



Call for Input to inform the High Commissioner's report to the Human Rights Council on the impact of casualty recording

Submission by the Ukrainian Helsinki Human Rights Union and Every Casualty Counts

11 February 2023

The [Ukrainian Helsinki Human Rights Union](#) ('UHHRU') was established in 2004. It is an independent non-profit and non-partisan organization. UHHRU is the largest association of human rights organizations in Ukraine, bringing together 28 human rights NGOs with the purpose of human rights protection. The UHHRU constitutes itself as the part of the Helsinki movement and continues the traditions and activities of the [Ukrainian Public Group to Promote the Implementation of the Helsinki Accords](#). UHHRU's mission is the realization and protection of rights and freedoms by promoting practical implementation of the humanitarian articles of the Final Act of the Conference for Security and Cooperation in Europe adopted in 1975, as well as other international standards and international obligations accepted by Ukraine in the sphere of human rights and freedoms.

Impact on right of access to justice and reparation

Casualty records can provide essential evidence for criminal prosecutions for war crimes, crimes against humanity and genocide. These efforts are most effective when information is recorded and acted upon promptly.

The [Ukrainian Helsinki Human Rights Union](#) ('UHHRU') is a founding member of the [Tribunal for Putin](#) ('T4P') initiative. T4P was established in March 2022, with the aim of gathering evidence to prosecute international crimes committed in the context of the Russian military aggression against Ukraine. More than 20 civil society organisations are now part of the T4P initiative. Participating organisations based across Ukraine document evidence of crimes daily and, after corroboration, these are compiled in a joint database. [As of 11 February 2023, the T4P database contained more than 30,000 entries, including details of 6,783 recorded deaths](#). T4P believes that in certain parts of the country it has collected more information about war crimes than either the Ukrainian government or international organisations.

Researchers for T4P gather information from open sources (social networks, media news, statements by the authorities) as well as interviewing witnesses and victims. Where possible, investigators visit and photograph the scene of a reported incident. This method of recording

casualties allows T4P researchers both to gather evidence and provide direct, prompt advice to survivors on their legal rights. They connect witnesses/survivors to sources of (free of charge) legal assistance so they can pursue individual legal claims.

As well as supporting individuals with legal claims, the T4P initiative has shared its complete database with the Office of the Prosecutor of the International Criminal Court. This resource has been made available to the Prosecutor for use as required in investigations and future prosecutions. T4P has also made its database available to all regional prosecutors' offices in Ukraine, following a direct request from the national General Prosecutor. The nature of the information gathered, and the way in which it is classified and stored, will allow investigators to identify patterns in crimes across any and every region on a day-by-day basis.

Information about casualties was part of the evidence examined by the Grand Chamber of the European Court of Human Rights in its [decision on admissibility in the case of Ukraine and the Netherlands v. Russia](#) (applications nos. 8019/16, 43800/14 and 28525/20).¹ This decision established that the Russian Federation had effective control over relevant parts of Donbass from 11 May 2014 until at least 26 January 2022, making it responsible for all acts and omissions constituting violations of the European Convention on Human Rights occurring in this region during this period.

Impact on missing persons and the right to truth

Transparent, verifiable casualty records can be used to counter political and military disinformation campaigns. Used in this way, casualty recording is an important tool in upholding the right to access information and the right to truth, both for victims' relatives and conflict-affected populations as a whole. It can also help identify persons who have gone missing in armed conflict.

In 2014 UHHRU created the Documentation Center to collect information on war crimes resulting from the Russian invasion of Crimea and occupation of two regions in Donbass by Russian proxies. One outcome of this was the creation of a database of deaths, both military and civilian, on both sides of the conflict. UHHRU published this information as an interactive online map and database, [Memorial Map](#), in an effort to counteract deliberate mis- and dis-information campaigns which benefited from the absence of publicly available information about the dead. It also served an important role in memorialising those who had died, given the lack of official public recognition (in both Ukraine and Russia) of the facts and circumstances of many of the deaths.

