

The Enforcement of International Humanitarian Law in Ukraine

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Abbreviations

ATO	Anti-Terrorist Operation
CCU	Criminal Code of Ukraine
DPR	Donetsk People’s Republic
DRC	Democratic Republic of the Congo
GRC	Global Rights Compliance
HRMMU	Human Rights Monitoring Mission in Ukraine
ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDPs	Internally displaced persons
IHL	International humanitarian law
JFO	Joint Forces Operation
LPR	Luhansk People’s Republic
MIA	Ministry of Internal Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organisation for Security and Co-operation in Europe
OPG	Office of the Prosecutor General
SBI	State Bureau of Investigations
SBU	Security Service of Ukraine
SCSL	Special Court for Sierra Leone
SGBV	Sexual and gender-based violence
UAF	Ukrainian Armed Forces
URCD	Unified Register of Court Decisions

Executive Summary

This Report is an updated version of the report published by Global Rights Compliance (“GRC”) in November 2016, wherein GRC conducted an extensive analysis of Ukraine’s approach to prosecuting conflict-related crimes and its compliance with prevailing international humanitarian law (“IHL”) standards. The 2016 version of the Report examined the judgements related to the armed conflict in the east of Ukraine and occupation of Crimea delivered since 2014 until August 2016, whereas the present version focuses on the cases considered between 1 September 2016 and 1 April 2021. The Report considers the different ways through which the Ukrainian justice system charges conduct related to the conflict, and therefore the analysis includes a broad range of offences from state treason and encroachment upon territorial integrity of Ukraine to terrorism and ordinary crimes of torture or unlawful detention, to violations of laws and customs of war and waging an aggressive war.¹

The Report aims to provide useful guidance and recommendations to the Government of Ukraine (“GoU”) and its prosecuting authorities on how to approach their international legal obligations to investigate and prosecute serious violations of IHL and other serious violations of international law,² within the current framework of the Criminal Code of Ukraine (“CCU”). In its updated Report entitled “The Domestic Implementation of International Humanitarian Law in Ukraine”,³ GRC

¹ For the purpose of the present Report, ‘conflict-related cases’ include all crimes set out in Articles 5-8bis of the Rome Statute, namely genocide (Article 442 of the Criminal Code of Ukraine (‘CCU’)), war crimes (Article 438) and the crime of aggression (Article 437). Importantly, crimes against humanity are not criminalised in the current version of the CCU, therefore no such cases are listed in Annex A. In addition, conflict-related cases refer to crimes commonly understood by the Ukrainian investigators and prosecutors to be linked to occupation of Crimea and Donbas, namely actions aimed at forcible change or overthrow of the constitutional order or the seizure of state power (Article 109), encroachment on the territorial integrity and inviolability of Ukraine (Article 110), financing of actions committed for the purpose of forcible change or overthrow of the constitutional order or seizure of state power, change of borders of the territory or state border of Ukraine (Article 110-2), high treason (Article 111), assault on the life of a statesman or public figure (Article 112), sabotage (Article 113), espionage (Article 114), obstruction of lawful activity of the Armed Forces of Ukraine and other military formations (Article 114-1), terrorist act (Article 258), engaging in commission of a terrorist act (Article 258-1), public appeals to commit a terrorist act (Article 258-2), creation of a terrorist group or organisation (Article 258-3), facilitating commission of a terrorist act (Article 258-4), financing terrorism (Article 258-5), propaganda of war (Article 436), use of weapons of mass destruction (Article 439), development, production, acquisition, storage, sale, transportation of weapons of mass destruction (Article 440), ecocide (Article 441), assault on the life of a representative of a foreign state (Article 443), crimes against persons and institutions with international protection (Article 444), illegal use of the symbols of the Red Cross, Red Crescent, Red Crystal (Article 445), piracy (Article 446), and mercenary (Article 447).

² According to its international obligations, Ukraine must investigate war crimes allegedly committed by its nationals or armed forces, or on its territory and, if appropriate, prosecute the suspects: Customary IHL, Rule 158, GC I, Article 49; GC II, Article 50; GC III, Article 129; GC IV, Article 146; [Rome Statute](#), Preamble, paras 4,6, and Article 1.

³ GRC, [‘The Domestic Implementation of International Humanitarian Law in Ukraine’](#) (February 2021).

proposed that Ukraine’s current legislation, particularly the CCU, undergo a series of modifications to allow effective penal sanctions for the full range of serious violations of IHL. However, as will be discussed throughout the present Report, the current legal framework still provides numerous charging options when prosecuting conflict-related criminal conduct.

Article 438 of the CCU, whilst lacking specificity,⁴ allows the prosecution of an array of the Rome Statute war crimes. Further, the CCU allows the prosecution of a number of more specific crimes that also amount to war crimes. These are contained in Chapter XIX entitled “Crimes Against the Established Order of the Military Service - (military crimes)”⁵ and Chapter XX entitled “Crimes against Peace, Security of Humanity and International Order”. The CCU also encompasses a range of domestic (ordinary) crimes that enable the prosecution of combatants⁶ for crimes against civilians, prisoners of war and other protected persons.⁷ Therefore, whilst engaging in the amending of the CCU to allow for fair and effective prosecutions of the full range of serious violations of IHL, it is critical to ensure full accountability and compliance with Ukraine’s international obligations by using the current version of the CCU, particularly Article 438, to its optimal effect.

Accordingly, the Report considers the recent efforts of the GoU in prosecuting conflict-related crimes using the relevant provisions of the CCU. In particular, the Report reviews a total of 1,230 conflict-related cases⁸ between September 2016 to April 2021, made available in the Unified Register of Court Decisions (“URCD” or “Register”) (see Annex A) and public information provided by the Office of the Prosecutor General (“OPG”) of Ukraine upon GRC’s request, and analyses the steps that Ukraine has taken towards meeting its international law obligations to investigate and prosecute violations of IHL. In sum, the Register appears to show the following practices and trends concerning the activities of Ukrainian prosecution authorities in relation to conflict-related crimes.

To begin with, since 2016 – and particularly in 2020 – there has been a significant increase in investigations and prosecutions of conduct that ostensibly amounts to serious violations of IHL or international crimes, specifically war crimes under Article 438 of the CCU. This is most evident in

⁴ See p. 74-77.

⁵ In relation to Chapter XIX (19), the incorporated crimes consist of crimes prosecuted only in relation to members of the Armed Forces of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the Security Service of Ukraine and other entities related to defence. See, CPC, arts 432, 433, 434, 439.

⁶ The term ‘combatants’ here and throughout the Report encompasses members of the Ukrainian Armed Forces, Russian Armed Forces and non-state armed groups, and does not necessarily presume that the entire conflict in Ukraine is on international character.

⁷ See e.g., CCU, Articles 115 (intentional murder), 121 (intentional grievous bodily harm), 126 (beatings), 127 (torture), 146 (illegal confinement or kidnapping), 146-1 (enforced disappearance), 152 (rape), 153 (sexual violence), 186 (robbery), 187 (brigandage).

⁸ See footnote 1.

comparison to the pre-2016 period.⁹ In particular, 265 criminal investigations under Article 438 of the CCU have been registered in the Unified Register of Pre-trial Investigations between 1 January 2016 and 31 January 2021.¹⁰ Most of the investigations (228) were initiated between January 2020 and January 2021.¹¹ At least 41 cases concerning the violation of the laws and customs of war (under Article 438 of the CCU) have been submitted to the courts.¹² Nonetheless, so far only two criminal proceedings have resulted in the accused being found guilty of war crimes under Article 438,¹³ one of which, at the time of writing, is being reviewed by the Supreme Court of Ukraine at the cassation stage.¹⁴

In addition, the following patterns have been assessed in relation to the charging of conflict-related conduct:

- (i) A pattern of charging “separatists” (or those suspected of assisting the military effort of the separatists in the east of Ukraine) for participation in the conflict, including: Article 437(2): Waging an Aggressive War;¹⁵ Article 258-3: Participation in a Terrorist Group or Terrorist Organisation;¹⁶ Article 258-5: Financing of Terrorism;¹⁷ Article 260(2): Participation

⁹ See, GRC, “Enforcement of IHL in Ukraine” (2016), Annex A.

¹⁰ Office of the Prosecutor General of Ukraine, Response to a Request for Public Information No. 27/3-4102BIX-20 of 11 September 2020, Annex (Information on registered criminal offences (proceedings) on the territory of Ukraine, Donetsk and Luhansk regions and the results of their pre-trial investigation in 2016, 2017, 2018, 2019, January-August 2020; Information on registered criminal offences (proceedings) on the territory of the Autonomous Republic of Crimea and the city of Sevastopol and the results of their pre-trial investigation in 2016, 2017, 2018, 2019, January-August 2020).

¹¹ Office of the Prosecutor General of Ukraine, Response to a Request for Public Information No. 27/3-4102BIX-20 of 11 September 2020, Annex (Information on registered criminal offences (proceedings) on the territory of the Autonomous Republic of Crimea and the city of Sevastopol and the results of their pre-trial investigation in January-August 2020; Information on registered criminal offences (proceedings) on the territory of Ukraine, Donetsk and Luhansk regions and the results of their pre-trial investigation in January-August 2020).

¹² Annex A, pp. 2-27.

¹³ [Case No. 243/4702/17, Judgment of 4 July 2017](#), Sloviansk City District Court of Donetsk region; [Case No. 415/2182/20, Judgment of 18 May 2020](#), Lysychansk city court of Luhansk region.

¹⁴ [Case No. 243/4702/17, Judgment of 4 July 2017](#), Sloviansk City District Court of Donetsk region; [Case No. 415/2182/20, Judgment of 18 May 2020](#), Lysychansk city court of Luhansk region.

¹⁵ See [Case No. 219/10228/15-к, Judgment of 22 August 2019](#), Artemivsk City District Court of the Donetsk region; [Case No. 328/67/16-к, Judgment of 25 February 2016](#), Tokmatsky district court of the Zaporizhia region; [Case No. 409/2799/16-к, Judgment of 13 December 2016](#), Bilokurakyne District Court of the Luhansk region; [Case No. 1-кп/225/195/2017, Judgment of 8 February 2017](#), Dzerzhynsk City Court of the Donetsk region; [Case No. 263/15014/15-к, Judgment of 16 May 2018](#), Zhovtnevy District Court of Mariupol, Donetsk region.

¹⁶ See [Case No. 686/6951/16-к, Judgment of 9 September 2016](#), Khmelnytsky City District Court; [Case No. 699/268/15-к, Judgment of 6 October 2016](#), Prydniprovsky District Court of Cherkasy; [Case No. 766/10952/17, Judgment of 22 April 2019](#), Berdyansk City District Court of the Zaporizhia region; [Case No. 233/3432/16-к, Judgment of 18 January 2019](#), Konstanynivka City District Court of the Donetsk region.

¹⁷ [Case No. 263/13081/17, Judgment of 11 October 2017](#), Zhovtnevy District Court of Mariupol, Donetsk region; [Case No. 727/11208/17, Judgment of 19 January 2018](#), Shevchenkivsky District Court of Chernivtsi; [Case No. 409/194/18, Judgment of 5 February 2018](#), Bilokurakyne District Court of the

in Unlawful Paramilitary or Armed Formations;¹⁸ and Article 263: Illegal Handling of Weapons, Ammunition or Explosives, often combined with one of the above-listed crimes.¹⁹ There have been hundreds of indictments charging “separatists” (or those suspected of assisting the military effort of the separatists in the east of Ukraine) under these offences.²⁰

- (ii) A pattern of charging “separatists” who organised “referenda” and/or undertook or continued public service on the territories outside Ukraine’s control with crimes against the state security of Ukraine, including Article 109: Actions Aimed at Forcible Change or Overthrow of the Constitutional Order or the Seizure of State Power;²¹ Article 110: Encroachment upon Territorial Integrity and Inviolability of Ukraine;²² and Article 111: State treason;²³
- (iii) A pattern of generally prosecuting or charging Ukrainian (government/military) officials for a range of domestic crimes against the established order of military service, such as: Article

Luhansk region; [Case No. 263/2412/18, Judgement of 3 March 2018](#), Zhovtnevy District Court of Mariupol, Donetsk region; [Case No. 591/1186/18, Judgement of 29 March 2018](#), Court of Sumy of Zarichny District.

¹⁸ See [Case No. 243/6774/20, Judgment of 20 August 2020](#), Slovyansk City District Court of the Donetsk region; [Case No. 229/680/20, Judgment of 10 August 2020](#), Druzhkivka City Court of the Donetsk region; [Case No. 243/3738/2020, Judgment of 8 May 2020](#), Slovyansk City District Court of the Donetsk region; [Case No. 229/1107/20, Judgment of 27 April 2020](#), Druzhkivka City Court of the Donetsk region.

¹⁹ [Case No. 243/7084/15-к, Judgement of 28 December 2016](#), Sloviansk City District Court of the Donetsk region; [Case No. 221/2405/15-к, Judgement of 24 November 2017](#), Illichivsk District Court of Mariupol, Donetsk region; [Case No. 415/3619/17, Judgment of 26 February 2018](#), Lysychansk City Court of the Luhansk region; [Case No. 415/2182/20 Judgment of 18 May 2020](#), Lysychansk City Court of the Luhansk region; [Case No. 328/67/16-к, Judgment of 25 February 2016](#), Tokmak District Court of the region.

²⁰ Annex A, pp. 3-274.

²¹ See, e.g., [Case No. 699/268/15-к, Judgment of 6 October 2016](#), Prydniprovsky District Court of Cherkasy; [Case No. 326/195/16-к, Judgment of 20 February 2017](#), Chernihiv District Court of Zaporizhzhia region; [Case No. 415/3619/17 Judgment of 29 March 2018](#), Lysychansk City Court of the Luhansk region.

²² Article 110(1) criminalises: “Wilful actions committed to change the territorial boundaries or national borders of Ukraine in violation of the order provided for in the Constitution of Ukraine (254к/96-BP) and also public appeals or distribution of materials with appeals to commit any such actions”. See e.g., [Case No. 171/684/19, Judgment of 12 August 2020](#), Apostolove District Court of the Dnipropetrovsk region; [Case No. 266/1776/20, Judgment of 23 July 2020](#), Primorsky District Court of Mariupol, Donetsk region. Article 110(2) criminalises trespass against the territorial integrity of Ukraine “if committed by a member of public authorities or repeated by any person, or committed by an organised group, or combined with inflaming national or religious enmity”. See, e.g., [Case No. 426/3687/20, Judgment of 10 August 2020](#), Svatove District Court of the Luhansk region; [Case No. 221/3328/20, Judgment of 27 August 2020](#), Volnovakha District Court of the Donetsk region.

²³ [Case No. 755/1317/17, Order of 30 January 2017](#), Dniprovsky District Court of Kyiv; [Case No. 760/791/18, Judgement of 24 January 2018](#), Solomiansky District Court of Kyiv; [Case No. 755/15405/15-к, Judgement of 19 November 2018](#), Dniprovsky District Court of Kyiv; [Case No. 759/5737/17, Judgement of 11 July 2019](#), Sviatoshynsky District Court of Kyiv; [Case No. 522/10548/18, Judgement of 12 July 2019](#), Primorsky District Court of Odesa.

365: Excess of Authority or Official Powers;²⁴ Article 408: Desertion;²⁵ Article 425: Neglect of Duty in Military Service;²⁶ and Article 426: Inaction of Military Authorities;²⁷

- (iv) The occasional prosecution of conduct that may amount to IHL violations or other serious violations of international law by both parties to the conflict as domestic crimes, including: Article 115: Murder;²⁸ Article 121: Intended Grievous Bodily Harm;²⁹ Article 127: Torture;³⁰ Article 146: Illegal Confinement or Abduction of a Person;³¹ Article 149: Trafficking in human beings and other illegal transfer deals in respect of a human being;³² Article 152: Rape;³³ and Article 289(2): Carjacking.³⁴
- (v) There have been less than five prosecutions of rape and sexual violence since 2014, despite widespread evidence of those practices,³⁵ and significant disregard for conflict-related SGBV.³⁶

²⁴ [Case No. 236/1707/14-к, Judgment of 12 January 2017](#), Krasnolymansky City Court of the Donetsk region.

²⁵ See e.g., [Case No. 243/4264/20, Judgment of 27 July 2020](#), Slovyansk City District Court of the Donetsk region; [Case No. 219/7401/19, Judgment of 28 January 2020](#), Artemivsk City District Court of the Donetsk region.

²⁶ See e.g., [Case No. 237/3913/17, Judgment of 13 October 2017](#), Maryinsky District Court of the Donetsk region; [Case No. 185/12161/15-к, Judgment of 27 March 2017](#), Pavlograd City District Court of the Dnipropetrovsk region..

²⁷ See e.g., [Case No. 229/2026/20, Judgment of 17 July 2020](#), Druzhkivka City Court of the Donetsk region; [Case No. 460/1294/17, Judgment of 17 July 2017](#), Yavoriv District Court of the Lviv region.

²⁸ See e.g., [Case No. 409/1530/16-к, Judgment of 25 May 2017](#), Rubizhne City Court of the Luhansk region; [Case No. 408/504/17, Judgment of 24 September 2019](#), Severodonetsk City Court of the Luhansk region; [Case No. 235/3762/15-к, Judgment of 6 December 2017](#), Dobropillia City Court of the Donetsk region.

²⁹ See e.g., [Case No. 225/3479/16-к, Judgment of 20 November 2017](#), Dzerzhynsk City Court of the Donetsk region.

³⁰ See e.g., [Case No. 414/396/18, Judgment of 30 March 2018](#), Kreminna District Court of the Luhansk region.

³¹ See e.g., [Case No. 237/4661/19, Judgment of 20 January 2020](#), Illichivsk District Court of Mariupol, Donetsk region; [Case No. 219/10313/16-к, Judgment of 30 May 2017](#), Artemivsk City District Court of the Donetsk region; [Case No. 264/6729/15-к, Judgment of 6 June 2017](#), Donetsk Court of Appeals.

³² See e.g., [Case No. 415/3619/17, Judgment of 29 March 2018](#), Lysychansk City Court of the Luhansk region.

³³ See e.g., [Case No. 237/3220/17, Judgement of 7 December 2018](#), Dzerzhynsk City Court of the Donetsk region.

³⁴ See e.g., [Case No. 222/1719/18, Judgment of 16 May 2019](#), Prymorsky District Court of Mariupol, Donetsk region; [Case No. 414/1987/18, Judgment of 18 October 2018](#), Kreminna District Court of the Luhansk region.

³⁵ OHCHR, [16 February 2017 CRSV Report](#); Amnesty International, [‘Not a Private Matter: Domestic and Sexual Violence Against Women in Eastern Ukraine’](#) (2020) ([‘Amnesty International, DSV against women in eastern Ukraine, 2020’](#)); I. Lopatina, [‘They described how my daughter would die. Stories of women who went through violence and captivity in the hands of L/DPR fighters’](#) (NV, 19 June 2021); M. Roache, [‘As Ukraine’s Rape Epidemic goes Largely Ignored, Survivors Plead for Help’](#) (Vice News, 21 March 2018).

³⁶ Importantly, according to the information provided by the Donetsk Prosecutor’s Office, between February 2014 and February 2021, 320 cases of SGBV were registered by the police, of which four have

Two general patterns emerge from the above: 1) the pattern of charging accused with ordinary crimes relating to their participation in the conflict, without a focus on the treatment of civilians by combatants; and 2) a lack of prosecutions against the Ukrainian side.

First, despite an increase in the investigation and prosecution of crimes under Article 438, most crimes charged relate to the accused's participation in the conflict. Most conflict-related cases in the east of Ukraine involve alleged "separatists" and are prosecuted as ordinary crimes relating to the accused for participation in the conflict (*i.e.*, participation in a terrorist organisation or an unlawful armed formation)³⁷ and occasionally as murder, torture, illegal confinement and abduction. For example, while there are 41 ongoing prosecutions under Article 438, there are 203 prosecutions relating to participation in a terrorist organisation.³⁸ Similarly, in Crimea there have only been three cases concerning violations of the laws and customs of war under Article 438. The majority of cases concerns state treason of public officials (44 out of 55). Three cases charge members of "the Self-Defence of Crimea" (a paramilitary group which reportedly assisted the Russian forces to take over Crimea) with encroachment upon the territorial integrity of Ukraine, state treason or participation in an illegal armed formation, as opposed to human rights violations they reportedly committed.³⁹

There is, consequently, a lack of prosecutions specifically directed at conduct related to the main objectives of IHL (*i.e.*, the protection of civilians and those *hors de combat*). While it is not contrary to Ukraine's international legal obligations *per se* to prosecute crimes as ordinary crimes rather than violations of IHL,⁴⁰ such an approach is problematic not least because it does not fully capture the conduct committed against civilians nor the underlying contextual elements, *i.e.*, the nexus to the

been qualified as conflict-related, although ordinary crimes. 201 of these cases were sent to courts, 114 investigations were closed, including 2 conflict-related; 24 are still being investigated, including 2 conflict-related.

³⁷ Articles 258-3 and 260 of the CCU, respectively.

³⁸ See, Annex A, entries 1-41 and 518-705, respectively.

³⁹ Statement by Assistant Secretary-General for Human Rights Ilze Brands Kehris, "[Human Rights Situation in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine](#)", Arria formula meeting of the Security Council on the "Human Rights Situation in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine", 6 March 2020; HRW, "[Crimea: Attacks, 'Disappearances' by Illegal Forces](#)", 14 March 2014; Crimean Human Rights Group et al, "[Human Rights Violations in Crimea: Ending Impunity](#)", prepared for the 72nd session of the UNGA.

⁴⁰ *Prosecutor v. Hadžihasanović & Kubura*, ICTY-01-47-T, Trial Judgment, 15 March 2006 ("[Hadžihasanović & Kubura Trial Judgement](#)"), para. 259: "Looking at the various international instruments governing humanitarian law and criminal law, it would appear that there is no written rule which obligates States to prosecute serious breaches of international humanitarian law on the basis of international law on war crimes [...]."

armed conflict, but also penalties for such crimes may not reflect their gravity as international crimes.⁴¹

Second, there is a lack of investigations and prosecutions of those on the Ukrainian side to the conflict, with most prosecutions focusing on the “separatists” in the east of Ukraine and those in Crimea that were pro-Russia. Only 73 cases (of the total 1,230 conflict-related cases) may broadly be considered as prosecutions of the Ukrainian side to the conflict. Of these 73 cases, 61 amount to prosecutions of Ukrainian combatants for conflict-related violations in Donbas, and the other 12 cases cover desertion and assistance to Russia in waging an aggressive war in Crimea. Cases against the Ukrainian side in Donbas can be divided into three broad categories, namely: (i) military disciplinary type offences under Chapter XIX of the CCU alleging forms of military negligence or indiscipline for failing in the war effort (28 out of 61 cases); (ii) ordinary crimes, such as illegal confinement, murder and torture (28 out of 61 cases); and (iii) cases wherein the accused are prosecuted under ordinary provisions of the CCU for conduct that appears to constitute war crimes.

At the same time, GRC recognises that this is a developing situation and is aware that the OPG of Ukraine, and the Donetsk, Luhansk and Crimean Regional Prosecutor’s Offices together are currently overseeing approximately 15,000 investigations under ordinary provisions of the CCU on alleged serious violations of IHL that may amount to war crimes.

Finally, the Report outlines how these tendencies might be reversed in order to ensure compliance with international standards, at least in part, through more effective use of the current CCU. Further, the adoption of a draft law amending the CCU⁴² to include, *inter alia*, crimes against humanity and address the shortcomings of Article 438 on war crimes may lead to a rise in investigations and prosecutions for serious violations of IHL and human rights as international crimes.

⁴¹ For instance, torture under Article 127(1) of the CCU is punishable by imprisonment for a term of two to five years; rape under Article 152(1) of the CCU is punishable by imprisonment for a term of three to five years.

⁴² Verkhovna Rada of Ukraine, [‘Draft Law on Amendments to Certain Legislative Acts of Ukraine Concerning the Implementation of Norms of International Criminal and Humanitarian Law’](#), No. 2689 of 27 December 2019.

Introduction

Between 18 and 20 February 2014, pro-government forces attacked protesters in Maidan Nezalezhnosti (Independence Square) in Kyiv, causing multiple deaths and serious injuries. According to the United Nations Human Rights Monitoring Mission in Ukraine (“HRMMU”),⁴³ 90 people were killed during this three-day period alone, with reports alleging that this was mostly from sniper fire from government security forces.⁴⁴ In total, between December 2013 and February 2014, 121 people were killed, either as a result of severe beatings or gunshots.⁴⁵ Shortly after, the President – Viktor Yanukovych – fled the country and a new government was installed.

At the end of February 2014, following the attacks on the Maidan protesters and the departure of President Yanukovych, the Autonomous Republic of Crimea became populated by unidentified armed men (alleged to have been Russian military)⁴⁶ who, in addition to occupying government buildings and acquiring *de facto* control of the region, organised a “referendum” on 16 March 2014 on the question of Crimean annexation by the Russian Federation. This referendum was contrary to the Ukrainian Constitution⁴⁷ and its implementation was reportedly riddled with electoral irregularities.⁴⁸

⁴³ In March 2014, the Office of the United Nations High Commissioner for Human Rights deployed a Human Rights Monitoring Mission to Ukraine to evaluate and report on the human rights situation and to provide support to the Government of Ukraine in the promotion and protection of human rights. As part of its work, the Mission prepares monthly reports describing the human rights situation and makes recommendations. See United Nations Ukraine, [UN Human Rights Monitoring Mission in Ukraine](#).

⁴⁴ Office of the United Nations High Commissioner for Human Rights (“OHCHR”) [‘Report on the Human Rights Situation in Ukraine’](#) (15 April 2014), para. 57: Those who died included 101 Maidan protesters, 17 police officers, 2 members of the non-governmental organisation named “Oplot” and a Crimean Tatar.

⁴⁵ *Ibid.*

⁴⁶ See for example [‘In the Crimea there is an armed invasion of Russia – Kunitsyn’](#) *Ukrayins’ka Pravda* (Ukraine, 28 February 2014). See also [‘Putin acknowledges Russian military servicemen were in Crimea’](#) *Russia Times* (17 April 2014).

⁴⁷ See Constitution of Ukraine, Law of Ukraine No. 254к/96-BP, 28 June 1996, Article 73: which provides that “[i]ssues on altering Ukraine’s territory shall be resolved exclusively through an *all-Ukrainian referendum*” (emphasis added); see also [Decision of the Constitutional Court of Ukraine](#) in the case referred to pursuant to the constitutional procedure by the Acting President of Ukraine, Head of the Verkhovna Rada of Ukraine and Ukrainian Parliament Commissioner for Human Rights regarding the conformity of the Decree of the Verkhovna Rada of the Autonomous Republic of Crimea on the All-Crimean Referendum with the Constitution of Ukraine (the case on a local referendum in the Autonomous Republic of Crimea) No.2-rp/2014 (14 March 2014).

⁴⁸ The identified violations include: (i) additional voters lists; (ii) harassment and arbitrary detentions of those protesting the referendum; (iii) harassment and persecution of journalists trying to report violations; (iv) voting at home organised in an impromptu manner; and (v) presence of military groups widely believed to be fully or in part composed of Russians. The UN General Assembly declared that the referendum “had no validity”. For more details, see OHCHR, [‘Report on the Human Rights Situation in Ukraine’](#) (15 April 2014) para. 6.

The results indicated that more than 95% of those participating in the referendum supported joining the Russian Federation.⁴⁹ Accordingly, the “Treaty on Accession of the Republic of Crimea to the Russian Federation” was signed between the representatives of the parties on 18 March 2014 and promptly ratified by the Russian Federal Assembly.⁵⁰ International condemnation was quick to follow.⁵¹

Shortly after the events in Crimea, the east of Ukraine began to destabilise. In Donetsk and Luhansk regions, groups began to protest against the “coup” in Kyiv and what they alleged to be discrimination against the Russian-speaking population in Ukraine.⁵² These protesters declared their desire for closer ties with Russia. In April 2014, armed conflict broke out between armed separatists in the east (allegedly supported by Russia) and law enforcement agencies.

The armed conflict in the east of Ukraine led to the establishment of an Anti-Terrorist Operation (“ATO”) Zone. On 14 April 2014, the acting President of Ukraine adopted an order enacting the decision of the National Security and Defence Council announcing the Anti-Terrorist Operation for the east of Ukraine⁵³ conducted primarily by the Security Service of Ukraine (“SBU”), National Police, Ministry of Defence of Ukraine, Armed Forces of Ukraine, Ministry of Internal Affairs and the National Guard of Ukraine.⁵⁴ On 24 February 2018, a law providing a new framework for the Government of Ukraine to reestablish control over certain areas of Donetsk and Luhansk entered into force.⁵⁵ Pursuant to the Law, the Joint Operative Headquarters of the Armed Forces of Ukraine are entrusted to counter Russia’s armed aggression against Ukraine.⁵⁶ Accordingly, the “Anti-

⁴⁹ [‘97% of Crimean population voted for joining Russia’](#) *Tyzhden.ua* (17 March 2014).

⁵⁰ The Treaty was ratified by the federal law of the Russian Federation of 21.03.2014 N 36-ФЗ entitled [‘On Ratification of the Treaty Between the Russian Federation and the Republic of Crimea on Accession of the Republic of Crimea to the Russian Federation and the Formation of New Subjects in the Russian Federation’](#) adopted on the 349th (extraordinary) session of the Council of the Federation.

⁵¹ See e.g., United Nations General Assembly (“UNGA”) Res 68/262 [‘Territorial Integrity of Ukraine’](#) (1 April 2014) UN Doc A/RES/68/262: with 100 votes in support, 11 votes against and 58 abstentions, the resolution supported the territorial integrity of Ukraine and called on state parties and international organisations neither to recognise any alterations in the territorial structure of Ukraine, nor to take any actions that could be interpreted as such recognition.

⁵² See e.g., [‘Ukraine crisis: Timeline’](#) *BBC* (13 November 2014).

⁵³ Decree of the President of Ukraine [‘On the Decision of the National Security and Defence Council on Immediate Measures Aimed at Combatting the Terrorist Threat and Maintenance of the Territorial Integrity of Ukraine’](#), No. 405/2014 (14 April 2014); [‘Ukraine’s acting president orders ‘large-scale’ anti-terror operation in east’](#) (*Dw.com*, 13 April 2014).

⁵⁴ Law of Ukraine [‘On the National Guard of Ukraine’](#), No. 876-VII (13 March 2014) Article 1.

⁵⁵ Law of Ukraine [“On particular aspects of public policy aimed at safeguarding the sovereignty of Ukraine over the temporarily occupied territory of the Donetsk and Luhansk regions of Ukraine”](#) No. 2268 (18 January 2018).

⁵⁶ *Ibid.*, Article 9.

Terrorist Operation” ended and the Joint Forces Operation (“JFO”) of the Armed Forces of Ukraine started in April 2018.⁵⁷

On 11 May 2014, pro-Russian separatists organised a “referendum” on the sovereignty of the Donetsk and Luhansk regions, the results of which (89.07% and 96.20%, respectively, “in favour” of independence) were allegedly falsified; did not satisfy basic fair election standards; and violated the Constitution of Ukraine.⁵⁸ Shortly thereafter, the local separatists declared the areas of Donetsk and Luhansk to be the “Donetsk People’s Republic” (“DPR”) and “Luhansk People’s Republic” (“LPR”), respectively.

Since the conflict erupted, a number of attempts have been undertaken to negotiate an end to the hostilities, with the so-called “Minsk Agreements” being the most prominent.⁵⁹ On 5 September 2014, representatives from Ukraine, the Russian Federation, the DPR and LPR signed the first Minsk Protocol. The Protocol provided for, *inter alia*, an immediate ceasefire, the release of all illegally detained persons, and the decentralisation of authority and monitoring functions for the Organisation for Security and Co-operation in Europe (“OSCE”). However, the ceasefire was broken shortly after the signing of the Protocol, most notably during heavy shelling of the city of Mariupol in January 2015.⁶⁰

Eventually, an additional package of measures was adopted in Minsk in February 2015. The new measures stated that by the end of 2015 all the conditions of the Minsk agreement should be met.⁶¹ However, the terms of this agreement were violated from the outset and the fighting continued.⁶² Although the parties to the Trilateral Contact Group - Ukraine, the Russian Federation and OSCE - recommitted to the “unlimited” ceasefire several times since 2016, the Ukrainian Armed Forces (“UAF”) and the armed formations of the DPR and LPR did not fully comply with it.⁶³ It is reported, for example, that during five months between 1 August 2020 and 31 January 2021, the number of

⁵⁷ Order of the President of Ukraine “[On approval of the decision of the National Security and Defense Council ‘On a large-scale anti-terror operation in the Donetsk and Luhansk regions’ of 30 April 2018](#)” No. 116/2018 (30 April 2018).

⁵⁸ Constitution of Ukraine, Article 73: “[i]ssues on altering Ukraine’s territory shall be resolved exclusively through an *all-Ukrainian referendum*” (emphasis added). See also, ‘[The Farce of the “Referendum” in Donbas](#)’ (OSW, 14 May 2014).

⁵⁹ [Protocol on the Results of Consultations of the Trilateral Contact Group](#) (OSCE, 5 September 2014).

⁶⁰ UN Secretary-General ‘[Statement Attributable to the Spokesperson for the Secretary-General on Ukraine](#)’ (United Nations, 24 January 2015).

⁶¹ *Ibid.*

⁶² ‘[The militants fired 112 strokes, hit Debaltseve 88 times in the course of one day of “silence”](#)’ *Ukrayins’ka Pravda* (Ukraine, 16 February 2015).

⁶³ OHCHR ‘[Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020](#)’ (12 March 2020), para. 20.

ceasefire violations reached 8,484, which is 93% lower than the 116,900 violations committed during the preceding six months.⁶⁴

Moreover, in 2019, the UAF and the armed groups disengaged forces and hardware in three areas of Stanytsia Luhanska, Zolote and Petrivske, as foreseen in the framework agreement of the Trilateral Contact Group of September 2016.⁶⁵

On 27 December 2017, the simultaneous release of detainees took place under the “all for all” framework foreseen in the Minsk agreements.⁶⁶ The GoU released 233 individuals, whereas the armed groups released 74 persons.⁶⁷ The next major simultaneous release of detainees occurred on 29 December 2019, following the Normandy Four summit of 9 December 2019.⁶⁸ During the handover, the GoU released 141 detainees and the armed groups released 81 detainees.⁶⁹ Further, on 7 September 2019, a simultaneous release took place between Ukraine and the Russian Federation, resulting in the release of 35 individuals by the GoU and 35 individuals by the Government of the Russian Federation, including the 24 Ukrainian crew members seized during the 25 November 2018 incident near the Kerch Strait.⁷⁰

Aside from efforts to end the conflict, the GoU has begun to take steps to address the crimes that have been committed during the conflict, relying upon both international and domestic mechanisms. With respect to relying on international mechanisms, the GoU submitted two “Declarations” to the International Criminal Court (“ICC”), accepting its jurisdiction to investigate crimes within the jurisdiction of the ICC (including crimes against humanity and war crimes) committed in Ukraine during the ongoing conflict.

⁶⁴ OHCHR [‘Report on the human rights situation in Ukraine 1 August 2020 – 31 January 2021’](#) (11 March 2021) para. 22.

⁶⁵ [Framework Decision of the Trilateral Contact Group relating to disengagement of forces and hardware](#) (21 September 2016); OSCE Special Monitoring Mission, [‘Spot Report by OSCE Special Monitoring Mission to Ukraine \(SMM\): Receipt of notifications on completion of disengagement in Stanytsia Luhanska disengagement area’](#) (30 June 2019); OSCE Special Monitoring Mission, [‘Receipt of Notifications on Completion of Withdrawal of Forces and Hardware in Zolote Disengagement Area’](#) (2 November 2019); OSCE Special Monitoring Mission, [‘Spot Report by OSCE SMM: Receipt of Notification on Completion of Withdrawal of Forces and Hardware in Petrivske Disengagement Area’](#) (13 November 2019).

⁶⁶ [Package of measures for the Implementation of the Minsk agreements](#) (12 February 2015), para. 6.

⁶⁷ OHCHR [‘Report on the human rights situation in Ukraine 16 November 2017 to 15 February 2018’](#) (19 March 2018), para. 56.

⁶⁸ OHCHR [‘Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020’](#) (12 March 2020), para. 55.

⁶⁹ OHCHR [‘Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020’](#) (12 March 2020), para. 55.

⁷⁰ OHCHR [‘Report on the human rights situation in Ukraine 16 August to 15 November 2019’](#) (12 December 2019), para. 9.

The first declaration, filed with the ICC on 17 April 2014, invites the ICC Office of the Prosecutor (“OTP”) to investigate violations that allegedly occurred during the Maidan protests between 21 November 2013 and 22 February 2014.⁷¹ The second declaration, filled on 8 September 2015, extends the acceptance of ICC jurisdiction for the purpose of identifying and prosecuting the perpetrators and accomplices of IHL violations committed on the territory of Ukraine from 20 February 2014 onwards.⁷² On 11 December 2020, the ICC Prosecutor announced the conclusion of the preliminary examination in the situation in Ukraine, concluding that there is a reasonable basis to believe that a broad range of conduct constituting war crimes and crimes against humanity within the jurisdiction of the Court have been committed.⁷³

As to domestic efforts, since September 2016, Ukraine has prosecuted over a thousand cases of those allegedly involved in conflict-related crimes in the east of Ukraine and Crimea. Yet, it has done so by using legislation directed at ordinary crimes, resulting in a critically low number of prosecutions (41 ongoing cases and two judgements) of international crimes. This is indicative of a pattern of conflict-related crimes being prosecuted as domestic crimes, despite all constitutive elements of war crimes being present. A representative sample of the alleged crimes being prosecuted is found in Annex A – *Sample of Domestic Prosecutions*. In general, when relevant prosecutions occur (which is rare if compared to the number of cases prosecuted as terrorism), Ukrainian prosecutorial authorities are mostly prosecuting alleged suspects for a range of national, or ordinary crimes, rather than international crimes.

