

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence**

Ref.: AL RUS 8/2023  
(Please use this reference in your reply)

12 June 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 52/7, 51/8, 45/3, 44/5, 51/13 and 45/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of widespread use of torture or other cruel, inhuman or degrading treatment or punishment inflicted by Russian military officials against Ukrainian civilians and prisoners of war, held in detention facilities run by Russian military forces in Ukraine, within the context of the ongoing armed attack by the Russian Federation against Ukraine. If established, these allegations could constitute individual violations and, as explained further below, may also amount to a pattern of State-endorsed torture or other cruel, inhuman or degrading treatment or punishment.

We are additionally bringing to the attention of your Excellency's Government allegations specifically concerning four individuals – Mr. Mykhailo Chendey, Mr. Anatoliy Harahatyi, Mr. Oleksandr Kharlats and Mr. Anatoliy Tutov – whose reported cases would serve to further illustrate the existence of the above-mentioned pattern.

Please note that a copy of the present allegation letter will be sent to the Government of Ukraine for information.

According to the information received:

*Alleged pattern of torture and other cruel, inhuman or degrading treatment or punishment*

Since the beginning of the Russian Federation's military attack against Ukraine,<sup>1</sup> Russian troops have been targeting Ukrainian civilians in areas under their occupation, including particularly veterans and former service personnel of the Ukrainian armed forces; persons who directly or indirectly cooperated with such forces; those who openly criticised the armed attack, the Russian army and/or political leadership; as well as senior representatives and officials of local Ukrainian authorities, who have been refusing to cooperate with the Russian military forces.

Typically, the arrest of Ukrainian civilians at their houses or places of work, is being conducted, usually by a group of seven to fifteen Russian service personnel, including members of the intelligence services, following the search of their houses, and the seizure of documents and electronic devices. In some instances, civilians have been arrested in the streets of residential areas, at Russian military checkpoints or near Russian military vehicles.

Subsequently, those arrested would be brought to places of detention, without an appropriate warrant of arrest or court order. Most of the times, they would be transported blindfolded, with a bag over their heads, and sometimes after having been forced to stand outside the detention facility for hours in freezing temperatures, hands tied, without food and unable to use toilets.

During transportation, they would be threatened, insulted, searched, and beaten. After arrival at places of detention, they would not be allowed to meet with a lawyer, to receive visits from family members or from the International Committee of the Red Cross (ICRC). In multiple cases, Russian authorities would not acknowledge the deprivation of liberty of these persons or would conceal their fate or whereabouts, thus subjecting them to enforced disappearance. Oftentimes, the family members of those deprived of their liberty and forcibly disappeared would receive information about the places of detention of their loved ones only after their release or from other released persons who had seen their relative in captivity. Many families still do not know the fate and whereabouts of their loved ones, who are suspected to be in detention by Russian forces.

Places of detention have included police stations, prisons or pre-trial detention centres. In some cases, however, particularly when civilians would be arrested in small villages, they would be kept in garages and/or basements of private and/or commercial civilian infrastructures for the first few days and then later transferred to larger detention centres.

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<sup>1</sup> For a description of the political and military context, and the applicable legal regime see Report of the Independent International Commission of Inquiry on Ukraine (A/HRC/52/62): [https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A\\_HRC\\_52\\_62\\_AUV\\_EN.pdf](https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A_HRC_52_62_AUV_EN.pdf); as well as Report of the Office of the High Commissioner for Human Rights on the treatment of prisoners of war and persons hors de combat in the context of the armed attack by the Russian Federation against Ukraine: <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-thematic-report-POWs-ENG.pdf>

In the region of Donetsk, detention, as well as subsequent interrogations, would mostly take place in police departments and other detention centres, as well as in the so-called “Department for combating organised crime of the Ministry of Internal Affairs of the Donetsk People’s Republic”.

People appeared to be detained anywhere from a few days up to two or three months or even longer.

During detention, Ukrainian civilians would be interrogated and subjected to treatment or punishment constituting torture or otherwise cruel, inhuman or degrading, primarily geared for the purpose of obtaining strategic information on the Ukrainian armed forces or as a punishment for collaborating with or supporting them, and/or to enforce loyalty towards the Russian army.

Methods of torture or other cruel, inhuman or degrading treatment or punishment would include: electrocution with a stun gun or a military phone that carries a current and can be used for electrocution known as the “tapik”; severe and prolonged beatings with hands, feet, iron and plastic truncheons, bats, hammers and other items; threats, including death threats and threats of sexual violence; ethnically motivated violence (such as beatings for speaking Ukrainian or for self-identifying as Ukrainian and/or beatings accompanied by the torturer’s denial of Ukraine’s existence as a State); mock executions; different forms of coercion; exposure to cold and/or to bright light for hours; and/or depriving detained persons of food, appropriate clothing and medications.

In at least three places of detention, in the Kharkiv and the Zaporizhzhia regions, namely the Balaklia town police department; the Izium city police department, both in Kharkiv region; and the Berdiansk penal colony n. 77, Zaporizhzhia region, a clear division of roles among Russian military officers between guards and convoys, interrogators, torturers and supervisors operated.

The supervisors would be members of the Russian Federation’s Federal Security Service (FSB). In many cases, interrogators would have a typical accent of the North Caucasian, Far Eastern and Siberian parts of the Russian Federation.

