



GRAND-DUCHÉ DE LUXEMBOURG
Représentation permanente
auprès de l'OSCE

Joint Statement on the invocation of the Moscow Mechanism to address the arbitrary detention of Ukrainian civilians by the Russian Federation amidst human rights violations and humanitarian impacts of Russia's war of aggression against Ukraine
1463rd Meeting of the Permanent Council
29 February 2024

Madam Chair,

I am delivering this statement on behalf of the following 45 participating States: Albania, Andorra, Bosnia and Herzegovina, Canada, Georgia, Iceland, Liechtenstein, Moldova, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland, Türkiye, the United Kingdom, the United States of America, and the European Union Member States.

Today, our delegations will send the following letter to ODIHR Director Matteo Mecacci, invoking the Moscow Mechanism, with the support of Ukraine, as we continue to have concerns regarding violations of international humanitarian law and international human rights law following Russia's full-scale war of aggression against Ukraine, particularly with regard to the arbitrary detention of Ukrainian civilians by the Russian Federation.

Director Mecacci,

On February 24, 2022, the Russian Federation, with the support of Belarus, launched a full-scale war of aggression against Ukraine. This expanded invasion took place against the backdrop of Russia's ongoing aggression against Ukraine that has, since 2014, violated Ukraine's sovereignty, independence, and territorial integrity within its internationally recognized borders, extending to its territorial waters.

In 2022 and 2023, 45 OSCE Delegations, following bilateral consultations with Ukraine under the Vienna (Human Dimension) Mechanism, invoked Paragraph 8 of the Moscow (Human Dimension) Mechanism. As a result of these invocations, OSCE participating States received the reports of the independent missions of experts, which confirmed our shared concerns about the impact of the Russian Federation's invasion and acts of war, its violations and abuses of human rights, and violations of international humanitarian law in Ukraine.

We remain particularly alarmed by the findings of the expert missions that some of the violations amount to war crimes and that some violations may amount to crimes against humanity.

As Russia's war of aggression against Ukraine enters its third year and Russia's illegal occupation of the Autonomous Republic of Crimea and the city of Sevastopol enters its eleventh year, we continue to witness human suffering on an appalling scale and shocking reports of violations of international humanitarian law and of international human rights law, many of which may amount to the most serious international crimes.

A number of credible sources, including the Moscow Mechanism expert missions, ODIHR, and the UN, as well as civil society organizations, have reported that the Russian Federation has arbitrarily detained large numbers of civilians in Ukraine. According to these sources, Ukrainian civilians have become victims of arbitrary detentions, abductions, kidnapping and other forms of arbitrary deprivation of liberty, including instances of enforced disappearances. Many remain detained or are considered missing, as their whereabouts are unknown.

The OSCE itself has faced the unacceptable detention of three OSCE Special Monitoring Mission (SMM) officials who have been held in Russian captivity for almost 700 days, despite repeated calls for their release.

The initial detention of Ukrainian civilians occurs in the parts of Ukraine's territory temporarily controlled or occupied by Russia, often in improvised and unofficial places of detention. The civilian detainees are then reportedly transferred to other locations within the occupied territory or deported to the Russian Federation or other places where they are held in detention facilities. In many cases civilian detainees are held incommunicado.

Those detained include representatives of Ukrainian local authorities, humanitarian volunteers, human rights defenders, other members of civil society, journalists, media actors, members of clergy, teachers, and ordinary citizens.

In most cases civilians are detained without being informed about the grounds for their detention and without information about their whereabouts being communicated. For this reason, the location and status of civilian detainees has proven difficult to ascertain, with information about their circumstances being vague or outright refused.

According to testimonies of victims and witnesses, Russia's actions towards civilian detainees are marked by the profound disregard for human dignity, including the use of torture, sexual violence, and ill-treatment. Civilian detainees have not been granted access to a lawyer and the ICRC has been refused access to them. They have also described enduring deplorable detention conditions, including severely overcrowded cells, poor access to sanitation, and lack of medical attention.

We are deeply concerned about the severity and frequency of these violations and abuses. We are particularly alarmed by reports of cases of summary executions of civilians in Russian detention.

We recall that OSCE participating States have committed themselves to respect the right to liberty and to refrain from arbitrary arrest or detention.

We stress that the deprivation of liberty in violation of fundamental rules of international law, if committed as part of a widespread or systematic attack directed against a civilian population, may constitute a crime against humanity.

We also remind that the prohibition of torture is a peremptory norm of international law without territorial limitation, which applies at all times and in all places.

We further note that the 2020 Tirana OSCE Ministerial Decision on Prevention and Eradication of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment reminds all participating States that, inter alia, prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.

Gravely concerned by the continuing impacts of Russia's ongoing aggression against Ukraine, in particular on the civilian population, the delegations of Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, The

Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Türkiye, the United Kingdom, and the United States of America, following bilateral consultations with Ukraine under the Vienna Mechanism, invoke the Moscow (Human Dimension) Mechanism under Paragraph 8 of that document.

We request that ODIHR inquire of Ukraine whether it would invite a mission of experts to build upon previous findings and establish the facts and circumstances surrounding possible contraventions of relevant OSCE commitments, violations and abuses of human rights, and violations of international humanitarian law and international human rights law, as well as possible cases of war crimes and crimes against humanity, associated with or resulting from the arbitrary deprivation of liberty of Ukrainian civilians by the Russian Federation; and to collect, consolidate, and analyze this information with a view to offer recommendations, as well as provide the information to relevant accountability mechanisms, as well as national, regional, or international courts or tribunals that have, or may in future have, jurisdiction.

We also invite ODIHR to provide any relevant information or documentation derived from any new expert mission to other appropriate accountability mechanisms, as well as national, regional, or international courts or tribunals that have, or may in future have, jurisdiction.

Thank you for your attention.