⁷¹ [Declaration Lodged by Ukraine under Article 12\(3\) of the Statute](#) (9 April 2014) (‘Ukrainian Declaration accepting the jurisdiction of the ICC’): The Government of Ukraine lodged a declaration under Article 12(3) of the Rome Statute accepting the jurisdiction of the ICC over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014. This Declaration was made even though Ukraine is not a State Party to the Rome Statute.

⁷² Declaration of the Verkhovna Rada of Ukraine ‘[On the recognition of the jurisdiction of the International Criminal Court by Ukraine over crimes against humanity and war crimes committed by senior officials of the Russian Federation and leaders of terrorist organizations “DPR” and “LPR”, which led to extremely grave consequences and mass murder of Ukrainian nationals](#)’ (8 September 2015) (‘Second Ukrainian Declaration accepting the jurisdiction of the ICC’).

⁷³ ‘[Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine](#)’ (ICC, 11 December 2020).

Structure of the Report

Following the Introduction, Part I – *Ukraine’s Conflict and International Crimes* – provides the context for the Report, namely a brief overview of the ongoing conflict in Crimea and the east of Ukraine and the range of international crimes that appear to be occurring based on publicly available information. Part II – *Ukraine’s Obligations to Investigate and Prosecute Violations of IHL and other Serious Violations of International Law* – discusses Ukraine’s treaty-based and customary law obligations to investigate and prosecute such violations, including those that may be attributed to those individuals at the leadership level and therefore relevant for prospective prosecution at the ICC.

Part III – *Ukraine’s Domestic Investigation and Prosecution of Conflict-Related Crimes* – reviews a representative sample of the publicly available information concerning Ukraine’s current investigation and prosecution of international crimes and analyses the steps that Ukraine has taken towards meeting those obligations (as outlined in Part II).

As will be discussed in Part IV, there is persuasive evidence to suggest that a range of war crimes (and, potentially, crimes against humanity) have been committed in the east of Ukraine and Crimea.⁷⁴ Even though the approach of the GoU toward prosecution of conflict-related crimes has evolved and now encompasses criminal proceedings on war crimes charges pursuant to Article 438 of the CCU, such prosecutions are still rare. The approach to prosecution appears to pay little attention to the misconduct of combatants towards civilians. This pattern suggests that these incidents are being investigated or prosecuted as ordinary crimes with lenient sentences, *i.e.*, in a manner that is not sufficient to fulfil Ukraine’s international obligations to investigate, prosecute and provide an effective penal sanction for all serious violations of IHL.

Finally, the *Conclusion* discusses the need to investigate and prosecute IHL violations and other serious violations of international law as international crimes through more effective use of the current CCU. The *Conclusion* sets out a number of steps that Ukrainian investigators and prosecutors should take to make use of its domestic criminal framework – particularly Article 438 of the CCU– to prosecute, as war crimes, conduct that is still rarely the subject of criminal charges in Ukrainian courts (or is otherwise being prosecuted as ordinary crimes). This section outlines the various war crimes and their elements that appear to be relevant to the suspected violations that have occurred and appear to be ongoing in Crimea and the east of Ukraine. It further outlines how these “facts” might form the basis of viable war crimes charges that would enable Ukraine to take

⁷⁴ [‘Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine’](#) (ICC, 11 December 2020).

significant steps towards the appropriate investigation and prosecution of IHL and other serious violations of international law and the fulfilment of its obligations to provide effective penal sanctions and the repression of ongoing violations of IHL.

Ukraine's Conflict and International Crimes

The armed conflict has led to a humanitarian crisis. From 14 April 2014 to 31 January 2021, the Office of the United Nations High Commissioner for Human Rights ("OHCHR") recorded 3,077 conflict-related civilian deaths and over 7,000 civilian injuries.⁷⁵ Counted together with military losses and injuries on both sides, the numbers exceed 13,000 fatalities and 31,000 injuries.⁷⁶ Moreover, 298 persons died as a result of the downing of the Malaysia Airlines flight ("MH17") on 17 July 2014.⁷⁷ The Ministry of Social Policy of Ukraine reported 1,465,654 internally displaced persons ("IDPs") in Ukraine, as of 26 April 2021.⁷⁸

The ICC OTP issued the preliminary view that war crimes (namely, wilful killing, torture, outrages upon personal dignity, unlawful confinement, compelling protected persons to serve in the forces of a hostile Power, wilfully depriving protected persons of the rights of fair and regular trial, forcible transfer of population and seizure of property) and crimes against humanity (namely, murder, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, persecution and enforced disappearance) were committed in the context of the situation that led up to the occupation, and during the occupation of Crimea from 20 February 2014 onwards.⁷⁹

As to the armed conflict in the east of Ukraine, the ICC OTP concluded that there is reasonable basis to believe that in the non-international conflict between the GoU and the DPR and LPR, the following war crimes were committed: intentionally directing attacks against civilians and civilian objects, intentionally directing attacks against protected buildings, murder, torture and inhuman/cruel treatment, outrages upon personal dignity, rape and other forms of sexual violence.⁸⁰

Moreover, the ICC OTP is of the view that "direct military engagement" between Ukrainian and Russian armed forces would suggest an international armed conflict (running parallel with the non-international armed conflict) in the east of Ukraine that started, at the latest, on 14 July 2014.⁸¹ If

⁷⁵ OHCHR '[Report on the human rights situation in Ukraine 1 August 2020 – 31 January 2021](#)' (11 March 2021) para. 28.

⁷⁶ OHCHR '[Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020](#)' (12 March 2020), para. 31; OHCHR '[Report on the human rights situation in Ukraine 16 February – 31 July 2020](#)' (22 September 2020), paras 24, 29.

⁷⁷ OHCHR '[Accountability for killings in Ukraine from January 2014 to May 2016](#)' (14 July 2016) paras. 32, 60.

⁷⁸ '[1,465,654 internally displaced persons were registered](#)' (Ministry of Social Policy, 26 April 2021).

⁷⁹ '[Report on Preliminary Examination Activities 2020](#)' (ICC, 14 December 2020), paras. 278-279.

⁸⁰ '[Report on Preliminary Examination Activities 2020](#)' (ICC, 14 December 2020), para. 280.

⁸¹ '[Report on Preliminary Examination Activities 2016](#)' (ICC, 14 November 2016), para. 169.

this is the case, then the war crime of intentionally launching an attack in the knowledge that such attack will result in harm to civilians and civilian objects that would be clearly excessive in relation to the concrete and direct overall military advantage anticipated, and that of unlawful confinement might take place in addition to the crimes listed above in the context of a non-international armed conflict.⁸²

Further, HRMMU reports consistently outline a range of facts that suggest the following violations allegedly taking place in the conflict areas. First, there appear to be widespread occurrences of illegal detention and associated crimes. HRMMU has recorded allegations of armed groups engaging in unlawful and arbitrary detentions,⁸³ as well as abductions and enforced disappearances.⁸⁴ During detention, civilians appear to have been subjected to ill-treatment and torture⁸⁵ that in some cases resulted in death;⁸⁶ sexual violence;⁸⁷ forced labour;⁸⁸ denial of access to legal assistance;⁸⁹ and incommunicado detention.⁹⁰ There is also evidence that armed groups have executed Ukrainian soldiers.⁹¹

The evidence also extends to Ukrainian law enforcement authorities/Armed Forces/SBU and volunteer battalions. HRMMU has recorded a range of allegations concerning unlawful and arbitrary detention;⁹² ill-treatment and torture;⁹³ sexual violence;⁹⁴ the denial of lawyers to detainees by

⁸² [‘Report on Preliminary Examination Activities 2020’](#) (ICC, 14 December 2020), para. 281.

⁸³ OHCHR, [‘Report on the human rights situation in Ukraine 16 November 2016 to 15 February 2017’](#) (15 February 2017) paras 45-47; OHCHR, [‘Report on human rights situation in Ukraine 16 February to 15 May 2017’](#) (15 May 2017) paras 41-45; OHCHR, [‘Report on human rights situation in Ukraine 16 May to 15 August 2019’](#) (15 August 2019) paras 50-52.

⁸⁴ OHCHR, [‘Report on the human rights situation in Ukraine 16 November 2016 to 15 February 2017’](#) (15 February 2017); OHCHR, [‘Report on human rights situation in Ukraine 16 May to 15 August 2017’](#) (15 August 2017) paras 47, 51; OHCHR, [‘Report on human rights situation in Ukraine 16 May to 15 August 2018’](#) (15 August 2018) para. 55.

⁸⁵ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (31 July 2020) paras 61-63; OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2017) paras 47-49; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 May 2017) paras 55-56.

⁸⁶ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2017) para. 56.

⁸⁷ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (31 July 2020) para. 61; OHCHR, [‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’](#) (16 February 2017) paras 89-97.

⁸⁸ OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 August 2019) para. 54.

⁸⁹ OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 May 2018) para. 74.

⁹⁰ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (16 August to 15 November 2017) paras 41, 54; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 August 2018) paras 54, 58.

⁹¹ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2017) para. 39.

⁹² OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2014) paras 42-44; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 May 2017) paras 38-39; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 August 2019) paras 46-48.

⁹³ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2017) paras 42-44; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 August 2018) paras 47-48.

⁹⁴ OHCHR, [‘Conflict-Related Sexual Violence in Ukraine 14 March 2014 to 31 January 2017’](#) (16 February 2017) paras 68-77, 81.

Ukrainian law enforcement bodies and security entities;⁹⁵ and incommunicado detention.⁹⁶ HRMMU has also recorded allegations of clandestine, illegal places of detention, operated by the voluntary battalions and Ukrainian law enforcement bodies, where detainees are ill-treated.⁹⁷ The SBU have been consistently accused of engaging in arbitrary detention, torture, enforced disappearances of people suspected of “separatism and terrorism”, ill-treatment and reprisals upon the release of such persons.⁹⁸

Further, human rights organisations and activists have reported numerous other violations of IHL and international human rights law. The reported violations include preventing access for humanitarian relief to civilians in need; using cultural property for military purposes and as venues where human rights abuses have taken place and/or as *ad hoc* detention centres; perfidy (deceiving the enemy by gaining their confidence and leading them to believe the person is entitled to protection under IHL with the intention of betraying that confidence, *i.e.*, flying a white flag of truce and then attacking the enemy); use of booby-traps; pillage; violations of the rights to education, family life, social security; as well as violations of the rights to peaceful assembly, association, expression, thought, conscience and religion.⁹⁹

It is the generally accepted legal view that the violations of IHL and other serious violations of international criminal law committed in Ukraine may amount to war crimes, and possibly crimes against humanity, but not genocide.¹⁰⁰ Based on an analysis of the available information being collected by HRMMU and civil society organisations within Ukraine, GRC agrees with this view. Accordingly, this Report’s assessment of the Ukrainian authorities’ compliance with its international obligations to investigate and prosecute these crimes will focus on the responsibilities that arise in

⁹⁵ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (16 August to 15 November 2017) paras 50, 51, 56.

⁹⁶ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (16 August to 15 November 2017) paras 37-38.

⁹⁷ OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 May 2017) paras 49-51.

⁹⁸ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2017) paras 43-44; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 May 2017) paras 48-52; OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 August 2017) paras 55, 58, 64; OHCHR, [‘Report on human rights situation in Ukraine’](#) (15 August 2018) paras 47-48; HRW and Amnesty International [‘You don’t exist’](#) (2016).

⁹⁹ OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2017); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 May 2017); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 August 2017); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 November 2017); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2018); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 May 2018); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 August 2018); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 November 2018); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2019); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 May 2019); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 August 2019); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 November 2019); OHCHR, [‘Report on the human rights situation in Ukraine’](#) (15 February 2020).

¹⁰⁰ [‘Report on Preliminary Examination Activities 2020’](#) (ICC, 14 December 2020), paras. 278-280.

the face of persuasive evidence of the commission of war crimes and (possibly) crimes against humanity in the conflict and occupation zones.

Ukraine's Obligations to Prosecute Violations of IHL and other Serious Violations of International Law

The Applicability of IHL

Prior to the replacement of the security operation regime from the "ATO" to the "JFO", there was a common misconception in Ukraine that the GoU's characterisation of the armed conflict as the "ATO" prevents the applicability of IHL. However, this is incorrect. The applicability of IHL is determined whenever the factual situation of an armed conflict meets the required threshold criteria irrespective of the views of the parties to the conflict. An armed conflict – not a formal declaration of war (which the establishment of the ATO zone appears to be designed to avoid) or recognition of the situation as an armed conflict – is the trigger for the applicability of IHL.¹⁰¹ Under international law, an armed conflict exists "whenever there is resort to armed force between states or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State".¹⁰²

Once IHL is applicable, there arises a concomitant obligation to investigate and prosecute serious violations of IHL, a duty delineated in a number of treaties that apply to acts committed in both international and non-international armed conflicts.¹⁰³ In particular, the Geneva Conventions of 1949 oblige states to enact legislation on penal sanctions for grave breaches of the Geneva Conventions and Additional Protocol I, to search for any persons accused of such violations, and to prosecute or extradite them to another state for prosecution.¹⁰⁴

Furthermore, under customary international law,¹⁰⁵ states must investigate any war crimes allegedly committed by their nationals, or on their territory, and, if appropriate, prosecute suspects.

¹⁰¹ Geneva Convention I, Articles 2, 3; Geneva Convention II, Article 2, 3; Geneva Convention III, Articles 2, 3; Geneva Convention IV, Articles 2, 3; Additional Protocol I, Articles 1, 3; Additional Protocol II, Article 1.

¹⁰² *Prosecutor v. Tadić* ([Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction](#)) Case No. ICTY-94-1-AR72 (2 October 1995) ("*Tadić* Interlocutory Appeal Decision") para. 70.

¹⁰³ See e.g., Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (adopted 14 May 1954, entered into force 7 August 1956) 249 UNTS 240 ("Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict"), Article 28; Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (adopted 3 September 1992, entered into force 1997) 1974 UNTS 45, Article VII(1); Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (adopted 26 March 1999, entered into force 9 March 2004) 2253 UNTS 172 ("Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict"), Articles 15-17.

¹⁰⁴ Geneva Convention I, Article 49; Geneva Convention I, Article 50; Geneva Convention III, Article 129, Geneva Convention IV, Article 146.

¹⁰⁵ See GRC, 'Domestic Implementation of International Humanitarian Law in Ukraine' (September 2020) p. 74.

Indeed, state practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.¹⁰⁶

Other Serious Violations of International Law

Genocide and crimes against humanity are not regulated by the IHL framework, which specifically deals with situations of armed conflict, because these crimes can be committed during peace time as well as armed conflict. The obligation to prosecute these crimes stems from different international law sources.¹⁰⁷ It should, however, be noted that conduct amounting to genocide or crimes against humanity may also concomitantly amount to war crimes if committed during an armed conflict and it meets the required threshold criteria. As a result, an individual can be prosecuted for genocide, crimes against humanity and/or war crimes for the same conduct.¹⁰⁸

Under the Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”) and customary international law, genocide shall be punishable and individuals who committed genocide shall be punished.¹⁰⁹ As a state party to the Genocide Convention since 1954, Ukraine has incorporated the offence of genocide into its Criminal Code.¹¹⁰ Article I of the Genocide Convention states that “genocide, whether committed in time of peace or in time of war, is a crime under international law which they (the Contracting Parties) undertake to prevent and to punish”.

Crimes against humanity are crimes under the Rome Statute and customary international law.¹¹¹ Any state that ratifies the Rome Statute (or issues a declaration under Rule 12(3) of the Statute, as Ukraine has done¹¹²) must ensure that the crimes under the Statute, including crimes against

¹⁰⁶ ICRC ‘[Prosecution on War Crimes - Rule 158](#)’ (ICRC, 2009).

¹⁰⁷ See e.g., UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277, Article 6; UN General Assembly, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1485 UNTS 85, Article 7.

¹⁰⁸ See for example *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) para 412; *Prosecutor v. Jelisić* ([Appeals Judgment](#)) Case No. ICTY-95-10-A (5 July 2001) para. 82; *Prosecutor v. Kronjelac* ([Trial Judgment](#)) Case No. ICTY-97-25-T (15 March 2002) para. 503; *Prosecutor v. Kunarac, Kovač and Vuković* ([Appeals Judgment](#)) Case No. ICTY-96-23 & ICTY-96-23/1-A (12 June 2002) para. 173; *Prosecutor v. Naletilić and Martinović* ([Trial Judgment](#)) Case No. ICTY-98-34-T (31 March 2003) para. 718; *Prosecutor v. Musema* ([Appeals Judgment](#)) Case No. ICTR-96-13-A (16 November 2001) paras. 358-370.

¹⁰⁹ Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277, Articles III, IV. See also Johan D. van der Vyver, ‘Prosecution and Punishment of the Crime of Genocide’ (1999) 23(2) *Fordham International Law Journal* 286, 296.

¹¹⁰ Criminal Code of Ukraine, Article 442.

¹¹¹ Rome Statute, Article 7. See also *Prosecutor v. Tadić* ([Decision on the Defence Motion on Jurisdiction](#)) ICTY-94-1 (10 August 1995), para. 4.

¹¹² Although the Government of Ukraine has not ratified the Rome Statute, it has accepted the jurisdiction of the ICC. Based on the two Declarations identified above, the jurisdiction of the ICC in relation to its preliminary examination in Ukraine extends to events from 21 November 2013 for an indefinite period

humanity, are criminalised in their domestic legislation. However, the CCU does not presently criminalise crimes against humanity. The following section will discuss, among others, alternatives to the lack of inclusion of crimes against humanity in the CCU.

Normative Desirability to Prosecute International Crimes

States are accorded significant flexibility in prosecuting crimes occurring during conflict. There is no “one size fits all” approach to ensure fulfilment of these obligations.¹¹³ As observed by the International Criminal Tribunal for the former Yugoslavia (“ICTY”):

looking at the various international instruments governing humanitarian law and criminal law, it would appear that there is no written rule which obligates States to prosecute serious breaches of international humanitarian law on the basis of international law on war crimes.¹¹⁴

Ordinary crimes charges may therefore be appropriate for the prosecution of conduct amounting to war crimes or other violations of international law. However, prosecuting such conduct as international crimes (rather than ordinary crimes) may more accurately encompass the relevant misconduct and in doing so more accurately describe the events and the gravity of the violation. As discussed by the South African Constitutional Court in the context of considering charges for numerous ordinary crimes, including conspiracy to kill hundreds of members of the South West Africa People’s Organisation in Namibia in the 1980s, there exists an “international consensus on the normative desirability of prosecuting war criminals”¹¹⁵ and there is a duty on states to “provide effective penal sanctions” for persons involved in violations of international law as provided for by Article 146 of Geneva Convention IV and the corresponding provisions of the other Geneva Conventions.¹¹⁶ Thus, the Constitutional Court found that the nature of the charges in the overall context of international law and South Africa’s international obligations should have been taken into consideration by the Supreme Court of Appeal.¹¹⁷

and includes prosecutions for any war crime, crime against humanity or genocide falling under the ICC’s governing law - the Rome Statute.

¹¹³ See GRC, ‘Domestic Implementation of International Humanitarian Law in Ukraine’ (September 2020) p. 74.

¹¹⁴ *Prosecutor v. Hadžihasanović and Kubura*, [Trial Judgment](#), Case No. ICTY-01-47-T (15 March 2006), para. 259.

¹¹⁵ Constitutional Court of South Africa, [S. v. Basson](#) (CCT30/03A) [2005] ZACC 10 (9 September 2005), para. 184.

¹¹⁶ Constitutional Court of South Africa, [S. v. Basson](#) (CCT30/03) [2004] ZACC 13 (10 March 2004), paras. 117 - 123.

¹¹⁷ Constitutional Court of South Africa, [S. v. Basson](#) (CCT30/03A) [2005] ZACC 10 (9 September 2005), para. 185.

As is outlined in detail in Annex B – *Elements of a Selection of Specific Crimes*, war crimes and other serious violations of international law, such as crimes against humanity, are committed in specific contexts (for example, with a specific nexus to an armed conflict or as part of a “widespread” or “systematic” attack on a civilian population) that shape the violations and place them into their overall context. Capturing this conduct by relying upon “ordinary” domestic crimes is often very difficult and sometimes impossible.

An appropriate legal equivalent may not exist in the domestic legal framework.¹¹⁸ For example, it is unlikely that international crimes such as wilfully depriving a prisoner of war of the rights to a fair and regular trial, or the wrongful use of signs such as the Red Cross (both of which may amount to serious violations of IHL) will have a domestic equivalent in the legislation of most countries.¹¹⁹

More specifically, an “implicit requirement” of the grave breaches regime of the Geneva Conventions is that sanctions should reflect the gravity of the conduct.¹²⁰ Generally speaking, therefore, adapting domestic laws for the proper punishment of breaches of the Geneva Conventions is complex.¹²¹ Accordingly, the Pictet Commentary to the Geneva Conventions states that it is preferable that a special law is enacted domestically for these breaches to ensure they provide “an adequate penalty for each”.¹²²

In sum, “the fact that the Geneva Conventions and general international law do allow states to prosecute grave breaches on the basis of ordinary criminal law does not mean that any charge suffices to satisfy the requirements of the grave breaches regime as long as some kind of prosecution takes place”.¹²³ It is necessary that the relevant prosecution is meaningful, that the charges correspond to the gravity of the crime, and that the charges entail “effective penal sanctions”.¹²⁴

¹¹⁸ R Rissing-van Saan, ‘The German Federal Supreme Court and the Prosecution of International Crimes Committed in the Former Yugoslavia’ (2005) 3 *Journal of International Criminal Justice* 381, 395-396.

¹¹⁹ Geneva Convention III, Article 130; Additional Protocol I, Article 85(3)(f); W Ferdinandusse, ‘The Prosecution of Grave Breaches in National Courts’ (2009) 7 *Journal of International Criminal Justice* 723, 730.

¹²⁰ *Ibid*, 731.

¹²¹ J S Pictet (ed.) *Commentary on the Geneva Conventions of 12 August 1949, Vol. III* (ICRC 1958) 629; J S Pictet (ed.) *Commentary on the Geneva Conventions of 12 August 1949, Vol. VI* (ICRC 1958) 590.

¹²² ICRC, ‘[Commentary of Article 147 of Geneva Convention IV](#)’ (ICRC, 1958), para. 17.

¹²³ W Ferdinandusse, ‘The Prosecution of Grave Breaches in National Courts’ (2009) 7 *Journal of International Criminal Justice* 723, 731.

¹²⁴ Geneva Convention, Article 49; Geneva Convention II, Article 50; Geneva Convention III, Article 129; Geneva Convention IV, Article 146. See also W Ferdinandusse, ‘The Prosecution of Grave Breaches in National Courts’ (2009) 7 *Journal of International Criminal Justice* 723, 731.

As such, an indictment should reflect the context and characteristics of the crime to the greatest extent possible.¹²⁵ The same applies to the consequent punishment. Charging domestic crimes may remove essential aspects of the perpetrators' action, knowledge, intent and motivation, thereby making it difficult, if not impossible, to achieve this goal. As one commentator correctly observes, international crimes occur within contexts that possess "elements that operate as qualifiers of gravity and restrictors of international jurisdiction to extraordinarily offensive crimes".¹²⁶ In other words, removing the above contexts may deprive the violation of its true nature and gravity and undermine the likelihood of an appropriate penal sanction.

Of course, in some legal systems, the absence of criminalisation of international crimes (*i.e.*, crimes against humanity) will leave prosecutors with no choice between charging conduct as an international crime or an ordinary crime. They will instead be forced to pursue the most serious ordinary crime charges applicable to the case.¹²⁷ However, in such circumstances it should be ensured that the ordinary criminal law is utilised optimally and as far as possible reflects the gravity of the crime; room should be left for the proceedings and judgment to reflect the international background and context of the case.¹²⁸

Moreover, prosecuting international criminal conduct may bring significant transitional justice benefits that might not result from the prosecution of only ordinary crimes. In particular, prosecuting international crimes can play an important history-telling function that not only provides victims and posterity with a more accurate record of the incident(s), but also assists in marking the perpetrator's conduct more accurately, which in turn may assist transitional justice efforts and the fight against impunity.¹²⁹ Arguably, this might assist in the overall aim of restoring

¹²⁵ W Ferdinandusse, 'The Prosecution of Grave Breaches in National Courts' (2009) 7 *Journal of International Criminal Justice* 723, 726.

¹²⁶ X Agirre Aranburu, 'Methodology for the Criminal Investigation of International Crimes,' in A Smeulers (ed.), *Collective Violence and International Criminal Justice: An Interdisciplinary Approach* (Intersentia 2010) 367; E Fry, *The Contours of International Prosecutions: As Defined by Facts Charges, and Jurisdiction* (Eleven International Publishing 2015) 21.

¹²⁷ L Reydams, *Universal Jurisdiction: International and Municipal Legal Perspectives* (Oxford University Press 2003) 100-101; W Ferdinandusse, 'The Prosecution of Grave Breaches in National Courts' (2009) 7 *Journal of International Criminal Justice* 723, 726.

¹²⁸ L Reydams, *Universal Jurisdiction: International and Municipal Legal Perspectives* (Oxford University Press 2003) 100-101; W Ferdinandusse, 'The Prosecution of Grave Breaches in National Courts' (2009) 7 *Journal of International Criminal Justice* 723, 726.

¹²⁹ J D Ohlin, 'Goals of International Criminal Justice and International Criminal Procedure', in G. Sluiter et al. (eds), *International Criminal Procedure: Principles and Rules* (Oxford University Press 2013) 59. See generally E Fry, *The Contours of International Prosecutions: As Defined by Facts Charges, and Jurisdiction* (Eleven International Publishing 2015) 14-15, citing R Cryer et al., *An Introduction to International Criminal Law and Procedure* (2nd edn, Cambridge University Press 2010) 30-35; J Jackson, 'Faces of Transnational Justice: Two Attempts to Build Common Standards Beyond National Boundaries', in J Jackson et al. (eds), *Crime, Procedure and Evidence in a Comparative and International Context: Essays in Honour of Professor Mirjan Damaška* (Hart Publishing 2008) 226; UN Security Council, Report of the

peace and security, as the prosecutions should bring a truer sense of accountability and closure. This could, in turn, result in greater prospects for national reconciliation within the affected population.¹³⁰

In sum, although the use of ordinary criminal law to prosecute war crimes is not contrary to states' international legal obligations, cogent legal and normative reasons exist to favour the prosecution of such conduct as international crimes.

Charging Obligations Arising from ICC Jurisdiction

Introduction

The appropriate charging of international crimes that occur during conflict situations is an obligation demanded by international instruments, including the Geneva Conventions and the Genocide Convention, as well as customary international law.¹³¹ These obligations are similar to the obligations that arise as a consequence of a state signing and ratifying the Rome Statute or otherwise being subject to the ICC's jurisdiction.

As will be discussed,¹³² where the ICC has jurisdiction and where the ICC OTP determines that sufficient information exists to form a "reasonable basis to believe" that alleged crimes falling within the jurisdiction of the Court have been committed, it will examine whether the prospective cases are admissible at the ICC. In particular, the Prosecutor will consider whether the relevant state has initiated *adequate* investigations or prosecutions into those crimes.¹³³ These assessments, and the concomitant questions that arise for states concerning their domestic prosecutions for international crimes, will be discussed below.¹³⁴

Apart from jurisdiction arising from ratification of the Rome Statute, the ICC has jurisdiction where:

- The state in question has "declared" that it accepts the jurisdiction of the ICC without ratifying the Statute; or
- The United Nations Security Council ("UNSC") refers a situation to the Court.

Secretary-General: The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies, (23 August 2004) UN Doc. S/2004/616, para. 38.

¹³⁰ E Fry, *The Contours of International Prosecutions: As Defined by Facts Charges, and Jurisdiction* (Eleven International Publishing 2015) 14.

¹³¹ Geneva Convention I, Article 49; Geneva Convention II, Article 50; Geneva Convention III, Article 129; Geneva Convention IV, Article 146; UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277, Article 5; ICRC, Customary International Humanitarian Law Study, Rule 158.

¹³² See pp. 27-40.

¹³³ Rome Statute, Article 17.

¹³⁴ *Ibid.*

In any of these instances, states have associated obligations to pursue national prosecutions of conduct amounting to international crimes. It should be recalled that the ICC is a court of last resort. It is not intended to replace national criminal justice systems but must complement them. The ICC will, in general, only hear cases against leadership or those who are otherwise 'most responsible' for the crimes. That is because the Court has an express policy of pursuing those most responsible. Whilst it retains jurisdiction over other cases where, for instance, they are of particular gravity or it is in the public interest for the ICC to pursue them, in general terms, lower-level prosecutions should be brought domestically.

As outlined briefly above,¹³⁵ on 17 April 2014, Ukraine filed a declaration with the ICC accepting jurisdiction of the Court over crimes that occurred at Maidan between 21 November 2013 and 22 February 2014.¹³⁶ On 8 September 2015, the GoU submitted a second declaration to the ICC, accepting the jurisdiction of the Court for the purpose of identifying, prosecuting and judging the perpetrators and accomplices of IHL violations committed on the territory of Ukraine from 20 February 2014 to the present.¹³⁷ Due to these declarations permitting the ICC to investigate international crimes under its jurisdiction (genocide, crimes against humanity and war crimes), the ICC was able to conduct a preliminary examination of the conflict in Ukraine.

The preliminary examination by the ICC OTP encompassed four "phases" in order to fully determine the situation or case before it: (i) *Phase one*: an initial assessment of all the information received as communicated to the ICC Prosecutor; (ii) *Phase two*: the formal commencement of a preliminary examination focusing on whether the alleged crimes fall within the jurisdiction of the Court; (iii) *Phase three*: the consideration of issues relating to the admissibility of the crimes alleged; and (iv) *Phase four*: the consideration of issues relating to the interests of justice. When the preliminary examination is completed, the ICC Prosecutor will file a Report with the ICC's Pre-Trial Chamber, characterised as an "Article 53(1) Report" that will outline her conclusions.¹³⁸

As will be described below,¹³⁹ if the Prosecutor concludes that the state is unwilling or unable to genuinely investigate or prosecute the case that he is prospectively examining, he will (almost certainly) conclude that the case is "admissible" and apply to the Court to prosecute the case at the ICC. Whether the state is prosecuting the case through ordinary criminal charges or international crimes, the adequacy of this approach – namely whether the conduct being prosecuted is substantially the same as that sought to be prosecuted at the ICC – will be a principal focus of this

¹³⁵ See p. 21.

¹³⁶ Ukrainian Declaration accepting the jurisdiction of the ICC.

¹³⁷ Second Ukrainian Declaration accepting the jurisdiction of the ICC.

¹³⁸ OTP Policy Paper on Preliminary Examination, paras. 77-84.

¹³⁹ See pp. 27-40.

determination. In circumstances where the ICC OTP has determined that there is a reasonable basis for proceeding to an investigation into crimes of genocide, crimes against humanity or war crimes, there will need to be an additional inspection of the adequacy of domestic or ordinary criminal charges (than would be the case with international charges) and this analysis may be a determining factor concerning whether the state is permitted to conduct the trial, or whether the ICC deems the case admissible and seeks to have the respective trials held at the ICC. This will be further discussed below.¹⁴⁰

Complementarity

The principle of admissibility encompasses the concepts of complementarity and gravity.¹⁴¹ The present discussion is limited to the issue of complementarity.¹⁴² It is this aspect of the admissibility question that will focus upon the appropriateness/sufficiency of the state's domestic investigations and trials. The complementarity principle is affirmed in paragraph 10 of the Preamble and Article 1 of the Statute and Article 17(1)(a)-(c) (admissibility of cases article) provides the framework for its understanding. The principle states that the ICC shall be "complementary to national criminal jurisdictions",¹⁴³ which means that the ICC has secondary jurisdiction after national courts, and can only act in a given situation if the relevant states are "unwilling or unable" to prosecute the crimes within their jurisdiction. In order to ascertain whether it can step in to investigate and prosecute, the ICC must first check whether genuine investigations and prosecutions are being conducted by domestic authorities. This involves, for instance, an analysis by the ICC OTP of steps taken by national courts to investigate or prosecute the alleged crimes against specific individuals encompassed by the preliminary examination.¹⁴⁴ Annex B outlines the precise questions that the ICC will be required to address in relation to specific war crimes. If it is found that domestic authorities have failed to take the necessary steps in the investigation and prosecution of crimes in Article 5 of the Rome Statute, and provided other conditions are met, the ICC can supersede national jurisdiction.

When addressing issues of complementarity, the ICC OTP will need to consider: (i) the likely groups of persons subject to investigation; and (ii) the crimes within the jurisdiction of the Court that are likely to be the focus of an investigation.¹⁴⁵ The OTP must then consider:

¹⁴⁰ *Ibid.*

¹⁴¹ Rome Statute, Articles 17(1)(a)-(c) (complementarity), 17(1)(d) (gravity).

¹⁴² For more detailed assessment of the relationships between Ukraine and the ICC, please see GRC, '[Ukraine and the International Criminal Court](#)' (April 2021).

¹⁴³ Rome Statute, preamble.

¹⁴⁴ Rome Statute, Articles 18(1), 19(2)(b).

¹⁴⁵ *Situation in the Republic of Kenya* ([Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya](#)) ICC-01/09-19-Corr (31

- a. Whether there are, or have been, national investigations or prosecutions relevant to the preliminary examination.¹⁴⁶ If not, then this factor alone is sufficient to make the case admissible at the ICC;¹⁴⁷
- b. If there have been national investigations or prosecutions, the ICC OTP will assess whether these relate to the potential cases being examined by its office. Principal amongst the questions raised are whether the same person and the same conduct are being investigated by the ICC and whether the focus is on those most responsible for the most serious crimes.
- c. If the answer is yes, the ICC OTP will examine whether the national proceedings are vitiated by an unwillingness or inability to genuinely carry out the proceedings:¹⁴⁸
 - i. In considering an unwillingness to prosecute, the ICC will consider: (a) the existence of proceedings designed to shield an individual from ICC jurisdiction; (b) an unjustifiable delay in the proceedings; and (c) whether the proceedings fail to be impartial or independent;¹⁴⁹ and
 - ii. In considering an inability to prosecute, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the state is unable to obtain the accused or the necessary evidence and testimony or is otherwise unable to carry out its proceedings;
- d. In the event that the ICC concludes that national authorities are either unwilling or unable, the ICC will (subject to the other ICC requirements) have jurisdiction over the crimes.

March 2010) paras. 50, 182, 188; *Situation in the Republic of Côte d'Ivoire* ([Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d'Ivoire](#)) ICC-02/11-14 (3 October 2011) paras. 190-191, 202-204.

¹⁴⁶ *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* ([Judgment on the Appeal of Mr Germain Katanga against the Oral Decision of Trial Chamber II of 12 June 2009 on the Admissibility of the Case](#)) ICC-01/04-01/07-1497 (25 September 2009) para. 78.

¹⁴⁷ *Ibid.*

¹⁴⁸ OTP Policy Paper on Preliminary Examinations, para. 49; The ICC has said that “the evidence related, *inter alia*, to the appropriateness of the investigative measures, the amount and type of resources allocated to the investigation, as well as the scope of the investigative powers of the persons in charge of the investigation ... which are significant to the question of whether there is no situation of ‘inactivity’ at the national level, are also relevant indicators of the State’s willingness and ability genuinely to carry out the concerned proceedings”: *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi* ([Decision on the Admissibility of the Case Against Abdullah Al-Senussi](#)) ICC-01/11-01/11-466-Red (11 October 2013) (“Decision on the Admissibility of the Case Against Abdullah Al-Senussi”) para. 210.

¹⁴⁹ Rome Statute, Article 17(2); OTP Policy Paper on Preliminary Examinations, paras. 51-58; *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi* ([Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi](#)) ICC-01/11-01/11-344-Red (31 May 2013) (“Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi”) paras. 199-215; Decision on the Admissibility of the Case against Abdullah Al-Senussi, para. 235.

As such, the principle of complementarity provides a lens through which the genuineness and effectiveness of the current efforts of the GoU to investigate and prosecute conduct that may amount to international crimes arising from, or connected to, the armed conflict in the east of Ukraine and occupation of Crimea can be gauged.

In particular, and as will be discussed, there can be little doubt that current Ukrainian investigatory and prosecutorial activity is insufficient to meet the ICC's threshold tests. In fact, the former ICC Prosecutor Fatou Bensouda noted that "despite the existence of information on domestic proceedings, [...] the potential cases that would likely arise from an investigation into the situation in Ukraine would be admissible. This is because the competent authorities in Ukraine and/or the Russian Federation are either inactive in relation to the categories of persons and conduct that the Office has identified, or because the national judicial system is 'unavailable' in territory under the control of the opposing party, rendering the competent authorities unable genuinely to obtain the accused or the necessary evidence and testimony or otherwise to carry out their proceedings."¹⁵⁰ The precise meaning of this test is discussed below.¹⁵¹

Assessment One: Whether there is, or has been, an investigation or prosecution of the case by the state?

As will be outlined,¹⁵² the ICC considers whether there are relevant ongoing or completed investigations or prosecutions of a situation under consideration by the ICC by a state that has jurisdiction over it. Inactivity by a state satisfies the complementarity requirements.¹⁵³

To satisfy this criterion, at least one state with jurisdiction over the case must be actively investigating or prosecuting the case.¹⁵⁴

Assessment Two: Same Person and Conduct Test?

For the ICC to be satisfied that the domestic investigation covers the same "case" as that before the Court, it must be demonstrated that: a) the person subject to the domestic proceedings is the same person against whom the proceedings before the Court are being conducted; and b) the conduct that is subject to the national investigation is substantially the same conduct that is alleged

¹⁵⁰ [Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine](#) (ICC, 11 December 2020).

¹⁵¹ See, sections *Ukraine's Domestic Prosecution of Conflict-Related Crimes and Conclusion: Short Term Recommendations*.

¹⁵² See pp. 27 - 40.

¹⁵³ *The Prosecutor v Thomas Lubanga Dyilo (Decision concerning Pre-Trial Chamber I's Decision of 10 February 2006 and the Incorporation of Documents into the Record of the Case against Mr Thomas Lubanga)* Case No. ICC-01/04-01/06-8 (24 February 2006) ("*Lubanga Decision concerning Pre-Trial Chamber I's Decision of 10 February 2006*") para. 29.