Some Ukrainian civilians who would “confess” under this pressure and mistreatment that they helped the Ukrainian resistance would be forcibly transferred and held in places located in the territory of the Russian Federation or in Crimea<sup>2</sup>. Others would only be released when they would agree to cooperate with the Russian military forces. Some of them would be forced to

<sup>2</sup> References to Crimea should be read and understood in full compliance with General Assembly resolution 68/262 (A/RES/68/262): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/17/PDF/N1345517.pdf?OpenElement>; 71/205 (A/RES/71/205): <https://daccess-ods.un.org/tmp/1631437.2420311.html>; 72/190 (A/RES/72/190): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/462/64/PDF/N1746264.pdf?OpenElement>; 73/194 (A/RES/73/194): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/451/02/PDF/N1845102.pdf?OpenElement>; 73/263 (A/RES/73/263): <https://daccess-ods.un.org/tmp/8286983.37078094.html>; 74/17 (A/RES/74/17): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/400/94/PDF/N1940094.pdf?OpenElement>; 74/168 (A/RES/74/168): <https://daccess-ods.un.org/tmp/349041.70781374.html>; 75/29 (A/RES/75/29): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/345/86/PDF/N2034586.pdf?OpenElement>; 75/192 (A/RES/75/192): <https://daccess-ods.un.org/tmp/5104591.84646606.html>; 76/179 (A/RES/76/179): <https://daccess-ods.un.org/tmp/8733249.90272522.html>; and 77/229 (A/RES/77/229): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/764/92/PDF/N2276492.pdf?OpenElement>.

sign a written statement to that effect or to have their statement video-recorded.

As a result of torture, ill-treatment and poor conditions of detention, many civilians reportedly suffered physical and psychological traumas, including bruises, hematomas, physical wounds, hallucinations, damages to internal organs, fractures and cracks in bones, extreme weight loss, sensory impairment as well as motor losses, strokes or exacerbation of chronic diseases.

Most of them were not provided with adequate medical assistance during their detention or after release in territories under Russian occupation. As a result of incapacitation, many require ongoing medical evaluation and treatment, and are facing serious financial constraints as a consequence.

According to reports, there have also been cases of extrajudicial, summary or arbitrary executions of Ukrainian civilians, or deaths as a result of torture, in the regions of Kharkiv, Kherson and Zaporizhzhia, as well as in the Donetsk region.

#### *Case of Mr. Mykhailo Chendey*

On 29 August 2022, two Russian servicemen wearing balaclavas arrested Mr. Chendey at his house, accused him of providing artillery reconnaissance to the Ukrainian armed forces, and seized his mobile phone.

Mr. Chendey was taken to a local police station located in Heorhiivskyi lane 4, in Iziium, and held in the basement, for twelve days.

The basement would be cold and damp and Mr. Chendey would only have shorts to wear (the clothes he was wearing when he was arrested). He would be given meals of low-quality nutrition twice a day, consisting of a portion of borscht diluted with vinegar.

Initially, he was held together with two other persons which, however, later became four, including, for one day, a person with mental health problems.

While deprived of liberty, he was not permitted to meet with his family and was not provided access to a lawyer.

Mr. Chendey was interrogated several times. Each time he would be taken out of his cell and, with a bag on his head, he would be brought to an interrogation room.

On 30 August 2022, the second day of his detention, Mr. Chendey was interrogated for approximately two and a half hours, in a room located on the second floor of the Iziium police station. During the interrogation, five Russian servicemen hit and kicked him numerous times, which resulted in one of his arms being fractured.

During the second interrogation, which took place on the fourth day of detention, Russian soldiers subjected Mr. Chendey to electrocution, fired a

weapon over his head approximately twenty times, and shoved the weapon barrel into his ear and mouth, in what would appear to be a mock execution.

On one occasion, Mr. Chendey was also beaten in his cell.

During his detention at the police station in Iziium, Mr. Chendey could hear screams of women detainees, who sounded as though they were being tortured or otherwise mistreated.

As a result of the violence suffered, Mr. Chendey succumbed to the pressure and “confessed” (such confessions being unlawful under international law) that he had conducted artillery reconnaissance for the Ukrainian Armed Forces.

On 9 September 2022, after ten days of interrogation and detention, Mr. Chendey lost consciousness. He was taken by ambulance to the Iziium Central Hospital, where he was diagnosed with internal bleeding and critically low blood pressure. Visible signs of torture or cruel, inhuman or degrading treatment or punishment on his body were apparent. He had not eaten due to the pain caused by the beatings inflicted on him and had lost a lot of blood. At the hospital, he was transfused with four litres of blood.

#### *Case of Mr. Anatoliy Harahatyi*

On 2 March 2022, Mr. Anatoliy Harahatyi recorded a video, from his apartment, of a Russian military convoy entering Savyntsi, the village where he lived, in the region of Kharkiv, and posted it in the social media.

On 9 March 2022, fearing that he could be identified as the author of the video, Mr. Harahatyi and his wife left their apartment and moved to their cottage house located approximately one kilometre away. They stayed there until 28 May 2022.

During the morning of 28 May 2022, eight individuals wearing Russian military uniforms raided Mr. Harahatyi’s cottage house and brought him to his apartment in Savyntsi, which they searched. As a result, Mr. Harahatyi’s documents, including passport, birth certificate, pension certificate, house certificate of property as well as his photo and video equipment, money, and gold jewellery were seized.

Subsequently, Mr. Harahatyi was brought to a garage located in Soborna street 49, where he was held from approximately 8 a.m. to 3 p.m. There, he was electrocuted, and, as a result, he fainted. He was brought back to consciousness and electrocuted again, which caused him to faint again. He was also beaten several times.

At approximately 3 p.m., Mr. Harahatyi was taken to the basement of the premises of a gas supply company, the JSC Kharkivhaz, located in Poltavaska street 7, in Balaklia. He was held there, together with another Ukrainian civilian, until approximately 3 p.m. of the 29 May 2022.

While in this basement, Mr. Harahatyi was forced to wear a bag on his head and threatened to be shot if he removed it. He was given no food and no water.

