 20.

519 Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle 23. See also UNGA, 'Report of the Special Rapporteur on the promotion of truth, justice and guarantees of non-recurrence' A/72/523 (12 October 2017).

520 Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle 21.

521 Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle 19.

522 Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle 22.

Interim Reparative Measures

Interim reparative measures. Term coined by GSF to refer to measures provided to victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law by non-duty bearers (e.g., international organisations, civil society organisations, and other actors) in situations where states or other duty-bearers are unable or unwilling to comply with their responsibility to provide reparations. Receiving these measures does not substitute the obligations that states or other responsible parties have to provide reparations.

Assistance

Assistance/relief. Provision of resources or services that aim to respond to the basic needs of populations suffering from armed conflict, natural disasters, or other human-made crises. They are generally provided as part of development aid and humanitarian assistance programmes.

Interim assistance/relief. Provision of resources or services that apply during a particular period to respond to the urgent and immediate needs of populations suffering from armed conflict, natural disasters, or human-made crises.

Principles and Approaches

Co-creation. Methodological approach developed by GSF in which survivors/victims develop reparation processes and measures and other activities concerning their rights; as right holders, they play an active role in the mapping, design, implementation, monitoring, and evaluation of such processes/activities.

Do No Harm. This key ethical principle seeks to ensure that actions, assistance, processes, or other interventions do not have unintended harmful consequences. Interventions must not cause any further damage and suffering, either physical or psychological, on victims/survivors or otherwise put them at risk.

Informed consent. Legal and ethical obligation requiring that victims/survivors, witnesses, or other persons participating in interviews, research, or any other activity provide voluntary consent based on full disclosure and comprehension on how the information provided will be used, which information will be kept confidential, how the information will be protected, and the potential risks that the use of information could have for their safety and well-being. The ability to give voluntary informed consent is based on a general requirement of having the competency to do so.

Gender-sensitive. Approach that seeks to analyse and acknowledge how acts, experiences, violence, and harms can have different meanings and impacts for individuals because of their gender or gender identity, sexuality, or sexual orientation. This approach should be used in the mapping, design, implementation, monitoring, and evaluation of reparation processes. It should include the adoption of safeguards against gender biases, adequate training, and the development of gender-sensitive research methodologies.

Participation. The process by which affected individuals or groups of people, such as victims/survivors, take part in an activity. It can imply different modalities and levels of involvement. Regarding reparation measures, victims/survivors have a right to participation, which should be meaningful and effective throughout the whole process of mapping, design, implementation, monitoring, and evaluation.

Survivor-centred. Approach that places survivors at the centre of the process by prioritising their rights, needs, and wishes and ensures they are treated with dignity and respect. Often, the term survivor-centred refers to the actual approach of working with victims/survivors. The term survivor-centric refers to the policies, procedures, and broad responses that prioritise the rights, needs, and wishes of the victim/survivor.

Trauma-sensitive. Approach that seeks to understand and consider the impact that trauma can have on victims/survivors; acknowledges and respects that the responses to trauma are different for every victim/survivor and vary depending on a broad range of factors, including culture, gender, age, beliefs, socio-economic status, the existence of a supportive environment or education level.

Sexual and Reproductive Violence

Conflict-related sexual violence (CRSV). Acts or patterns of sexual violence against people of all genders and ages occurring during a conflict or post-conflict setting that have direct or indirect links with the conflict or that occur in other situations of concern such as in the context of political repression.⁵²³ CRSV includes all violations of a person's sexual autonomy and sexual integrity; it can be an expression of discrimination exacerbated by the conflict and is generally characterised by humiliation, domination, and destruction. CRSV can take many forms, including but not limited to acts of rape, forced pregnancy, forced sterilisation, forced abortion, forced prostitution, sexual exploitation, trafficking for sexual purposes, sexual enslavement, forced circumcision, castration, sexual torture, forced nudity, or any other form of sexual violence of comparable gravity.

Forced marriage. Marriage in which one and/or both parties have not personally expressed their full and free consent to the union. In the context of CRSV, the term forced marriage is often mistakenly used to refer to conjugal or sexual slavery, which takes place when a person is made to serve as a de facto spouse, coerced to conduct acts or carry out tasks of both sexual and non-sexual nature. Child marriage, a union in which at least one of the parties is under 18 years of age, is considered forced marriage.

Sexual slavery. Situation in which a person exercises ownership over one or more persons and coerces them to engage in an act or acts of a sexual nature.

Sexual torture. Acts of a sexual nature that are intentional, cause severe physical or mental suffering to the victim, and are committed for a specific prohibited objective or purpose such as obtaining information, punishing, intimidating, or any other discriminatory reason. It can also include threats to commit those acts and the real danger of being subjected to them. For various international and domestic judicial and quasi-judicial bodies, torture also requires the involvement or acquiescence of a public official.

Sexual violence. Acts of a sexual nature or attempts to obtain a sexual act or other acts which target sexual functions against people of all gender and ages committed without consent or in a coercive context that makes genuine consent impossible. These acts violate their sexual autonomy or sexual integrity; sexual violence is an expression of discrimination that is generally characterised by humiliation, domination, and destruction. Under certain conditions, sexual violence can amount to genocide, crimes against humanity, and war crimes.

⁵²³ United Nations, 'Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence' (n413) 2.

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