¹⁵⁴ *Ibid*, 30.

in the proceedings before the Court.¹⁵⁵ The domestic investigation and prosecution of a case must correspond in specific respects to the case being examined by the ICC.¹⁵⁶ Therefore, capturing the nature and gravity of the crime is vital.¹⁵⁷

The ICC will consider whether the national approach encompasses the same conduct as the conduct the ICC wishes to prosecute – namely, war crimes, crimes against humanity or genocide – regardless of whether the state pursues investigations and prosecutions into ordinary domestic crimes or international crimes.¹⁵⁸ To satisfy this part of the criterion, the state must be taking “concrete and progressive investigative steps to ascertain whether the person is responsible for the conduct alleged against him before the Court”.¹⁵⁹ The state must be investigating substantially

¹⁵⁵ Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi, paras 61, 74, 76, 77. The Chamber recalled that the “same person, same conduct” test was initially elaborated in *Lubanga* Decision concerning Pre-Trial Chamber I’s Decision of 10 February 2006, para. 31. This test was later recalled in: *The Prosecutor v. Ahmad Muhammad Harun (‘Ahmad Harun’) and Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’)* ([Decision on the Prosecution Application under Article 58\(7\) of the Statute](#)) ICC-02/05-01/07-I-Corr (27 April 2007) para. 24; *The Prosecutor v. Germain Katanga* ([Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Germain Katanga](#)) ICC-01/04-01/07-4 (6 July 2007) para. 20 (public redacted version in ICC-01/04-01/07- 55); *The Prosecutor v. Mathieu Ngujolo Chui* ([Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Mathieu Ngujolo Chui](#)) ICC-01/04-01/07-262 (6 July 2007) para. 21; *Prosecutor v. Omar Hassan Ahmad Al Bashir* ([Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir](#)) ICC-02/05-01/09-2-Conf (4 March 2009) para. 50 (public redacted version in ICC-02/05-01/09-3); and *Prosecutor v. Bahr Idriss Abu Garda* ([Decision on the Prosecutor’s Application under Article 58](#)) ICC-02/05-02/09-I-Conf (7 May 2009) para. 4 (public redacted version in ICC-02/05-02/09-12-Anxl). The same approach was taken by Pre-Trial Chamber II in *Prosecutor v. Kony et al.* ([Decision on the Admissibility of the Case under Article 19\(1\) of the Statute](#)) ICC-02/04-01/05-377 (10 March 2009) paras. 17-18; *Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* ([Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute](#)) ICC-01/09-01/11-101 (30 May 2011) para. 54; *Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* ([Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute](#)) ICC-01/09-02/11-96 (30 May 2011) para. 48. Lastly, the same position was adopted by Pre-Trial Chamber III in *Prosecutor v. Jean-Pierre Bemba Gombo* ([Decision on the Prosecutor’s Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo](#)) ICC-01/05-01/08-14-tENG (10 June 2008) para. 16.

¹⁵⁶ *Lubanga* Decision concerning Pre-Trial Chamber I’s Decision of 10 February 2006, para. 31.

¹⁵⁷ B Broomhall, ‘The International Criminal Court: A Checklist for National Implementation’ in M Cherif Bassiouni (ed.), *ICC Ratification and National Implementing Legislation* (Nouvelles Etudes Penales 13 quarter 1999) 113, 149-151. See also D Robinson, ‘The Rome Statute and Its Impact on National Law’, in A Cassese et al, *The Rome Statute of the International Criminal Court* (Oxford University Press 2002) 1861; L E Carter, ‘The Principle of Complementarity and the International Criminal Court: the Role of *Ne Bis in Idem*’ (2010) 8 *Santa Clara Journal of International Law* 165, 194.

¹⁵⁸ Rome Statute, Articles 17(1) and 20(3). See also Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi, paras. 85-88; Decision on the Admissibility of the Case Against Abdullah Al-Senussi, para. 66.

¹⁵⁹ Decision on the Admissibility of the Case Against Abdullah Al-Senussi, para. 66: citing Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi, paras. 54, 55,73; *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* ([Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled ‘Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article](#)

the same conduct and what this means will vary on a case-by-case basis, according to the facts and circumstances of each case. An individualised analysis of the facts is required for each matter.¹⁶⁰

The “same person, same conduct test” was first elaborated in the *Lubanga* case,¹⁶¹ in which the national judicial system had taken a great deal of action towards investigation, including the issuance of two warrants of arrest and the holding of the relevant suspect (Thomas Lubanga) in the *Centre Pénitentiaire et de Rééducation de Kinshasa*.¹⁶² While the “same person” concept did not need any further clarification, the ICC held that the national proceedings had not covered the “same conduct” as that pursued by the ICC.¹⁶³ In particular, the Pre-Trial Chamber noted that the warrants of arrest issued by the Democratic Republic of Congo (“DRC”) made no reference to the alleged policy and practice of enlisting child soldiers (the principal focus of the ICC case) and thus the DRC could not be “considered to be acting in relation to the specific case before the Court”.¹⁶⁴

Satisfaction of this criterion is not dependent upon the *legal categorisation* of the conduct *but* the *conduct itself* that is the focus of the national proceedings.¹⁶⁵ Accordingly, the question does not rest upon whether the investigation or prosecution is for international crimes or ordinary domestic crimes. It was a deliberate decision of the drafters of the Rome Statute not to distinguish between ordinary crimes and international crimes, and instead focus on the “conduct” prosecuted.¹⁶⁶ If the investigation or prosecution covers the same conduct, irrespective of the precise delineation, the

[19\(2\)\(b\) of the Statute](#)) ICC-01/09-02/11-274 (30 August 2011) paras 1, 40: These investigative steps may include “interviewing witnesses, suspects collecting documentary evidence, or carrying out forensic analysis”.

¹⁶⁰ Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi, para. 77; Decision on the Admissibility of the Case Against Abdullah Al-Senussi, para. 66.

¹⁶¹ *Lubanga* Decision concerning Pre-Trial Chamber I’s Decision of 10 February 2006, para. 31.

¹⁶² *Ibid*, para. 36.

¹⁶³ *Ibid*, para. 37.

¹⁶⁴ *Ibid*, paras. 37-39.

¹⁶⁵ Decision on the Admissibility of the Case Against Abdullah Al-Senussi, para. 66.

¹⁶⁶ Decision on the admissibility of the case against Saif Al-Islam Gaddafi, paras. 86-87 and fns 138-139; citing UNGA, ‘Report of the Ad Hoc Committee on the Establishment of an International Criminal Court’ 50th Sess., Supp. No. 22, A/50/22 (1995) paras. 43, 179. See also ‘Summary of the Proceedings of the Ad Hoc Committee during the period 3-13 April 1995’ A/AC.244/2 (*Ad hoc* Committee) para. 105; UNGA, ‘Report of the Preparatory Committee on the Establishment of an International Criminal Court, Volume I (Proceedings of the Preparatory Committee During March-April and August 1996’ 51st Sess., Supp. No. 22, A/51/22 (13 September 1996) para. 171. See also ‘Composite paper: Complementarity: Concrete Suggestions to the ILC Draft made in the Course of the Discussion’ (2 April 1996) draft Article 42; ‘Annex: Complementarity: a compilation of concrete proposals made in the course of discussion for amendment of the ILC Draft Statute (Preparatory Committee on the Establishment of an International Criminal Court -25 March-12 April 1996’ A/AC.249/CRP.9/Add.I (8 April 1996) draft Article 42. The reference to ordinary crimes was excluded from the 1998 Draft Statute: ‘Draft Statute for the International Criminal Court. Part 2. Jurisdiction, Admissibility and Applicable Law’ A/AC.249/1998/CRP.8 (2 April 1998) draft Article 13; ‘Report of the Preparatory Committee on the Establishment of an International Criminal Court, Draft Statute & Draft Final Act’ A/Conf.183/2/Add.I (14 April 1998) draft Article 18.

ICC will deem it sufficient to reach a finding of inadmissibility.¹⁶⁷ As observed, “[t]he question of whether domestic investigations are carried out with a view to prosecuting ‘international crimes’ is not determinative of an admissibility challenge”,¹⁶⁸ and “a domestic investigation or prosecution for ‘ordinary crimes’, to the extent that the case covers the same conduct, shall be considered sufficient”.¹⁶⁹ Therefore, as outlined and expressly found by the ICC, the absence of domestic legislation allowing the prosecution of war crimes, crimes against humanity or genocide, whilst creating “admissibility” obstacles, does not *per se* render a case admissible at the ICC.¹⁷⁰

Further guidance on the “same conduct” test may be found in the ICC’s Libya complementarity determination. It was argued in the case of *Al-Senussi* (ex-Minister of Intelligence of Libya) that the fact that the international crime of persecution as a crime against humanity could not be charged at the national level (although it might be considered at the sentencing stage) due to a lack of local law, should lead to a judicial finding that Libya was not investigating the same case and that the case was therefore admissible before the ICC.¹⁷¹ The ICC Appeals Chamber was not persuaded.¹⁷² It approved the finding of the Pre-Trial Chamber that in the circumstances there was no need to charge the international crime of “persecution” (even though the ICC case was principally premised on this crime). The requirement that the domestic case covers substantially (and not identically) the same conduct provided Libya with a degree of flexibility when deciding how to pursue the case at the domestic level. An assessment of whether the “domestic case *sufficiently mirrors* the case before the court” is what is required.¹⁷³

In determining that the conduct underlying the charge of persecution as a crime against humanity was sufficiently covered by the Libyan proceedings,¹⁷⁴ the Appeals Chamber considered the various offences envisaged at the domestic level and the overall context of the case that was underpinned by crimes against civilians and the use of the Security Forces to suppress those demonstrating against a political regime.¹⁷⁵ Furthermore, as to the specific element of targeting a group or person based on political, racial or other groups – as required for persecution – the Appeals Chamber accepted that a Libyan judge could include discrimination on grounds constituting the international

¹⁶⁷ Decision on the admissibility of the case against Saif Al-Islam Gaddafi, para. 88.

¹⁶⁸ *Ibid*, para. 85.

¹⁶⁹ *Ibid*, para. 88.

¹⁷⁰ *Ibid*.

¹⁷¹ *Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi* ([Judgment on the appeal of Mr Abdullah Al-Senussi against the decision of Pre-Trial Chamber I of 11 October 2013 entitled ‘Decision on the admissibility of the case against Abdullah Al-Senussi’](#)) ICC-01/11-01/11 OA 6 (24 July 2014) (“Appeals Judgment on the appeal of the ‘Decision on the admissibility of the case against Abdullah Al-Senussi’”) para. 118.

¹⁷² *Ibid*, para. 118.

¹⁷³ *Ibid*, para. 119 [emphasis added].

¹⁷⁴ *Ibid*, para. 122.

¹⁷⁵ *Ibid*, para. 120.

crime of persecution as an aggravating feature during sentencing.¹⁷⁶ Consequently, it is possible for a state to pursue a technically different offence, if the facts are appropriately and substantially included, and the gravity and magnitude of the alleged offending is incorporated at some stage of the proceedings.¹⁷⁷

Similar issues arose in the *Gaddafi* case at the ICC. The ICC OTP sought to charge Saif Al-Islam Gaddafi with a long list of alleged acts of murder and persecution as crimes against humanity.¹⁷⁸ At the domestic level, Libya was investigating Gaddafi for a range of charges covering the same factual incidents as the ICC's murder and persecution charges. However, in the domestic case they were not charged specifically as persecution or crimes against humanity.¹⁷⁹

In considering the matter, the ICC Pre-Trial Chamber raised "specific concerns regarding the ordinary crimes in relation to which Mr Gaddafi was being investigated".¹⁸⁰ Nevertheless, they ruled that the same case was being investigated.¹⁸¹ For the persecution charge, one of the Chamber's main concerns was that the omission of a persecutory intent might mean that the crime charged did not sufficiently capture his conduct. However, the Pre-Trial Chamber resolved this apparent deficit through a conclusion (similar to that in the *Al-Senussi* case) that "although persecutory intent

¹⁷⁶ *Ibid*, para. 121.

¹⁷⁷ L Finlay, 'Does the International Criminal Court Protect Against Double Jeopardy: An Analysis of Article 20 of the Rome Statute' (2008-2009) 15 *U.C. David Journal of International Law and Policy* 221, 229.

¹⁷⁸ Decision on the admissibility of the case against Saif Al-Islam Gaddafi, paras. 79-83: Namely, Mr Gaddafi allegedly used his control over relevant parts of the Libyan State apparatus and Security Forces to deter and quell, by any means, including by the use of lethal force, the demonstrations of civilians, which started in February 2011 against Muammar Gaddafi's regime; in particular, that Mr Gaddafi activated the Security Forces under his control to kill and persecute hundreds of civilian demonstrators or alleged dissidents to Muammar Gaddafi's regime, across Libya, in particular in Benghazi, Misrata, Tripoli and other neighbouring cities, from 15 February 2011 to at least 28 February 2011.

¹⁷⁹ Decision on the admissibility of the case against Saif Al-Islam Gaddafi, para. 37: Libya argued that the investigation concerned the same individual conduct by Mr. Gaddafi as the murder and persecution alleged by the ICC Prosecutor. The charges covered crimes against the person with a broad temporal scope and financial crimes dating back to 2006. The geographic scope was also said to take place in numerous places throughout Libya; para. 112-2: The ordinary crimes charged were intentional murder, torture, incitement to civil war, indiscriminate killings, misuse of authority against individuals, arresting people without just cause, and unjustified deprivation of personal liberty pursuant to Articles 368, 435, 293, 296, 431, 433 and 434 of the Libyan Criminal Code. In addition, the potential charges of: insulting constitutional authorities pursuant to Article 195, devastation, rapine and carnage pursuant to Article 202, civil war pursuant to Article 203, conspiracy pursuant to Article 211, attacks upon the political rights of a Libyan pursuant to Article 217, arson pursuant to Article 297, spreading disease among plants and livestock pursuant to Article 362, concealment of a corpse pursuant to Article 294, aiding members of a criminal association pursuant to Article 322, use of force to compel another pursuant to Article 429, and search of persons pursuant to Article 432 of the Libyan Criminal Code.

¹⁸⁰ *Ibid*, para. 108.

¹⁸¹ *Ibid*, para. 113.

is not an element of any of the crimes against Mr Gaddafi, it is an aggravating factor which is taken into account in sentencing under Article 27 and 28 of the Libyan Criminal Code”.¹⁸²

Therefore, the Pre-Trial Chamber found that the plethora of charges advanced by Libya did not cover “all aspects of the offences” to be brought under the Rome Statute¹⁸³ but that these charges had the potential to “sufficiently capture” his conduct along with the persecutory intent under “Articles 27 and 28 of the Libyan Criminal Code”.¹⁸⁴

A key concern for the Chamber was clearly whether the crimes charged met the gravity of the conduct adequately. In this respect, the critical questions will often revolve around whether the ordinary crimes charged contain similar physical and mental elements, as well as whether they are able to be properly contextualised as part of a widespread or systematic attack on a civilian population (to correspond to crimes against humanity) or through a nexus to an armed conflict (to correspond to war crimes). These latter contexts are important aspects of defining the scope, magnitude and gravity of the specific conduct and are often difficult to encompass within the elements constituting ordinary crimes.

In making the “same conduct, same case” assessment, the ICC will also consider the domestic crimes sentencing regime. As noted, a significant disparity in sentencing may be a factor weighing against “allowing” the state to continue the prosecution domestically.¹⁸⁵ Domestic crimes may not provide for an adequate or comparable penal sanction and this will militate against a finding that the “same case” is being prosecuted at the domestic level. For some domestic offences, this issue may be more easily resolved. For example, depending upon the state in question, a domestic offence of murder may attract similar sentencing to a crime against humanity – both resulting in the most severe penalties.¹⁸⁶ However, with other offences this convergence may be less obvious: for example, pillaging prosecuted as mere theft may lead to a vastly different sentence.¹⁸⁷

Therefore, although charging domestic offences may be sufficient, such an approach must be considered less than ideal and, in view of the ICC’s nascent “same case” test, may continue to involve a significant and avoidable degree of uncertainty. It is difficult to predict the ICC’s precise calculation when considering domestic charges and weighing them against their own findings concerning genocide, crimes against humanity and war crimes. The explanatory jurisprudence is

¹⁸² *Ibid*, para. 111.

¹⁸³ *Ibid*, para. 113.

¹⁸⁴ *Ibid*.

¹⁸⁵ B Broomhall, ‘The International Criminal Court: A Checklist for National Implementation’ in M Cherif Bassiouni (ed), *ICC Ratification and National Implementing Legislation* (Nouvelles Etudes Penales 13 quarter 1999) 149.

¹⁸⁶ J Kleffner, ‘The Impact of Complementarity on National Implementation of Substantive International Criminal Law’ (2003) 1 *Journal of International Criminal Justice* 86, 97.

¹⁸⁷ *Ibid*.

still in its infancy. Attempting to assess the correspondence between international crimes and domestic (ordinary) crimes is not a precise science. There can be real difficulty in determining which ordinary crime should be charged to adequately capture conduct alleged to constitute an international crime. Such an approach places the state at a heightened risk of losing the admissibility argument because of inaction resulting from deficits in domestic law and practice failing to provide the legal prohibitions for the full range of conduct encapsulated within the ICC Statute.¹⁸⁸

Third assessment: Are the national proceedings vitiated by an unwillingness or inability to genuinely carry out the proceedings?

If the ICC deems that there is relevant investigative or prosecutorial activity at the domestic level concerning both the same conduct and the same person, it will next assess whether these proceedings represent a *genuine* attempt to hold the individual accountable for their conduct. As previously noted, a determination of either unwillingness or inability is sufficient to remove a case from the domestic jurisdiction and make it “admissible” before the ICC (*i.e.*, so that it can be tried at the ICC).¹⁸⁹

“UNWILLING”

The first criterion requires an assessment of whether a state is “unwilling” to genuinely conduct national proceedings of the case. In order to determine unwillingness in a particular case, the ICC will consider whether: (a) the domestic proceedings were or are being undertaken or a decision was made at the domestic level for the purpose of shielding a person from criminal responsibility; (b) there has been an unjustifiable delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice; and (c) the proceedings are not conducted impartially or independently and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.¹⁹⁰

Pre-Trial Chamber I of the ICC addressed the issue of unwillingness in the *Al-Senussi* decision on admissibility.¹⁹¹ After satisfying itself that there was a relevant investigation at the domestic level,

¹⁸⁸ *Ibid*, 96-97, citing B Broomhall, ‘The International Criminal Court: A Checklist for National Implementation’ in M Cherif Bassiouni (ed), *ICC Ratification and National Implementing Legislation* (Nouvelles Etudes Penales 13 quarter 1999) 149.

¹⁸⁹ *Ibid*; OTP Policy Paper on Preliminary Examinations, para. 49; Decision on the Admissibility of the Case Against Abdullah Al-Senussi, para. 210: evidence related, *inter alia*, to the appropriateness of the investigative measures, the amount and type of resources allocated to the investigation, as well as the scope of the investigative powers of the persons in charge of the investigation ... which are significant to the question of whether there is no situation of ‘inactivity’ at the national level, are also relevant indicators of the State’s willingness and ability genuinely to carry out the concerned proceedings.

¹⁹⁰ Rome Statute, Article 17(2). See also OTP Policy Paper on Preliminary Examinations, paras. 50-55.

¹⁹¹ Decision on the admissibility of the case against Abdullah Al-Senussi, paras. 169- 293.

the Pre-Trial Chamber assessed whether conditions existed which indicated that Libya was unwilling to genuinely carry out proceedings against Al-Senussi.¹⁹²

When determining whether Libya was genuinely unwilling to carry out the proceedings, the Pre-Trial Chamber recognised that any assessment of the willingness (and ability) to carry out appropriate proceedings must be assessed in light of the relevant domestic law and procedures.¹⁹³ It further stated that an evidentiary debate on unwillingness or inability only arises when there are doubts as to the genuineness of the domestic proceedings. In those circumstances the state must substantiate the concrete circumstances of the case.¹⁹⁴

Regarding Libya's unwillingness to carry out criminal proceedings, the Pre-Trial Chamber considered a number of issues, including: (i) the quantity and quality of evidence collected by Libya as part of their investigation of the suspect, Mr Al-Senussi; (ii) the scope, methodology and resources of the investigation; (iii) the recent progress of the case, namely the transfer of it to the Accusation Chamber;¹⁹⁵ and (iv) other comparable proceedings being conducted.¹⁹⁶

With respect to the need to consider whether the Government of Libya was shielding Al-Senussi from criminal responsibility for crimes within the jurisdiction of the Court,¹⁹⁷ the Chamber considered that there was no indication to warrant a finding of "unwillingness" on this basis.¹⁹⁸

As to whether the Libyan proceedings were tainted by an unjustified delay that in the concrete circumstances was inconsistent with an intent to bring Mr Al-Senussi to justice, the Chamber observed that in the specific circumstances of the case – which had broad temporal, geographic and material parameters – a period of less than 18 months between the commencement of the investigation in relation to Mr Al-Senussi and the referral of the case against him to the Accusation Court, could not be considered an unjustified delay.¹⁹⁹ Thus, the Chamber was satisfied that the national investigations were not being conducted in a manner that was inconsistent with the intent to bring Mr Al-Senussi to justice.²⁰⁰

Concerning the independence and impartiality of the national proceedings, not only must it be shown that the proceedings are not being conducted independently or impartially, the determination also requires a demonstration that the proceedings are not being conducted in a

¹⁹² *Ibid*, para. 202.

¹⁹³ *Ibid*, para. 208.

¹⁹⁴ *Ibid*.

¹⁹⁵ *Ibid*, para. 289.

¹⁹⁶ *Ibid*.

¹⁹⁷ *Ibid*, para. 202.

¹⁹⁸ *Ibid*, para. 290.

¹⁹⁹ *Ibid*, paras. 227-229 and 291.

²⁰⁰ *Ibid*, para. 292.

manner that, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.²⁰¹

The Appeals Chamber in the *Al-Senussi* case noted that the consideration of impartiality and independence is familiar in the area of human rights law and human rights standards.²⁰² However, the Appeals Chamber noted that the determination of independence and impartiality “is not one that involves an assessment of whether the due process rights of a suspect have been breached *per se*”.²⁰³ Instead, the notions of independence and impartiality must be seen in light of Article 17(2)(c) which is primarily concerned with whether the national proceedings are being conducted in a manner that would enable the suspect to evade justice.²⁰⁴

Nonetheless, the Chamber held that there might be circumstances where violations of the suspect’s rights will be egregious enough for a finding that the proceedings are “inconsistent with an intent to bring that person to justice”.²⁰⁵ When discussing egregious violations of the suspect’s rights, the Appeals Chamber noted that proceedings that were little more than predetermined preludes to executions would be sufficient to render a case inadmissible.²⁰⁶

In addition to this more extreme example, less extreme circumstances may also suffice, such as when the violations of the rights of the suspect are so egregious that it is clear that the international community would not accept that the accused is being brought to any genuine form of justice. Whether a case will ultimately be admissible in such circumstances will necessarily depend upon its precise facts.²⁰⁷

“UNABLE”

In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the state is unable to obtain the accused, or the necessary evidence and testimony, or is otherwise unable to carry out its proceedings. Factors that should be considered include: (i) a lack of necessary personnel, such as judges, investigators, prosecutors; (ii) a lack of substantive or procedural penal legislation to criminalise crimes under the ICC’s jurisdiction rendering the system “unavailable”; (iii) a lack of

²⁰¹ Rome Statute, Article 17(2)(c); Appeals Judgment on the appeal of the ‘Decision on the admissibility of the case against Abdullah Al-Senussi’, para. 220.

²⁰² Appeals Judgment on the appeal of the ‘Decision on the admissibility of the case against Abdullah Al-Senussi’, para. 220.

²⁰³ *Ibid*, para. 230.

²⁰⁴ *Ibid*, para. 221.

²⁰⁵ *Ibid*.

²⁰⁶ *Ibid*, para. 230.

²⁰⁷ *Ibid*.

access rendering the system “unavailable”; (iv) obstruction by uncontrolled elements rendering the system “unavailable”; and (v) amnesties or immunities rendering the system “unavailable”.²⁰⁸

It is difficult to gauge how inability will be adjudged in specific cases. The ICC has broad discretion to look into the state’s whole system of criminal justice. It is case and situation specific.

In the *Lubanga* case, the ICC determined that the DRC’s judicial system was “able” within the meaning of Article 17. In making this determination, it took account of certain changes in the DRC’s national judicial system, which resulted in, *inter alia*, the issuance of two warrants of arrest by the competent DRC authorities for Mr Lubanga as well as domestic proceedings against him.²⁰⁹

In the *Al-Senussi* case, the ICC focused on whether Libya was unable to obtain the necessary evidence and testimony as a result of a “total or substantial collapse or unavailability” of the national judicial system.²¹⁰ Whilst making this determination, the Pre-Trial Chamber examined the evidence already gathered by Libya and the stage of the proceedings reached at the national level to determine if relevant factual circumstances existed that prevented these steps.²¹¹ In particular, the Chamber considered the security situation in Libya, specifically the absence of effective protection programmes for witnesses and the fact that certain detention facilities were yet to be transferred under the authority of the Ministry of Justice, as critical questions having a direct and relevant bearing on the investigation.²¹²

The Pre-Trial Chamber determined that the domestic proceedings had not been prejudiced by the security challenges as demonstrated by the “progressive and concrete investigative” steps already taken. The fact that Libya had been able to provide a considerable amount of evidence collected as part of its investigation was a critical factor.²¹³ The Pre-Trial Chamber stated that the evidence need not comprise all possible evidence and that there was no indication that evidence collection had ceased.²¹⁴ As such, the Chamber decided that, taking into account all the relevant circumstances, a concrete examination did not lead to a conclusion that there was an inability to obtain relevant evidence or testimony. Therefore, no inference arose that Libya was not able to carry out proceedings genuinely.²¹⁵

²⁰⁸ ICC ‘[Informal Expert Paper: The Principle of Complementarity in Practice](#)’ ICC-01/04-01/07-1008-AnxA (30 March 2009) para. 50.

²⁰⁹ *Prosecutor v. Thomas Lubanga Dyilo* ([Decision on the Prosecutor’s Application for a Warrant of Arrest, Article 58](#)) Case No. ICC-01/04-01/06-8-US-Corr (10 February 2006) para. 36

²¹⁰ *Ibid*, at para. 295.

²¹¹ Decision on the admissibility of the case against Abdullah Al-Senussi, para. 296.

²¹² *Ibid*, para. 297.

²¹³ *Ibid*, paras. 297-299.

²¹⁴ *Ibid*, para. 298.

²¹⁵ *Ibid*, para. 301.

Conversely, in the *Gaddafi* case, the Pre-Trial Chamber ruled that Libya was unable to obtain the necessary information and evidence to carry out the proceedings against Gaddafi in compliance with Libyan national law.²¹⁶ In particular, the Chamber noted that Libya had not yet been able to secure the transfer of Mr Gaddafi from his place of detention under the custody of the Zintan militia into state authority.²¹⁷ Further, the inability of judicial and governmental authorities to provide adequate witness protection resulted in a lack of capacity to obtain the necessary testimony for the proceedings.²¹⁸

It should also be noted that the broad phrase “otherwise unable to carry out its proceedings” under Article 17(3) of the Rome Statute serves as a catch-all clause of inability to cover “a variety of situations that may arise during domestic proceedings”.²¹⁹ It provides the ICC with the broadest of discretions in assessing ability. The phrase within Article 17(3) may also include an assessment of procedural rights such as the availability of lawyers for suspects, which constitutes an impediment to the progress of proceedings.²²⁰ For example, in *Al-Senussi*, the defence argued that the Libyan authorities were “otherwise unable” to conduct genuine proceedings against Mr Al-Senussi given that he has had no access to legal representation and other fundamental rights had allegedly been violated.²²¹ The Chamber observed that Libya’s capacity to carry out proceedings was not affected *per se* by the security situation, and that recent court appearances had not been prevented.²²² Libya argued that it was making efforts to appoint a lawyer and the delays were not insurmountable but due to the transitional context and security difficulties, and as such did not amount to inability.²²³

The Pre-Trial Chamber ruled that the problem of legal representation *could* become fatal to the progress of proper proceedings.²²⁴ However, the decision had to be made at the time of the admissibility proceedings (*i.e.*, not forecasting into the future).²²⁵ The Chamber noted that, in contrast to the previous *Gaddafi* decision, where Gaddafi was not under the control of the state, Al-Senussi was,²²⁶ and several local lawyers had indicated their willingness to represent him.²²⁷ The

²¹⁶ Decision on the admissibility of the case against Saif Al-Islam Gaddafi, para. 205.

²¹⁷ *Ibid*, para. 206.

²¹⁸ *Ibid*, para. 209.

²¹⁹ J T Holmes, ‘Complementarity: National Courts Versus the ICC’ in A Cassese et al. (eds), *The Rome Statute of the International Criminal Court: A Commentary* (Oxford University Press 2002) 678; see also M El Zeidy, *The Principle of Complementarity in International Criminal Law: Origin, Development and Practice* (Brill 2008) 224.

²²⁰ Decision on the admissibility of the case against Saif Al-Islam Gaddafi, paras. 212-214.

²²¹ Decision on the admissibility of the case against Abdullah Al-Senussi, para. 183.

²²² *Ibid*, para. 303.

²²³ *Ibid*, para. 306.

²²⁴ *Ibid*, para. 307.

²²⁵ *Ibid*, para. 307.

²²⁶ *Ibid*, para. 308.

²²⁷ *Ibid*.

Chamber had no reason to dispute this and so found that it could not conclude that Al-Senussi's case would be impeded from proceeding further on the grounds that Libya would be unable to adequately address the security concerns and ensure proper legal representation.²²⁸ It was not therefore able to conclude that Libya was unable to otherwise carry out its proceedings.²²⁹ This is one example of how the ICC may proceed in relation to this residual category. Due to the paucity of cases thus far, there is little other guidance available to date. However, the provision appears to provide the ICC with wide discretion to consider all aspects of the specific judicial system in its determination of the state's actual ability to proceed with an investigation or trial at the domestic level.

The Burden of Proof: Complementarity

Now that the ICC Prosecutor has declared conduct that has occurred in Ukraine as admissible and requiring a formal investigation, *the burden of proof* for proving that the case is inadmissible before the Pre-Trial Chamber – and as such should be tried in Ukraine – falls on Ukraine. Consequently, Ukraine would be required to substantiate the investigatory or prosecutorial steps it is taking to demonstrate its willingness and ability to prosecute the same conduct as that pursued by the ICC. Mere assurances made by Ukraine will not suffice.

The state must show that it is taking concrete and progressive steps to ascertain whether the person is responsible for the conduct alleged in the proceedings before the Court.²³⁰ As noted above,²³¹ the assessment of the subject matter of the domestic proceedings must focus on the alleged conduct and not on its legal characterisation.²³²

In Ukraine, even though the prosecutions for conflict-related crimes have been initiated, the available information suggests that the investigations and prosecutions address a small fraction of the IHL violations that have occurred in the conflict zone. Moreover, those investigations and prosecutions are mainly centred upon specific national crimes and not international crimes, which in many instances fail to adequately capture the gravity of the conduct alleged. Accordingly, when viewed through the ICC's three-part complementarity test there appears to be little activity at the domestic level. This is further discussed below.

²²⁸ *Ibid.*

²²⁹ *Ibid*, para. 309.

²³⁰ *Ibid*, para. 66.

²³¹ *Ibid*, paras. 59-61.

²³² Decision on the admissibility of the case against Abdullah Al-Senussi, para. 88.

Ukraine's Domestic Prosecution of Conflict-Related Crimes

This section of the Report looks at available public information concerning Ukrainian authorities' investigation and prosecution of IHL violations and other serious violations of international law and assesses the steps that Ukraine has taken in pursuance of its obligations to provide effective penal sanctions for those crimes. As outlined, Annex A is a representative sample of the GoU's recent and current investigations and prosecutions for IHL violations or other serious violations of international law alleged to be taking place in, or connected to, the armed conflict in the east of Ukraine.

Between 1 September 2020 and 10 April 2021, GRC reviewed the Ukrainian Unified Register of the Court Decisions in order to form a considered view concerning how conflict-related crime cases in the east of Ukraine and the occupation of Crimea have been prosecuted and adjudicated domestically since September 2016. According to the Law "On Access to the Court Decisions",²³³ Ukrainian courts of general jurisdiction must publish all their decisions on the Case Register no later than a day after they were produced and signed. As a result, the database provides information on cases from the time of the first court's decision. It contains various types of substantive and procedural information such as the case proceedings number, a brief summary of the facts, and the relevant court. The Case Register does not contain any personal information related to the accused, his/her counsel (other than the name of the counsel), witnesses, or victims. It should be noted that the Case Register and the Judiciary have been criticised for failing to publish all the court decisions.²³⁴ Furthermore, the already published decisions may be removed from the Case Register.²³⁵ For example, in 2018 alone, more than 200,000 documents in criminal, civil, administrative and economic cases disappeared from the Case Register, reportedly to conceal information about crimes committed by or involving corrupt officials and enterprises.²³⁶ As a consequence, GRC accepts that the information on the Case Register may not provide a complete overview of all prosecutions related to the crimes committed in the east of Ukraine and Crimea.

²³³ Law of Ukraine "On Access to Court Decisions" No. 3262-IV (22 December 2005).

²³⁴ Y Berezovskyi, '[Register it immediately: what and why the members of the Parliament plan to change in the organisation of work of the Unified Register of the Court Decisions](#)' Law and Business No 49 (1295), 2016; see also K Mahnushevska, '[Council of Judges refused to help State Judicial Administration with filling Unified state register of court decisions: now database might remain half empty, the staff employees will wait for unpaid anxieties](#)' Law and Business (Kyiv, 13-16 June 2015).

²³⁵ M Panasenko, '[Lost note of the court register](#)', Center of Journalist Investigations (25 June 2020).

²³⁶ M Motrunych, '[How more than 200 thousands documents disappeared from the court register](#)' (Slidstvo.Info, 19 December 2019).

Nevertheless, it appears to provide sufficient information to ascertain current practices and trends that form the basis of our preliminary recommendations.²³⁷

In summary, the Case Register appears to show the following practices and trends concerning the activities of Ukrainian prosecution authorities in relation to conflict-related crimes:

- (i) A growing number of prosecutions of IHL violations or other serious violations of international law as international crimes, specifically war crimes under Article 438 of the CCU. However, at the time of writing only two war crimes cases have been adjudicated, one of which is being reviewed by the Supreme Court of Ukraine at the cassation stage;²³⁸
- (ii) A pattern of charging “separatists” (or those suspected of assisting the military effort of the separatists in the east of Ukraine) for participation in the conflict, including:
 - Article 437(2): Waging an Aggressive War;²³⁹
 - Article 258-3: Participation in a Terrorist Group or Terrorist Organisation;²⁴⁰
 - Article 258-5: Financing of Terrorism;²⁴¹
 - Article 260(2): Participation in Unlawful Paramilitary or Armed Formations;²⁴² and
 - Article 263: Illegal Handling of Weapons, Ammunition or Explosives, often combined with one of the above-listed crimes;²⁴³

²³⁷ See p. 99.

²³⁸ [Case No. 243/4702/17, Judgment of 4 July 2017](#), Sloviansk City District Court of Donetsk region; [Case No. 415/2182/20, Judgment of 18 May 2020](#), Lysychansk city court of Luhansk region.

²³⁹ See [Case No. 219/10228/15-к, Judgment of 22 August 2019](#), Artemivsk City District Court of Donetsk region; [Case No. 328/67/16-к, Judgment of 25 February 2016](#), Tokmatsky district court of Zaporizhya region; [Case No. 409/2799/16-к, Judgment of 13 December 2016](#), Bilokurakhyne District Court of Luhansk region; [Case No. 1-кп/225/195/2017, Judgment of 8 February 2017](#), Dzerzhynsk city court of Donetsk region; [Case No. 263/15014/15-к, Judgment of 16 May 2018](#), Zhovtnevy District Court of Mariupol, Donetsk region.

²⁴⁰ See [Case No. 686/6951/16-к, Judgment of 9 September 2016](#), Khmelnytsky City District Court; [Case No. 699/268/15-к, Judgment of 6 October 2016](#), Prydniprovsky District Court of Cherkasy; [Case No. 766/10952/17, Judgment of 22 April 2019](#), Berdyansk City District Court of Zaporizhia region; [Case No. 233/3432/16-к, Judgment of 18 January 2019](#), Konstantynivsky city district court of Donetsk region.

²⁴¹ [Case No. 263/13081/17, Judgement of 11 October 2017](#), Zhovtnevyi District Court of Mariupol; [Case No. 727/11208/17, Judgement of 19 January 2018](#), Shevchenkivsky District Court of Chernivtsi; [Case No. 409/194/18, Judgement of 5 February 2018](#), Bilokurakhyne District Court of the Luhansk region; [Case No. 263/2412/18, Judgement of 3 March 2018](#), Zhovtnevyi District Court of Mariupol, Donetsk region; [Case No. 591/1186/18, Judgement of 29 March 2018](#), Zarichnyi District Court of Sumy.

²⁴² See [Case No. 243/6774/20, Judgment of 20 August 2020](#), Slovyansk City District Court of Donetsk region; [Case No. 229/680/20, Judgment of 10 August 2020](#), Druzhkivka City Court of Donetsk region; [Case No. 243/3738/2020, Judgment of 8 May 2020](#), Slovyansk City District Court of Donetsk region; [Case No. 229/1107/20, Judgment of 27 April 2020](#), Druzhkivka City Court of Donetsk region.