Subsequently, Mr. Harahatyi was brought to the police station of Balaklia, located in Zhovtneva street 33, where he was placed in cell No. 3 and held until 4 September 2022.

The cell reportedly measured approximately twelve square metres and was designed for a maximum of three persons. However, a number of other persons, ranging from seven to eleven, were also held there. There was no window and no ventilation. Six detainees would sleep on beds, while the other detainees would sleep on their clothes spread over the concrete floor.

The cell had a toilet and a sink. Water from the tap was collected in plastic bottles and used for drinking, but there was often no water in the sink, sometimes for several days. Detainees could shower only by bottle that they would use to pour water, in the area over the toilet.

Mr. Harahatyi and the other detainees were provided with food twice a day, in the morning and in the evening. It usually consisted of poor-quality porridge and sometimes of a soup. On one occasion, they were not provided with food for a period of three consecutive days.

After a month and a half of detention, approximately in July-August 2022, due to the deteriorating health condition, and with the assistance of a guard reportedly named “Sasha”, Mr. Harahatyi was transferred to another cell where he was held in better conditions. This cell was bigger, measuring approximately sixty-four square metres; had a window, a toilet and a shower.

At least until 19 June 2022, when the guards acknowledged his detention by accepting a package from his wife, the detention of Mr. Harahatyi would amount to an enforced disappearance. Prior to that date, his family had no confirmation of the fact or the place of his detention. Mr. Harahatyi did not have access to a lawyer.

He was interrogated six times, on 30 May 2022, on approximately 13 June 2022, on approximately 20 or 23 June 2022, on approximately 6 or 9 July 2022, on approximately 10 July 2022, and on approximately 30 July 2022. As a result, he succumbed to the pressure and forcibly “confessed” to artillery reconnaissance for the Ukrainian armed forces and for “holding telephone conversations” with Ukrainian service personnel.

The interrogations would take place in a special interrogation room where Mr. Harahatyi would be brought blindfolded, with a bag over his head. During the interrogations, Russian soldiers would beat Mr. Harahatyi all over his body with their hands and kick him with their feet; they would use a stun gun against him if he answered questions in Ukrainian language; and threatened to shoot him and to cut off his fingers.

On several occasions, and contrary to Mr. Harahatyi’s loyalty and conscience, they forced him to record a video in support of the Russian army and political leadership and threatened him to beat him and kill him if he refused to do so.

Interrogations would be conducted by three or four Russian soldiers, who always wore balaclavas or plastic masks to cover their faces. An additional one, who would call himself an “investigator”, would also be present sometimes, asking questions and managing the conduct of the interrogations.

Some interrogators had an accent typical of the Northern Caucasus part of the Russian Federation; others had an accent typical of the Central European part of the country. The guards belonged to the self-proclaimed “Luhansk people’s republic”.

On 4 September 2022, Mr. Harahatyi was released, but was threatened that he should not film or publish any video in support of Ukraine otherwise he would be killed. Mr. Harahatyi was not returned the documents that were seized during his arrest, and he was not provided with any other documentation related to the period during which he was held in detention.

While being detained, Mr. Harahatyi would constantly hear screams of other people allegedly being tortured or ill-treated in other cells.

#### *Case of Mr. Oleksandr Kharlats*

At the time of Russia’s military attack against Ukraine in 2022, Mr. Oleksandr Kharlats worked at a local cement and slate plant in the village of Verbivka, in the region of Kharkiv. Previously, during 2015-2016, he had served the Ukrainian Armed Forces in the combat zone in eastern Ukraine.

At the time when the village was occupied by the Russian military forces, Mr. Kharlats’s son was engaged in the provision of humanitarian assistance to the civilian population. On approximately 10-12 March 2022, he and other volunteers who were bringing food to the local population were arrested by Russian military forces. All but Mr. Kharlats’s son were released later on, during the same day.

The morning following his arrest, Mr. Kharlats’s son called his father on the phone and told him that Russian military officers wanted to talk to him. Mr. Kharlats immediately went to the building of the local council where the Russian forces were based. When he arrived there, he was arrested. His son was released.

Subsequently, Mr. Kharlats was brought to his house, which was searched. During the search, Russian military officers found Mr. Kharlats’s Ukrainian military uniform and a Ukrainian flag.

Mr. Kharlats was then taken to the local school at Tsentralna street 68, where he was held for two days. The building was guarded by representatives of the self-proclaimed “Luhansk people’s republic”.

Mr. Kharlats would sleep on the floor. The building had no heating or electricity and the windows were broken. The temperature outside, at night, would drop to -16 Celsius degrees.

During the two days when he was held there, Russian soldiers threatened Mr. Kharlats with death and, on several occasions, fired shots over his head. They were seeking information on former servicemen of the Ukrainian armed forces who were living in the village.

At an unspecified date, Mr. Kharlats was released due to his poor health. He was, however, requested to report to the headquarters of the Russian military forces on a daily basis and was told that he would be killed if he tried to leave Verbivka.

Until 9 May 2022, Mr. Kharlats and his wife confirmed their presence to the Russian headquarters every day. They were subsequently released from this obligation but Mr. Kharlats was nevertheless told that he should continue to stay in the village.

After some time, following a rotation of Russian military contingents in Verbivka, Mr. Kharlats' house was searched again. On this occasion, a ceremonial Ukrainian military uniform and a quadcopter were found there.

On 30 July 2022, at approximately 7.30 p.m., Russian soldiers raided Mr. Kharlats' house again and arrested him. They seized his mobile phone. They covered Mr. Kharlats' face with a hood wrapped around his head with tape in the area of the eyes and brought him to the police station in Balaklia, in Zhovtneva street 33. Mr. Kharlats would be held there until 31 August 2022.