In 2021, this project and its research archives were adopted and transferred to the [Ministry of Reintegration of the Temporary Occupied Territories](#), to be used by its Peacebuilding Centre in a unified national database. However, the escalation of conflict in February 2022 reoriented the work of the Peacebuilding Centre to focus on prisoners of war.

¹ See [ECHR, CASE OF UKRAINE AND THE NETHERLANDS v. RUSSIA \(Applications nos. 8019/16, 43800/14 and 28525/20\), Annex to the Decision, 25 January 2023](#).

Preventative impact

Accurate casualty information is essential for national and international actors to respond promptly and effectively to humanitarian needs. However, its preventative impact is severely restricted by absence of political will.

UHHRU and other civil society organisations in Ukraine have documented evidence of international crimes arising from Russian military actions, including unlawful killings, since 2014. This information was shared repeatedly with relevant UN entities, the European Court of Human Rights and the International Criminal Court, in the form of individual applications as well as joint submissions made with Ukraine's General Prosecutor of the Ministry of Justice. Despite the clearly documented evidence, international political and judicial reaction to the unfolding situation was weak and slow.

As the decision of the Grand Chamber of the European Court (applications nos. 8019/16, 43800/14 and 28525/20) illustrates, casualty records can provide crucial clarification of clandestine military activity and state responsibility. Casualty data can have an important preventative impact, but only when it is acted upon appropriately. If the international community had reacted promptly and adequately to the evidence carefully documented in Ukraine since 2014, the escalation of conflict seen since February 2022 could have been prevented. The collective failure to examine and learn from previous deaths has led to tens of thousands more.

Recommendations

The international community should take long overdue action to hold accountable all those responsible for documented crimes resulting from Russian military aggression in Ukraine since 2014. This should include the urgent creation of a special tribunal for Ukraine.

In April 2021, UHHRU and other civil society organisations made a number of recommendations to the Ukrainian government concerning the creation of a state system for monitoring and documenting human rights, IHL and other violations committed during the military aggression of the Russian Federation. Many of these recommendations may be relevant for other states and international organisations establishing a casualty recording system and are reproduced here. The full statement can be found [here](#).

- Rather than simply focusing on establishing a state agency (Documentation Center), the system should also be aimed at building systemic and coordinated relations between the government and civil society in the field of monitoring and documenting violations, as well as at the development and adoption of regulatory, technical and methodological documents to ensure the creation and smooth operation of a database of violations; collection of data regarding violations and exchange of such data between state authorities and law enforcement agencies; work with information sources and victims/witnesses; their inclusion as participants in the justice-seeking process; ensuring maximum protection for

victims/witnesses, such as protecting their personal information, ensuring their mental safety during interviews, obtaining informed consent to any action taken in relation to these persons; use of data; training of civil servants; interaction between state authorities in using data for the purpose of ensuring the implementation of transitional justice measures, implementation of reintegration policy, implementation of domestic and foreign policy, as well as implementation of dialogue processes at the regional and state level; fair distribution of reparations;

– Safeguards should be established to avoid abuse due to the existence of a “monopolistic” state agency (Documentation Center), in particular, by creating a system of external experts and observers (for instance, in the form of a Supervisory Board) from among [Ukrainian] human rights organizations and international organizations;

– All central executive bodies, local self-government bodies and other state bodies (civil-military administrations, local state administrations, united territorial communities) should be involved in the operation of the state monitoring and documentation system;

– The effectiveness of the state monitoring and documentation system will depend on the level of cooperation between state authorities, in particular, on cooperation with law enforcement as well as with [Ukrainian] human rights organizations and international organizations that have accumulated data regarding violations and have experience in collecting, processing and using such data [due to having been monitoring and documenting events related to the military aggression of the Russian Federation];

– The creation of a state monitoring and documentation system will require making some difficult decisions, since it will involve documenting human rights, IHL and other violations committed by all parties [to the armed conflict started by the Russian Federation.] Documentation must be thorough and impartial.