²⁴³ [Case No. 243/7084/15-к, Judgement of 28 December 2016](#), Sloviansk City District Court of the Donetsk region; [Case No. 221/2405/15-к, Judgement of 24 November 2017](#), Illichivsk District Court of Mariupol, Donetsk region; [Case No. 415/3619/17, Judgment of 26 February 2018](#), Lysychansk City Court

- (iii) A pattern of charging “separatists” who organised referenda and/ or undertook or continued public service on the territories outside Ukraine’s control with crimes against state security of Ukraine, including:
- Article 109: Actions Aimed at Forcible Change or Overthrow of the Constitutional Order or the Seizure of State Power;²⁴⁴
 - Article 110: Encroachment upon Territorial Integrity and Inviolability of Ukraine;²⁴⁵ and
 - Article 111: State treason;²⁴⁶
- (iv) A pattern of generally prosecuting or charging Ukrainian (government/military) officials for a range of domestic crimes against the established order of military service, such as:
- Article 365: Excess of Authority or Official Powers²⁴⁷
 - Article 408: Desertion;²⁴⁸
 - Article 425: Neglect of Duty in Military Service;²⁴⁹ and

of the Luhansk region; [Case No. 415/2182/20 Judgment of 18 May 2020](#), Lysychansk City Court of the Luhansk region; [Case No. 328/67/16-к, Judgment of 25 February 2016](#), Tokmak District Court of the Zaporizhia region

²⁴⁴ See, e.g., [Case No. 699/268/15-к, Judgment of 6 October 2016](#), Prydniprovsky District Court of Cherkasy; [Case No. 326/195/16-к, Judgment of 20 March 2017](#), Chernihiv District Court of Zaporizhia region; [Case No. 415/3619/17 Judgment of 29 March 2018](#), Lysychansk City Court of Luhansk region.

²⁴⁵ Article 110(1) criminalises “Wilful actions committed to change the territorial boundaries or national borders of Ukraine in violation of the order provided for in the Constitution of Ukraine (254к/96-BP) and also public appeals or distribution of materials with appeals to commit any such actions”. See, e.g., [Case No. 171/684/19, Judgment of 12 August 2020](#), Apostolov District Court of Dnipropetrovsk region; [Case No. 266/1776/20, Judgment of 23 July 2020](#), Primorsky District Court of Mariupol, Donetsk region. Article 110(2) criminalises trespass against the territorial integrity of Ukraine “if committed by a member of public authorities or repeated by any person, or committed by an organized group, or combined with inflaming national or religious enmity”. See, e.g., [Case No. 426/3687/20, Judgment of 10 August 2020](#), Svativsky District Court of Luhansk region; [Case No. 221/3328/20, Judgment of 27 August 2020](#), Volnovakha District Court of Donetsk region.

²⁴⁶ [Case No. 755/1317/17, Order of 30 January 2017](#), Dniprovsky District Court of Kyiv; [Case No. 760/791/18, Judgement of 24 January 2018](#), Solomiansky District Court of Kyiv; [Case No. 755/15405/15-к, Judgement of 19 November 2018](#), Dniprovsky District Court of Kyiv; [Case No. 759/5737/17, Judgement of 11 July 2019](#), Sviatoshynsky District Court of Kyiv; [Case No. 522/10548/18, Judgement of 12 July 2019](#), Primorsky District Court of Odesa;

²⁴⁷ [Case No. 236/1707/14-к, Judgment of 12 January 2017](#), Krasnolymansky city court of Donetsk region.

²⁴⁸ See, e.g., [Case No. 243/4264/20, Judgment of 27 July 2020](#), Slovyansk City District Court of Donetsk region; [Case No. 219/7401/19, Judgment of 28 January 2020](#), Artemivsk City District Court of Donetsk region.

²⁴⁹ See, e.g., [Case No. 237/3913/17, Judgment of 13 October 2017](#), Maryinsky district court of Donetsk region; [Case No. 185/12161/15-к, Judgment of 27 March 2017](#), Pavlograd City District Court of Dnipropetrovsk region.

- Article 426: Inaction of Military Authorities;²⁵⁰
- (v) The occasional prosecution of conduct that may amount to IHL violations or other serious violations of international law by both parties to the conflict as domestic crimes, including:
 - Article 115: Murder;²⁵¹
 - Article 121: Intended Grievous Bodily Harm;²⁵²
 - Article 127: Torture;²⁵³
 - Article 146: Illegal Confinement or Abduction of a Person;²⁵⁴
 - Article 149: Trafficking in human beings and other illegal transfer deals in respect of a human being;²⁵⁵
 - Article 152: Rape;²⁵⁶ and
 - Article 289 (2): Carjacking.²⁵⁷

As noted in the Section of this Report entitled *Ukraine's Conflict and International Crimes*,²⁵⁸ the publicly available information (as reported by HRMMU and civil society organisations) points to the large-scale occurrence of a range of alleged war crimes. Additionally, whilst further information would need to be gathered to fully assess the nature and scope of other crimes, crimes against humanity may also have been committed.²⁵⁹ Although since 2016 the GoU has taken steps to prosecute such conduct as ordinary crimes, and even as international crimes, only a fraction of cases have been submitted to courts and/ or are under the final stages of investigation, which is

²⁵⁰ See, e.g., [Case No. 229/2026/20, Judgment of 17 July 2020](#), Druzhkivka City Court of Donetsk region; [Case No. 460/1294/17, Judgment of 17 July 2017](#), Yavoriv District Court of Lviv region.

²⁵¹ See, e.g., [Case No. 409/1530/16-к, Judgment of 25 May 2017](#), Rubizhne City Court of Luhansk region; [Case No. 408/504/17, Judgment of 24 September 2019](#), Severodonetsk City Court of Luhansk region; [Case No. 235/3762/15-к, Judgment of 6 December 2017](#), Dobropylsky city court of Donetsk region.

²⁵² See, e.g., [Case No. 225/3479/16-к, Judgment of 20 November 2017](#), Dzerzhynsk city court of Donetsk region.

²⁵³ See, e.g., [Case No. 414/396/18, Judgment of 30 March 2018](#), Kreminsky district court of Luhansk region.

²⁵⁴ See, e.g., [Case No. 237/4661/19, Judgment of 20 January 2020](#), Illichivsk District Court of Mariupol, Donetsk region; [Case No. 219/10313/16-к, Judgment of 30 May 2017](#), Artemivsk City District Court of Donetsk region; [Case No. 264/6729/15-к, Judgment of 6 June 2017](#), Donetsk Court of Appeals.

²⁵⁵ See, e.g., [Case No. 415/3619/17, Judgment of 29 March 2018](#), Lysychansk City Court of Luhansk region.

²⁵⁶ See, e.g., [Case No. 237/3220/17, Judgement of 7 December 2018](#), Dzerzhynsk City Court of the Donetsk region.

²⁵⁷ See, e.g., [Case No. 222/1719/18, Judgment of 16 May 2019](#), Prymorsky District Court of Mariupol, Donetsk region; [Case No. 414/1987/18, Judgment of 18 October 2018](#), Kreminsky district court of Luhansk region.

²⁵⁸ See pp. 16-19.

²⁵⁹ See also OHCHR '[Accountability for killings in Ukraine from January 2014 to May 2016](#)' (14 July 2016) para. 4.

ultimately inadequate compared to the number of grave human rights and IHL violations allegedly committed in the east of Ukraine. The following Section considers these conclusions in more detail.

A growing number of prosecutions of IHL violations or other serious violations of international law as international crimes

Concerning genocide, the lack of prosecutions is unsurprising. While Article 442 of the CCU permits the prosecution of genocide, the available information (from authoritative sources such as HRMMU and civil society organisations) does not suggest that genocide is taking place on the territory of Ukraine. Whilst this conclusion would need to be examined more closely and GRC does not purport to have conducted a comprehensive analysis of this issue, it should be noted that genocide is a very specific offence. It is a special intent crime that requires proof of acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. Those acts are: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group.²⁶⁰ For these specific acts to amount to genocide it is required that the perpetrator has formed a specific intent, often referred to as a genocidal intent. Therefore, given these specific demands, in the final analysis, it may well be very difficult to show that genocide is currently occurring anywhere on Ukrainian territory.

Concerning crimes against humanity, Ukraine's legal measures do not allow for the prosecution of this international crime yet. While this failure is of concern in relation to Ukraine fully complying with its international legal obligations (as discussed in Part III – *Ukraine's Obligations to Prosecute Violations of IHL and other Serious Violations of International Law*) the GoU may still go some distance towards fulfilling its obligations if it prosecuted and punished the relevant conduct (that could be legally characterised as a crime against humanity) as ordinary crimes, provided that the charges correspond to the gravity of the crime and the charges entail effective penal sanctions. As noted throughout this Report, there is no absolute international legal obligation for a state to prosecute crimes against humanity as an international crime. As explained in Part III – *Ukraine's Obligations to Prosecute Violations of IHL and other Serious Violations of International Law* – the ICC itself does not make this demand for the prosecution of crimes against humanity even for those at the highest leadership level. However, there still exists an obligation to prosecute the underlying conduct as ordinary offences in domestic law. In order to fulfil its international obligations, Ukraine ought to be investigating and/or prosecuting this conduct *now* through the most corresponding and

²⁶⁰ Rome Statute, Article 6.

serious ordinary charges contained in the CCU, such as torture on the grounds of racial, national or religious intolerance under Article 127(2), unlawful deprivation of liberty under Article 146, enforced disappearance under Article 147 and other relevant provisions. The available information suggests this is not taking place.

Concerning the crime of aggression, Article 437 of the CCU criminalises the planning, preparation or initiation of an aggressive war or armed conflict, or conspiring for any such purposes, as well as waging an aggressive war or aggressive hostilities.²⁶¹ Unlike the Rome Statute, Article 437 of the CCU does not contain an explicit leadership requirement, nor does it prescribe that only leaders of a state committing an act of aggression can be held responsible for this offence. This has led, as can be seen in Annex A, to a practice of convicting ordinary soldiers and lower-level commanders for waging an aggressive war (62 cases).

Concerning war crimes, the CCU permits the prosecution of a range of war crimes through Article 438, which generically provides for the criminal punishment of “violations of the laws and methods of warfare”. This Article criminalises any use of the means of warfare prohibited by international law, which encompasses international treaties and customary international law. It also criminalises any other violations of the laws and customs of war recognised by international instruments ratified by Ukraine. This includes violations of the laws of war stemming from the Geneva Conventions and their Additional Protocols, as well as other violations enforced by other treaties ratified by Ukraine as, for instance, the Convention for the Protection of Cultural Property in the Event of Armed Conflict, its First Protocols, and the Weapons Treaties.

Further, CCU allows the prosecution of a range of more specific crimes that also amount to war crimes. These are contained in Chapter XIX entitled “Crimes Against the Established Order of the Military Service - (military crimes)” and Chapter XX entitled “Crimes against Peace, Security of Humanity and International Order”. In relation to Chapter XIX, the incorporated crimes consist of crimes prosecutable only in relation to members of the Armed Forces of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the Security Service of Ukraine and other entities related to defence. These crimes include:

- Article 432: “Marauding”, defined as “[s]tealing from the dead or wounded on the battlefield” (punishable by imprisonment for a term of three to ten years) – equivalent to the serious violation of “despoliation of the wounded, sick, shipwrecked or dead”;

²⁶¹ CCU, Article 437.

- Article 433: “Violence against Population in the Zone of Hostilities” (punishable by imprisonment for a term of three to eight years) – equivalent to several serious violations of IHL such as torture or inhuman treatment, including biological experiments; wilfully causing great suffering or serious injury to body or health; pillage or other taking of property contrary to international humanitarian law; or destroying property not required by military necessity; and
- Article 434: “Ill-Treatment of Prisoners of War” (punishable by imprisonment for a term up to three years) – equivalent to the grave breach of the Geneva Conventions of torture or inhuman treatment, including biological experiments.

In relation to Chapter XX, the relevant Articles related to prosecuting IHL violations include:

- Article 439 “Use of Weapons of Mass Destruction” (punishable by imprisonment for a term of eight to twelve years / by imprisonment for a term of eight to fifteen years or life imprisonment in case of death or any other grave consequences) – equivalent to the serious violation of “using prohibited weapons”.

Despite the availability of these “war crimes” provisions in the CCU (Articles 432, 433, 434, 438, 439), only one criminal investigation has been opened under Article 434 (“Ill-Treatment of Prisoners of War”) since 2016, according to the information provided by the OPG, and no cases under other provisions.²⁶²

The list of cases identified in Annex A appears to reflect a change in the GoU’s approach to prosecuting conflict-related crimes as international crimes, meaning that the increased number of cases are being recognised as conflict-related and prosecuted under the appropriate provisions of the CCU. Prior to 2016, only several dozen investigations under Article 438 were initiated. Since September 2016, more than 200 criminal proceedings have been launched under Article 438 of the CCU in relation to the armed conflict in the east of Ukraine.

Although so far only in two criminal proceedings have the accused been found guilty of war crimes under Article 438 of the CCU,²⁶³ 265 criminal investigations under Article 438 of the CCU have been registered in the Unified Register of Pre-trial Investigations between 1 January 2016 and 31 January

²⁶² Office of the Prosecutor General of Ukraine, Response to a Request for Public Information No. 27/3-4102BIX-20 of 11 September 2020, Annex (Information on registered criminal offences (proceedings) on the territory of Ukraine, Donetsk and Luhansk regions and the results of their pre-trial investigation in 2016, 2017, 2018, 2019, January-August 2020; Information on registered criminal offences (proceedings) on the territory of the Autonomous Republic of Crimea and the city of Sevastopol and the results of their pre-trial investigation in 2016, 2017, 2018, 2019, January-August 2020).

²⁶³ [Case No. 243/4702/17, Judgment of 4 July 2017](#), Sloviansk City District Court of Donetsk region; [Case No. 415/2182/20, Judgment of 18 May 2020](#), Lysychansk city court of Luhansk region.

2021.²⁶⁴ Most of the investigations (228) were initiated between January 2020 and January 2021,²⁶⁵ likely due to the efforts undertaken by the Department of Supervision of Criminal Proceedings concerning the Crimes Committed during the Armed Conflict (“War Crimes Unit”) of the OPG and its regional counterparts.

The first Judgment of the two adjudicated war crimes cases was pronounced in 2017. The case was investigated by the Donetsk SSU and prosecuted by the Donetsk Regional Prosecutor’s Office against representatives of the DPR who were accused of participation in a terrorist organisation (Article 258-3(1) of the CCU), accessory in conducting an aggressive war by prior conspiracy by a group of persons (Articles 27(5), 28(2), 437(2) of the CCU), and ill-treatment of prisoners of war (Article 438(1) of the CCU).²⁶⁶ The Accused was found guilty of all charges and sentenced to 10 years and one month in prison with the confiscation of all of his property. The prosecution and the defence did not file appeals.

The second judgement was pronounced in 2020 in a case investigated by the Luhansk SSU and prosecuted by the Luhansk Regional Prosecutor’s Office against four representatives of the LPR. They were accused of participation in the activities of an illegal armed group (Article 260(2) of the CCU), the carrying, storage and acquisition of firearms and ammunition without the permission provided by the law (Article 263(1) of the CCU), illegal confinement and abduction of a person committed by an organised group against two or more persons, in a way dangerous to the life and health of the victims, accompanied by the infliction of physical suffering on them, with the use of weapons, carried out for a long time (Article 146(3) of the CCU), participation in a conspiracy aimed at planning and preparation of aggressive war, conducting aggressive hostilities committed by a group of persons by prior conspiracy (Articles 27(2), 28(2), 437(2) of the CCU), and violation of the laws and customs of war, provided by international treaties in the form of expulsion of civilians for forced labour committed by a group of persons (Articles 27(2), 28(2), 438(1) of the CCU).²⁶⁷ The Accused were found guilty of all charges. Accused 1 was sentenced to 10 years and six months of

²⁶⁴ Office of the Prosecutor General of Ukraine, Response to a Request for Public Information No. 27/3-4102ВІХ-20 of 11 September 2020, Annex (Information on registered criminal offences (proceedings) on the territory of Ukraine, Donetsk and Luhansk regions and the results of their pre-trial investigation in 2016, 2017, 2018, 2019, January-August 2020; Information on registered criminal offences (proceedings) on the territory of the Autonomous Republic of Crimea and the city of Sevastopol and the results of their pre-trial investigation in 2016, 2017, 2018, 2019, January-August 2020).

²⁶⁵ Office of the Prosecutor General of Ukraine, Response to a Request for Public Information No. 27/3-4102ВІХ-20 of 11 September 2020, Annex (Information on registered criminal offences (proceedings) on the territory of the Autonomous Republic of Crimea and the city of Sevastopol and the results of their pre-trial investigation in January-August 2020; Information on registered criminal offences (proceedings) on the territory of Ukraine, Donetsk and Luhansk regions and the results of their pre-trial investigation in January-August 2020).

²⁶⁶ [Case No. 243/4702/17](#), Judgment of 1 June 2017, Slovyansk City District Court of the Donetsk region.

²⁶⁷ [Case No. 415/2182/20](#), Judgement of 18 May 2020, Lysychansk city court of the Luhansk region.

imprisonment. Accused 2, Accused 3 and Accused 4 were sentenced to 10 years of imprisonment each. The Court of Appeals upheld the judgement.²⁶⁸ The judgement is being reviewed by the Supreme Court.²⁶⁹

The recent rise in the number of opened investigations under Article 438 of the CCU suggests a positive change in prosecutorial approach to conflict-related cases and the GoU's willingness to comply with its international obligations to prosecute violations of IHL and other serious violations of international law. A detailed discussion of the reasons for these positive developments are outside the scope of this Report. However, the GoU's characterisation of the operation in the east as the JFO instead of the ATO in April 2018 may be partly responsible for enabling or encouraging the prosecuting authorities to pursue war crimes charges and not only terrorist charges. Moreover, the establishment of the War Crimes Unit within the OPG in October 2019 and the growing specialisation of the staff appears likely to be having an impact on investigating and prosecuting IHL violations as war crimes.²⁷⁰ As domestic expertise in investigating and adjudicating international crimes is enhanced through experience and capacity building support, so does the willingness to proceed with these charges and the effectiveness of the investigations. The ICC proceedings may also be acting as a catalyst for such prosecutions. Nonetheless, regardless of the underlying cause for the change in Ukraine's prosecutorial approach, the number of relevant criminal proceedings that resulted in indictments (41) is very small and fails to meet international standards.²⁷¹

As discussed in Part III – *Ukraine's Obligations to Prosecute Violations of IHL and other Serious Violations of International Law* – so long as the constituent factors establishing the existence of an armed conflict are demonstrated, the characterisation of an armed conflict as the ATO or the JFO does not displace the applicability of IHL nor does it remove the correlative prosecutorial obligations. As is further discussed below at Part IV – *Conclusions: Short Term Recommendations*²⁷² – in Ukraine's current situation there can be no doubt that an armed conflict is ongoing in the east of Ukraine, that IHL is applicable, and that a range of violations have taken place that amount to

²⁶⁸ [Case No. 415/2182/20](#), Judgement of 5 October 2020, Court of Appeals of the Luhansk region.

²⁶⁹ [Case No. 415/2182/20](#), Decision of 15 February 2021, Supreme Court of Ukraine.

²⁷⁰ See GRC, 'Domestic Implementation of International Humanitarian Law in Ukraine' (September 2020), p. 37.

²⁷¹ ICRC, Customary International Humanitarian Law Study, Rule. 158; ECHR, Article 3 encompasses the procedural obligation to investigate and prosecute cases of torture and inhuman or degrading treatment or punishment ([Afanasyev v. Russia](#), ECtHR, Application No. 38722/02, 5 April 2005, para. 69; [Assenov and Others v. Bulgaria](#), ECtHR, Application No. 24760/94, 28 October 1998, paras. 101-106). See also, ICCPR, Article 7; UN Human Rights Committee, 'General Comment No. 20 on Article 7 (10 March 1992) UN Doc A/44/40, para. 14; *Zheikov v. Russian Federation*, Communication No. 889/1999 (17 March 2006), para. 7.2.

²⁷² See, p. 66 onwards.

war crimes that ought to be investigated or prosecuted as such using one or more of the relevant “conflict-related crimes” Articles in the CCU.

Proposed changes to the CCU

On 20 May 2021, the Parliament of Ukraine adopted Draft Bill 2689, which indirectly incorporates the full range of Rome Statute crimes into Ukrainian law, but has not yet been enacted, awaiting to be signed by the President.²⁷³ Whether or not the President will sign the Bill remains unclear.

If enacted, Draft Bill 2689 will eliminate most of the deficiencies of the current CCU with regards to criminalisation of international crimes and modes of liability, it will introduce the principle of universal jurisdiction to the Ukrainian legal system and otherwise takes steps to align Ukraine’s domestic legislation with international standards.²⁷⁴ Specifically, Draft Bill 2689 resolves the following legislative gaps:

- Amends Article 442 of the CCU (“genocide”) to incorporate the definition contained in Article 6 of the Rome Statute and Article 2 of the Genocide Convention. As it stands, Article 442 does not include “causing serious mental harm to members of the group” as an act of genocide. The definition in Draft Bill 2689 also fails to include “mental harm” as an act of genocide but recognises “moral damage” within the remit of an act causing “serious harm”. This could be interpreted to include mental harm in line with international standards.
- Supplements Article 442 of the CCU to cover crimes against humanity, which are not currently criminalised under the Ukrainian legislation. This provision covers all crimes against humanity proscribed in the Rome Statute, except for “other inhumane acts” which is instead proscribed as “moderate or severe bodily injury”. The definitions in Article 442 reflect the Rome Statute definitions.
- Amends Article 438 of the CCU (“violations of the laws and customs of war”) and adds several new provisions to incorporate a comprehensive list of war crimes committed during international and non-international armed conflicts, including war crimes against a person, war crimes against property, war crimes involving the use of prohibited means of warfare, war crimes against humanitarian operations and use of symbols, and war crimes against movable and immovable property, buildings and centres under the protections of international humanitarian law.²⁷⁵

²⁷³ Verkhovna Rada, [The Draft Bill “On amending certain legislative acts of Ukraine to implement the norms of international humanitarian and criminal law” is adopted](#), 20 May 2021.

²⁷⁴ Interview of 14 December 2020, Donetsk Regional Prosecutor’s Office referring to Verkhovna Rada of Ukraine, [‘Draft Law on Amendments to Certain Legislative Acts of Ukraine Concerning the Implementation of Norms of International Criminal and Humanitarian Law’](#), No. 2689 of 27 December 2019.

²⁷⁵ These include war crimes against a person, war crimes against property, war crimes involving the use of prohibited methods of warfare, war crimes involving the use of prohibited means of warfare, war crimes against humanitarian operations and use of symbols, and war crimes against movable and immovable property, buildings and centres under the protections of IHL.

- Further, Draft Bill 2689 ensures that the crimes of marauding,²⁷⁶ violence against civilians in the zone of hostilities;²⁷⁷ ill-treatment of prisoners of war,²⁷⁸ and unlawful use or misuse of the Red Cross, Red Crescent, and Red Crystal symbols²⁷⁹ are categorised as war crimes and all parties to the conflict may be brought to responsibility for these crimes. Currently, these are listed as military crimes and only the Ukrainian side can be prosecuted.²⁸⁰
- Amends Article 437 CCU (“the crime of aggression”) to incorporate the definition contained in Article 8bis of the Rome Statute. This brings Article 437 in line with international standards since it does not currently contain an explicit leadership requirement (unlike the Rome Statute),²⁸¹ nor does it prescribe that only leaders of a state committing an act of aggression can be held responsible for this offence, thus enabling dozens of cases against ordinary soldiers and lower-level commanders for waging an aggressive war.
- Introduces command responsibility as a mode of liability under the CCU. The newly introduced provision, although it does not mirror Article 28 of the Rome Statute word for word, is in line with the international standard.

At present, Ukraine’s legislative framework for the prosecution of international crimes remains inadequate for reasons elaborated above. These legislative shortcomings, however, will be mostly resolved if / when Draft Bill 2689 is passed into law. It remains to be seen whether this legislative improvement will bring about an increase in the number of cases prosecuted as international crimes. Whilst the legislative changes would certainly be an improvement and there has been a noticeable increase in investigations of war crimes under Article 438 of the CCU from January 2020, investigators and prosecutors are not using the available provisions of Article 438 to properly prosecute conflict-related crimes. As set out above, only 265 investigations into Article 438 crimes were registered between 1 January 2016 and 31 January 2021, of which 228 were initiated from

²⁷⁶ CCU, Article 432 reads: “Theft on the battlefield of things that belong to the killed or wounded, – shall be punishable by imprisonment for a term of three to ten years. It is equivalent to the serious violation of “despoliation of the wounded, sick, shipwrecked or dead”.

²⁷⁷ CCU, Article 433 reads: “Violence, unlawful destruction or taking of property under the pretext of military necessity, which were committed in respect of population in the zone of hostilities, – shall be punishable by imprisonment for a term of three to eight years.” It is equivalent to several serious violations of IHL such as torture or inhuman treatment, including biological experiments; wilfully causing great suffering or serious injury to body or health; pillage or other taking of property contrary to international humanitarian law; or destroying property not required by military necessity.

²⁷⁸ CCU, Article 434 reads: “Repeated ill-treatment of prisoners of war, or any such treatment combined with exceptional cruelty or committed in respect of sick or wounded persons, and also negligent performance of duty in respect of sick or wounded persons by persons required to provide medical treatment and care to them, where it involved no elements of a graver criminal offense, – shall be punishable by imprisonment for a term up to three years.” It is equivalent to the grave breach of the Geneva Conventions of torture or inhuman treatment, including biological experiments.

²⁷⁹ CCU, Article 435 reads: “Carrying the symbols of the Red Cross, Red Crescent, Red Crystal in the area of hostilities by persons who do not have the right to do so, as well as misuse in a special period, except martial law, of flags or signs of the Red Cross, Red Crescent, Red Crystal or of the colours assigned sanitary vehicles, – shall be punishable by imprisonment for up to two years”.

²⁸⁰ The Armed Forces of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine, the Security Service of Ukraine and other entities related to defence.

²⁸¹ Rome Statute, Article 8bis.

January 2020.²⁸² This progress has not been accompanied by a rising number of prosecutions of Article 438 crimes (just two since 2016), nor indeed war crimes codified elsewhere in the CCU. In light of these low numbers, it appears unlikely that investigators and prosecutors will employ the amended legislation to its maximum capacity. That said, it is too soon to conclude for certain that no increase will occur in the future.

A pattern of charging “separatists” (or those suspected of assisting the military effort of the separatists in the east of Ukraine) with one or more domestic crimes under the Criminal Code of Ukraine

The GoU’s prosecutions of combatants for conduct relating to the ATO Zone appear largely restricted to the prosecution of separatists (whether Ukrainian or Russian) and the Ukrainian military. The nature of the charging of crimes appears designed to demarcate the “aggressors” on the one side (the separatists) and those who fail in their military duty on the GoU’s side (non-separatists).

The charges against the separatists focus on domestic, ordinary crimes. As mentioned above, publicly available information provides several examples of the GoU’s prosecutorial practices against separatists for international crimes, specifically war crimes. The ordinary crimes charged include:

- Encroachment upon territorial integrity and inviolability of Ukraine (Article 110);
- State treason (Article 111);
- Participation in a terrorist group or terrorist organisation (Article 258-3);
- Financing terrorism (Article 258-5);
- Participation in unlawful paramilitary or armed formations (Article 260);
- Unlawful handling of weapons (Article 263); and
- Waging an aggressive war (Article 437).

As it may be seen, separatists are often charged for membership of proscribed groups, although there is some inconsistency in this approach. Some alleged separatists have been charged with creating a terrorist group or terrorist organisation (Article 258-3) and others with creating unlawful

²⁸² Office of the Prosecutor General of Ukraine, Response to a Request for Public Information No. 27/3-4102ВІХ-20 of 11 September 2020, Annex (Information on registered criminal offences (proceedings) on the territory of the Autonomous Republic of Crimea and the city of Sevastopol and the results of their pre-trial investigation in January-August 2020; Information on registered criminal offences (proceedings) on the territory of Ukraine, Donetsk and Luhansk regions and the results of their pre-trial investigation in January-August 2020).

paramilitary or armed formations (Article 260). In both types of cases, some individuals have been charged with waging an aggressive war (Article 437).

The most frequent prosecutions of separatists have involved: alleged *participation* in terrorist DPR/LPR formations and the assistance of DPR/LPR armed groups in activities against Ukraine (Articles 258 and 258-3).²⁸³ Participation in terrorist groups largely eschews reference to attacks on or crimes against civilians, focussing instead on an array of alleged criminal conduct that amounts to aiding the war effort, such as participating in hostilities against the Armed Forces of Ukraine; working at D/LPR checkpoints; ensuring the protection of important installations, equipment and weapons of D/LPR units; commanding D/LPR units; and carrying out intelligence tasks and surveillance on the positions of the Armed Forces of Ukraine.²⁸⁴ Some individuals have also been charged with financing terrorism for organising the work of financial institutions on the territory controlled by the DPR and LPR and paying “taxes” to the D/LPR bodies (Article 258-5).²⁸⁵ In total, 211 of 1,230 cases presented in Annex A concern terrorism charges, with an additional 120 cases focussing on terrorism combined with other offences.

Another provision commonly used for prosecuting alleged separatists is participation in unlawful paramilitary or armed formations of the D/LPR under Article 260, which involved activities of the purportedly illegal armed groups in aiding the war effort. 322 such cases are listed in Annex A, with an additional 36 cases dealing with participation in unlawful armed formations combined with other crimes. However, such cases largely failed to reference violence against civilians and/ or crimes against civilian objects, or even on combatants of the hostile party while participating in hostilities,²⁸⁶ instead focusing on the duties at check points, participation in armed patrols, storage of ammunition, using weapons received from their superiors, or construction of checkpoints for the D/ LPR.²⁸⁷

²⁸³ See, e.g., [Case No. 686/6951/16-к, Judgment of 9 September 2016](#), Khmelnytsky City District Court; [Case No. 699/268/15-к, Judgment of 6 October 2016](#), Prydniprovsky District Court of Cherkasy; [Case No. 766/10952/17, Judgment of 22 April 2019](#), Berdyansk City District Court of Zaporizhia region; [Case No. 233/3432/16-к, Judgment of 18 January 2019](#), Konstantynivsky city district court of Donetsk region.

²⁸⁴ [Case No. 127/4482/17, Judgment of 12 January 2019](#), Vinnytsia City Court of Vinnytsia region; [Case No. 766/10952/17, Judgment of 22 April 2019](#), Berdyansk City District Court of Zaporizhia region; [Case No. 325/1527/15-к, Judgment of 10 May 2017](#), Priazovsky district court of Zaporizhzhia region; [Case No. 233/3432/16-к, Judgment of 18 January 2019](#), Konstantynivsky city district court of Donetsk region.

²⁸⁵ See, e.g., [Case No. 727/7881/16-к, Judgment of 2 November 2016](#), Shevchenkivsky District Court of Chernivtsi; [Case No. 204/1094/17, Judgment of 2 March 2017](#), Krasnogvardiysky District Court of Dnipropetrovsk; [Case No. 263/13081/17, Judgment of 11 October 2017](#), Zhovtnevy District Court of Mariupol, Donetsk region.

²⁸⁶ [Case No. 619/3174/20, Judgment of 7 July 2020](#), Dergachiv District Court of Kharkiv region.

²⁸⁷ See, e.g., [Case No. 243/6774/20, Judgment of 20 August 2020](#), Slovyansk City District Court of Donetsk region; [Case No. 229/680/20, Judgment of 10 August 2020](#), Druzhkivka City Court of Donetsk region; [Case No. 243/3738/2020, Judgment of 8 May 2020](#), Slovyansk City District Court of Donetsk

Further, D/ LPR supporters are systematically charged with encroachment upon the territorial integrity and inviolability of Ukraine for conduct that varies from posting on social media, including reposting videos and posts of the D/ LPR calling to violate territorial integrity and change the state border of Ukraine; to organising the referendum on the independence of the D/LPR from Ukraine in 2014 by participating in arranging a place, drawing up voter protocols, agitation, handing out and collecting the ballots or being members of an election commission during the referendum. Almost all these cases are tried *in absentia*. Annex A contains 400 relevant cases, as well as 17 cases wherein encroachment upon the territorial integrity of Ukraine is combined with other crimes. Although international law does not regulate domestic approaches to prosecuting separatism and therefore this practice is not in violation of any standards *per se*, in Ukraine's situation of limited human, financial and other resources it appears preferable to prioritise the prosecution of war crimes cases and other international crimes over trials *in absentia* for separatism.

As made plain in this Report, whilst the GoU has a sovereign right to follow its own prerogatives and priorities in charging crimes during conflict, this only extends so far. Prosecutions must still satisfy international standards. The aforementioned prosecutions appear to altogether ignore evidence of conduct that might link either the separatists or the non-separatists to serious violations of IHL or other international crimes. In many cases, although the court appeared to recognise (and discuss) that the terrorist groups, to which the specific accused belonged, were involved in criminal activities that could amount to war crimes (such as killing civilians, endangering the lives and health of civilians, causing significant property damage and other grave consequences), in the majority of the cases found on the Case Register, the accused were not charged with directly committing these acts or, at least, assisting in any manner in the commission of the crimes as accomplices.²⁸⁸ Instead, they were charged with (merely) participating in a terrorist organisation or an illegal armed group (Article 258-3 or Article 260).²⁸⁹

A poignant example of this practice is one case in which the facts alleged that the accused was a member of the 3rd motorised battalion of the DPR. In 2015-2016, he participated in hostilities against the Ukrainian forces. Specifically, in 2015, along with other DPR members, he seized a column of five cars of the UAF and ordered his subordinates to shoot two captured Ukrainian

region; [Case No. 229/1107/20, Judgment of 27 April 2020](#), Druzhkivka City Court of Donetsk region; [Case No. 236/1946/20, Judgment of 4 August 2020](#), Krasnoymansky city court of Donetsk region.

²⁸⁸ [Case No. 235/9919/15-к, Judgment of 27 January 2017](#), Krasnoarmiysk City District Court of Donetsk region; [Case No. 328/67/16-к, Judgment of 25 February 2016](#), Tokmatsky district court of Zaporizhya region; [Case No. 219/10228/15-к, Judgment of 22 August 2019](#), Artemivsk City District Court of Donetsk region.

²⁸⁹ *Ibid.* See also [Case No. 243/6774/20, Judgment of 20 August 2020](#), Slovyansk City District Court of Donetsk region; [Case No. 229/680/20, Judgment of 10 August 2020](#), Druzhkivka City Court of Donetsk region; [Case No. 127/4482/17, Judgment of 12 January 2019](#), Vinnytsia City Court of Vinnytsia region.

servicemen.²⁹⁰ On the face of it, killing captured servicemen appears to amount to a war crime, but there is no evidence on record to show that this was explored or was in any way the subject of the trial. Instead, the accused was found guilty pursuant to Article 258-3 (participation in a terrorist group or terrorist organisation).²⁹¹

A pattern of generally prosecuting or charging Ukrainian government and military officials (non-separatists) for a range of domestic crimes

On the few occasions that the GoU's own military troops have been prosecuted, it is for ordinary military offences that allege forms of indiscipline or military failures or negligence that have undermined the war effort. The Case Register suggests that the main focus of these prosecutions is:

- Inaction of Military Authorities (Article 426);²⁹²
- Desertion (Article 408);²⁹³
- Excess of Authority or Official Powers (Article 365);²⁹⁴ and
- Negligent military conduct alleged to have damaged military efforts or objectives (Article 425).²⁹⁵

In contrast, there have only been a few cases involving the alleged murder of civilians by Ukrainian military servicemen.²⁹⁶ Although it appears that the relevant facts in such cases show that the accused were suspected of involvement in conduct that appears to give rise to a reasonable

²⁹⁰ [Case No. 607/7838/16-к](#), Judgement of 31 January 2017, Ternopil City District Court of the Ternopil region.

²⁹¹ *Ibid.*

²⁹² [Case No. 229/2026/20, Judgment of 17 July 2020](#), Druzhkivka City Court of Donetsk region; [Case No. 460/1294/17, Judgment of 17 July 2017](#), Yavoriv District Court of Lviv region.

²⁹³ See, e.g., [Case No. 243/4264/20, Judgment of 27 July 2020](#), Slovyansk City District Court of Donetsk region; [Case No. 219/7401/19, Judgment of 28 January 2020](#), Artemivsk City District Court of Donetsk region.

²⁹⁴ [Case No. 236/1707/14-к, Judgment of 12 January 2017](#), Krasnolymansky city court of Donetsk region.

²⁹⁵ See, e.g., [Case No. 237/3913/17, Judgment of 13 October 2017](#), Maryinsky district court of Donetsk region; [Case No. 185/12161/15-к, Judgment of 27 March 2017](#), Pavlograd City District Court of Dnipropetrovsk region (The accused was a First Deputy Chief of ATO in Donetsk and Luhansk regions. He did not provide proper isolation of the Lugansk airfield for acceptance of transport aircraft and protection against ground fire means of illegal armed groups near the Luhansk airfield. These actions led to the commission of the terrorist act, the death of 49 servicemen of the Armed Forces of Ukraine, the complete destruction of IL-76MD and other military property on board of the airplane.)

²⁹⁶ See, e.g., [Case No. 409/1530/16-к, Judgment of 25 May 2017](#), Rubizhne City Court of Luhansk region; [Case No. 408/504/17, Judgment of 24 September 2019](#), Severodonetsk City Court of Luhansk region.

suspicion of serious violations of IHL, they were not charged with this conduct either as ordinary or international crimes.

A good illustration of the approach to these types of prosecutions concerns a mid-level commander of a military unit with the UAF in the Donetsk region. In August 2014, the Accused learned that his subordinates arbitrarily detained three civilians and held them in inadequate conditions, yet failed to take any actions to stop the crime. Instead of charges relating to the arbitrary detention of civilians, he was only charged with the intentional failure of a military official to perform actions that he was obliged to perform under his official duties, which caused significant damage under Article 426(1) of the CCU.²⁹⁷

In sum, the available information suggests that Ukraine is failing to prosecute its own servicemen or military with due regard for the full extent or gravity of their conduct (especially as regards acts against civilians or those *hors de combat*) or with due regard to the normative desirability of prosecuting international crimes. Instead, the focus appears to be on prosecuting conduct that amounts to military failures or negligence unrelated to apparent violations of IHL or other serious violations of international law.