The Balaklia police station would be guarded by representatives of self-proclaimed "Luhansk people's republic"; including some persons called "Sasha", "Kolia" and "Nikolai Nikolaevich". Russian soldiers at the police station were subordinated to representatives of the FSB, who managed the police station and participated in interrogations.

Mr. Kharlats was held in a double cell, measuring approximately 4.5 square metres. Together with him, a number of other persons, ranging from seven to nine, were held in the same cell. Some of the detainees would have to sleep on the floor. There was a toilet and a sink which, however, often did not work.

Detainees were not able to take a shower, they would wash themselves with water collected in plastic bottles, also used for drinking. They were provided with food twice a day, once in the morning and once in the evening. Food would be of a poor quality, mainly unsalted, undercooked rice or porridge or a soup without bread. On one occasion, they were given no food for a period of two consecutive days.

Detainees could go to the toilet twice a day, once in the morning and once in the evening. The cell had no windows. Once, a guard gave the detainees candles that they used to make light during meals.

Mr. Kharlats was interrogated six or seven times, including at night. Interrogations would last approximately twenty to thirty minutes and each time they were conducted according to the following methodology:

Mr. Kharlats would be forced to sit on a chair and electrocuted with a “tapik”, forced to hold his hands along his body during electric shocks. If he tried to put his hands on his knees, the soldiers would beat his legs with batons. During the electric shocks, Mr. Kharlats would fall on the floor several times and have convulsions. He would also be hit on his back by the butts of machine guns and by batons on his limbs and torso. He would be forced to kneel, and soldiers would step on his calves with their boots.

Interrogations were allegedly conducted by three to five Russian soldiers wearing balaclavas. Those believed to be FSB representatives would be asking questions; the other military officers would engage in the alleged torture. One of them was reportedly named “Marat”.

The aim of the interrogations was to obtain from Mr. Kharlats information on local residents who had pro-Ukrainian views, and on their relatives; on who, in the village, would be in possession of weapons; and where the combat positions of the Ukrainian Armed Forces would be. During interrogation, Mr. Kharlats was also pressured to fight on the side of the Russian army.

On 31 August 2022, Mr. Kharlats was released. He was not given any document related to the period while he was held in detention and was ordered to visit the Russian armed forces headquarters after two weeks, to confirm his presence in the village.

As a result of the physical violence inflicted on him, a lump formed on Mr. Kharlats’s back. At present, he has severe back pain and takes painkillers. His legs and knees were beaten so badly that he can barely move. The full extent of his injuries has not yet been documented.

#### *Case of Mr. Anatoliy Tutov*

During 2008-2014, Mr. Anatoliy Tutov was a member of a local self-government body, in the Iziium district, in the region of Kharkiv, delegated by the Ukrainian political party Svoboda. After 2014, he became a member of another Ukrainian political party UKROP. He is known in the community as an entrepreneur and for his engagement in local civic space.

On 9 August 2022, at approximately 6 p.m., two servicemen of self-proclaimed “Luhansk people’s republic” and one representative of the military commandant’s office of the Russian Federation, called “Senia”, raided Mr. Tutov’s house, seized his phone, passport, money and a campaign leaflet, and took him to the police station of Balaklia, in Zhovtneva street 33.

At the police station, a bag was put over his head and, after approximately one hour and a half, he was brought to a cell where he was allowed to remove the bag from his head.

Mr. Tutov was held at the Balaklia police station from 9 August to 2 September 2022. His wife tried to find out about his whereabouts but would be told that he was not detained. A few days after his disappearance, Tutov’s wife again tried to locate her husband and brought a package for him to the Balaklia police station which the guards accepted.

He was held in cell No. 0, measuring approximately four and a half square metres, together with a number of other persons, at different times over that period, ranging from six to eight detainees.

The cell only had one bunk bed, no lighting, no windows, no toilet, and no sink. Mr. Tutov would sleep on the floor, until the other detainees left him a place on the bed, when it became difficult for him to move, due to the pain caused by the beatings he suffered during interrogation (see below).

Mr. Tutov and the other detainees were taken to the toilet twice a day, once in the morning and once in the evening. During the rest of day, they would have to use a plastic bottle. They did not have access to a shower. They were provided with food - a dry unsalted porridge or pasta, or sometimes a soup, left over by Russian military officers - twice a day, once in the morning and once in the evening. Eating would take place in the dark or over the light of a candle. From 19 August 2022 approximately, Mr. Tutov and the other detainees were allowed to receive food packages from their relatives.

At least until that day, the detention of Mr. Tutov would amount to enforced disappearance, for prior to that date, his family had no confirmation of the fact or the place of his detention. However, even after, the ICRC were not allowed to visit Mr. Tutov and other detainees, the contacts with relatives were not allowed. They were never informed of the reasons of their detention.

Mr. Tutov was interrogated four times. The first interrogation session took place on 9 August 2022, on the evening he was arrested.

Guards escorted Mr. Tutov from his cell with a bag covering his head, to an interrogation room located on another floor of the building.

In the interrogation room, the bag on Mr. Tutov's head was removed. Three servicemen of the Russian army interrogated him. They were wearing balaclavas, and spoke with a distinct accent, typical of the North Caucasian part of the Russian Federation.

They called Mr. Tutov "Nazi" and beat him. They attached the wires of a "tapik" to his fingers and sent through electric shocks. Mr. Tutov was also hit with plastic pipes and accused of being a member of Ukrainian nationalist political parties. When he asked the Russian servicemen to stop the violence, they would laugh.

The interrogation session lasted for approximately one and a half hours. At the end of the interrogation, Mr. Tutov's head was again covered by a bag and he was then taken back to his cell.

The second interrogation session took place the following day, on 10 August 2022, at approximately 11 a.m.

In the interrogation room, Mr. Tutov was beaten while his head was still covered with a bag, which made it difficult for him to breathe. The bag would be removed in the course of the interrogation. Russian service personnel

electrocuted him; shot a hunting rifle near his head and stuck the weapon barrel in his mouth; beat him with a gun butt; threatened to shoot him in the kneecap, to cut off his fingers and ears, and pull out his nails.

They forced Mr. Tutov to take his penis out of the pants, then they put a knife on it and threatened to cut it off and to rape him. The interrogation lasted for approximately two hours during which Mr. Tutov lost consciousness several times.

The third interrogation session took place on 13 August 2022. During the interrogation, Mr. Tutov was again beaten and electrocuted. He was also hit several times on the head.

In addition to the three servicemen who conducted the first two interrogations, a fourth Russian serviceman participated in this third interrogation.

During the evening of the same day, a Russian serviceman named “Zver” (“Beast”) entered Mr. Tutov’s cell and again beat him, as well as the other detainees who were being held there. Mr. Tutov was kicked in the ribs and had difficulties in breathing as a result.

The fourth interrogation session took place on 21 August 2022, at approximately 11 a.m. in an interrogation room. He was electrocuted while being forced to jump chanting Ukrainian slogans (such as “Who does not jump is a Muscovite!”, “Glory to Ukraine! – Glory to the nation! – Death to the enemies!”) and to sing the Ukrainian national anthem.

Russian soldiers also forced Mr. Tutov to bark and crow, laughing at him and filming him on their mobile phones. When he could not jump well or would fall on the ground due to physical pain, they would increase the electric charges inflicted on him and beat him with sticks. The interrogation session lasted for approximately one and a half hours.

On 2 September 2022, at approximately 6 a.m., Mr. Tutov was released. His mobile phone was returned to him; but not his passport. He was not given any document in relation to the period he spent in detention.

Following his release, Mr. Tutov was diagnosed with bruises on his internal organs, two broken ribs, and cracks in several other ribs.

It is believed that interrogations and torture of Ukrainian civilians, at the Balaklia police station, were conducted by two groups of Russian servicemen. One group would be composed of military officers with an accent of the North Caucasian part of the Russian Federation. The leader of the second group would reportedly have an accent of the Central European part of the country and could allegedly be a member of the FSB.

Without prejudging the accuracy of the information received, we are writing to express our most heightened alarm at these allegations which could indicate, if confirmed, the existence of a deliberate and consistent practice of torture and other physical and psychological ill-treatment on Ukrainian civilians and prisoners of war for the purposes of extracting information or forcing a confession, or for punitive or

discriminatory reasons, such as the perceived or real allegiance, support for or former involvement with the Ukrainian armed forces or authorities.

Such practices, including electric shocks, beatings, hooding, mock executions and other threats of death, would constitute torture or other cruel, inhuman or degrading treatment or punishment, prohibited at all times and in all circumstances under international human rights and humanitarian law. They would amount to war crimes and if proved to be systematic or widespread, to crimes against humanity.

The consistency in the manner and methods in which these practices are reported suggests that they are committed within the framework of a higher order policy requiring a level of coordination, planning and organisation, as well as the direct authorization, deliberate policy or official tolerance from superior State's authorities. Similarly, the reported pattern of enforced disappearances by taking individuals away and not disclosing their whereabouts appears to be used to spread terror and anguish among local population.

Should these allegations be factually established, the conduct described would be in violation of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, set forth in article 5 of the Universal Declaration of Human Rights (UDHR); article 7, read alone and in conjunction with article 2(3), of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Russian Federation in 1973; and at least, articles 1, 2, 15 and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), also ratified by the Russian Federation in 1987.

Such prohibition is absolute, no derogation from it is ever possible, even in times of armed conflict or any other security situation or state of emergency (article 4(2) of the ICCPR; and article 2(2) of the CAT). Such acts described in this letter would also violate international humanitarian law as a matter of customary international law (*jus cogens*) and pursuant to the relevant Geneva Conventions (see Annex), which prohibits torture and other cruel, inhuman or degrading treatment or punishment or comparable brutality. Torture and other inhuman treatment are war crimes, while the systematic or widespread practice of torture constitutes a crime against humanity.

Torture and other cruel, inhuman or degrading treatment or punishment, including the poor and degrading conditions of detention, may seriously affect a person's physical and mental health, violate the victim's right to the enjoyment of the highest attainable standard of physical and mental health, recognized in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the Russian Federation in 1973, and further generate the risk of an arbitrary deprivation of life in a violation of article 6 of the ICCPR.

The deprivation of liberty of Ukrainian civilians and/or prisoners of war, as alleged above, would take place also in unofficial places of detention, such as basements or otherwise other civilian infrastructures, therefore - should this be established - failing to meet basic international standards for the humane treatment of detainees. In this connection, we stress that those deprived of liberty are entitled to receive visits from the ICRC and to have access to a lawyer.

If confirmed, these practices would be in violation of the right to liberty and security of person, protected by article 3 of the UDHR and article 9 of the ICCPR. These provisions contain fundamental guarantees against arbitrary detention, which also remains prohibited under international humanitarian law and, under certain circumstances, may constitute a crime against humanity, pursuant to customary international law.