A pattern of not investigating and prosecuting sexual and gender-based violence in conflict

Publicly available information demonstrates that the conflict in Ukraine has multiple gendered dimensions. In particular, conflict-related sexual violence (“CRSV”) is practised by all parties to the conflict for the purpose of punishing,²⁹⁸ humiliating,²⁹⁹ extracting confessions,³⁰⁰ satisfying sexual desire, and other reasons.³⁰¹

International organisations monitoring the situation in Ukraine have documented sexual violence cases both in Donbas and Crimea, which is rarely reflected in governmental reports.³⁰² Specifically,

²⁹⁷ [Case No. 225/3479/16-k](#), Judgement of 20 November 2017, Dzerzhynsk City Court of the Donetsk region.

²⁹⁸ OHCHR, [Report on Conflict-Related Sexual Violence in Ukraine](#), 2017, para. 69.

²⁹⁹ S Aseev, [A Present-Day Concentration Camp in Eastern Europe](#), Wilson Center, 7 September 2020.

³⁰⁰ OHCHR, [Report on Conflict-Related Sexual Violence in Ukraine](#), 2017, para. 76.

³⁰¹ Amnesty International, [Not a private matter. Domestic and sexual violence against women in eastern Ukraine](#), 2020, p. 62.

³⁰² Decision of the Cabinet of Ministers of Ukraine No. 1544-p ‘[On Approval of the National Action Plan in Implementation of the UNSC Resolution 1325 ‘Women, Peace and Security’ for the period until 2025](#)’, 28 October 2020; Amnesty International, [Not a private matter. Domestic and sexual violence against women in eastern Ukraine](#), 2020, p. 62; T Yarmoshchuk, [‘Rape as a method of torture’. Sexual crimes in the war zone in Donbas](#), Currenttime, 24 November 2020; OHCHR, [Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020](#), 2020, paras. 7, 27, 28, 29, 57; OHCHR, [Report on the human rights situation in Ukraine, 16 February – 31 July 2020](#), 2020, paras. 62, 63; OHCHR, [Human Rights in the Administration of Justice in Conflict-Related Criminal Cases in Ukraine from April 2014 - April 2020](#), 2020, p. 36; “They described how my daughter will die. Stories of women that survived violence and detention by the D/LPR”, [Novoye Vremya](#), 29 December 2019; K Busol, “Conflict-Related Sexual

between 2014 and 2017, the HRMMU reported several dozen CRSV cases against men and women, mostly committed in places of detention, by both sides to the conflict in Donbas.³⁰³ There are, however, potentially many more unverified CRSV cases.³⁰⁴ Ukrainian NGOs in 2017 revealed that “at least one out of every fourth [interviewed] detainee of illegal prisons was a victim of, and/or witness to, sexual violence”.³⁰⁵ In Crimea, CRSV most often takes the form of sexualised torture in detention by law enforcement.³⁰⁶

Despite knowing of the existence of this information, domestic authorities have barely investigated and prosecuted CRSV. Only two judgements dealing with CRSV have been identified in the Unified Register of Court Decisions since 2014.³⁰⁷ The UN concluded in 2018, “there is no acknowledgment of CRSV as a problem” by Ukrainian authorities.³⁰⁸ Further, in early 2020, Ukrainian military prosecutors confirmed that they did not have “complete and reliable information on the systematic nature” of CRSV committed in the east of Ukraine,³⁰⁹ therefore no information on CRSV has been communicated to the ICC by the state.³¹⁰ While the communication of CRSV cases to the ICC may not be mandatory, the fact that the prosecutorial authorities did not possess enough information to confirm the systemic nature of CRSV in Ukraine is striking.

However, there are signs of a shift in official attitudes towards CRSV, particularly in Ukraine’s legislative framework on SGBV, which has improved since 2016. However, it does not seem that this legislative shift has filtered down to the investigating and prosecuting authorities. Following the 2018-2019 amendments of the CCU which attempted to bring domestic definitions of sexual

Violence in Ukraine: An Opportunity for Gender-Sensitive Policymaking?”, [Chatham House Expert Comment](#), 2020; “As Ukraine’s Rape Epidemic Goes Largely Ignored, Survivors Plead for Help”, [Vice News](#), 2018.

³⁰³ OHCHR, [Report on Conflict-Related Sexual Violence in Ukraine](#), 2017, para. 9.

³⁰⁴ OHCHR, [Report on Conflict-Related Sexual Violence in Ukraine](#), 2017, para. 5.

³⁰⁵ Coalition ‘Justice for Peace in Donbas’, [War without rules: Gender-based violence in the Context of the Armed Conflict in Eastern Ukraine](#), 2017, p. 78. See also OHCHR, [Report on the human rights situation in Ukraine 16 November 2019 to 15 February 2020](#), 2020, paras. 21, 25, 28, 29, 40; S Aseev, ‘Shining path. History of a one concentration camp’, Stary Lev publishing house, pp. 77-92, 101-108; Radio Svoboda, “[The paramedic was not able to resuscitate everyone later](#)”: Stanislav Pechenkin talks about “Izolyatsia”, 4 February 2020.

³⁰⁶ OHCHR, [Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol](#)’, 13 September 2017 – 30 June 2018, para. 5. See also OHCHR, [Report on the Human Rights Situation in Ukraine](#)’, 16 February – 31 July 2020, para. 115

³⁰⁷ See, Annex A.

³⁰⁸ UN, [Strategy for Prevention of and Response to Conflict Related Sexual Violence in Ukraine](#), 2018, p. 20.

³⁰⁹ I Lopatina, “[I will never be silent.](#)” [During the war in Donbass, hundreds of women became victims of violence - what will happen to criminals?](#), Novoye Vremya, 8 January 2020.

³¹⁰ I Lopatina, “[I will never be silent.](#)” [During the war in Donbass, hundreds of women became victims of violence - what will happen to criminals?](#), Novoye Vremya, 8 January 2020.

crimes in conformity with international standards, sexual violence can be investigated and prosecuted as a range of ordinary domestic crimes, namely:

- Article 152: rape (acts of sexual nature of vaginal, anal or oral penetration without the victim's consent), now in line with international standards;³¹¹
- Article 153: sexual violence (any acts of violence of a sexual nature not involving penetration committed without victim's voluntary consent);
- Article 154: forced sexual intercourse (forcing a person to have sexual intercourse with another person without victim's voluntary consent);
- Article 155: sexual relationships with a person under the age of 16 (natural or unnatural sexual relationships with a person under the age of 16 committed by an adult);
- Article 156: corruption of minors (committing lewd acts against a person under the age of 16).
- Article 156-1: harassment of a child for sexual purposes (an offer of a meeting made by an adult to a person under the age of sixteen, for the purpose of committing any acts of a sexual nature or lewd acts)

Further, Draft Bill 2689 that will be enacted if signed by the President criminalises rape, sexual exploitation, forced prostitution, forced pregnancy, forced sterilisation or “any other forms of sexual violence” as war crimes (during international and non-international armed conflicts) and crimes against humanity.³¹²

Accordingly, the list of prohibited acts in Draft Bill 2689 is non-exhaustive and similar to the relevant Rome Statute provisions. In fact, Draft Bill 2689 encompasses a wider range of conduct than the Rome Statute. For instance, Draft Bill 2689 does not require “any other forms of sexual violence” to be of comparable gravity to rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation as required by the Rome Statute, thus leaving the door open for a broader application of the provision.³¹³ Further, the domestic legislation does not require the war crime of “any other forms of sexual violence” to constitute a grave breach of the Geneva Conventions in international armed conflicts or a serious violation of Common Article 3 in non-international armed conflicts.³¹⁴

³¹¹ Amnesty International, [Not a private matter. Domestic and sexual violence against women in eastern Ukraine](#), 2020, p. 25.

³¹² Draft Bill 2689 as signed by the Head of the Parliament on 7 June 2021, Article 438 (new edition) and Article 442-1.

³¹³ *Ibid.*

³¹⁴ In contrast to this, see Article 8(2)(b)(xxii) and Article 8(2)(e)(vi) of the Rome Statute.

An occasional prosecution of conduct amounting to IHL violations and other serious violations of international law as domestic crimes

With regards to investigating and prosecuting relevant conduct as ordinary domestic crimes,³¹⁵ Ukraine appears to have started doing this and 41 such cases have been submitted to courts as demonstrated in Annex A, including cases wherein violations of the laws and customs of war are charged alongside other offences. Presently, Donetsk, Luhansk and Crimean regional prosecutors' offices, as well as the War Crimes Unit in the OPG, are in the process of analysing 15,000 conflict-related investigations with a view to alter charges of ordinary crimes to violations of the laws and customs of war under Article 438 when appropriate.³¹⁶ If completed, this task will ensure that conflict-related charges reflect the gravity of conduct and are broadly in line with Ukraine's obligations to prosecute serious IHL violations.

However, in light of the range and seriousness of suspected war crimes, even if a large volume of this conduct was being prosecuted as ordinary crimes, it is unlikely that these prosecutions could in all instances fulfil the obligation to prosecute serious violations of IHL in a meaningful manner, *i.e.*, with the charges corresponding to the gravity of the crimes and amounting to effective penal sanctions.³¹⁷ Similarly, it is unlikely that in cases aimed at the leadership level, they would be capable of satisfying the ICC's complementarity assessment that requires, not only investigative or prosecutorial activity, but that the domestic investigation, prosecution, and trial of a case must correspond in specific respects – substantially the same conduct – to the case (that would be) examined by the ICC.³¹⁸ As will be discussed below,³¹⁹ war crimes are committed in specific contexts (with a specific nexus to an armed conflict) that shape the violations and place them into their overall context. Adequately capturing all of this conduct through the pursuit of domestic offences is unlikely to be possible.

For example, as noted,³²⁰ the range of IHL violations or other violations of international law identified by the OHCHR and civil society organisations during this conflict potentially include war crimes such as “intentionally directing attacks against the civilian population as such or against

³¹⁵ Most often, these are the crimes of terrorism (Article 258-3), taking a person hostage (Article 147), murder (Article 115), unlawful confinement (Article 146).

³¹⁶ The information became available to GRC during the course of interviews conducted with the prosecutors of the relevant offices in November – December 2020.

³¹⁷ Ward Ferdinandusse 'The Prosecution of Grave Breaches in National Courts' (2009) 7 *Journal of International Criminal Justice* 723, 731.

³¹⁸ *Lubanga* Decision concerning Pre-Trial Chamber I's Decision of 10 February 2006 para. 31; Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi paras. 61, 74, 76,77.

³¹⁹ See p. 82 onwards.

³²⁰ See p. 16 - 19.

individual civilians not directly taking part in hostilities”³²¹ and “intentionally directing attacks against civilian objects, that is, objects which are not military objectives”³²² and “intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians”.³²³ It is difficult to see how these highly particularised war crimes (encompassing highly specific conduct) could be adequately captured by the ordinary crimes contained in the CCU.

As outlined in Annex B,³²⁴ these highly particularised war crimes encompass a range of specific conduct and intentions aimed at specific prohibitions on attacks against civilian populations and objects that are shaped by the existence of an armed conflict. They involve proscriptions designed to achieve optimal protection of the civilian population, encompassing, *inter alia*:

- The deliberate targeting of, and damage to, civilian populations or objects;
- The principles of distinction and proportionality;
- The case-by-case assessment of the distinction between the civilian population and combatants, or between civilian and military objectives;
- Assessments of incidental damage to civilian populations and objects;
- Knowledge of possible incidental death or injury to civilians or damage to civilian objects or widespread, long-term, and severe damage to the natural environment and that such death, injury, or damage would be of an extent as to be clearly excessive in relation to the concrete and direct overall military advantage anticipated; and
- Direct and indirect intent (recklessness) to target civilians or civilian objects.

As such, although it *may* be possible to find domestic equivalents more easily, with sufficient gravity, that correspond to (arguably less specialised) war crimes such as wilful killing/murder,³²⁵ torture or inhuman treatment,³²⁶ or even committing outrages upon personal dignity (in particular

³²¹ Additional Protocol I, Articles 51(2), 85(3); Additional Protocol II, Articles 4(2)(d), 13(2); Rome Statute, Articles 8(2)(b)(i), 8(2)(e)(i).

³²² Additional Protocol I, Article 51(2); Rome Statute, Article 8(2)(b)(ii).

³²³ Additional Protocol I, Article 85(3)(b); Rome Statute, Article 8(2)(b)(iv).

³²⁴ See Annex B.

³²⁵ Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Geneva Conventions, Common Article 3; Rome Statute, Articles 8(2)(a)(i), 8(2)(c)(i)-1).

³²⁶ Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Geneva Conventions, Common Article 3; Rome Statute, Articles 8(2)(a)(ii)-1, 8(2)(c)(i)-3).

humiliating and degrading treatment),³²⁷ this may not be possible for many others. Finding an ordinary crime which would adequately capture the essence of war crimes enumerated above is likely to prove at the very least challenging and, in many instances, simply impracticable. This is because ordinary crimes fail to capture the essential aspects of the perpetrators' action, knowledge, intent and motivation and other indicia of conduct and associated gravity with regard to war crimes. This is of particular relevance to the crimes allegedly committed by the Ukrainian side. The available public information suggests that on the rare occasions that cases focused upon combatants' treatment of civilians or those *hors de combat*, these are prosecuted through reliance on a range of domestic offences contained in the CCU.

An example of the use of charges under Article 115 of the CCU (murder) arose in a case concerning a junior lieutenant with the Armed Forces of Ukraine who served in Stanytsia-Luhanska district, Luhansk region. Having questionable information that a local resident was involved with illegal armed groups of the "LPR", the Accused, along with other servicemen, went to his place of residence. Upon arrival, another serviceman started knocking on the door, while the Accused aimed at the front door of the house with a machine gun AKS-74. Upon hearing the resident use an insulting expression, the Accused opened fire on the door, killing the resident. After conducting a search, the Accused set fire to the house in an attempt to hide the murder.³²⁸ The Accused was found guilty of all charges: murder; breaking into a place of residence; and the deliberate destruction or damage to property. He was sentenced to seven years of imprisonment.³²⁹ Based on the facts of this case, there is no justification for omitting to bring war crimes charges (including wilful killing/murder).³³⁰

Another case concerns a military commander in the Luhansk region who, together with other servicemen, abducted a civilian who was attempting to cross a checkpoint. The victim was illegally detained, subjected to violence, and tortured to force him to admit to involvement in the activities of illegal armed groups. The victim later died, and the Accused attempted to hide the body.³³¹ As above, there is no clear reason why war crimes charges, including wilful killing/murder,³³² torture,³³³

³²⁷ Additional Protocol I, Article 75(2)(b); Geneva Conventions, Common Article 3; Rome Statute, Articles 8(2)(b)(xxi), 8(2)(c)(ii).

³²⁸ [Case No. 408/504/17, Judgment of 24 September 2019](#), Severodonetsk City Court of Luhansk region.

³²⁹ *Ibid.*

³³⁰ Wilful killing: Geneva Convention VI, Article 147; Rome Statute, Article 8(2)(a)(i)); murder: Geneva Conventions, Common Article 3; Rome Statute, Article 8(2)(c)(i)-1).

³³¹ [Case No. 414/396/18, Judgment of 30 March 2018](#), Kreminsky district court of Luhansk region.

³³² Wilful killing: Geneva Convention VI, Article 147; Rome Statute, Article 8(2)(a)(i)); murder: Geneva Conventions, Common Article 3; Rome Statute, Article 8(2)(c)(i)-1).

³³³ International armed conflict: Geneva Convention VI, Article 147; Rome Statute, Article 8(2)(a)(ii)-1; Non-international armed conflict: Geneva Conventions, Common Article 3; Rome Statute, Article 8(2)(c)(i)-4).

cruel treatment,³³⁴ inhuman treatment,³³⁵ causing great suffering,³³⁶ confinement³³⁷ or outrages upon personal dignity³³⁸ were not brought in this case.

As can be seen in Annex A,³³⁹ there are several other examples that involve similar facts and plot a similar prosecutorial route. At a minimum, they point to a policy, informal or otherwise, of prosecuting combatants for crimes against civilians or those *hors de combat*³⁴⁰ relying on domestic crimes, not war crimes.

Moreover, they also raise a further concern: the domestic crimes charged often appear not to adequately encompass the facts or the overall severity of the case. Indeed, whilst the alleged conduct encompasses crimes involving the detaining (abduction) and killing of suspected collaborator civilians by soldiers, this conduct often appears to be prosecuted with less emphasis on the most serious crimes (e.g., murder/unlawful killing) and more on the less serious aspect (e.g., abduction) with the consequence that the final sentences appear not to reflect the overall gravity of the criminal conduct.³⁴¹

In sum, it is difficult to conclude that the existing domestic offences contained in the CCU provide a reasonable opportunity to prosecute the full range and gravity of the war crimes that appear to be occurring in the east of Ukraine and in Crimea. For this reason, the efforts of the newly created War Crimes Unit in the OPG and its regional counterparts in applying Article 438 to such cases are timely and relevant.

Conclusion: Failure to Provide Effective Penal Sanctions

Currently, Ukraine's pattern of prosecutions suggests that it has violated its obligations to, *inter alia*, take steps to adopt or provide effective penal sanctions for violations of IHL and other serious

³³⁴ Geneva Conventions, Common Article 3; Rome Statute, Article 8(2)(c)(i)-3).

³³⁵ Geneva Convention VI, Article 147; Rome Statute, Article 8(2)(a)(ii)-2.

³³⁶ Geneva Convention VI, Article 147; Rome Statute, Article 8(2)(a)(iii).

³³⁷ Geneva Convention VI, Article 147; Rome Statute, Article 8(2)(a)(vii)-2).

³³⁸ International armed conflict: Additional Protocol I, Article 75(2)(b); Rome Statute, Article 8(2)(b)(xxi); Non-international armed conflict: Geneva Conventions, Common Article 3; Rome Statute, Article 8(2)(c)(ii).

³³⁹ See Annex A.

³⁴⁰ ICRC, '[Exploring Humanitarian Law: Glossary](#)' (ICRC, 2009) 7: the literal meaning of the term *hors de combat* is "out of fight"; it describes combatants who have been captured or wounded or who are sick or shipwrecked, or who have laid down their arms or surrendered, and thus are no longer in a position to fight.

³⁴¹ Criminal Code of Ukraine, Article 115: murder is punishable by a maximum sentence of 15 years' imprisonment; Article 146: illegal confinement is punishable by a maximum sentence of five years' imprisonment (when committed by a group of persons upon prior conspiracy, or by a method dangerous to the victim's life or health, or causing bodily suffering to him or her, or with the use of weapons) and 10 years' imprisonment (when committed by an organized group, or when it caused any grave consequences).

violations of international law, including to search for persons alleged to have committed, or to have ordered to be committed, such serious violations and to bring such persons, regardless of their nationality, before its own courts or hand them over for trial to another state party.³⁴²

As outlined above, both the starting point for this discussion and its conclusion is the humanitarian crisis that has engulfed the east of Ukraine and the numerous violations of IHL and other serious violations of international law reported by a variety of sources, including the HRMMU. The figures relating to civilian casualties and suspected crimes are stark and raise serious concerns regarding compliance with IHL and commission of war crimes.³⁴³

Obviously, it is not possible in the abstract to delineate with a degree of certainty the full range of serious violations of IHL that may have occurred or continue to occur in the territory of Ukraine. However, as outlined in Part I of this Report,³⁴⁴ HRMMU and civil society organisations' reporting suggest that the following war crimes may be amongst those most commonly occurring:

- War crimes common to international and non-international armed conflicts:
 - Wilful killing/murder;³⁴⁵
 - Torture or inhuman treatment;³⁴⁶
 - Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;³⁴⁷
 - Committing outrages upon personal dignity, in particular humiliating and degrading treatment;³⁴⁸ and
 - Rape, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;³⁴⁹

³⁴² Geneva Convention I, Article 49; Geneva Convention II, Article 50; Geneva Convention III, Article 129; Geneva Convention IV, Article 146; Additional Protocol I, Article 86.

³⁴³ See Annex B.

³⁴⁴ See p. 16-19.

³⁴⁵ Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Geneva Conventions, Common Article 3; Rome Statute, Articles 8(2)(a)(i), 8(2)(c)(i)-1).

³⁴⁶ Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Geneva Conventions, Common Article 3; Rome Statute, Articles 8(2)(a)(ii)-1 and 8(2)(c)(i)-3).

³⁴⁷ Additional Protocol I, Articles 51(2), 85(3); Additional Protocol II, Articles 4(2)(d), 13(2); Rome Statute, Articles 8(2)(b)(i), 8(2)(e)(i).

³⁴⁸ Additional Protocol I, Article 75(2)(b); Geneva Conventions, Common Article 3; Rome Statute, Articles 8(2)(b)(xxi), 8(2)(c)(ii).

³⁴⁹ Geneva Convention IV, Article 27(2); Additional Protocol I, Article 75(2)(b); Additional Protocol II, Articles 4(2)(e); Rome Statute, Articles 8(2)(b)(xxii), 8(2)(e)(vi).

- War crimes only applicable to international armed conflicts:
 - Wilfully causing great suffering, or serious injury to body or health;³⁵⁰
 - Unlawful confinement;³⁵¹
 - Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;³⁵² and
 - Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians.³⁵³

In sum, it is the generally accepted view of experts that IHL violations and other serious violations of international criminal law committed in Ukraine may amount to war crimes, and possibly crimes against humanity, but (probably) not genocide. On an analysis of the available information being collected by HRMMU and civil society organisations within Ukraine (summarised above³⁵⁴), GRC agrees with this view.

On the basis of the publicly available information, it is highly unlikely that Ukraine is fulfilling its treaty and customary law obligations to investigate and prosecute international crimes that are occurring on its territory. As outlined above, there are few domestic prosecutions focused upon the main objectives of IHL, namely the protection of civilians and those *hors de combat*. As may be seen from Annex A, there have been few prosecutions of the type of conduct amounting to violations of IHL and when there has been a prosecution, it is doubtful that the offences charged properly reflect the gravity or range of the conduct alleged.

Naturally, the fulfilment of these obligations cannot be decided in the abstract. A Prosecutor has wide discretion concerning the selection and charging of crimes. Moreover, the exercise of that discretion will depend on a range of factors, including the capabilities of the legal system and the legal framework (e.g., the detail and scope of the Criminal Code and other related legal measures), that exist to allow appropriate investigations and prosecutions into serious violations of IHL.

Nonetheless, the pattern of prosecutions is illustrative. In particular, the majority of the relevant prosecutions – connected to misconduct in the armed conflict zone – appears to eschew any focus on the treatment of civilians by combatants in favour of prosecuting offences tied to individuals’

³⁵⁰ Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Rome Statute, Article 8(2)(a)(iii).

³⁵¹ Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Rome Statute, Article 8(2)(a)(vii)-2).

³⁵² Additional Protocol I, Article 51(2); Rome Statute, Article 8(2)(b)(ii).

³⁵³ Additional Protocol I, Article 85(3)(b); Rome Statute, Article 8(2)(b)(iv).

³⁵⁴ See pp. 16-19.

status as separatists (terrorists, etc.,) or non-separatists (negligent military conduct). In light of the available information on a large range and significant number of war crimes being committed in the east of Ukraine, these few prosecutions cannot amount to a fulfilment of Ukraine's obligations to provide effective penal sanctions for serious violations of IHL.

Accordingly, if we take into account Ukraine's international obligations to provide penal sanctions, at a minimum, the GoU ought to be prosecuting conduct amounting to war crimes using the specific Articles in the CCU combined with or alongside (when consistent with the gravity of the conduct) ordinary crime prosecutions, at least until Draft Bill 2689 is enacted. How this might be achieved, is discussed below.³⁵⁵

³⁵⁵ See Part IV – *Conclusions: Short Term Recommendations*.

Conclusion – Short Term Recommendations

Prosecuting a significant volume of IHL violations and other serious violations of international law is a highly technical and complex task. All prosecutions of IHL violations, using international or national crimes, are challenging endeavours requiring international legal expertise and practice. As outlined in GRC's analysis of IHL implementation, Ukraine's law and associated legal measures require change to ensure the effective implementation and enforcement of IHL.³⁵⁶ Accordingly, there are no easy paths to the fulfilment of Ukraine's IHL obligations.

However, there are several practical steps that Ukraine's prosecutors could immediately take to move towards ensuring effective penal sanctions for serious violations of IHL. These will be discussed below and may be summarised as follows:

- **Follow international fair trial principles in charging international crimes.** Ensure that decisions concerning case selection, prioritisation and charging are made with respect for the law and in accordance with IHL and human rights principles, and that criminal charges are representative of the crimes committed;
- **Acknowledge the existence of an armed conflict.** The current domestic legislation³⁵⁷ recognises that certain districts of the Donetsk and Luhansk regions are affected by armed conflict and controlled by foreign actors which prosecutors have to reflect in the conflict-related cases by proving contextual elements of war crimes and elements of underlying crimes. Acknowledging the existence of at least one type of armed conflict at the outset will bring about a shift in focus towards prosecuting certain conduct as war crimes;
- **Prosecute with reliance upon international crimes.** Focus on prosecuting using Article 438 (war crimes) of the CCU and other appropriate provisions;
- **Use domestic crimes when appropriate or when the relevant international crime is not available.** When relying upon ordinary crimes to provide penal sanctions for IHL violations, ensure that substantially the same conduct is being pursued with the

³⁵⁶ GRC, 'Domestic Implementation of International Humanitarian Law in Ukraine' (September 2020) p. 47.

³⁵⁷ Law of Ukraine No. 1207-VII '[On Ensuring the Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine](#)', 15 April 2014; Law of Ukraine No. 2268-VIII '[On Peculiarities of State Policy on Ensuring State Sovereignty of Ukraine in the Temporarily Occupied Territories in the Donetsk and Luhansk Regions](#)', 18 January 2018.

availability of an appropriate penal sanction reflecting the gravity of the corresponding international crime.

Follow international fair trial principles in charging international crimes

The *selection* of war crimes cases for prosecution and *prioritisation* in terms of investigatory and prosecutorial resources is an important and complex task. These decisions can inform both *how* international crimes are tried as well as *when* they are charged. There are many considerations that must be borne in mind to ensure respect for human rights principles and the law as well as to ensure ongoing legitimacy of the overall prosecution. Accordingly, no exhaustive list may be drawn, and the issues are to a degree context-specific.³⁵⁸

As with prosecutors in general, those seeking to prosecute IHL violations have and must exercise their inherent discretion in enforcing the law. A prosecuting attorney must have the power and discretion to decide on various issues, including deciding whether or not to seek the prosecution of an individual, what crimes she or he will be charged with, and the appropriate penal sanction to seek. International standards dictate that when initiating investigations and preparing indictments that broad discretion may only be exercised in accordance with full respect for the law and in accordance with recognised principles of human rights.³⁵⁹ At a minimum, this requires impartiality and independence in the *selection* of cases. There can be no discrimination in the enforcement or application of the law based on impermissible motives such as race, colour, religion, opinion or national and ethnic origin.³⁶⁰ Consistent with these requirements, the fair prosecution of all sides to the conflict, rather than selective prosecutions of one warring faction over another, is essential.

Respect for the principle of equality does not mean mathematical equality. However, when launching international prosecutions, the importance of investigating and prosecuting all those who are suspected of committing international crimes cannot be understated. Otherwise, there is a risk of “victor’s justice” – that is, only the “losers” in a conflict are prosecuted, with the “winners” evading prosecution. This negatively impacts the integrity of the prosecution and the judicial process, ultimately undermining the legitimacy of the proceedings as a whole.

On the other hand, it is to be expected that a country emerging from a conflict will have a vast number of alleged crimes to process. With that in mind, national prosecutors will ordinarily be

³⁵⁸ R E Fife, ‘Criteria for Prosecution of International Crimes: The Importance for States and the International Community of the Quality of the Criminal Justice Process for Atrocities, in Particular of the Exercise of Fundamental Discretion by Key Justice Actors’ in M Bergsmo (ed) [Criteria for Prioritizing and Selecting Core International Crimes Cases](#) (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 20-21.

³⁵⁹ *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) para. 604. See also, H B Jallow, ‘Prosecutorial Discretion and International Criminal Justice’ (2005) 3 *Journal of International Criminal Justice* 145.

³⁶⁰ *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) para. 605.

unable to investigate and prosecute each of these alleged crimes within a reasonable time.³⁶¹ With inherent limitations in the quantity of crimes that can be prosecuted during a conflict, prosecutors need to prioritise certain cases over others. This requires a clear policy, or internal guidelines, on how to achieve the fair and balanced exercise of this prosecutorial discretion.

The UN Guidelines on the Role of the Public Prosecutor provide that when prosecutors are vested “with discretionary functions, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency of approach in taking decisions in the prosecution process, including institution or waiver of prosecution”.³⁶²

Establishing internal guidelines has benefits both internally and externally. Those that define case prioritisation need to be:

- clear and precise;
- publicly available;
- free of political and confidence-generating formulations (the criteria should not be inherently biased or formulated in biased terms; their formulation should find a balance between breadth and concision);
- applied equally and transparently; and
- effectively enforced.³⁶³

All these requirements mean, *en masse*, that the Guidelines can work to combat allegations of selective prosecutions based on ethnicity, nationality,³⁶⁴ or other improper criteria. Internally, guidelines with these characteristics ensure decisions follow a prescribed prosecutorial strategy,

³⁶¹ V Tochilovsky, ‘Post-Conflict Criminal Justice: Practical and Policy Considerations’, in M Bergsmo (ed) [Criteria for Prioritizing and Selecting Core International Crimes Cases](#) (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 238.

³⁶² Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders ‘[Guidelines on the Role of Prosecutors](#)’ (Havana, 27 August to 7 September 1990) UN Doc A/CONF.144/28/Rev.I, 189: See similar views from the Council of Europe Committee of Ministers, ‘[The Role of Public Prosecution in the Criminal Justice System](#)’ Recommendation Rec(2000)19 adopted by the Committee of Ministers on 6 October 2000 at the 724th meeting of the Ministers’ Deputies.

³⁶³ C Angermaier, ‘Essential Qualities of Prioritization Criteria: Clarity and Precision; Public Access; Non-Political and Confidence-Generating Formulations; Equal and Transparent Application; and Effective Enforcement’ in Morten Bergsmo (ed) [Criteria for Prioritizing and Selecting Core International Crimes Cases](#) (2nd edn, Torkel Opsahl Academic EPublisher: Oslo, 2010) 201-204.

³⁶⁴ V Tochilovsky, ‘Post-Conflict Criminal Justice: Practical and Policy Considerations’ in M Bergsmo (ed) [Criteria for Prioritizing and Selecting Core International Crimes Cases](#) (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 238.

enable consistency in the exercise of prosecutorial discretion, permit a more efficient allocation of limited resources and, most importantly, ensure equality before the law.³⁶⁵

Externally, these guidelines justify how cases are selected with regards to the public, including to the victims of the crimes themselves. They also work to combat perceptions that the discretion is employed either politically or arbitrarily. Finally, guidelines work as a tool to combat political pressures and, accordingly, strengthen the independence of prosecutors.³⁶⁶

In addition to the above, criteria have also been identified as key considerations to be addressed when considering case *prioritisation*. In particular, the Forum for International Criminal and Humanitarian Law, after an extensive review of domestic jurisdictions such as Bosnia and Herzegovina, Serbia, Croatia, Argentina, Cambodia, and Canada, as well as international tribunals such as the ICTY or International Criminal Tribunal for Rwanda (“ICTR”), emphasises the importance of adopting a prosecutorial policy containing clear case prioritisation criteria.³⁶⁷

A number of prioritisation criteria have been identified as key:

- (1) “Gravity, scale and nature of the crime”:³⁶⁸ rather than considering the position of the suspect (or any other considerations), the highest priority should be afforded to the most serious crimes. Therefore, the prosecution should identify the suspects’ role and the extent of participation in the incidents, as well as their control over the crimes.³⁶⁹
- (2) “Precise demographic and area conflict analysis”:³⁷⁰ priority must be afforded to areas in which crimes were concentrated.³⁷¹
- (3) “Effects that war crimes prosecutions have on the whole community”:³⁷² in other words, it is suggested that there is a benefit in seeing prosecutions of the largest number of perpetrators.³⁷² Of course, as discussed above, this should not be focused on achieving

³⁶⁵ *Ibid.*

³⁶⁶ *Ibid.*, 202.

³⁶⁷ C Angermaier, ‘Essential Qualities of Prioritization Criteria: Clarity and Precision; Public Access; Non-Political and Confidence-Generating Formulations; Equal and Transparent Application; and Effective Enforcement’ in M Bergsmo (ed.) *Criteria for Prioritizing and Selecting Core International Crimes Cases* (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 201.

³⁶⁸ M Tokača, ‘Introductory Remarks on the Characteristics of Effective Criteria for the Prioritization of Core International Crimes Cases’ in M Bergsmo (ed.) *Criteria for Prioritizing and Selecting Core International Crimes Cases* (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 198.

³⁶⁹ V Tochilovsky, ‘Post-Conflict Criminal Justice: Practical and Policy Considerations’, in M Bergsmo (ed.) *Criteria for Prioritizing and Selecting Core International Crimes Cases* (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 239.

³⁷⁰ M Tokača, ‘Introductory Remarks on the Characteristics of Effective Criteria for the Prioritization of Core International Crimes Cases’ M Bergsmo (ed.) *Criteria for Prioritizing and Selecting Core International Crimes Cases* (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 198.

³⁷¹ *Ibid.*, 199.

³⁷² *Ibid.*

some form of “ethno-religious balancing”.³⁷³ The criteria should focus on the crime and its characteristics.³⁷⁴

In addition to these criteria, practical concerns will also need to be factored into a consideration of case prioritisation:

- (i) The status of the evidence:³⁷⁵ if the availability of witnesses or evidence in a given case is poor, then it may be necessary to delay (or forego) the case in order secure those witnesses or the evidence.
- (ii) The possibility of arrest: for example, if an accused is in custody, the detention and its length feeds into the consideration of reasonableness under the fundamental rights of the domestic system and the European Court of Human Rights, such as the right to be tried within a reasonable time.³⁷⁶

Acknowledge the existence of an armed conflict in practice

As discussed, war crimes are committed in specific contexts. As will be discussed below,³⁷⁷ the list of elements of war crimes varies according to the nature of the armed conflict – international or non-international.

In exercising his/her discretion concerning the charges to pursue, the prosecutor must form a view concerning the armed conflict, including whether it may be international or non-international, and the range of war crimes suggested on the available information. These preliminary assessments are critical to any balanced choice of whether ordinary charges are genuinely appropriate and correspond to the conduct and gravity suggested by the most proximate, prospective war crime. The ICC’s assessment of whether the ordinary crimes encompass substantially the same conduct that is alleged in the proceedings before the Court³⁷⁸ is a useful barometer for this question. What

³⁷³ *Ibid.*

³⁷⁴ *Ibid.*

³⁷⁵ V Tochilovsky, ‘Post-Conflict Criminal Justice: Practical and Policy Considerations’, in M Bergsmo (ed.) *Criteria for Prioritizing and Selecting Core International Crimes Cases* (Torkel Opsahl Academic EPublisher, 2nd ed, 2010) 239.

³⁷⁶ *Ibid.*, 239-240: citing [Jabłoński v. Poland](#) App No. 33492/96 (ECtHR, 21 December 2000) para. 102; [Abdoella v. The Netherlands](#), App no. 12728/87 (ECtHR, 25 November 1992) para. 24.

³⁷⁷ See *infra*, section - *Prosecute with reliance upon international crimes*, paras. 168 et seq.

³⁷⁸ Decision on the Admissibility of the Case Against Abdullah Al-Senussi paras. 61, 74,76 - 77. The Chamber recalls that the “same person, same conduct” test was initially elaborated in: Decision on the Admissibility of the Case against Saif Al-Islam Gaddafi para. 31. This test was later recalled in: *The Prosecutor v. Ahmad Muhammad Harun (‘Ahmad Harun’) and Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’)* ([Decision on the Prosecution Application under Art. 58\(7\) of the Statute](#)) ICC-02/05-01/07-I-Corr (27 April 2007) para. 24; *The Prosecutor v. Germain Katanga* ([Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Germain Katanga](#)) ICC-01/04-01/07-4 (6 July 2007) para. 20 (public redacted version in ICC-01/04-01/07-55); *The Prosecutor v. Mathieu Ngudjolo Chui* ([Decision on the evidence and information provided by the](#)

it means will vary on a case-by-case basis, according to the facts and circumstances of each case. An individualised analysis of the facts is required for each matter.

Only by understanding the overall context and the gravity of the situation may the prosecutor select ordinary charges, for instance relying on Articles 258-1 (commission of a terrorist act) or 258-3 (participation in/ creation of a terrorist organisation), that provide genuine alternatives with reasonable and proportionate penal sanctions for prohibited conduct (e.g., terrorist conduct consisting of several murders and several acts of other physical or mental injury to civilians could begin to look like war crimes or crimes against humanity).

In order to ensure a balanced approach to this same conduct assessment, the prosecutor should form views concerning the parties to the conflict; their *modus operandi*; the attribution of specific incidents; the military or civilian structures; the character of targets; the number of casualties; and other information that would allow the suspected acts of the specific individual to be placed into the context of the armed conflict or an attack on the civilian population. This assessment must also include ensuring an adequate and proportionate sentence commensurate with the seriousness of the violation.

Furthermore, in order to establish the applicability of IHL and thereafter to pursue the specific war crimes charges that apply to these conflicts, any Ukrainian prosecutor must be satisfied of the contextual elements common to war crimes. Whilst it may prove difficult in the circumstances of a particular violation to define the nature of the armed conflict, and therefore which precise war crimes should be the focus of the prosecution, as the threshold criteria show (see *below*³⁷⁹), the existence of *an* armed conflict in Ukraine cannot reasonably be disputed. Therefore, as a starting point and as a review of the applicable criteria demonstrates, any Ukrainian prosecutor with the

[Prosecution for the issuance of a warrant of arrest for Mathieu Ngudjolo Chui](#)) ICC-01/04-01/07-262 (6 July 2007) para. 21. The same approach was followed in: *Prosecutor v. Kony et al.* ([Decision on the Admissibility of the Case under Article 19\(1\) of the Statute](#)) ICC-02/04-01/05-377 (10 March 2009) paras. 17-18; *Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* ([Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute](#)) ICC-01/09-01/11-101 (30 May 2011) para. 54; *Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* ([Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute](#)) ICC-01/09-02/11-96 (30 May 2011) para. 48. This jurisprudence of the Pre-Trial Chambers was later confirmed by the Appeals Chamber which, however, referred to “the same individual and substantially the same conduct”: *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* ([Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled ‘Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute’](#)) ICC-01/09-02/11-274 (30 August 2011) para. 39.