The prohibition of enforced disappearance, which is absolute and cannot be justified by any circumstances whatsoever, including a state of war. Indeed, enforced disappearance is prohibited under customary international humanitarian law and such a prohibition has attained the status of *jus cogens*. We emphasize that detention records should always be kept, including in times of armed conflict, and should include the number of detainees, their nationality and the legal basis on which they are held, whether as prisoners of war or civilian internees. Internal inspections and independent mechanisms should have timely access to all places where persons are deprived of their liberty for monitoring purposes, at all times. In times of armed conflict, the location of all detention facilities should be disclosed to the ICRC. Enforced disappearances entail violations of articles 6, 7, 9, 10 and 16, read alone and in conjunction with article 2(3) of the ICCPR with regard to disappeared persons and of article 7, read alone and in conjunction with article 2(3) of the ICCPR with regard to their relatives.

Certain inhumane acts always remain prohibited and cannot be made subject to lawful derogations. These include the prohibitions against the taking of hostages, abductions, enforced disappearances, or unacknowledged detention; as well as the deportation or forcible transfer of population without grounds permitted under international law.

Under international human rights law and international humanitarian law, States have an obligation to investigate alleged violations effectively, promptly, thoroughly and impartially. Such obligation is made most explicit in articles 12 and 13 of the CAT and articles 13, 17 and 87 of Geneva Convention III and articles 27 and 32 of Geneva Convention IV. Furthermore, pursuant to the CAT, States parties to the treaty are obligated to provide mutual judicial assistance to permit such investigations and prosecutions in torture or other ill-treatment to proceed (article 9).

As the Special Rapporteur on torture and other cruel, inhuman or degrading treatment emphasized in her most recent report to the Human Rights Council, the obligation to investigate and prosecute crimes of torture falls first to the national authorities and does not vary in times of armed conflict.<sup>3</sup>

Victims of human rights or humanitarian law violations shall be provided with equal and effective access to justice. They shall also be provided with remedy and reparation for the harm suffered. Accountability should lead to the adoption of measures to prevent future violations<sup>4</sup>.

In connection with the above alleged facts and concerns, please also refer to the **Annex on Reference to international human rights and humanitarian law** attached to this letter which cites international human rights and humanitarian law

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<sup>3</sup> See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/52/30).

<sup>4</sup> Ibid.

instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the legal grounds for arrest and detention of Messrs. Mykhailo Chendey, Anatoliy Harahaty, Oleksandr Kharlats and Anatoliy Tutov, whether their detention had been properly registered, and explain how these measures comply with Russia's obligations under international human rights and humanitarian law. Please also advise what measures were taken to inform their relatives of about their arrest, and the place of their detention.
3. Please provide detailed and updated information on whether an investigation is underway or has been carried out in relation to the above-mentioned alleged four individual cases and the asserted policy and pattern of torture or other cruel, inhuman, or degrading treatment or punishment, as well as enforced disappearances and arbitrary detention, perpetrated on Ukrainian civilians and/or prisoners of war by Russian military personnel.
4. Please explain whether any investigation is being or was conducted in accordance with international standards, including the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002 edition) and please provide details on any result achieved, particularly in terms of accountability of perpetrators, including persons in positions of command; adoption of measures to halt any ongoing violation and to prevent recurrence of future incidents; and with regard to the rights of victims and their families to truth, justice and reparations, as appropriate. If no investigation has been carried out, please explain why.
5. Please provide information as to the directives, policies and laws applicable to Russian military personnel to ensure that torture and other cruel, inhuman or degrading treatment or punishment are prevented, including training and education protocols (article 10 CAT) and reviews of interrogation and custody rules (article 11 CAT), including those applicable in armed conflict.
6. Please provide detailed information on whether any investigation has been launched into any alleged extrajudicial, summary or arbitrary executions of Ukrainian civilians and/or prisoners of war carried out by Russian military officials, or persons associated to them, and please explain whether any such investigation was conducted in compliance with international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and what was the result, particularly in terms of accountability of perpetrators, including

of those in positions of command, and reparation to victims, if appropriate. If no investigation was launched, please explain why.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent any similar violations and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

Given the seriousness of these allegations, which question the adherence to the fundamental principles of the Geneva Conventions by the Russian armed forces involved in warfare in Ukraine, we would greatly appreciate a prompt response from Your Excellency's Government, including the possibility of discussing these matters of concern directly with your Excellency's Government diplomatic representatives in Geneva. We also reserve the right to express our concerns publicly. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Alice Jill Edwards  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Matthew Gillett  
Vice-Chair of the Working Group on Arbitrary Detention

Aua Baldé  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Ravindran Daniel Justin  
Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Fabian Salvioli  
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of  
non-recurrence

## Annex

### Reference to international human rights law and international humanitarian law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the following:

*Absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment*

Article 5 of the Universal Declaration of Human Rights (UDHR); article 7 of the International Covenant on Civil and Political Rights (ICCPR); and at least articles 1 and 2 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) establish the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment.

Attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to provide remedies to victims<sup>5</sup>.

States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) have explicit treaty duties to establish all acts of torture as offences under domestic law (art. 4), to exercise jurisdiction over said offences (art. 5), to receive complaints and examine them promptly and impartially (art. 13), and to investigate those allegations promptly and impartially (art. 12).

Defendants cannot rely on orders of a superior or public authority, or states of emergency, to exonerate their actions (art. 2 (3) and 2 (2)), while any legal mechanisms which interfere with that obligation, such as statutes of limitations, immunities or amnesties, are considered contrary to the non-derogable nature of the prohibition (art. 2(2)). Amnesties provided at domestic law do not remove criminal liability pursuant to international tribunals or universal jurisdiction. Prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (art. 15).

Victims are to be protected from reprisals or intimidation during said investigations (art. 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (art. 14).

States are to establish jurisdiction over all acts of torture on territoriality, flag State, active nationality, passive nationality and universal jurisdiction principles (art. 5). The CAT further imposes duties to extradite alleged offenders when they are not prosecuted (arts. 5 (2) and 7 (1)).

At no time shall torture be used to extract information or a confession (art. 1), and any statement which has been obtained via such methods, shall be excluded from

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<sup>5</sup> For full explanation of the obligations to criminalize, investigate and prosecute the crimes of torture and related ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/77/502): <https://documentsddsny.un.org/doc/UNDOC/GEN/N22/610/77/PDF/N2261077.pdf?OpenElement>

any proceedings except against a person accused of torture as evidence that the statement was made (art. 15).

States parties to CAT have overarching obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment via effective legislative, administrative, judicial and other measures (articles 2 and 16), to educate and train relevant personnel including military officials on the prohibition (article 10) and to keep all rules, instructions, methods and practices relating to interrogation, custody and treatment under systematic review (article 11).

Under international humanitarian law, torture and related ill-treatment is likewise absolutely prohibited.

Article 17, fourth paragraph, of the 1949 Geneva Convention III provides: “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.” - Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 17, fourth para.

Article 87, third paragraph, of the 1949 Geneva Convention III provides: “Any form of torture or cruelty is forbidden.” - Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 87, third para.

Article 89 of the 1949 Geneva Convention III provides: “In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.” - Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 89.

Article 32 of the 1949 Geneva Convention IV provides: “The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering ... of protected persons in their hands. This prohibition applies not only to ... torture ... but also to any other measures of brutality whether applied by civilian or military agents.” - Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, article 32.

According to article 50 of the 1949 Geneva Convention I, article 51 of the 1949 Geneva Convention II, article 130 of the 1949 Geneva Convention III and article 147 of the 1949 Geneva Convention IV, “torture or inhuman treatment” and “wilfully causing great suffering or serious injury to body or health” are grave breaches of these instruments. Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, article 50; Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva, 12 August 1949, article 51; Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 130; Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, article 147.

Also under international humanitarian law, similar investigative obligations exist as those under CAT. As a grave breach of each of the four Geneva Conventions of 1949, the High Contracting Parties are obliged: to enact legislation to provide penal

sanctions for persons committing, or ordering to be committed, torture and inhuman treatment, including biological experiments; to search for such persons in order to bring them to justice; and to prosecute suspects of acts of torture as grave breaches under universal jurisdiction, which is considered obligatory. States may discharge their obligation to investigate war crimes and prosecute the suspects by setting up international or mixed tribunals.<sup>6</sup>

The duty to investigate and prosecute torture as genocide, war crimes or crimes against humanity is also determined to be customary law, applicable for crimes committed in international and non-international armed conflict, which requires States to establish jurisdiction and investigate war crimes allegedly committed by its nationals or armed forces, or including outside their territory, and, if appropriate, to prosecute the suspects. Customary law has also established that soldiers have a duty to disobey orders of a superior for grave breaches and that there is no relief for following superior orders. Also considered customary norms are the rules against amnesties and statutes of limitation<sup>7</sup>.

#### *Absolute prohibition of enforced disappearances*

Enforced disappearance is prohibited under both international human rights and humanitarian law, and such a prohibition has attained the status of *jus cogens*. According to the UN Declaration on the Protection of all Persons from Enforced Disappearance (Declaration), States shall not practise, permit or tolerate enforced disappearances (article 2) and that no circumstances whatsoever, including the state of war can justify enforced disappearances (article 7).

The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. In particular, the WGEID recalls that the Declaration sets out the necessary protection by the State, in particular articles 9, 10, 11 and 12, which relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons. Article 13 also stipulates that steps shall be taken to ensure that all involved in the investigation, including the complainant, relatives, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

Enforced disappearance is also prohibited under the customary international humanitarian law (Customary IHL – rule 98). Furthermore, each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate (rule 117).

Enforced disappearance, which, under certain circumstances, may amount to a crime against humanity, entail violations of articles 6, 7, 9, 10 and 16, read alone and

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

in conjunction with article 2(3) of the ICCPR with regard to the disappeared person and of article 7, read alone and in conjunction with article 2(3) of the ICCPR with regard to family members.

### *Prohibition of arbitrary deprivation of life*

We also remind that article 3 of the UDHR and article 6 of the ICCPR recognize and protect the right to life of all human beings.

The right to life is the supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation. The right to life has crucial importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, the effective protection of which is the prerequisite for the enjoyment of all other human rights and the content of which can be informed by other human rights<sup>8</sup>.

Article 6 of the ICCPR is included in the list of non-derogable rights in article 4 (2) of the Covenant. Hence, the guarantees against arbitrary deprivation of life contained in article 6 continue to apply in all circumstances, including in situations of armed conflict and other public emergencies.

Wars and other acts of mass violence [are] a scourge of humanity resulting in the loss of many thousands of lives every year. Efforts to avert the risks of war and any other armed conflict, and to strengthen international peace and security, are among the most important safeguards of the right to life<sup>9</sup>.

### *Right to liberty and security of person*

Furthermore, we stress that States parties to the ICCPR have an obligation to respect and to ensure the rights under article 9 of the Covenant to all persons who may be within their territory and to all persons subject to their jurisdiction<sup>10</sup>.

Given that arrest and detention bring a person within a State's effective control, States parties must not arbitrarily or unlawfully arrest or detain individuals outside their territory. States parties must not subject persons outside their territory to, inter alia, prolonged incommunicado detention or deprive them of review of the lawfulness of their detention. The extraterritorial location of an arrest may be a circumstance relevant to an evaluation of promptness under paragraph 3<sup>11</sup>.