³⁷⁹ *Ibid.*

mandate to prosecute serious violations of IHL may safely assume the existence of one or both types of armed conflict in the east of Ukraine.

Moreover, in many instances, as will also be apparent, the subsequent assessments concerning the establishment of the remaining contextual elements common to war crimes committed in either or both an international armed conflict and a non-international armed conflict will also prove uncontroversial. As will be discussed below,³⁸⁰ these include establishing as essential elements that there was a close connection, or a “nexus”, between the criminal act and the armed conflict as a whole and that the perpetrator was aware of the factual circumstances that established the existence of an armed conflict.

In practical terms, the establishment of the armed conflict (of either or both kinds) of sufficient scope and intensity becomes a defining measurement of these common elements.

Once the armed conflict is established and the alleged perpetrator is shown to be a combatant acting in an official capacity (even whilst acting *ultra vires*), the question of the nexus and the perpetrators’ awareness often becomes a logical inference for the purposes of establishing the context for consideration of the specific acts that may within that context constitute war crimes.

The real difficulty may be assessing the nature of the existing armed conflict. However, in many instances it may be possible to proceed without definitively establishing the nature of the conflict. This circumvention will lead to extending the applicable law *i.e.*, it will lead to a reliance upon the IHL standards that apply to both international and non-international armed conflicts, such as Common Article 3 and specific customary law prohibitions.

International tribunals have consistently held that the core provisions of Common Article 3, which relate to non-international armed conflict, form part of customary international law.³⁸¹ The ICTY Appeals Chamber in the *Celebici* case, has stated regarding the crimes under Common Article 3 that “[i]t is logical that this minimum be applicable to international conflicts as the substance of these core rules is identical. In the Appeals Chamber’s view, something which is prohibited in internal conflicts is necessarily outlawed in an international conflict where the scope of the rules is

³⁸⁰ *Ibid.*

³⁸¹ *Tadić* Interlocutory Appeal Decision paras. 102 and 137; *Prosecutor v. Mucić et al* ([Trial Judgment](#)) Case No. ICTY-96-21-T (16 November 1998) para. 298; *Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) paras. 143, 147 and 150; *Prosecutor v. Norman, Fofana and Kondewa* ([Decision on Preliminary Motion on Lack of Jurisdiction Materiae: Nature of the Armed Conflict](#)) Case No. SCSL-04-14-AR72(E) (25 May 2004) paras. 21-24; citing *Prosecutor v. Akayesu*, ([Trial Judgement](#)) Case No. ICTR-96-4-T (2 September 1998) paras. 601-617; *Military and Paramilitary Activities in and Against Nicaragua* ([Nicaragua v. United States of America](#)) [1986] ICJ Rep 14, paras. 218-219,255.

broader.”³⁸² The ICTY Trial Chamber reiterated that Common Article 3 “applies regardless of the internal or international character of the conflict.”³⁸³

The Special Court for Sierra Leone (“SCSL”) Appeals Chamber, in the *CDF* case, has also held that both Common Article 3 and Article 4 of Additional Protocol II define the fundamental guarantees of humane treatment: “All the fundamental guarantees share a similar character. In recognising them as fundamental, the international community set a benchmark for the minimum standards for the conduct of armed conflict.”³⁸⁴

Further, the ICTY has identified a body of customary international humanitarian law applicable to both international and non-international armed conflict. It includes: attacks against civilians (Common Article 3, Article 51 of Additional Protocol I and Article 13 of Additional Protocol II),³⁸⁵ attacks against civilian objects (Article 52 of Additional Protocol I);³⁸⁶ the prohibition on the destruction and devastation of property, including cultural property (Article 23 of the 1907 Hague Convention, Article 19 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, Article 53 of Additional Protocol I and Article 16 of Additional Protocol II),³⁸⁷ and religious objects (Articles 1, 2, 3, 4, and 19 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict);³⁸⁸ the prohibitions on plunder and pillage (Common Article 3, Articles 28 and 47 of the Hague Regulations, and Article 4 of Additional Protocol II);³⁸⁹ and the prohibition on the use of chemical weapons.³⁹⁰

³⁸² *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) para. 150.

³⁸³ *Prosecutor v. Naletilić and Martinović* ([Trial Judgment](#)) Case No. ICTY-98-4-T (31 March 2003) para. 228; citing *Tadić* Interlocutory Appeal Decision para. 102; *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) para. 150.

³⁸⁴ *Prosecutor v. Hinga Norman* ([Decision on Preliminary Motion based on Lack of Jurisdiction \(Child Recruitment\)](#)) Case No. SCSL-2004-14-AR72(E) (31 May 2004) para. 28; citing Amicus Curiae Brief of the United Nations Children’s Fund (UNICEF) (21 January 2004) para. 65. See also *Prosecutor v. Sessay, Kallon and Gbao* ([Trial Judgment](#)) Case No. SCSL-04-15-T (2 March 2009) para. 65.

³⁸⁵ *Tadić* Interlocutory Appeal Decision paras. 100–118; *Prosecutor v. Strugar* ([Trial Judgment](#)) Case No. ICTY-01-42-T (31 January 2005) paras. 220–222.

³⁸⁶ See for example *Prosecutor v. Strugar* ([Trial Judgment](#)) Case No. ICTY-01-42-T (31 January 2005) paras. 223–226; *Prosecutor v. Hadžihasanović and Kubura* ([Decision on Joint Defence Interlocutory Appeal of Trial Chamber Decision on Rule 98bis Motions for Acquittal](#)) Case No. ICTY-01-47-AR73.3 (11 March 2005) paras. 26–30.

³⁸⁷ See for example *Prosecutor v. Strugar* ([Trial Judgment](#)) Case No. ICTY-01-42-T (31 January 2005) paras. 227–230; *Prosecutor v. Hadžihasanović and Kubura* ([Decision on Joint Defence Interlocutory Appeal of Trial Chamber Decision on Rule 98bis Motions for Acquittal](#)) Case No. ICTY-01-47-AR73.3 (11 March 2005) paras. 44–48.

³⁸⁸ See for example *Tadić* Interlocutory Appeal Decision paras. 86–87, 98, 127; *Hadžihasanović and Kubura* ([Decision on Joint Defence Interlocutory Appeal of Trial Chamber Decision on Rule 98bis Motions for Acquittal](#)) Case No. ICTY-01-47-AR73.3 (11 March 2005) paras. 47–48.

³⁸⁹ See for example *Prosecutor v. Hadžihasanović and Kubura* ([Decision on Joint Defence Interlocutory Appeal of Trial Chamber Decision on Rule 98bis Motions for Acquittal](#)) Case No. ICTY-01-47-AR73.3 (11 March 2005) paras. 37–38.

³⁹⁰ *Tadić* Interlocutory Appeal Decision paras. 120–124.

As for Ukraine, Article 438 appears to only encompass customary law requirements with regards to violations of the means of warfare (use of prohibited weapons). For other IHL violations (*i.e.*, methods of warfare) Article 438 only refers to international treaties ratified by Ukraine.

Therefore, as a general proposition, although there can be no doubt that an armed conflict exists in the east of Ukraine and has existed since at least 14 April 2014,³⁹¹ refraining from defining the nature of the armed conflict may ensure an equal protection for protected persons during both types of conflicts and that the most appropriate charges are pursued at the domestic level. In any event, as Ukrainian courts still have to rule on the scope of application of IHL provisions, there is nothing objectionable about a prosecutor charging an array of crimes that may occur in one or both types of conflict *i.e.*, ensuring that the suspected conduct is characterised (if possible) as both war crimes in international and non-international armed conflicts, thereby allowing the courts to conduct the final assessment and allowing one set of war crimes charges to proceed to final adjudication. Indeed, given the uncertainties that prevail in any war crime prosecution, this may well be a prudent way of proceeding. This is a common approach at the international level.³⁹²

In sum, any Ukrainian prosecutor should advance with absolute confidence that the legal threshold for the existence of an armed conflict, which triggers the applicability of IHL, can be readily established, regardless of the nature of the conflict. The legal parameters of these assessments are set out below.³⁹³ This is a reasonable starting point for consideration of which conflict-related crimes may arise and who may be responsible and should be adopted forthwith.

Prosecute with reliance upon international crimes (under Article 438)

As discussed above,³⁹⁴ the available information being collected by HRMMU and civil society organisations within Ukraine, at a minimum, suggests the large-scale occurrence of war crimes. Any prosecutor engaged with the task of prosecuting one or more of these violations using the currently available law and legal measures will need to assess the CCU against the available facts. In short, once the prosecutor is satisfied that there is a reasonable prospect of establishing the

³⁹¹ On 14 April 2014, the Acting President of Ukraine, Oleksandr Turchynov launched the ATO. For details see On Decision of the National Defence and Security Council of 13 April 2014 [On Immediate Measures on Overcoming the Terrorist Threat and on Maintenance of Territorial Integrity of Ukraine](#): Decree of the President of Ukraine No. 405/2014 (14 April 2014).

³⁹² See for example *Prosecutor v. Strugar* ([Trial Judgment](#)) Case No. ICTY-01-42-T (31 January 2005) para. 277; *Prosecutor v. Kordic and Cerkez* ([Indictment](#)) Case No. ICTY-95-14/2-PT (30 September 1998) see for example Count 5; *Prosecutor v. Martić* ([Amended Indictment](#)) Case No. ICTY-95-11 (9 September 2003) see for example Count 19; *Prosecutor v. Mucić et al* ([Indictment](#)) Case No. ICTY-96-21 (19 March 1996) see for example Counts 33 and 36; *Prosecutor v. Tadić* ([Second Amended Indictment](#)) Case No. ICTY-94-1-T (14 December 1995) see for example Counts 2 and 5.

³⁹³ See pp. 74-94.

³⁹⁴ See pp. 16-23.

common elements of one or more types of war crimes s/he will need to form a view concerning the precise Article of the CCU to use to prosecute the conduct and how to frame the precise charges amounting to war crimes. This analysis will also include whether to use the war crimes Article in the CCU (generally speaking, Article 438 until Draft Bill 2689 is enacted) or to use, when appropriate to the gravity of the conduct, ordinary criminal charges.

Article 438 of the CCU generically provides for the criminal punishment of “violations of the laws and customs of war”, which refers to the means of warfare prohibited by international law, or any other violations of rules and customs of warfare recognised by international instruments ratified by Ukraine.

Article 438 outlines the following crimes and associated sanctions:

1. Cruel treatment of prisoners of war or civilians, deportation of civilian population for forced labour, pillage of national treasures on occupied territories, use of means of warfare prohibited by international law, or any other violations of the laws and customs of war recognised by international instruments consented to by the Verkhovna Rada of Ukraine, and also giving an order to commit any such actions, shall be punishable by imprisonment for a term of eight to twelve years.
2. The same acts accompanied with an intended murder, shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.

Article 438 criminalises any use of means of warfare prohibited by international law, which encompasses international treaties and customary international law. Ukraine has ratified most of the treaties regulating the means of warfare, such as the 1907 Hague Convention, Additional Protocol I to the Geneva Conventions and most of the weapons treaties (except the Convention on Cluster Munitions). These treaties prohibit or restrict the use of certain types of weapons (*i.e.*, anti-personnel mines, cluster munitions). To date, Ukraine has ratified all the treaties regulating the means of warfare covering all the norms of customary international law. As a result, prosecutors can merely rely on the provisions of IHL treaties, instead of referring to customary international law.

As discussed in the “The Domestic Implementation of International Humanitarian Law in Ukraine”³⁹⁵ report, Ukraine has ratified the principle and relevant IHL instruments that encompass the violations of the laws and customs of war that, on the available facts, appear to arise in its territory. Specifically, Ukraine has ratified the four Geneva Conventions (I-IV) and their Additional Protocols, namely:

³⁹⁵ See GRC, [‘The Domestic Implementation of International Humanitarian Law in Ukraine’](#) (February 2021).

- Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- Geneva Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- Geneva Convention (III) relative to the Treatment of Prisoners of War;
- Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts; and
- Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts.

Geneva Convention I seeks to protect wounded and sick soldiers on land, but also medical and religious personnel, medical units and medical transports. Geneva Convention II provides similar protections, but to soldiers at sea and to hospital ships. Geneva Convention III protects soldiers under the authority or control of opposition forces. Finally, Geneva Convention IV provides protection to civilians in times of war, including occupation. These Conventions, apart from common Article 3, apply solely to international armed conflicts. In 1977, the two Additional Protocols listed above were adopted. They enhanced protection for victims of armed conflict. Additional Protocol I further regulated the means and methods of international armed conflicts. Additional Protocol II for the first time adopted protections relating entirely to non-international armed conflicts.

Therefore, Article 438 provides substantial opportunities to prosecute IHL violations arising in Crimea and the east of Ukraine. There is no doubt that this exercise will be complicated. As discussed in detail in “The Domestic Implementation of International Humanitarian Law in Ukraine”, Article 438 (i) suffers, in and of itself, from a lack of specificity and if not approached with due care may in practice lead to violations of the principles of legality and culpability; (ii) even when Article 438 is read in parallel with the Ukrainian Military Manual,³⁹⁶ it lacks the identification and adequate particularisation of many serious violations of IHL; (iii) sentences provided for in Article 438 appear inadequate; (iv) it is not rectified by other relevant provisions of the CCU concerning accountability

³⁹⁶ See GRC, ‘[The Domestic Implementation of International Humanitarian Law in Ukraine](#)’ (February 2021).

gaps; and (v) it appears not to include violations of methods of warfare under customary international law.

Nonetheless, in GRC's view, any domestic prosecutor may still use Article 438, provided these issues are properly considered. Taking as the departure point the fact that Article 438 makes direct reference to all the international treaties ratified by Ukraine, as well as criminalising any means of warfare prohibited by international law, which encompasses both international treaties and customary international law, there is a need to define which serious violations of IHL are criminalised under Article 438 (and which violations fall outside). In this regard, prosecutors should use the Rome Statute as a guide to demonstrate which violations amount to war crimes under international law.

This is precisely the benefit of Draft Bill 2689. If enacted, the full range of international crimes are incorporated into Ukrainian law, thereby removing the need for the prosecutor to determine which serious violations fall within the scope of Article 438. Specifically, Draft Bill 2689 criminalises the following categories of war crimes:

1. War crimes against a person (Article 438 of Draft Bill 2689):
 - a. Intentional conduct in connection with an international armed conflict:
 - i. direct or indirect transfer of part of the civilian population of the occupying state to the occupied territory, as well as indirect transfer of all or part of the population of the occupied territory within or outside that territory;
 - ii. forcing a prisoner of war or other person under the protection of international humanitarian law to serve in the armed forces of the opposite party to the conflict;
 - iii. forcing the citizens of the adverse side of the conflict to take part in hostilities against their country, even if they were in the service of the armed forces of such opposite side before the beginning of the armed conflict;
 - iv. unjustified delay in the repatriation of a prisoner of war or other person under the protection of international humanitarian law after the end of hostilities -shall be punishable by imprisonment for a term of six to twelve years.
 - b. Intentional commission (infliction) in connection with an international armed conflict or an armed conflict of a non-international nature in relation to a person who is under the protection of international humanitarian law:

- i. deportation of the population, *i.e.*, forced and in the absence of grounds provided by international law, relocation (eviction) of one or more persons from the area in which they were legally located, to the territory of another state;
- ii. forcible transfer of the population, *i.e.*, forced and in the absence of grounds provided by international law, relocation (eviction) of one or more persons from the area in which they were legally located, to another area within one state;
- iii. recruitment or involvement of a person under the age of fifteen in the armed forces or other state military formations or other, except state, formations (groups) involved in the armed conflict, as well as the use of such a person to participate in hostilities;
- iv. deprivation of a person under the protection of international humanitarian law of the right to a fair and proper trial;
- v. outrages upon human dignity;
- vi. taking or holding a person hostage;
- vii. illegal imprisonment;
- viii. rape, sexual exploitation, coercion into prostitution, forced pregnancy, forced sterilisation or any other form of sexual violence;
- ix. torture or other inhuman treatment, or illegal conduct of any experiments on a person or the application to him of illegal methods of treatment that are dangerous to life or health at the time of their use;
- x. causing moderate or severe bodily injury;
- xi. injury of the person specified in subparagraph 3 of note 2 to this Article [*i.e.*, *hors de combat*], –

shall be punishable by imprisonment for a term of seven to fifteen years.

- c. Committing, in connection with an international armed conflict or an armed conflict of a non-international nature, a premeditated murder of a person under the protection of international humanitarian law, –

shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

2. War crimes against property (Article 438-1 of Draft Bill 2689):

- a. Deliberate and made in connection with an international armed conflict or an armed conflict of a non-international nature, seizure or damage or destruction of property, if it is not justified by military necessity, –
shall be punishable by imprisonment for a term of six to twelve years.
 - b. The same actions, if large-scale, –
shall be punishable by imprisonment for a term of ten to fifteen years.
3. War crimes of employment of the prohibited methods of warfare (Article 438-2 of Draft Bill 2689):
 - a. Intentional commission (implementation) in connection with an international armed conflict or an armed conflict of a non-international nature:
 - i. the use of the presence of the civilian population or a person under the protection of international humanitarian law to protect a particular point, area or armed forces from hostilities;
 - ii. a statement that there will be no mercy, *i.e.*, addressed to persons participating in hostilities on the opposite side of the conflict, a statement that in the event of cessation of hostilities such persons will not be able to use the guarantees provided by international humanitarian law, and will be deprived of life or left in a life-threatening situation, –
shall be punishable by imprisonment for a term of six to eight years.
 - b. Intentional commission (implementation) in connection with an international armed conflict or an armed conflict of a non-international nature:
 - i. attacks on undefended and non-military targets, settlements, or buildings;
 - ii. an attack that knowingly poses a risk of death or injury to civilians, damage to civilian objects or extensive, long-term and serious damage to the environment that is clearly disproportionate to the specific and directly expected overall military advantage;
 - iii. an attack on installations or structures containing dangerous forces, which may knowingly lead to the death or injury of an excessive number of persons belonging to the civilian population, or cause excessive damage to civilian objects;

- iv. an attack on a building intended for the purposes of religion, education, art, science or charity, a historical monument, a hospital or the location of the sick and wounded, if such objects are not military objectives;
 - v. attack on a civilian object that is not a military objective;
 - vi. attacks on the civilian population or individual civilians who are not directly participating in hostilities;
 - vii. acts aimed at starvation of or the civilian population as a method of warfare by depriving it of objects necessary for survival, including by creating obstacles to the provision of assistance in accordance with the Geneva Conventions for the Protection of Victims of War of 12 August 1949;
 - viii. treacherously wounding of a person participating in hostilities –
shall be punishable by imprisonment for a term of seven to fifteen years.
- c. Committing in connection with an international armed conflict or an armed conflict of a non-international nature the act provided for in part one or two of this Article, if it caused serious bodily injury or death of a person participating in hostilities on the side of the opposite side, or civilians, as well as the treacherously killing of a person involved in hostilities –
shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.
4. War crimes of the use of prohibited means of warfare (Article 438-3 of Draft Bill 2689)
- a. The use in connection with an international armed conflict or an armed conflict of a non-international nature of means of warfare prohibited by international humanitarian law, including weapons, ammunition and equipment, which cause excessive damage or suffering or have indiscriminate effect, –
shall be punishable by imprisonment for a term of six to ten years.
 - b. The same act, if it has caused grievous bodily harm to a person belonging to the other side of the conflict or to a civilian,
shall be punishable by imprisonment for a term of seven to twelve years.
 - c. The act provided for in part one of this Article, if it caused the death of a person belonging to the opposite party to the conflict, or a person from the civilian population,
– shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.

5. War crimes against humanitarian operations and use of symbols (Article 438-4 of Draft Bill 2689)
 - a. Intentional infliction of a strike in connection with an international armed conflict or an armed conflict of a non-international nature on:
 - i. personnel, facilities, materials, equipment, units or vehicles involved in humanitarian assistance or peacekeeping missions in accordance with the Charter of the United Nations at a time when they have the right to protection enjoyed by civilians, or civilian objects in accordance with international law;
 - ii. buildings, materials, equipment, a medical facility or a vehicle duly marked with a distinctive emblem or identification mark established by international humanitarian law, or by personnel authorized to use such emblems or signs, – shall be punishable by imprisonment for a term of seven to twelve years.
 - b. The same act, if it caused the death of the victim or caused grievous bodily harm, – shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment.
 - c. Illegal use during an international armed conflict or a non-international armed conflict of a distinctive emblem or insignia established by international humanitarian law, the flag of a truce or a flag, military insignia or uniforms of the enemy or the United Nations, if this is caused by or caused the death of the victim, – shall be punishable by imprisonment for a term of seven to fifteen years or life imprisonment.
6. War crimes against the cultural property which is under the protection of the international humanitarian law (Article 438-5 of Draft Bill 2689):
 - a. Deliberate commission in connection with an international armed conflict or an armed conflict of a non-international nature attack, seizure or act of vandalism against cultural property, protected by international humanitarian law, in violation of international humanitarian law, – shall be punishable by imprisonment for a term of seven to thirteen years.
 - b. Actions provided for in part one of this Article which are of a large-scale nature or have been committed in respect of a cultural property under enhanced protection, a unique cultural property or a World Heritage site, – shall be punishable by imprisonment for a term of seven to fifteen years.

- c. Intentional use in connection with an international armed conflict or an armed conflict of a non-international nature in violation of the norms of international humanitarian law of cultural property under enhanced protection or adjacent places to support hostilities –

shall be punishable by imprisonment for a term of eight to twelve years.
- d. The action provided for in part three of this Article, which is of a large-scale nature, –

shall be punishable by imprisonment for a term of ten to fifteen years.

Whether employing Article 438 of the current CCU or, when Draft Bill 2689 is enacted, an amended version of the Article, any Ukrainian prosecutor will need to consider from the outset when deciding how to prosecute international crimes the following: (i) the overall contextual elements of war crimes that must be proven for both international armed conflicts and non-international armed conflicts; and (ii) all the crimes encompassed by Article 438 of the CCU and their elements. The minimum considerations for the prosecutor to bear in mind when deciding on the applicability of the law are set immediately below.

International Armed Conflict

In international criminal law, war crimes in international armed conflict require the existence of three common elements: (i) there was an international armed conflict; (ii) the conduct took place in the context of and was associated with an international armed conflict (nexus requirement); (iii) the victims or property were/was protected under one or more of the Geneva Conventions; and (iv) the perpetrator was aware of the factual circumstances that established the existence of an armed conflict. In addition to these three elements, the ICC further requires proof that the perpetrator was aware of the factual circumstances that established that protected status.³⁹⁷

(i) There was an international armed conflict

First, prosecutors must prove that an international armed conflict existed at the time of the commission of the criminal act. There is no general definition of “international armed conflict” in IHL.³⁹⁸ In the *Bemba* case, the ICC Pre-Trial Chamber concluded that: “[...] an international armed conflict exists in case of armed hostilities between States through their respective armed forces or

³⁹⁷ ICC Elements of Crimes (2011) *see for example* 13.

³⁹⁸ *Prosecutor v. Bemba* ([Confirmation of Charges Decision](#)) Case No. ICC-01/05-01/08 (15 June 2009) para. 220.

other actors acting on behalf of the State.”³⁹⁹ The ICTY adopted a similar approach.⁴⁰⁰ Citing the Commentary on the Geneva Convention IV, the ICTY Trial Chamber in the *Celebići* case stated that:

In its adjudication of the nature of the armed conflict with which it is concerned, the Trial Chamber is guided by the Commentary to the Fourth Geneva Convention, which considers that “[a]ny difference arising between two States and leading to the intervention of members of the armed forces” is an international armed conflict and “[i]t makes no difference how long the conflict lasts, or how much slaughter takes place”.⁴⁰¹

The ICTY, as confirmed by the ICC,⁴⁰² also stated that an armed conflict of internal character can evolve into an international armed conflict or be international alongside an internal armed conflict if: “(i) another State intervenes in that conflict through its troops, or alternatively if (ii) some of the participants in the internal armed conflict act on behalf of that other State”.⁴⁰³

The test to determine whether participants in an armed conflict may be regarded as acting on behalf of another state thereby rendering the conflict international can be answered affirmatively on the basis of three scenarios: (i) when it exercises “overall control” (and not “effective control”) of the participants; (ii) “specific instructions” are issued and followed by another state to participants in the conflict (or they subsequently publicly approve the conduct of the participants); and (iii) the “assimilation of individuals to State organs” occurs.

The criteria for establishing that another state exercised “overall control” of the participants in the conflict were discussed by the ICTY Appeals Chamber in the *Tadić* case, and later adopted by the ICC.⁴⁰⁴

The control required by international law may be deemed to exist when a State (or, in the context of an armed conflict, the Party to the conflict) has a role in organising, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group. Acts performed by the group or members thereof may be regarded as acts of de facto State

³⁹⁹ *Prosecutor v. Bemba* ([Confirmation of Charges Decision](#)) Case No. ICC-01/05-01/08 (15 June 2009) para. 223.

⁴⁰⁰ *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) para. 561; *Prosecutor v. Mucić et al* ([Trial Judgment](#)) Case No. ICTY-96-21-T (16 November 1998) para. 209; *Prosecutor v. Furundžija* ([Trial Judgment](#)) Case No. ICTY-95-17/1-T (10 December 1998) para. 59; *Prosecutor v. Aleksovski* ([Trial Judgment](#)) Case No. ICTY-95-14/1-T (25 June 1999) para. 43; *Prosecutor v. Jelisić* ([Trial Judgment](#)) Case No. ICTY-95-10-T (14 December 1999) para. 29; *Prosecutor v. Blaškić* ([Trial Judgment](#)) Case No. ICTY-95-14-T (3 March 2000) para. 63.

⁴⁰¹ *Prosecutor v. Mucić et al* ([Trial Judgment](#)) Case No. ICTY-96-21-T (16 November 1998) para. 208.

⁴⁰² *Prosecutor v. Lubanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/06 (14 March 2012) para. 541.

⁴⁰³ *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) para. 84.

⁴⁰⁴ *Prosecutor v. Lubanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/06 (14 March 2012) para. 541.

organs regardless of any specific instruction by the controlling State concerning the commission of each of those acts.⁴⁰⁵

The “specific instructions” test may also be applicable when the participants, who are not otherwise members of any armed forces, nevertheless have acted as a *de facto* state organ. The ICTY Appeals Chamber held that:

Where the question at issue is whether a single private individual or a group that is not militarily organised has acted as a *de facto* State organ when performing a specific act, it is necessary to ascertain whether specific instructions concerning the commission of that particular act had been issued by that State to the individual or group in question; alternatively, it must be established whether the unlawful act had been publicly endorsed or approved *ex post facto* by the State at issue.⁴⁰⁶

Concerning the “assimilation of individuals to State organs”, this does not depend upon state instructions but relates to actual behaviour within the structure of a state, regardless of any possible requirement of state instructions.⁴⁰⁷

- (ii) The conduct took place in the context of and was associated with an international armed conflict (nexus requirement)

Prosecutors must then establish that there was a close connection, or a “nexus”, between the criminal act and the armed conflict as a whole.

A close connection between the acts of the perpetrator and the armed conflict can be shown even if actual combat activities were not occurring in the region at the time and in the place where the crimes were allegedly committed.⁴⁰⁸ The ICTY, for example, has held that it is sufficient for the crimes to be closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict.⁴⁰⁹ Therefore, the nexus requirement does not mandate a strict geographical or temporal coincidence between the acts of the accused and the armed conflict.⁴¹⁰

Further, the ICTY held the crimes must have been committed “in furtherance of or under the guise of the armed conflict” and that:

⁴⁰⁵ *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) para. 137. See also *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) para. 20.

⁴⁰⁶ *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) para. 137.

⁴⁰⁷ *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) para. 141.

⁴⁰⁸ *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) para. 573; *Prosecutor v. Kunarac* ([Trial Judgment](#)) Case No. ICTY-96-23-T & ICTY-96-23/1-T (22 February 2001) para. 568; *Prosecutor v. Prlić* ([Trial Judgment](#)) Case No. ICTY-04-74-T (29 May 2013) Vol. 1 para. 109; *Prosecutor v. Stakić* ([Appeals Judgment](#)) Case No. ICTY-97-24-A (22 March 2006) para. 342.

⁴⁰⁹ *Ibid.*

⁴¹⁰ ICRC, [‘Commentary of Article 50 of Geneva Convention I’](#) (ICRC, 2016) para. 17.

The armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator's ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed.⁴¹¹

The Pre-Trial Chamber in *Katanga and Chui* adopted a similar approach:

The Chamber has defined that a crime has taken place in the context of, or in association with an armed conflict where 'the alleged crimes were closely related to the hostilities'. This means that the armed conflict 'must play a substantial role in the perpetrator's decision, in his ability to commit the crime or in the manner in which the conduct was ultimately committed.' It is not necessary, however, for the armed conflict to have been regarded as the ultimate reason for the criminal conduct, nor must the conduct have taken place in the midst of the battle.⁴¹²

The ICRC has summed up the factors that international tribunals and courts consider in assessing and establishing the existence of the "nexus" requirement:

- The perpetrator was a combatant;
- The victim was a person protected under the Geneva Conventions or Additional Protocol I;
- The victim was a member of the armed forces of the opposing Party;
- The circumstances in which the crime was committed;
- The act may be said to serve the ultimate goal of a military campaign;
- The crime was committed with the assistance or with the connivance of the Parties to the conflict; and
- The crime was committed as part of or in the context of the perpetrator's official duties.⁴¹³

(iii) The victims were/was protected under one or more of the Geneva Conventions

Prosecutors would also need to be satisfied that the victims fell within the notion of "protected persons" as defined in the Geneva Conventions.⁴¹⁴ In determining this question, the prosecutor

⁴¹¹ *Prosecutor v. Kunarac* ([Appeals Judgment](#)) Case No. ICTY-96-23& ICTY-96-23/1-A (12 June 2002) para. 58.

⁴¹² *Prosecutor v. Katanga and Chui* ([Conformation of Charges Decision](#)) Case No. ICC-01/04-01/07-717 (30 September 2008) para. 380 (footnotes contained in Katanga Decision omitted).

⁴¹³ ICRC, '[Commentary of Article 50 of Geneva Convention I](#)' (ICRC, 2016) para. 17.

⁴¹⁴ See Geneva Convention I, Articles 13, 24, 25, 26; Geneva Convention II, Articles 13, 36, 37; Geneva Convention III, Article 4; Geneva Convention IV; Articles 4, 20.

should examine the facts concerning the victims and their status, namely whether there is evidence that they were persons protected under one or more of the Geneva Conventions.

For example, Article 4 of Geneva Convention IV defines protected persons as those:

[...] who, at a given moment and, in any manner, whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Nationals of a State that is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

According to the ICC in the case of *Katanga and Chui*, the meaning of “in the hands of” in Geneva Convention IV (directly above) encompasses civilians who have fallen into the hands of a party to the conflict when that individual is in the territory under the control of such a party.⁴¹⁵

Concerning the meaning of persons “of which they are not nationals”, the ICTY Appeals Chamber has found that although Geneva Convention IV seems to restrict protected persons to non-nationals, the domestic legal characterisation is not always dispositive. The ICTY Chamber held that “allegiance to a Party to the conflict and, correspondingly, control by this Party over persons in a given territory, may be regarded as the crucial test”.⁴¹⁶ The ICTY found that the nationality requirement of Geneva Convention IV should be based on “the substance of relations” (taking into consideration the different ethnicity of the victims and the perpetrators, and their bonds with the foreign intervening state).⁴¹⁷

In short, in the Ukrainian context, even if the perpetrators and victims were Ukrainians, this would not necessarily preclude protection for the victims under Geneva Convention IV. The question would rest upon an analysis of the precise relationship between the victims or the perpetrators and any foreign intervening state, such as Russia. In the event that Ukrainian victims were found to have substantial relations with Russia, the victims may still fall under the protection of Geneva Convention IV, despite having the same formal nationality as the perpetrators.

⁴¹⁵ *Prosecutor v. Katanga and Chui* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/07-717 (30 September 2008) para. 292.

⁴¹⁶ *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) para. 166. See also *Prosecutor v. Zlatko Aleksovski* ([Appeals Judgment](#)) Case No. ICTY-95-14/1-A (24 March 2000) para. 152, *Prosecutor v. Mucić et al* ([Trial Judgment](#)) Case No. ICTY-96-21-T (16 November 1998) para. 266; *Prosecutor v. Tihomir Blaškić* ([Trial Judgment](#)) Case No. ICTY-95-14-T (3 March 2000) para. 94.

⁴¹⁷ *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) paras. 83,84; See also *Prosecutor v. Kordić and Čerkez* ([Trial Judgment](#)) Case No. ICTY-95-14/2-T (26 February 2001) paras. 147 et seq.

(iv) The perpetrator was aware of the factual circumstances that established that protected status and the existence of an armed conflict

In addition to the above-mentioned elements, prosecutors must establish the mental element common to all war crimes. The Geneva Conventions do not provide any guidance on this. The jurisprudence of international courts and tribunals, however, provides useful guidance to prosecutors when they have to decide on the mental element applicable to grave breaches.

The ICTY and ICC both require that the accused was aware of the factual circumstances that established the existence of an armed conflict.⁴¹⁸ It is not necessary to require a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international. It should only be established that the perpetrator was aware of the factual circumstances that established the existence of an armed conflict.⁴¹⁹ Therefore, the Pre-Trial Chamber in *Katanga and Chui* stated that: “[...] it is not necessary for the perpetrator to have made the necessary value judgement to conclude that the victim did in fact have protected status under any of the 1949 Geneva Conventions.”⁴²⁰

Concerning the question of whether the perpetrator was aware of the factual circumstances that established that protected status; the ICTY did not require the establishment of this element.⁴²¹ In contrast, at the ICC, the perpetrator needs to have been aware of the factual circumstances that established the status of protected person.⁴²² These are largely questions of inference to be drawn from the available evidence that establishes their protected status as civilians. In any war crimes trial at the international or national level, these issues are rarely of substantial *evidential* import and

⁴¹⁸ *Prosecutor v. Naletilić and Martinović* ([Appeals Judgment](#)) Case No. ICTY-98-34-A (03 May 2006) paras. 116,118-119; *Prosecutor v. Prlić et al.* ([Trial Judgment](#)) Case No. ICTY-04-74 (29 May 2013) Vol. 1 of 6, para. 109; ICC Elements of Crimes (2011) 13.

⁴¹⁹ ICC Elements of Crimes (2011) 18.

⁴²⁰ *Prosecutor v. Katanga and Chui* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/07-717 (30 September 2008) para. 294.

⁴²¹ ICRC, ‘[Commentary of Article 50 of Geneva Convention I](#)’ (ICRC, 2016) para. 17. See e.g. *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) para. 578; *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) paras. 163–166; *Prosecutor v. Kordić and Čerkez* ([Trial Judgment](#)) ICTY-95-14/2-T (26 February 2001) paras. 147–160; *Prosecutor v. Kordić and Čerkez* ([Appeals Judgment](#)) ICTY-95-14/2-A (17 December 2004) paras. 322–331; *Prosecutor v. Mucić et al* ([Trial Judgment](#)) Case No. ICTY-96-21-T (16 November 1998) paras. 244–277; *Prosecutor v. Mucić et al* ([Appeals Judgment](#)) Case No. ICTY-96-21-A (20 February 2001) paras. 52–106; *Prosecutor v. Blaškić* ([Trial Judgment](#)) Case No. ICTY-95-14-T (3 March 2000) paras. 125–133; *Prosecutor v. Blaškić* ([Appeals Judgment](#)) Case No. ICTY-95-14-A (29 July 2004) paras. 167–182; *Prosecutor v. Zlatko Aleksovski* ([Appeals Judgment](#)) Case No. ICTY-95-14/1-A (24 March 2000) para. 151; *Prosecutor v. Naletilić and Martinović* ([Trial Judgment](#)) Case No. ICTY-98-34-T (31 March 2003) paras. 203–208; *Prosecutor v. Brđanin* ([Trial Judgment](#)) ICTY-99-36 –T (1 September 2004) paras. 125, 155,585.

⁴²² *Prosecutor v. Katanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/07 (7 March 2014) para. 900.

would unlikely play a decisive or dominant role in determining the applicability of IHL or the prospects of obtaining a conviction for the relevant crime.

Non-International Armed Conflict

In international criminal law, the two common elements of war crimes in non-international armed conflicts, i.e. violations of Common Article 3 are: (i) the conduct took place in the context of an armed conflict not of an international character; and (ii) the victims were taking no active part in the hostilities.⁴²³ The ICC further requires that the perpetrator be aware of the factual circumstances that established this status and the existence of an armed conflict.⁴²⁴

(i) The conduct took place in the context of an armed conflict not of an international character *The existence of an “armed conflict not of an international character”*

The test for the existence of non-international armed conflicts is set out under Article 8(2)(f) of the Rome Statute which reads:

Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.⁴²⁵

The ICC requires proof of two elements: (i) armed violence between governmental authorities and *organised* armed groups or between such groups within a state; and (ii) a degree of intensity of the violence.⁴²⁶ The ICTY uses the same two-fold test.⁴²⁷

⁴²³ *Prosecutor v. Haradinaj et al.* ([Trial Judgment](#)) Case No. ICTY-04-84-T (3 April 2008) para. 391; ICC Elements of Crimes (2011).

⁴²⁴ ICC Elements of Crimes (2011) 31.

⁴²⁵ The ICRC commentary on Common Article 3 provides useful criteria for determining whether a non-international armed conflict exists: “1. That the Party in revolt against the *de jure* Government possesses an organized military force, an authority responsible for its acts, acting within a determinate territory and having the means of respecting and ensuring the respect for the Convention. 2. That the legal Government is obliged to have recourse to the regular military forces against insurgents organized as military in possession of a part of the national territory. 3. (a) That the *de jure* Government has recognized the insurgents as belligerents; or (b) that it has claimed for itself the rights of a belligerent; or (c) that it has accorded the insurgents recognition as belligerents for the purposes only of the present Convention; or (d) that the dispute has been admitted to the agenda of the Security Council or the General Assembly of the United Nations as being a threat to international peace, a breach of peace, or an act of aggression.” ICRC, ‘[Commentary of Common Article 3](#)’ (ICRC, 1958).

⁴²⁶ *Prosecutor v. Lubanga* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/06 (29 January 2007) para. 229; *Prosecutor v. Mbarushimana* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/10 (16 December 2011) para. 97.

⁴²⁷ *Prosecutor v. Mrkšić et al.* ([Trial Judgment](#)) Case No. ICTY-95-13/1 (27 September 2007) para. 407; citing *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) paras. 562, 565-567; *Prosecutor v. Limaj et al.* ([Trial Judgment](#)) Case No. ICTY-03-66-T (30 November 2005) paras. 89-90;

First, prosecutors must establish that the armed conflict took place between governmental authorities and organised armed groups or between such groups within a state.⁴²⁸ The ICC explained “the involvement of armed groups with some degree of organisation and the ability to plan and carry out sustained military operations would allow for the conflict to be characterised as an armed conflict not of an international character.”⁴²⁹ In addition, “the armed groups in question [need] to have the ability to plan and carry out military operations for a prolonged period of time”.⁴³⁰

To satisfy this requirement, prosecutors are not required to establish that the group exercised control over part of the territory of the state or that the group acted under responsible command, like Additional Protocol II.⁴³¹ In this regard, the Rome Statute adopts a broader approach than the definition of non-international armed conflict of Additional Protocol II. The issue is whether it is sufficiently organised to be capable of carrying out protracted armed violence.⁴³² The ICC identified the following factors as being relevant to that analysis: the force or group’s internal hierarchy; the command structure and rules; the extent to which military equipment, including firearms, are available; the force or group’s ability to plan military operations and put them into effect; and the extent, seriousness, and intensity of any military involvement.⁴³³ None of these factors are individually determinative. The test, along with these criteria, should be applied flexibly when the Chamber is deciding whether a body was an organised armed group, given the limited requirement in Article 8(2)(f) of the Statute that the armed group was “organised”.⁴³⁴

Prosecutor v. Milutinović et al. ([Trial Judgment](#)) Case No. ICTY-05-87-T, ICTY (26 February 2009) Vol. 2 para. 125.

⁴²⁸ *Prosecutor v. Mbarushimana* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/10 (16 December 2011) para. 103; *Prosecutor v. Lubanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/06 (14 March 2012) paras. 512-513.

⁴²⁹ *Prosecutor v. Lubanga* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/06 (29 January 2007) para. 536.

⁴³⁰ *Prosecutor v. Bahar Idriss Abu Garda* ([Decision on Confirmation of Charges](#)) Case No. ICC-02/05-02/09 (8 February 2010) para. 91; see also *Mbarushimana* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/10 (16 December 2011) para. 103; *Prosecutor v. Naser Orić* ([Trial Judgment](#)) Case No. ICTY-03-68-T (30 June 2006) para. 254; *Prosecutor v. Haradinaj et al.* ([Trial Judgment](#)) Case No. ICTY-04-84-T (3 April 2008) paras. 60, 64, 393, 395, 396; *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) paras. 199-205; citing *Prosecutor v. Limaj et al.* ([Trial Judgment](#)) Case No. ICTY-03-66-T (30 November 2005) paras. 46-129; *Prosecutor v. Dordević* ([Trial Judgment](#)) Case No. ICTY-05-87/1-T (23 February 2011) para. 1526; and *Prosecutor v. Lukić Milan & Lukić Sredoje* ([Judgment](#)) Case No. ICTY-98-32/1-T (20 July 2009) paras. 883, 884.

⁴³¹ *Prosecutor v. Lubanga* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/06 (29 January 2007) para. 536.

⁴³² *Prosecutor v. Lubanga* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/06 (29 January 2007) para. 536.

⁴³³ *Prosecutor v. Limaj et al* ([Trial Judgment](#)) Case no. ICTY-03-66-T (30 November 2005) para. 90; *Prosecutor v. Haradinaj et al.* ([Trial Judgment](#)) Case No. ICTY-04-84-T (3 April 2008) para. 60; *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) paras.199-203.

⁴³⁴ *Prosecutor v. Lubanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/06 (14 March 2012) para. 537.

In relation to the second requirement – the degree of intensity of the conflict – the conflict should reach a certain level of intensity that exceeds that of “internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of similar nature”.⁴³⁵ The violence must be more than sporadic or isolated to rise to the level of armed conflict and the courts have emphasised that acts of banditry, unorganised and short-lived insurrections, and terrorist activities are excluded from IHL prosecution.⁴³⁶

The ICTY established the key indicia as follows:

Various factors have been taken into account by Trial Chambers to assess the “intensity” of the conflict. These include the seriousness of attacks and whether there has been an increase in armed clashes, the spread of clashes over territory and over a period of time, any increase in the number of government forces and mobilisation and the distribution of weapons among both parties to the conflict, as well as whether the conflict has attracted the attention of the United Nations Security Council, and whether any resolutions on the matter have been passed. Trial Chambers have also taken into account in this respect the number of civilians forced to flee from the combat zones, the type of weapons used, in particular the use of heavy weapons and other military equipment, such as tanks and other heavy vehicles, the blockading or besieging of towns and the heavy shelling of towns, the extent of destruction and the number of casualties caused by shelling or fighting, the quantity of troops and units deployed; existence and change of front lines between the parties, the occupation of territory, and towns and villages, the deployment of government forces to the crisis area, the closure of roads, cease fire orders and agreements, the attempt of representatives from international organisations to broker and enforce cease fire agreements, the intensity, including the protracted nature, of violence which has required the engagement of the armed forces and the high number of casualties and extent of material destruction.⁴³⁷

The Nexus Requirement

As with war crimes committed during international armed conflicts, there must be shown to be a nexus between the crimes alleged and that conflict. Pursuant to the ICTY’s jurisprudence, the temporal and geographical scope of both types of armed conflicts extends beyond the exact time

⁴³⁵ *Prosecutor v. Mbarushimana* ([Confirmation of Charges Decision](#)) Case No. ICC-01/04-01/10 (16 December 2011) para. 103; *Prosecutor v. Lubanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/06 (14 March 2012) para. 515.

⁴³⁶ *Prosecutor v. Dordević* ([Trial Judgment](#)) Case No. ICTY-05-87/1-T (23 February 2011) para. 1522.

⁴³⁷ *Prosecutor v. Dordević* ([Trial Judgment](#)) Case No. ICTY-05-87/1-T (23 February 2011) para. 1523. See also *Prosecutor v. Mrkšić et al.* ([Trial Judgment](#)) Case No. ICTY-95-13/1-T (27 September 2007) para. 407. See also *Prosecutor v. Limaj et al.* ([Trial Judgment](#)) Case no. ICTY-03-66-T (30 November 2005) para. 90; *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) paras. 565-567; *Prosecutor v. Blaškić* ([Trial Judgment](#)) Case No. ICTY-95-14-T (3 March 2000) para. 64: “it is not necessary to establish the existence of an armed conflict within each municipality concerned. It suffices to establish the existence of the conflict within the whole Region of which the municipalities are part”.

and place of hostilities.⁴³⁸ The application of IHL extends from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a peaceful settlement is achieved. Thus, the norms of international humanitarian law apply regardless of whether actual combat activities are taking place in a particular location.⁴³⁹

The crimes do not have to be committed in the precise geographical region where an armed conflict is taking place at a given moment. To show that a link exists, it is sufficient that “the alleged crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict”.⁴⁴⁰ As noted above⁴⁴¹ in relation to international armed conflicts, it is sufficient that the alleged crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict.⁴⁴²

It is also not necessary to show that the crime alleged took place during combat, that it was part of a policy or of a practice officially endorsed or tolerated by one of the parties to the conflict, or that the act was “in actual furtherance of a policy associated with the conduct of war or in the actual interest of a party to the conflict”.⁴⁴³ It is also not necessary to prove that the armed conflict was causal to the commission of the crime.⁴⁴⁴

However, as noted above vis-a-vis international armed conflicts:

⁴³⁸ *Prosecutor v. Naser Orić* ([Trial Judgment](#)) Case No. ICTY-03-68-T (30 June 2006) para. 255. See also *Prosecutor v. Lukić Milan & Lukić Sredoje* ([Trial Judgment](#)) Case No. ICTY-98-32/1-T (20 July 2009) para. 868; *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) para. 298; *Prosecutor v. Dordević* ([Trial Judgment](#)) Case No. ICTY-05-87/1-T (23 February 2011) para. 1527; *Prosecutor v. Haradinaj et al.* ([Trial Judgment](#)) Case No. ICTY-04-84-T (3 April 2008) para. 396.

⁴³⁹ *Prosecutor v. Naser Orić* ([Trial Judgment](#)) Case No. ICTY-03-68-T (30 June 2006) para. 255. See also *Prosecutor v. Milan Lukić & Sredoje Lukić* ([Trial Judgment](#)) Case No. ICTY-98-32/1-T (20 July 2009) para. 868; *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) para. 298; *Prosecutor v. Dordević* ([Trial Judgment](#)) Case No. ICTY-05-87/1-T (23 February 2011) para. 1527; *Prosecutor v. Haradinaj et al.* ([Trial Judgment](#)) Case No. ICTY-04-84-T (3 April 2008) para. 396.

⁴⁴⁰ *Prosecutor v. Tihomir Blaškić* ([Trial Judgment](#)) Case No. ICTY-95-14-T (3 March 2000) para. 66.

⁴⁴¹ See *supra*, para. 196.

⁴⁴² *Prosecutor v. Tadić* ([Appeals Judgment](#)) Case No. ICTY-94-1-A (15 July 1999) para. 70. See also *Prosecutor v. Milutinović et al.* ([Trial Judgment](#)) Case No. ICTY-05-87-T (26 February 2009) Vol. 2 para. 127.

⁴⁴³ *Prosecutor v. Dusko Tadić aka “Dule”* ([Opinion and Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) para. 573. Endorsed in *Prosecutor v. Zdravko Mucić aka “Pavo”, Hazim Delić, Esad Landzo aka “Zenga”, Zejnil Delalić* ([Trial Judgment](#)) Case No. ICTY-96-21-T (16 November 1998) para. 195.

⁴⁴⁴ *Prosecutor v. Naser Orić* ([Trial Judgment](#)) Case No. ICTY-03-68-T (30 June 2006) para. 256. See also *Prosecutor v. Milomir Stakić* ([Appeals Judgment](#)) Case No. ICTY-97-24-A (22 March 2006) paras. 342, 347, 348; citing *Prosecutor v. Kunarac* ([Appeals Judgment](#)) Case No. ICTY-96-23 & ICTY-96-23/1-A (12 June 2002) paras. 60, 64; *Prosecutor v. Mrkšić et al.* ([Trial Judgment](#)) Case No. ICTY-95-13/1-T (27 September 2007) para. 423; *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) para. 293; *Prosecutor v. Dordević* ([Trial Judgment](#)) Case No. ICTY-05-87/1-T (23 February 2011) para. 1527; *Prosecutor v. Haradinaj et al.* ([Trial Judgment](#)) Case No. ICTY-04-84-T (3 April 2008) para. 397.

the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator's ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed. Hence, if it can be established [...] that the perpetrator acted in furtherance of or under the guise of the armed conflict, it would be sufficient to conclude that his acts were closely related to the armed conflict.⁴⁴⁵

The ICTY takes into account, *inter alia*, the following factors:

- That the perpetrator is a combatant;
- That the victim is a non-combatant;
- That the victim is a member of the opposing party;
- The fact that the act may be said to serve the ultimate goal of a military campaign; and
- That the crime is committed as part of or in the context of the perpetrator's official duties.⁴⁴⁶

(ii) The Victim did not take Active Part in the Hostilities

Prosecutors must demonstrate that the victim was not taking active part in the hostilities. Protected persons lose that protection only through direct participation in hostilities and for the duration of that participation.⁴⁴⁷

IHL does not have a unified definition of the notion of direct participation in hostilities. However, the Commentary on Article 13(3) of Additional Protocol II defines it as "acts of war that by their nature or purpose str[ike] at the personnel and materiel of enemy armed forces".⁴⁴⁸ The ICTY explained that a person is considered to have taken part in hostilities when she/he participated in acts of war that by nature or purpose are likely to cause actual harm to the personnel and equipment of the enemy's armed forces.⁴⁴⁹ The *Prlić* case at the ICTY further provided:

A Trial Chamber must therefore examine the question of participation in hostilities in each case, in light of the personal circumstances of the person at the time of the facts. The Appeals Chamber also pointed out that since participation in hostilities can be intermittent and

⁴⁴⁵ *Prosecutor v. Naser Orić* ([Trial Judgment](#)) Case No. ICTY-03-68-T (30 June 2006) para. 256.

⁴⁴⁶ *Prosecutor v. Kunarac* ([Appeals Judgment](#)) Case No. ICTY-96-23& ICTY-96-23/1-A (12 June 2002) para. 59.

⁴⁴⁷ *Prosecutor v. Germaine Katanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/07 (7 March 2014) paras. 789-790.

⁴⁴⁸ *Prosecutor v. Germaine Katanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/07 (7 March 2014) paras. 789-790.

⁴⁴⁹ *Prosecutor v. Prlić et al.* ([Trial Judgment](#)) Case No. ICTY-04-74 (29 May 2013) para. 146; *Prosecutor v. Bagosora* ([Trial Judgment](#)) Case No. ICTR-98-41-T (18 December 2008) paras. 2237-2238.

discontinuous, a Trial Chamber could conclude that there was such participation if there is a nexus between the actions of the person and the alleged act of war. The Chamber will conduct this analysis on a case by case basis, considering the circumstances of each case.⁴⁵⁰

According to the *Tadić* Trial Judgment at the ICTY:

The protection embraces, at the least, all of those protected persons covered by the grave breaches regime applicable to conflicts of an international character: civilians, prisoners of war, wounded and sick members of the armed forces in the field and wounded, sick and shipwrecked members of the armed forces at sea.⁴⁵¹

In sum, the Prosecution is required to prove that the victims were “persons taking no active part in hostilities”, including by virtue of being civilians and persons who have laid down their arms or who have been placed *hors de combat* by virtue of sickness, wounds, detention or any other cause.⁴⁵² Therefore, in situations of detention, even if some of these victims have been participating actively in hostilities prior to their detention, if the crimes were committed when they were detained and unarmed, they may have ceased to be taking an active part in hostilities, and thus would have come under the protection of Common Article 3.⁴⁵³ It should be noted that the presence of combatants within groups of protected persons does not deprive those who are non-combatants of their protected status.⁴⁵⁴

Regarding the requirement that the victims are civilians not taking active part in hostilities, the ICTY, in the *Galić* case, underlined that “[t]he definition of a ‘civilian’ is expansive and includes individuals who at one time performed acts of resistance, as well as persons *hors de combat* when the crime was perpetrated”.⁴⁵⁵ However, in referring to Article 50 of Additional Protocol I, the ICTY Trial Chamber in the *Perišić* case held that:

The term “civilian” is defined negatively as anyone who is not a member of the armed forces or of an organised military group belonging to a party to the conflict. Members of the armed forces and members of militias or volunteer corps forming part of such armed forces cannot claim civilian status. Neither can members of organised

⁴⁵⁰ *Prosecutor v. Prlić et al.* ([Trial Judgment](#)) Case No. ICTY-04-74 (29 May 2013) para. 146. See also *Prosecutor v. Bagosora* ([Trial Judgment](#)) Case No. ICTR-98-41-T (18 December 2008) paras. 2237 - 2238; *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) para. 616; and *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) para. 301.

⁴⁵¹ *Prosecutor v. Tadić* ([Trial Judgment](#)) Case No. ICTY-94-1-T (7 May 1997) para. 615.

⁴⁵² *Prosecutor v. Lukić Milan & Lukić Sredoje* ([Judgment](#)) Case No. ICTY-98-32/1-T (20 July 2009) para. 870.

⁴⁵³ *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) para. 303.

⁴⁵⁴ *Prosecutor v. Laurent Semanza* ([Judgement and Sentence](#)) Case No. ICTR-97-20-T (15 May 2003) para. 515.

⁴⁵⁵ *Prosecutor v. Stanilav Galić* ([Appeals Judgement](#)) Case No. ICTY-98-29-A (30 November 2006) para. 144.

resistance groups. The Appeals Chamber has held that: “[T]he specific situation of the victim at the time the crimes are committed may not be determinative of his civilian or non-civilian status. If he is indeed a member of an armed organization, the fact that he is not armed or in combat at the time of the commission of crimes, does not accord him civilian status.”⁴⁵⁶

(iii) **The perpetrator was aware of the factual circumstances that established the existence of an armed conflict and the protected status of the victim**

The Prosecution must also demonstrate that the perpetrator was aware of the factual circumstance that established the existence of an armed conflict.⁴⁵⁷ It is not necessary to prove the accused’s knowledge of the facts pertinent to the internationality of an armed conflict but that the accused had knowledge of the factual circumstances on the existence of an armed conflict. The accused should have “sufficient awareness” of those factual circumstances.⁴⁵⁸

In addition, at the ICC, for category four crimes (e.g., torture) to be committed the perpetrator must also have been aware of the factual circumstances that established the status of the victims⁴⁵⁹ as “persons taking no active part in the hostilities.”⁴⁶⁰

Use domestic crimes when appropriate or when the relevant international crime is not available

As outlined above,⁴⁶¹ Ukraine must prosecute international crimes in furtherance of its obligations to provide effective penal sanctions. When there is a choice between charging an international crime or an ordinary crime, the war crime charges should generally be pursued to properly encompass and reflect the gravity of the conduct.⁴⁶² Where appropriate, ordinary crimes may be charged *in lieu* of international crimes in circumstances where the relevant misconduct may be accurately and proportionately prosecuted and sanctioned. Most importantly, any prosecution must be meaningful, and the charges should correspond to the gravity of the crime and amount to an effective penal sanction.

⁴⁵⁶ *Prosecutor v. Momcilo Perisic* ([Trial Judgment](#)) Case No. ICTY-04-81 (6 September 2011) para. 92.

⁴⁵⁷ ICC Elements of Crimes (2011) 13; *Prosecutor v. Naletilić and Martinović* ([Appeals Judgment](#)) Case No. ICTY-98-34-A (3 May 2006) para. 119.

⁴⁵⁸ *Prosecutor v. Boskoski and Tarculovski* ([Trial Judgment](#)) Case No. ICTY-04-82-T (10 July 2008) para. 295.

⁴⁵⁹ *Prosecutor v. Germaine Katanga* ([Trial Judgment](#)) Case No. ICC-01/04-01/07 (7 March 2014) para. 793.

⁴⁶⁰ *Prosecutor v. Abdullah Banda Abakaer Nourain* ([Confirmation of Charges Decision](#)) Case No. ICC-02/05-03/09 (7 March 2011) para. 105.

⁴⁶¹ See p. 66 onwards.

⁴⁶² Ward Ferdinandusse, ‘The Prosecution of Grave Breaches in National Courts’ (2009) *Journal of International Criminal Justice* 7, 723 - 741, 726,731.

As discussed above,⁴⁶³ this assessment is not an exact science. However, as noted, the ICC's complementarity assessments provide a modicum of guidance concerning how to ensure that the ordinary offences charged accurately reflect the same conduct and gravity as would apply if war crimes or other international crimes were alternatively charged.

More particularly, special consideration should be given to terrorism crimes since they, because of their legal elements, may sometimes provide a basis for alleging courses of conduct that adequately encompass the same conduct as that encompassed by war crimes charges.

To ensure that terrorism-related crimes properly provide this basis, the domestic prosecutor should ask her/himself whether the charges relying on terrorism cover the same conduct, and whether they reflect a genuine attempt to hold the person properly and proportionately accountable. Alternatively, the prosecutor should consider whether the ordinary person might suspect that the domestic (in this instance, terrorism) crime charges fail to adequately encompass the scope and gravity of the relevant conduct. Ultimately the domestic prosecutor must ensure that, in the final analysis, the accused is prosecuted in a way which ensures proper accountability.

⁴⁶³ See p. 27 onwards.

ANNEX A

Domestic Prosecutions between September 2016 – April 2021

Annex A provides summaries of conflict-related cases prosecuted in Ukraine between September 2016 and April 2021. For the purposes of the present Report, 'conflict-related cases' include all crimes set out in Articles 5-8*bis* of the Rome Statute, namely genocide (article 442 of the Criminal Code of Ukraine ('CCU')), war crimes (article 438, CCU) and the crime of aggression (article 437, CCU). Importantly, crimes against humanity are not criminalised in the current version of the CCU, therefore no such cases are listed in Annex A. In addition, conflict-related cases refer to crimes commonly understood by the Ukrainian investigators and prosecutors to be linked to occupation of Crimea and Donbas, namely actions aimed at forcible change or overthrow of the constitutional order or the seizure of state power (article 109, CCU), encroachment on the territorial integrity and inviolability of Ukraine (article 110, CCU), financing of actions committed for the purpose of forcible change or overthrow of the constitutional order or seizure of state power, change of borders of the territory or state border of Ukraine (article 110-2, CCU), high treason (article 111, CCU), assault on the life of a statesman or public figure (article 112, CCU), sabotage (article 113, CCU), espionage (article 114, CCU), obstruction of lawful activity of the Armed Forces of Ukraine and other military formations (article 114-1, CCU), terrorist act (article 258, CCU), engaging in commission of a terrorist act (article 258-1, CCU), public appeals to commit a terrorist act (article 258-2), creation of a terrorist group or organisation (article 258-3, CCU), facilitating commission of a terrorist act (article 258-4, CCU), financing terrorism (article 258-5, CCU), propaganda of war (article 436, CCU), use of weapons of mass destruction (article 439, CCU), development, production, acquisition, storage, sale, transportation of weapons of mass destruction (article 440, CCU), ecocide (article 441, CCU), assault on the life of a representative of a foreign state (article 443, CCU), crimes against persons and institutions with international protection (article 444, CCU), illegal use of the symbols of the Red Cross, Red Crescent, Red Crystal (article 445, CCU), piracy (article 446, CCU), and mercenarism (article 447, CCU).

In order to present case summaries for each of these crimes, the Unified Register of Court Decisions ('URCD') was searched for judgements under the relevant provisions of the CCU delivered in the period between September 2016 and April 2021. While the aim is to cover all cases, due to the large

volume of information and the poor quality of the URCD system (see Section on Ukraine's Domestic Prosecution of Conflict-Related Crimes),¹ the possibility that a small number of judgements may not be included is recognised.

Annex A is divided into two parts containing: 1) cases against Russian servicemen, separatists and civilians accused of assisting the hostile forces; and 2) cases involving Ukrainian servicemen, law enforcement officials and civilians, respectively. Cases are further divided into subcategories based on the charged crimes, e.g., violations of laws and customs of war, state treason, terrorism-related offences, listed in the beginning of each part. When necessary, subcategories are further divided into two sections representing cases that have been adjudicated and cases currently in the pre-trial or trial process.

Lastly, each of the five columns provides the details of the cases, namely: (i) case number, the date of the decision and the name of the court which delivered the decision if the case was adjudicated; (ii) characteristics of the accused, if available, such as citizenship/ allegiance, profession, military rank; (iii) summary of allegations if the case was not adjudicated and summary of decision if it was adjudicated; and (iv) explanation of charges according to the CCU.

PART I: PROCEEDINGS ON CRIMES REPORTED IN DONBAS AND CRIMEA INVOLVING RUSSIAN SERVICEMEN, SEPARATISTS, AND CIVILIANS ACCUSED OF ASSISTING THE HOSTILE FORCES

Part I contains 1,157 cases which are divided, for the purposes of the present Report, into the following 21 categories:

- (i) Violation of laws and customs of war;
- (ii) Violation of laws and customs of war, conduct of aggressive hostilities, acts of terrorism and/ or participation in a terrorist organisation/ illegal armed group, combined with ordinary crimes;
- (iii) Violation of laws and customs of war, conduct of aggressive hostilities, acts of terrorism and/ or participation in a terrorist organisation/ illegal armed group;

¹ See, pp. 42-67.

- (iv) Violation of laws and customs of war, acts of terrorism and/ or participation in a terrorist organisation/ illegal armed group;
- (v) Violation of laws and customs of war combined with ordinary crimes;
- (vi) Waging aggressive war, violation of laws and customs of war, creation of and/ or participation in a terrorist organisation or an illegal armed group, in certain cases combined with ordinary crimes;
- (vii) Waging aggressive war, creation of and/ or participation in a terrorist organisation or an illegal armed group, in certain cases combined with ordinary crimes;
- (viii) Waging aggressive war combined with encroachment upon territorial integrity of Ukraine and state treason;
- (ix) State treason;
- (x) State treason combined with encroachment on territorial integrity and inviolability of Ukraine and / or terrorism-related offences and/ or ordinary crimes;
- (xi) Encroachment on territorial integrity and inviolability of Ukraine;
- (xii) Encroachment on territorial integrity and inviolability of Ukraine combined with ordinary crimes;
- (xiii) Terrorism-related offences;
- (xiv) Terrorism-related offences combined with forcible change or overthrowing constitutional order and/ or encroachment on territorial integrity and inviolability of Ukraine and / or state treason;
- (xv) Terrorism-related offences and participation in an illegal armed group, in certain cases combined with ordinary crimes;
- (xvi) Terrorism-related offences combined with ordinary crimes and/ or military-type offences;
- (xvii) Participation in an illegal armed group;
- (xviii) Participation in an illegal armed group and encroachment on territorial integrity and inviolability of Ukraine, in certain cases combined with ordinary crimes;
- (xix) Participation in an illegal armed group combined with ordinary crimes;
- (xx) Assistance to the members of a criminal organisation; and
- (xxi) Conflict-related offences adjudicated as ordinary crimes.

For ease of reference, when a case involves charges under more than one provision of the Criminal Code, the authors of the Report have placed the case under the category where the gravest crime belongs. According to Articles 12(3) and 72 of the CCU, the gravity of crimes is defined based on the prescribed criminal punishment. Within each category, cases are listed chronologically based on the date of the trial judgement indicated in the URCD.

CASE DETAILS	ACCUSED	ALLEGATIONS/ DECISION SUMMARY	CHARGE	
VIOLATION OF LAWS AND CUSTOMS OF WAR				
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
1.	<p>Case No. 766/1007/20, Order of 27 January 2020, Kherson City Court of the Kherson region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	<p>Unidentified suspect(s)</p>	<p>Allegations:</p> <p>Following Russia’s takeover of Crimea in 2014, Ukrainian orphans and children deprived of parental care in Crimea were adopted by Russian citizens and some of them subsequently transferred to Russia.</p> <p>The pre-trial investigation is ongoing. Recently, the Court granted the Prosecution’s request to access personal information of such children in order to identify the victims.</p>	<p>Art. 438(1) of the CCU as violations of laws and customs of war, namely individual or mass forcible transfers or deportation of protected persons from the occupied territory to the territory of the occupying State or to the territory of any other state.</p>
2.	<p>Case No. 766/14116/20, Order of 16 September 2020, Kherson City Court of the Kherson region</p> <p>As of April 2021, the case is under the pre-trial investigation until 18 September 2021</p>	<p>Unidentified suspects</p>	<p>Allegations:</p> <p>The government in Crimea deported a number of victims from the territory of Crimea elsewhere, including to the territory of the Russian Federation.</p> <p>At least 46,157 people from Crimea applied for the status of an internally displaced person in Ukraine.</p>	<p>Art. 438(1) of the CCU as violations of laws and customs of war, namely deportation of civilians outside the temporarily occupied territories and forcible transfer to the temporarily occupied territories.</p>

VIOLATION OF LAWS AND CUSTOMS OF WAR, CONDUCT OF AGGRESSIVE HOSTILITIES, ACTS OF TERRORISM AND/ OR PARTICIPATION IN A TERRORIST ORGANISATION/ ILLEGAL ARMED GROUP, COMBINED WITH ORDINARY CRIMES					
CASES IN THE PRE-TRIAL / TRIAL PROCESS					
3.	<p>Case No. 757/18663/18-к, Order of 8 May 2018, Pechersky District Court of Kyiv</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	Unidentified suspect, member	DPR	<p>Allegations:</p> <p>The pre-trial investigation is ongoing into violations of the laws and customs of war by the unidentified members of the Armed Forces of the Russian Federation and unidentified representatives of the DPR and LPR.</p>	<p>Art. 438(1), (2) of the CCU as violations of laws and customs of war, including those combined with premeditated murder;</p> <p>Art. 437(2) of the CCU as conducting aggressive hostilities;</p> <p>Art. 258(2), (3) of the CCU as a terrorist act, committed upon prior conspiracy of a group of persons, or if it caused significant property damage or other serious consequences or to a death of person, and a terrorist act that caused a death of person;</p> <p>Art. 147(2) of the CCU as taking or holding a person hostage, committed against a minor or by an organised group, or combined with a threat of murder, or that caused serious consequences;</p> <p>Art. 372(2) of the CCU as convicting a knowingly innocent person combined</p>

				with the accusation of such person of committing a serious or especially serious crime, as well as combined with the artificial creation of evidence or other falsification.
	<p>Pre-trial investigation is ongoing in similar cases into violations of laws and customs of war, crimes of aggression and ordinary crimes, although committed by suspects that deserted the Ukrainian military and joined the D/ LPR:</p>			
4.	Case No. 757/18643/18-к , Order of 17 April 2018, Pechersky District Court of Kyiv;			
5.	Case No. 757/18648/18-к , Order of 17 April 2018, Pechersky District Court of Kyiv;			
6.	Case No. 757/18674/18-к , Order of 17 April 2018, Pechersky District Court of Kyiv;			
7.	Case No. 757/18667/18-к , Order of 17 April 2018, Pechersky District Court of Kyiv;			
8.	Case No. 757/18652/18-к , Order of 17 April 2018, Pechersky District Court of Kyiv;			
9.	Case No. 757/18720/18-к , Order of 17 April 2018, Pechersky District Court of Kyiv.			
10.	<p>Case No. 757/26867/18-к, Order of 12 June 2018, Pechersky District Court of Kyiv</p> <p>The case is under the pre-trial investigation (as of April 2021)</p>	Unidentified suspect(s)	<p>Allegations:</p> <p>On 17 May 2018, Russian forces launched a heavy artillery attack at a residential area, which killed two civilians, injured two more and destroyed a residential building. They also committed other violations of laws and customs of war, which, however, were not specified in the Order.</p>	<p>Art. 438(1), (2) of the CCU as violations of laws and customs of war, including those combined with premeditated murder;</p> <p>Art. 437(2) of the CCU as conducting aggressive hostilities;</p> <p>Art. 258(1), (2), (3) of the CCU as a terrorist act, and a terrorist act,</p>

			<p>The pre-trial investigation is ongoing. Recently, the Court ordered a forensic examination of the metal fragments collected from the crime scene.</p>	<p>committed upon prior conspiracy of a group of persons, or if it caused significant property damage or other serious consequences, and a terrorist act that caused a death of person;</p> <p>Art. 147(2) of the CCU as taking or holding a person hostage, committed against a minor or by an organised group, or combined with a threat of murder, or that caused serious consequences;</p> <p>Art. 258-5(3) of the CCU as financing of terrorism, committed by an organised group or on a particularly large scale, or that caused other serious consequences.</p>
11.	<p>Case No. 757/33296/19-K, Order of 4 July 2019, Pechersky District Court of Kyiv</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	<p>Citizen of Ukraine affiliated with the DPR/LPR</p>	<p>Allegations:</p> <p>Members of the DPR and LPR committed torture, other forms of ill-treatment of captured servicemen and civilians, extrajudicial executions, forced labour. More than three thousand identified victims were illegally detained in specially created camps in the Donetsk and Luhansk regions (servicemen, civilians, including journalists and volunteers).</p>	<p>Art. 438(1), (2) of the CCU as violations of the laws and customs of war, including those combined with premeditated murder;</p> <p>Arts 28(2), 437(2) of the CCU as conducting aggressive hostilities upon prior conspiracy of a group of persons;</p>

			<p>Almost all victims were severely tortured, beaten, and ill-treated. The detainees were kept in unsuitable premises, deprived of food, water, opportunities to meet their physiological needs and necessary medical care.</p> <p>Thus far, one suspect was identified.</p>	<p>Art. 146(1), (2) of the CCU as unlawful deprivation of liberty and kidnapping and aggravated unlawful deprivation of liberty and kidnapping;</p> <p>Art. 115(1), (2) of the CCU as murder and aggravated murder;</p> <p>Art. 258(3) of the CCU as a terrorist act that caused the death of a person;</p> <p>Art. 258-3(1) of the CCU as creation of a terrorist group or terrorist organisation, leadership of or participation in such a group or organisation, as well as organisational or other assistance to the creation or operation of a terrorist group or organisation.</p>
	Pre-trial investigation is ongoing in similar cases in the same region:			
12.	Case No. 757/49628/19-к , Order of 5 December 2019, Pechersky District Court of Kyiv;			
13.	Case No. 757/49626/19-к , Order of 5 December 2019, Pechersky District Court of Kyiv.			
ADJUDICATED CASES				
14.	Case No. 415/2182/20 Judgement of 18 May	Four Accused, all citizens of Ukraine,	Court findings:	Arts 27(2), 28(2), 437(2) of the CCU as planning and preparation of

	<p>2020, __Lysychansk City Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, which upheld the Judgement of the first instance court</p>	<p>members of the “Cossack National Guard of the Great Army of the Don named after Platov” formation</p>	<p>The four Accused joined an illegal armed formation “Cossack National Guard of the Great Army of the Don named after Platov” in Lysychansk, Luhansk region and took an active part in hostilities (using mortars, firearms) against servicemen of the UAF, carried automatic firearms and served at the checkpoints.</p> <p>Armed with automatic firearms, the four Accused abducted six people in Lysychansk on a contrived basis and illegally detained them at Lysychansk City Security Department.</p> <p>In May-July 2014, the four Accused used automatic firearms, 80-mm and 120-mm mortars, grenade launchers and other portable military weapons, that they fired directly at positions of the Armed Forces, the National Guard, units of territorial defence and other law enforcement agencies of Ukraine deployed in Lysychansk, Luhansk region and on the demarcation line, destroying their manpower and military equipment.</p> <p>Moreover, in late May 2014, Accused 1, as a leader of the organised group designed a criminal plan and shared it with other three</p>	<p>aggressive war, conducting aggressive hostilities committed upon prior conspiracy of a group of persons;</p> <p>Arts 27(2), 28(2), 438(1) of the CCU as violation of the laws and customs of war, namely expulsion of civilians for forced labor, committed by a group of persons;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal carrying, storage and acquisition of firearms, ammunition;</p> <p>Art. 146(3) of the CCU as illegal confinement and abduction of a person, committed against two or more persons, in a way dangerous to the life and health of the victims, accompanied by the infliction of physical suffering on them, with the use of weapons, carried out for a long</p>
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			<p>members of the organised group, receiving their consent and approval.</p> <p>According to this plan, Accused 1 and the three other participants of the organised criminal group drove around the city of Lysychansk, Luhansk region, abducted people under the pretext of being intoxicated or for other contrived reasons and took them to the premises of Lysychansk SBU in the Luhansk region and illegally detained them for several days.</p> <p>In the end of May 2014, the four Accused broke into the house of a local resident and ordered him not to leave his place of residence and, further, to implement their orders, while threatening to use violence dangerous to his life and health. The Four Accused subsequently beat the victim to the torso, including by using machine guns, tightened his hands with a plastic collar and transported him to the premises of the Lysychansk city department of the SBU in the Luhansk region, where he had been illegally detained until 20 July 2014.</p> <p>Further, between the end of May 2014 and 20 July 2014, the four Accused, using weapons,</p>	<p>time, committed by an organised group.</p>
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			<p>forced six persons to perform work to ensure the strategic and tactical needs of the occupying power as part of military operations against the UAF.</p> <p>The four Accused repeatedly took these six victims to a checkpoint in the city of Lysychansk, to construct protective structures there (digging trenches, dugouts, construction of protective barricades from sandbags, etc.), carry sandbags, wood and other heavy objects, conduct reconstruction works of the building of Lysychansk City Department of the SBU in the Luhansk region, as well as other physical labour, against the will of the victims.</p> <p>According to the court decision of 10 March 2020, at the request of the prosecutor, the court decided to conduct the trial <i>in absentia</i> following a special court procedure due to the fact that the four Accused are hiding in the temporary occupied territory of Ukraine.</p> <p>The Accused were found guilty of participation in the activities of an armed group not established by law (Art. 260(2) of the CCU); illegal carrying, storage and acquisition of firearms, ammunition (Art. 263(1) of the CCU);</p>	
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			<p>illegal confinement and abduction of a person, committed against two or more persons, in a way dangerous to the life and health of the victims, accompanied by the infliction of physical suffering on them, with the use of weapons, carried out for a long time, committed by an organised group (Art. 146(3) of the CCU); planning and preparation of aggressive war, conducting aggressive hostilities committed prior conspiracy of a group of persons (Arts 27(2), 28(2), 437(2) of the CCU); violation of the laws and customs of war, namely exploitation of civilians for forced labor, committed by a group of persons (Art. 27(2), 28(2), 438(1) of the CCU).</p> <p>Accused 1 was sentenced to 10 years and six months of imprisonment. Accused 2, Accused 3 and Accused 4 were sentenced to 10 years of imprisonment each.</p>	
<p>VIOLATION OF LAWS AND CUSTOMS OF WAR, CONDUCT OF AGGRESSIVE HOSTILITIES, ACTS OF TERRORISM AND/ OR PARTICIPATION IN A TERRORIST ORGANISATION/ ILLEGAL ARMED GROUP</p>				
<p>CASES IN THE PRE-TRIAL / TRIAL PROCESS</p>				
15.	<p>Case No. 428/12525/17, Order of 23 November 2017, Severodonetsk City</p>	<p>Unidentified suspect affiliated with the LPR</p>	<p>Allegations: In January-May 2015, together with other members of the LPR, the Suspect carried out artillery firing in which nine civilians were killed,</p>	<p>Art. 438(2) of the CCU as violation of the laws and customs of war combined with premeditated murder;</p>