With regard to article 4 of the ICCPR, the Human Rights Committee observed that "(...) article 9 applies also in situations of armed conflict to which the rules of international humanitarian law are applicable. While rules of international humanitarian law may be relevant for the purposes of the interpretation of article 9,

<sup>8</sup> See Human Rights Committee, General comment n. 36, Article 6: right to life (CCPR/C/CG/36): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement>

<sup>9</sup> Ibid.

<sup>10</sup> See Human Rights Committee, General comment n. 35, Article 9 (Liberty and security of person): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/244/51/PDF/G1424451.pdf?OpenElement> ; as well as OHCHR, Arbitrary detention, torture and ill-treatment in the context of armed conflict in Eastern Ukraine: [https://www.ohchr.org/sites/default/files/Documents/Countries/UA/UkraineArbDetTorture\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/UA/UkraineArbDetTorture_EN.pdf) ; and Report of the Working Group on Arbitrary Detention A/HRC/16/47: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/102/76/PDF/G1110276.pdf?OpenElement>

<sup>11</sup> Ibid.

both spheres of law are complementary, not mutually exclusive. In conflict situations, access by the International Committee of the Red Cross to all places of detention becomes an essential additional safeguard for the rights to liberty and security of person”.<sup>12</sup>

Article 9 of the ICCPR is not included in the list of non-derogable rights of article 4, paragraph 2, of the Covenant, but there are limits on States parties’ power to derogate. States parties derogating from normal procedures required under article 9 in circumstances of armed conflict or other public emergency must ensure that such derogations do not exceed those strictly required by the exigencies of the actual situation. Derogating measures must also be consistent with a State party’s other obligations under international law, including provisions of international humanitarian law relating to deprivation of liberty, and non-discriminatory. The prohibitions against taking of hostages, abductions or unacknowledged detention are therefore not subject to derogation<sup>13</sup>.

There are other elements in article 9 of the ICCPR that cannot be made subject to lawful derogation under article 4. The fundamental guarantee against arbitrary detention is non-derogable, insofar as even situations covered by article 4 cannot justify a deprivation of liberty that is unreasonable or unnecessary under the circumstances. The existence and nature of a public emergency which threatens the life of the nation may, however, be relevant to a determination of whether a particular arrest or detention is arbitrary. Valid derogations from other derogable rights may also be relevant when a deprivation of liberty is characterized as arbitrary because of its interference with another right protected by the Covenant.<sup>14</sup>

During international armed conflict, substantive and procedural rules of international humanitarian law remain applicable and limit the ability to derogate, thereby helping to mitigate the risk of arbitrary detention. Outside that context, the requirements of strict necessity and proportionality constrain any derogating measures involving security detention, which must be limited in duration and accompanied by procedures to prevent arbitrary application, as explained in paragraph 15 above, including review by a court (...).<sup>15</sup>

The procedural guarantees protecting liberty of person may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights. In order to protect non-derogable rights, including those in articles 6 and 7 [of the ICCPR], the right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention must not be diminished by measures of derogation.<sup>16</sup>

### *Treatment of prisoners of war*

The treatment of prisoners of war (POWs) is specifically regulated by the Third Geneva Convention relative to the treatment of POWs and applicable customary

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.; see also OHCHR, Arbitrary detention, torture and ill-treatment in the context of armed conflict in Eastern Ukraine: [https://www.ohchr.org/sites/default/files/Documents/Countries/UA/UkraineArbDetTorture\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/UA/UkraineArbDetTorture_EN.pdf); see also Report of the Working Group on Arbitrary Detention A/HRC/16/47: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/102/76/PDF/G1110276.pdf?OpenElement>

international humanitarian law. States have a fundamental obligation to treat all POWs in their power humanely at all times, from the moment of their capture until their release and repatriation.<sup>17</sup>

Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach of the Third Geneva Convention relative to the treatment of prisoners of war (article 13).<sup>18</sup>

The obligation of humane treatment is the cornerstone of the protection conferred by the four Geneva Conventions. The specific prohibitions under article 13(1) derive from this obligation. It is further reflected in many of the provisions of the Third Convention that deal with the treatment during captivity and conditions of internment of prisoners of war. As a correlative of the obligation to treat all prisoners of war humanely, article 13(2) comprises an obligation on the Detaining Power to protect prisoners of war at all times, in particular against acts of violence or intimidation and against insults and public curiosity. This obligation involves protecting them from any physical or psychological abuse or threat thereof, and encompasses a prohibition on humiliating them, in particular by way of insults or exposure to public curiosity.<sup>19</sup>

Article 121 complements article 13, by adding a procedural safeguard that requires the Detaining Power to open an official enquiry as soon as the death or serious injury of a prisoner of war is caused or suspected to have been caused by a sentry, a prisoner of war or any other person.<sup>20</sup>

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<sup>17</sup> See <https://ihl-databases.icrc.org/ihl/full/GCIII-commentary>

<sup>18</sup> See ICRC, Prisoners of war: what you need to know: [https://www.icrc.org/en/document/prisoners-war-what-you-need-know#:~:text=\(1\)%20Prisoners%20of%20war%20must,breach%20of%20the%20present%20Convention.](https://www.icrc.org/en/document/prisoners-war-what-you-need-know#:~:text=(1)%20Prisoners%20of%20war%20must,breach%20of%20the%20present%20Convention.)

<sup>19</sup> See Commentary, op. cit., footnote 23

Ibid. ; see also [https://casebook.icrc.org/a\\_to\\_z/glossary/prisoners-war#:~:text=%E2%80%9CPrisoners%20of%20war%E2%80%9D%20are%20combatants,granted%20by%20international%20humanitarian%20law](https://casebook.icrc.org/a_to_z/glossary/prisoners-war#:~:text=%E2%80%9CPrisoners%20of%20war%E2%80%9D%20are%20combatants,granted%20by%20international%20humanitarian%20law)