	<p>Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>		<p>12 civilians were injured in varying degrees of severity, 22 civilian objects were destroyed or damaged.</p> <p>The pre-trial investigation is ongoing. Recently, the Court granted the Prosecution motion to arrest the suspect's property.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting aggressive hostilities committed upon prior conspiracy of a group of persons;</p> <p>Art. 258(2), (3) of the CCU as committing a terrorist act, which caused significant property damage or to a death of person.</p>
16.	<p>Case No. 428/4408/18, Order of 23 April 2018, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	<p>Member of the "6th Separate Cossack regiment named after Platov" of the LPR</p>	<p>Allegations:</p> <p>The Suspect, together with other participants of the 6th Separate Cossack regiment named after Platov and members of the LPR, carried out artillery firing with the use of explosive weapons in the territory of Popasna and Popasnyansky districts from January 2015 to August 2015. As a result, 20 civilians were killed, 21 civilians were injured in varying degrees of severity, 62 homes and civilian infrastructure objects were destroyed or damaged.</p> <p>The Court issued an order on the attachment of property of the suspect.</p>	<p>Art. 438(2) of the CCU as violation of the laws and customs of war, accompanied with a premeditated murder;</p> <p>Art. 437(2) of the CCU as conducting aggressive hostilities;</p> <p>Arts 258(2), (3) of the CCU as a terrorist act, which caused death of people and other serious consequences.</p>
17.	<p>Case No. 428/4073/18, Order of 19 April 2018, Severodonetsk City Court of the Luhansk region</p>	<p>Unidentified suspect</p>	<p>Allegations:</p> <p>In January-August 2015, the Suspect issued and received orders to launch heavy artillery attacks</p>	<p>Art. 438(2) of the CCU as violations of laws and customs of war, combined with premeditated murder;</p>

	As of April 2021, the case is under the pre-trial investigation		<p>at a residential area. The attacks killed 20 civilians, injured 21 civilians and destroyed 62 civilian objects. The Suspect committed other violations of laws and customs of war, which, however, were not listed in the Order.</p> <p>The investigation is ongoing, the court granted Prosecution request to arrest the Suspect's property.</p>	<p>Art. 437(2) of the CCU as conducting aggressive hostilities;</p> <p>Art. 258(2), (3) of the CCU as a terrorist act, committed upon prior conspiracy of a group of persons, or if it caused significant property damage or other serious consequences or to a death of person, and a terrorist act that caused a death of person.</p>
18.	<p>Case No. 428/4408/18, Order of 23 April 2018, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	Unidentified suspect	<p>Allegations:</p> <p>In January-August 2015, the Suspect issued and received orders to launch heavy artillery attacks at a residential area. The attacks killed 20 civilians, injured 21 civilians and destroyed 62 civilian objects. The Suspect committed other violations of laws and customs of war, which, however, were not listed in the Order.</p>	<p>Art. 438(2) of the CCU as violations of laws and customs of war, combined with premeditated murder;</p> <p>Art. 437(2) of the CCU as conducting aggressive hostilities;</p> <p>Art. 258(2), (3) of the CCU as a terrorist act, committed upon prior conspiracy of a group of persons, or if it caused significant property damage or other serious consequences or to a death of person, and a terrorist act that caused a death of person.</p>
19.	<p>Case No. 757/38794/18-к, Order of 10 August 2018,</p>	Citizen of Ukraine affiliated with the LPR	<p>Allegations:</p> <p>From May to December 2014, the Suspect at least twice convoyed Ukrainian servicemen,</p>	<p>Art. 438(2) of the CCU as violations of laws and customs of war, namely inhuman or degrading treatment of</p>

	<p>Pechersky District Court of Kyiv</p> <p>As of April 2021, the case is under the pre-trial investigation</p>		<p>other persons, who were illegally detained by members of the LPR, and served at a checkpoint in the Luhansk region.</p> <p>On 27 June 2014, the Suspect beat a civilian, a citizen of Ukraine, who was captured and illegally detained by other LPR members.</p> <p>The pre-trial investigation is ongoing, the Suspect is detained.</p>	<p>civilians, combined with premeditated murder;</p> <p>Arts 27(5), 28(2), 437(2) of the CCU as assisting the conduct of aggressive hostilities, committed upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as creation of a terrorist group or terrorist organisation, leadership of or participation in such a group or organisation, as well as organisational or other assistance to the creation or operation of a terrorist group or organisation.</p>
<p>20.</p> <p>21.</p> <p>22.</p>	<p>Pre-trial investigation is ongoing in similar cases in the same region:</p> <p>Case No. 757/26863/18-к, Order of 12 June 2018, Pechersky District Court of Kyiv;</p> <p>Case No. 757/26860/18-к, Order of 12 June 2018, Pechersky District Court of Kyiv;</p> <p>Case No. 757/26865/18-к, Order of 12 June 2018, Pechersky District Court of Kyiv.</p>			
<p>23.</p>	<p>Case No. 428/1797/19, Order of 18 February 2019, Severodonetsk City Court of the Luhansk region</p>	<p>Unidentified suspect(s)</p>	<p>Allegations:</p> <p>On 25 January 2019, the LPR members fired in the direction of a residential area, damaging a civilian building.</p>	<p>Art. 438(2) of the CCU as violation of the laws and customs of war combined with premeditated murder;</p> <p>Arts 437(1), (2) of the CCU as planning, preparing for or starting an aggressive war or military conflict, as</p>

	As of April 2021, the case is under the pre-trial investigation		The pre-trial investigation is ongoing. Recently, the Court ordered a forensic examination to assess the damage.	well as participating in a conspiracy to commit such acts, or conducting aggressive hostilities; Art. 258(2) of the CCU as a terrorist act that upon prior conspiracy of a group of persons, or if it caused significant property damage or other serious consequences.
	Pre-trial investigation is ongoing in similar cases in the same region:			
24.	Case No. 428/1801/19 , Order of 18 February 2019, Severodonetsk City Court of the Luhansk region;			
25.	Case No. 428/1811/19 , Order of 18 February 2019, Severodonetsk City Court of the Luhansk region;			
26.	Case No. 428/1799/19 , Order of 18 February 2019, Severodonetsk City Court of the Luhansk region.			
27.	Case No. 428/1804/19 , Order of 18 February 2019, Severodonetsk City Court of the Luhansk region As of April 2021, the case is under the pre-trial investigation	Undentified suspect	Allegations: On 25 January 2019, from the territory controlled by the LPR, members of the LPR shelled the village of Lobachevo in Novoaydarsky district of the Lugansk region. As a result of the shelling, one shop on the Donetsk street was damaged. The Court granted the Prosecution motion to conduct a forensic examination of explosives and explosive products to establish the type of	Art. 438(2) of the CCU as violation of the laws and customs of war, accompanied with a premeditated murder; Arts 437(1), (2) of the CCU as waging of an aggressive war and conducting aggressive hostilities; Art. 258(2) of the CCU as a terrorist act, which led to significant property damage.

			explosives, where and how they were produced, and how dangerous they can be to humans.	
28.	<p>Case No. 428/1810/19, Order of 18 February 2019, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	No suspect is identified	<p>Allegations:</p> <p>On 30 January 2019, from the territory controlled by the LPR, members of the LPR shelled the village of Kryakivka of Novoaydarsky District of Luhansk region damaging one house.</p> <p>The Court granted the Prosecution motion to conduct a military assessment that is expected to establish the direction from which the shelling occurred.</p>	<p>Art. 438(2) of the CCU as violation of the laws and customs of war, accompanied with a premeditated murder;</p> <p>Arts 437(1), (2) of the CCU as waging an aggressive war and conducting aggressive hostilities;</p> <p>Art. 258(2) of the CCU as a terrorist act, which led to significant property damage.</p>
29.	<p>Case No. 428/1807/19, Order of 18 February 2019, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	No suspect is identified	<p>Allegations:</p> <p>On 26 January 2019, from the territory controlled by LPR, the members of the LPR shelled the settlement of Katerynivka of Popasnyansky district of Luhansk region, damaging one house on Pionerska street.</p> <p>The Court granted the Prosecution motion to conduct a forensic construction and technical assessment that is expected to estimate the costs needed to repair the house and assess the degree of damage.</p>	<p>Art. 438(2) of the CCU as violation of the laws and customs of war, accompanied with a premeditated murder;</p> <p>Arts 437(1), (2) of the CCU as waging an aggressive war and conducting aggressive hostilities;</p> <p>Art. 258(2) of the CCU as a terrorist act, which led to significant property damage.</p>

VIOLATION OF LAWS AND CUSTOMS OF WAR, ACTS OF TERRORISM AND/ OR PARTICIPATION IN A TERRORIST ORGANISATION/ ILLEGAL ARMED GROUP				
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
30.	Case No. 757/11202/18-к , Order of 1 March 2018, Pechersky District Court of Kyiv As of April 2021, the case is under the pre-trial investigation	Citizen of Ukraine affiliated with the LPR	Allegations: In April-July 2014, the Suspect joined the LPR. In July-August 2014, he participated in hostilities against the Ukrainian side to the conflict. He also subjected to ill-treatment and caused a bodily harm to two captured servicemen of the Ukrainian Armed forces and a captured volunteer who took part in hostilities. The pre-trial investigation is ongoing, the Suspect is detained.	Art. 438(1) of the CCU as ill-treatment of prisoners of war and civilians; Art. 258-3(1) of the CCU as participation in a terrorist organisation.
31.	Pre-trial investigation is ongoing in a similar case in the same region: Case No. 757/67820/17-к , Order of 14 November 2017, Pechersky District Court of Kyiv.			
VIOLATION OF LAWS AND CUSTOMS OF WAR COMBINED WITH ORDINARY CRIMES				
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
32.	Case No. 766/8787/17 , Order of 2 January 2020, Kherson City Court of the Kherson region	Unidentified suspect(s)	Allegations: Representatives of the State Council of the Republic of Crimea and Council of Ministers of the Republic of Crimea, by making decisions to nationalise the state property of Ukraine in Crimea and certain private property, illegally seized and appropriated buildings, structures,	Art. 438(1) of the CCU as violation of the laws and customs of war; Art. 110-2(3) of the CCU as financing the acts committed to forcibly change or overthrow the constitutional order or seize state power, change the boundaries of the territory or state

	<p>As of April 2021, the case is under the pre-trial investigation</p>		<p>land plots, motor vehicles, other movable and immovable property (particularly, belonging to Oschadbank JSC). They also committed acts of ill-treatment of civilians and other violations of the laws and customs of war.</p> <p>The pre-trial investigation is ongoing. Recently, the Court granted the Prosecution's request to access the case filed by Oschadbank JSC against the Russian Federation before the Arbitration Tribunal in Paris.</p>	<p>border of Ukraine committed repeatedly or for personal gain, or upon prior conspiracy of a group of persons, or on a large scale, or if it caused significant property damage;</p> <p>Art. 191(1), (2), (5) of the CCU as appropriation, misappropriation of property or taking it by abuse of office or if committed on a particularly large scale or by an organised group;</p> <p>Art. 262(1), (2), (3) of the CCU as theft, misappropriation, extortion of firearms, ammunition, explosives or radioactive materials or their acquisition by fraud or abuse of office, as well as extortion of these items, combined with violence dangerous to life and health;</p> <p>Art. 343(1) of the CCU as interference in the activities of a law enforcement officer, forensic expert, employee of the state executive service, private executor in order to prevent them from performing their official duties, carrying out forensic activities or to obtain an illegal decision;</p>
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				<p>Art. 345(1) of the CCU as threat or violence against a law enforcement officer in connection with the performance of official duties by this officer;</p> <p>Art. 357(1) of the CCU as theft, misappropriation, extortion of documents, stamps, seals, their acquisition by fraud or abuse of office or their damage.</p>
33.	<p>Case No. 766/6422/19, Order of 3 September 2020, Kherson City Court of the Kherson region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	<p>Citizen of Ukraine, judge of the Simferopol district court in Crimea</p>	<p>Allegations:</p> <p>In 2014, the Suspect was appointed as a judge to the Simferopol district court in Crimea by the decree of the Russian President.</p> <p>On 27 September 2017, the Suspect found the victim guilty of “expressing calls for violation of the territorial integrity of the Russian Federation” based on the victim’s live speech on TV and sentenced the victim to two years of imprisonment.</p> <p>According to Prosecution, the Suspect did not ensure the victim’s rights and freedoms, and disregarded that the whole body of evidence which indicated the lack of impartiality of the</p>	<p>Art. 438(1) of the CCU as violations of laws and customs of war, namely violation of the right to a fair and formal trial;</p> <p>Art. 146(2) of the CCU as prolonged unlawful deprivation of liberty;</p> <p>Art. 162(2) of the CCU as the breach of inviolability of home committed by a state official;</p> <p>Art. 151(1) of the CCU as deliberately placing a mentally healthy person in a psychiatric institution;</p> <p>Art. 353(1) of the CCU as unauthorised acquisition of the title of a state official, combined with the</p>

			<p>trial and its dependence on the occupying authorities.</p> <p>The Court dismissed the Prosecution’s request to detain the suspect for the duration of the pre-trial investigation because of the poor reasoning and the lack of proof that the Suspect, who at that time resided in Crimea, had been properly notified of suspicion.</p> <p>The investigation is suspended pending arrest of the Suspect.</p>	<p>commission of socially dangerous acts.</p>
WAGING AGGRESSIVE WAR, VIOLATION OF LAWS AND CUSTOMS OF WAR, CREATION OF AND/ OR PARTICIPATION IN A TERRORIST ORGANISATION OR AN ILLEGAL ARMED GROUP, IN CERTAIN CASES COMBINED WITH ORDINARY CRIMES				
ADJUDICATED CASES				
34.	<p>Case No. 243/4702/17, Judgement of 4 July 2017, Sloviansk City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, member of the “Separate Commandant’s Regiment ‘Kramatorsk 1’ of the Army Corps of the People’s Militia of the DPR”</p>	<p>Court findings:</p> <p>The Accused joined the DPR on 28 June 2014 in Sloviansk, Donetsk region, and remained its member until 14 February 2015.</p> <p>During this period, as a member of Separate Commandant’s Regiment ‘Kramatorsk 1’ of the Army Corps of the People’s Militia of the DPR, he guarded the SBU building in Donetsk, where 28 POWs of the UAF and volunteers were illegally detained.</p>	<p>Arts 27(5), 28(2), 437(2) of the CCU as accessory in conducting aggressive hostilities, upon prior conspiracy of a group of persons;</p> <p>Art. 438(1) of the CCU as violations of laws and customs of war, namely ill-treatment of prisoners of war;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			<p>Motivated by enmity towards those participating in the ATO, the Accused repeatedly acted with an intent to cause physical suffering to such persons. He ill-treated the POWs detained in the SBU building of the Donetsk region, threatening them with death, intimidating and insulting them with special audacity and cruelty, taking advantage of the vulnerable condition of the POWs and lack of opportunity for self-defence. He also used physical violence against the POWs.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); accessory in waging an aggressive war, by prior conspiracy by a group of persons (Arts 27(5), 28(2), 437(2) of the CCU); and ill-treatment of prisoners of war (Art. 438(1) of the CCU). He was sentenced to 10 years and one month in prison with the confiscation of all his property.</p>	
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
35.	Case No. 433/1615/17 Order of 3 October 2017, Troitske District Court of the Luhansk region	Citizen of the Russian Federation, member of the LPR	<p>Allegations:</p> <p>The Suspect allegedly participated in LPR by managing its participants; executing instructions of its leaders directly and by giving orders to subordinates to conduct intelligence activities to identify and monitor the location of</p>	Arts 27(5), 28(2), 437(2) of the CCU as accessory in conducting an aggressive war upon prior conspiracy of a group of persons;

	<p>As of April 2021, the case is under the pre-trial investigation</p>		<p>equipment, the composition of the fortifications created by units of ATO forces and firing positions of military units of ATO forces; leading the takeover of settlements in the territory of Luhansk and Donetsk regions; and leading hostilities against the ATO units.</p> <p>The Suspect purportedly committed participation in a terrorist organisation (Art. 258-3(1)); robbery committed by prior conspiracy by a group of persons (Art. 187(2)); robbery for the purpose of theft of a firearm committed upon prior conspiracy of a group of persons (Arts 28(2), 262(3)); unlawful appropriation of a passport and other important personal documents, committed upon prior conspiracy of a group of persons (Arts 28(2), 357(3)); accessory in conducting an aggressive war upon prior conspiracy of a group of persons (Arts 27(5), 28(2), 437(2)); violations of laws and customs of war, particularly cruel treatment of civilians, and issuance of orders to commit such acts (Art. 438(1)); and illegal confinement and abduction of a person, committed for selfish motives, upon prior conspiracy of a group of persons, with the use of weapons and which was accompanied by infliction of</p>	<p>Art. 438(1) of the CCU as violations of laws and customs of war, particularly the cruel treatment of civilians, as well as the issuance of orders to commit such acts;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 187(2) of the CCU as robbery committed upon prior conspiracy of a group of persons;</p> <p>Arts 28(2), 262(3) of the CCU as robbery for the purpose of theft of a firearm (other than smooth-bore hunting), committed upon prior conspiracy of a group of persons;</p> <p>Arts 28(2), 357(3) of the CCU as unlawful appropriation of a passport and other important personal documents, upon prior conspiracy of a group of persons;</p> <p>Art. 146(2) of the CCU as illegal confinement and abduction of a person, committed for selfish motives,</p>
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			<p>physical suffering on the victim (Art. 146(2) of the CCU).</p> <p>The Prosecution applied for a special pre-trial investigation that would result in a trial <i>in absentia</i> because the whereabouts of the suspect could not be established. The Court granted the Prosecution motion for a special investigation (<i>in absentia</i>).</p>	<p>upon prior conspiracy of a group of persons, with the use of weapons and which was accompanied by infliction of physical suffering on the victim.</p>
36.	<p>Case No. 263/3436/18, Order of 28 March 2018, Zhovtnevy District Court of Mariupol of the Donetsk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	<p>Deputy commander of the 9th Separate Marine Regiment of the DPR</p>	<p>Allegations:</p> <p>The Suspect allegedly joined DPR in January 2015, where he was appointed a deputy commander of the 9th Separate Marine Regiment consisting of 2,000 persons. On several occasions during May-August 2017, the Suspect purportedly ordered the continuous indiscriminate shelling of civilian settlements in Volnovakha district, Donetsk region, namely: Berdyansk, Pavlopil and Vodyane villages, and Sartana townships.</p> <p>During the investigation, the investigator has taken all possible steps to notify the Suspect of suspicion and summon him in relation to allegations of crimes under Arts 27(2), 28(2), 438(1); Arts 27(2), 28(2), 437(2), and Art. 258-3(1) of the CCU. The Court granted the</p>	<p>Arts 27(2), 28(2), 437(2) of the CCU as conducting aggressive hostilities committed upon prior conspiracy of a group of persons;</p> <p>Arts 27(2), 28(2), 438(1) of the CCU as violation of the laws and customs of war;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			Prosecution motion to conduct a special pre-trial investigation (<i>in absentia</i>).	
37.	Case No. 426/18968/17 , Order of 7 October 2019, Kreminna District Court of the Luhansk region The case is ongoing	Arkadii Korniiievsky, citizen of Ukraine, an investigator of the Separate Commandant's Regiment of the 2nd Army Corps of the LPR	<p>Allegations:</p> <p>In 2014, the Accused was an “investigator of the Separate Commandant's Regiment of the 2nd Army Corps” of the LPR, who allegedly organised and carried out a robbery with the aim of stealing firearms, kidnapping and illegal deprivation of liberty of civilians. During the illegal detention of at least six civilians, the Accused allegedly interrogated them and ordered them to be beaten and tortured.</p> <p>The Prosecution charged him with participation in a terrorist organisation (Art. 258-3(1)), assisting in waging aggressive war committed upon prior conspiracy of a group of persons (Arts 27(5), 28(2), 437(2) of the CCU), violation of the laws and customs of war (Art. 438(1) of the CCU), organising an armed criminal gang for the purpose of attacking institutions, or private individuals, and also participation in such gang or its attacks (Art. 257 of the CCU), aggravated robbery (Art. 187(4) of the CCU), robbery for the purpose of stealing firearms (Art. 262(3) of the CCU), illegal confinement or abduction, committed for selfish motives, upon prior conspiracy of a group of persons, accompanied</p>	<p>Arts 27(5), 28(2), 437(2) of the CCU as assisting in waging aggressive war committed upon prior conspiracy of a group of persons;</p> <p>Art. 438(1) of the CCU as violation of the laws and customs of war;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 257 of the CCU as organising an armed criminal gang for the purpose of attacking institutions, or private individuals, and also participation in such gang or its attacks;</p> <p>Art. 187(4) of the CCU as robbery, <i>i.e.</i>, an assault for the purpose of taking possession of somebody else's property, accompanied with violence dangerous to life and health of an assaulted person, or with threats of such violence;</p> <p>Art. 262(3) of the CCU as robbery for the purpose of stealing firearms;</p> <p>Art. 146(2) of the CCU as illegal confinement or abduction, committed</p>

			by the infliction of physical suffering on the victim, with the use of weapons, carried out for a long time (Art. 146(2) of the CCU).	for selfish motives, upon prior conspiracy of a group of persons, accompanied by the infliction of physical suffering on the victim, with the use of weapons, carried out for a long time.
38.	<p>Case No. 428/2717/20, Order of 31 March 2020, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	Three suspects, all citizens of Ukraine, members of an armed formation with the LPR	<p>Allegations:</p> <p>In May 2014, the three suspects joined an armed unit of the LPR, where one of them was appointed as a Chief of Staff, while the other two organised the construction of checkpoints.</p> <p>Until September 2014, the suspects participated in hostilities and employed mortars and firearms against servicemen of the UAF. Suspect 1 also coordinated and organised the rotation of other LPR members; oversaw execution of combat missions, trainings, and internal order; managed the checkpoints. Suspect 2 patrolled residential areas to detain persons and served at the checkpoint. Suspect 3 managed the building and supervised the construction of the checkpoint. All suspects acquired, stored and carried weapons and ammunition.</p> <p>In late June-early July 2014, the suspects decided to find civilians and abduct them under the pretext of being intoxicated. On three</p>	<p>for selfish motives, upon prior conspiracy of a group of persons, accompanied by the infliction of physical suffering on the victim, with the use of weapons, carried out for a long time.</p> <p>Arts 27(2), 28(2), 437(2) of the CCU as participation in a conspiracy aimed at planning and preparation of aggressive war, conducting aggressive hostilities upon prior conspiracy of a group of persons;</p> <p>Arts 27(2), 28(2), 438(1) of the CCU as violations of laws and customs of war, namely forced labour, committed upon prior conspiracy of a group of persons;</p> <p>Art. 260(2) of the CCU as creation of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal carrying, storage of firearms and explosives;</p> <p>Art. 146(3) of the CCU as unlawful deprivation of liberty and kidnapping committed by an organised group.</p>

			<p>different occasions, the Suspects, stopped persons, used physical violence and detained them in the basement of the place of deployment. The detentions lasted several days.</p> <p>Further, the suspects, acting together with other members of armed formations, repeatedly took the victims to the territory of the checkpoint, where, threatened with weapons, the victims were forced to build the means of defence.</p> <p>The Court granted permission to conduct the pre-trial investigation <i>in absentia</i>.</p>	
39.	<p>Case No. 428/2624/20, Order of 31 March 2020, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation</p>	Unidentified suspect, member of an armed unit within the LPR	<p><u>Allegations:</u></p> <p>In May 2014, the suspect joined an armed unit of the LPR, obtained weapons, received military training and participated in hostilities by supervising the building of a checkpoint and fighting against the Ukrainian forces. He brought persons arrested in Severodonetsk to build protective structures at the checkpoint. Together with two other suspects, he arrested civilians for being intoxicated with alcohol and for other reasons, brought these civilians to a seized administrative building, where he detained civilians, threatened them with weapons and used violence against them.</p>	<p>Arts 27(2), 28(2), 437(2) of the CCU as participation in a conspiracy aimed at planning and preparation of aggressive war, conducting aggressive hostilities upon prior conspiracy of a group of persons;</p> <p>Arts 27(2), 28(2), 438(1) of the CCU as violations of laws and customs of war, namely forced labour, committed upon prior conspiracy of a group of persons;</p> <p>Art. 260(2) of the CCU as creation of an illegal armed group;</p>

			The Court granted the Prosecution request to arrest suspect's property.	<p>Art. 263(1) of the CCU as illegal carrying, storage of firearms and explosives;</p> <p>Art. 146(3) of the CCU as unlawful deprivation of liberty and kidnapping committed by an organised group.</p>
40.	<p>Pre-trial investigation is ongoing in a similar case in the same region:</p> <p>Case No. 428/4607/20, Order of 9 June 2020, Severodonetsk City Court of the Luhansk region.</p>			
41.	<p>Case No. 428/5466/20, Order of 8 July 2020, Severodonetsk City Court of the Luhansk region</p> <p>As of April 2021, the case is under the pre-trial investigation until 14 July 2021</p>	Unidentified suspect(s)	<p>Allegations:</p> <p>In December 2018-December 2019, while conducting aggressive hostilities with the use of artillery weapons, unidentified accomplices of the armed formations of the Russian Federation fired on unprotected civilian infrastructure and civilians in the various settlements of the Luhansk region. The damage caused to civilian objects exceeded UAH 2 million.</p> <p>The investigation is ongoing.</p>	<p>Art. 437(2) of the CCU as conducting aggressive hostilities;</p> <p>Art. 438(1) of the CCU as violation of the laws and customs of war;</p> <p>Art. 258(2) of the CCU as a terrorist act, committed upon prior conspiracy of a group of persons, or if it caused significant property damage or other serious consequences;</p> <p>Art. 263(1) of the CCU as illegal carrying, storage of firearms or explosives.</p>
<p>WAGING AGGRESSIVE WAR, CREATION OF AND/ OR PARTICIPATION IN A TERRORIST ORGANISATION OR AN ILLEGAL ARMED GROUP, IN CERTAIN CASES COMBINED WITH ORDINARY CRIMES</p>				
<p>CASES IN THE PRE-TRIAL / TRIAL PROCESS</p>				

42.	<p>Case No. 328/67/16-к, Judgement of 25 February 2016, Tokmak District Court of the Zaporizhia region</p>	<p>Citizen of the Russian Federation, member of the DPR</p>	<p>Court findings:</p> <p>The Accused was a serviceman of the Russian Peacekeeping Forces in 2013-2014. In September 2014, he joined the DPR for personal benefit. On 3 September 2014, he illegally crossed the state border of Ukraine and arrived in Donetsk.</p> <p>On 20 September 2014, the Accused joined the “Slovyansk” motorised rifle brigade of the “DPR” and received various weapons to conduct an aggressive war against the ATO forces.</p> <p>From 20 September 2014 to 8 May 2015, the Accused facilitated communication between the armed units of the DPR, conducted reconnaissance of the location of equipment, personnel, fortifications of members of the ATO forces, provided protection of important objects, equipment and weapons of the “DPR”, and trained fighters of the illegal armed units on shooting and combat tactics.</p> <p>On 8 May 2015, the Accused was dismissed from military service. In June 2015, he was arrested on his way from the DPR-controlled territory in the Donetsk region to Dokuchaevsk,</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition and carrying of firearms and ammunition.</p>
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			<p>Donetsk region (controlled by the Government of Ukraine).</p> <p>The Accused was found guilty of conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU); participation in a terrorist organisation (Art. 258-3(1) of the CCU); and illegal acquisition and carrying of firearms and ammunition (Art. 263(1) of the CCU). The Accused was sentenced to 11 years of imprisonment.</p>	
43.	<p>Case No. 225/6623/15-к, Judgement of 4 July 2016, Dzerzhinsk City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of Donetsk region, but the Court upheld the initial judgement</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which partially granted the appeal of the defence and</p>	<p>Citizen of Ukraine, deputy commander of the counterintelligence unit "KOT" of the DPR</p>	<p><u>Court findings:</u></p> <p>In May 2014, the Accused joined the DPR as a deputy commander of the counterintelligence unit "KOT", and received the necessary military equipment and ammunition.</p> <p>From May to 16 June 2015, the Accused transported weapons to Donetsk and distributed them among the "KOT" members, exchanged weapons and ammunition with other "DPR" members and ordered the delivery of weapons to Mariupol.</p> <p>In addition, the Accused carried out the formation and preparation of sabotage groups for further terrorist acts and sabotage in</p>	<p>Arts 28(2), 437(2) of the CCU as conducting aggressive hostilities upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	<p>returned the case for re-consideration to the Court of Appeals</p> <p>The Court of Appeals of Donetsk region dismissed the appeal and upheld the Judgement of the first instance court</p>		<p>Mariupol, organised and selected persons who carried out sabotage activities against the so-called “DTR” in Leninsk and Petrovsk districts of Donetsk.</p> <p>On 16 June 2015, the Accused was detained by law enforcement officers of Ukraine in Dnipropetrovsk.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); and conducting aggressive hostilities upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU). The Accused was sentenced to 11 years of imprisonment with confiscation of all his property.</p>	
44.	<p>Case No. 409/2799/16-k, Judgement of 13 December 2016, Bilokurakyne District Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, but the Court dismissed the defence’s appeals and left</p>	<p>Citizen of the Russian Federation, member of the LPR territorial defence battalion</p>	<p>Court findings:</p> <p>Being a member of the LPR territorial defence battalion in 2014-2015, the Accused gathered intelligence data to identify and monitor the locations of equipment, personnel, fortifications of the ATO members and fought against the UAF. On 2 August 2015, the Accused was arrested at the Stanytsia Luganska checkpoint.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	the Judgement of the first instance court unchanged		The Accused was found guilty of conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU); and participation in a terrorist organisation (Art. 258-3(1) of the CCU). The Accused was sentenced to 12 years of imprisonment.	
45.	Case No. 243/7084/15-k , Judgement of 28 December 2016, Sloviansk City District Court of the Donetsk region	Citizen of Ukraine, soldier of the DPR's First Sloviansk Brigade and later a DPR platoon commander	<p>Court findings:</p> <p>The Accused being an armed DPR member served at checkpoints and participated in hostilities against the UAF. He also acquired ammunition and explosives and stored them in his apartment.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); illegal handling of weapons, ammunition or explosives (Art. 263(1) of the CCU); and conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU).</p> <p>The Court sentenced him to three years and three months of imprisonment with confiscation of all his property.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal handling of weapons, ammunition or explosives.</p>

<p>46.</p>	<p>Case No. 235/9919/15-k, Judgement of 27 January 2017, Krasnoarmiysk City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of Donetsk region, which upheld the Judgement of the first instance court</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which also upheld the judgement of the first instance court</p>	<p>Citizen of Ukraine, platoon commander of the “Republican Guard of the DPR”</p>	<p>Court findings:</p> <p>On 4 May 2014, the Accused enlisted in the DPR militia as a platoon commander. He constructed and strengthened checkpoints and equipped firing positions in Slovyansk, Donetsk region.</p> <p>On 18 August 2014, the Accused joined the “OPLOT” battalion of the DPR, where he continued to perform the same duties but in Donetsk, as well as serve at the DPR checkpoints, unlawfully controlling the movement of vehicles and people through the checkpoint.</p> <p>In mid-January 2015, the Accused became a platoon commander of the “Republican Guard of the DPR”, where he served until 19 July 2015 and fought against the ATO forces, defended a DPR checkpoint in Donetsk, unlawfully controlled the movement of vehicles and people through the checkpoint and gathered the intelligence data on the movement of the Ukrainian forces.</p> <p>The Accused was captured and arrested by the Ukrainian forces near the “Shakhta” checkpoint,</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying, storage of firearms, ammunition.</p>
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			<p>near Krasnohorivka, Mariinsky district, Donetsk region on 19 July 2015.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); illegal acquisition, carrying, storage of firearms, ammunition (Art. 263(1) of the CCU); and conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU). The Accused was sentenced to ten years of imprisonment.</p>	
47.	<p>Case No. 225/311/17, Judgement of 8 February 2017, Dzerzhynsk City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the judgement of the first instance court</p>	<p>Citizen of the Russian Federation, scout of a separate reconnaissance detachment of the 2nd battalion of the 7th separate motorised rifle brigade of the DPR</p>	<p>Court findings:</p> <p>Affected by propaganda in Russian media, the Accused decided to enlist in the DPR in January 2015, becoming a scout. In this capacity, having illegally obtained weapons, the Accused served in Debaltseve, Donetsk region, where he monitored the servicemen of the UAF to ensure they are being fired at and served at a checkpoint in Novohryhorivka, Bakhmut district of the Donetsk region.</p> <p>Later, he gathered the intelligence data on the personnel, weapons, military equipment and other information for targeting of the Ukrainian forces.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying, storage of firearms, ammunition.</p>

			<p>The Accused was apprehended by the UAF near the village Novgorod, Toretsk, Donetsk region, on 8 September 2016.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); illegal acquisition, carrying, storage of firearms, ammunition (Art. 263(1) of the CCU); and conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU). He was sentenced to 11 years of imprisonment with confiscation of all property.</p>	
48.	<p>Case No. 423/1750/16-к, Judgement of 9 February 2017, Popasna District Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, which upheld the judgement of the first-instance court</p>	Two Accused are citizens of Ukraine, members of the unlawful armed formation	<p>Court findings:</p> <p>In 2014, the two Accused joined an unlawful armed formation operating in Luhansk. Being armed with weapons, as part of a larger group, they carried out reconnaissance activities to collect information concerning the positions of the UAF. Further, they fired at the servicemen of the UAF in vicinity to the latter's base. During the arrest, ammunition was found in the possession of the Accused.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p>	<p>Arts 28(2), 437(2) of the CCU as waging an aggressive war upon prior conspiracy of a group of persons;</p> <p>Arts 28(2), 260(4) of the CCU as participation in the activities of an illegal armed group and its attacks on citizens, committed upon prior conspiracy of a group of persons;</p> <p>Art. 263(1) of the CCU as illegal acquisition, storing and carrying of ammunition.</p>

			Both Accused were found guilty of waging an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU), participation in the activities of an illegal armed group and its attacks on citizens, committed upon prior conspiracy of a group of persons (Arts 28(2), 260(4) of the CCU) and illegal acquisition, storing and carrying of ammunition (Art. 263(1) of the CCU). The Accused were sentenced to 14 years and six months and 15 years of imprisonment with confiscation of all their property, respectively.	
49.	<p>Case No. 326/195/16-k, Judgement of 20 February 2017, Chernihivka District Court of the Zaporizhia region</p> <p>The case proceeded to the Court of Appeals of Zaporizhia region, which partially quashed the Judgement of the first instance court. Specifically, the Court overturned the conviction of the Accused, changed</p>	<p>Citizen of Ukraine, member of the 1st Sloviansky Regiment, 3rd Motorised Rifle Brigade, 9th Company, 2nd Platoon of the DPR</p>	<p><u>Court findings:</u></p> <p>In 2014, the Accused enlisted in an armed unit of the DPR, where he served at observation positions and posts, monitored the locations of the Ukrainian military equipment, fortifications and personnel. Later, with a different DPR unit, he also monitored a checkpoint. To fulfil his military duties, he received weapons from other members of the DPR.</p> <p>The Accused pleaded guilty to participating in an illegal armed formation and illegal carrying of weapons, and not guilty to waging an aggressive war against Ukraine. He explained that he had been conscripted to the DPR in 2014</p>	<p>Art. 28(2), Art. 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation changed by the court to Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying, storage of firearms, ammunition.</p>

	<p>legal qualification and ordered a new sentence</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which changed the terms of crediting the pre-trial detention towards the sentence but otherwise upheld the decision of the Court of Appeals</p>		<p>and that the refusal to serve would have triggered criminal liability. The Court changed qualification of the crime from Art. 258-3(1) of the CCU (participation in a terrorist organisation) to Art. 260(2) of the CCU (participation in the activities of an illegal armed group) as no measures had been taken to recognise the DPR and LPR as terrorist organisations by the national and international bodies.</p> <p>The Accused was found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU); and illegal acquisition, carrying, storage of firearms, ammunition (Art. 263(1) of the CCU). The Accused was acquitted of conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU) due to the lack of proof that he committed the crime. He was sentenced to four years of imprisonment.</p> <p>The Court of Appeals overturned the conviction of the Accused for participation in the activities of an illegal armed group under Art. 260(2) of the CCU and found him guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and illegal acquisition, carrying, storage of</p>	
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			firearms, and ammunition (Art. 263(1) of the CCU). The Accused was sentenced to nine years of imprisonment.	
50.	Case No. 408/27/17 , Judgement of 6 March 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, member of the LPR	<p><u>Court findings:</u></p> <p>In 2014, the Accused enlisted in the LPR, where he constructed and maintained the necessary installations and protected public order.</p> <p>He pleaded guilty noting that he did not take part in any combat clashes, had left the LPR prior to his arrest and apologised for his acts.</p> <p>The Accused was found guilty of participation in a terrorist organisation, as well as other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU); and conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU). The Court sentenced him to a year and three months of imprisonment.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war, upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation, as well as other assistance to the activities of a terrorist organisation.</p>
51.	Case No. 265/7705/15-k , Judgement of 12 April 2017, Ordzhonikidze District Court of Mariupol, Donetsk region	Citizen of Ukraine, who allegedly provided information for the DPR	<p><u>Court findings:</u></p> <p>In May – June 2015, the Accused allegedly provided information on the number of personnel, military equipment, and routes of the pro-Ukrainian “Azov” battalion to her</p>	<p>Arts 27(5), 437(2) of the CCU as accessory in conducting an aggressive war and aggressive hostilities;</p>

	<p>The case proceeded to the Court of Appeals of the Donetsk region, which scheduled a court hearing for consideration of the case at the appeals stage. However, there are no further records about this case after 6 June 2017</p>		<p>acquaintance, a citizen of the Russian Federation and a DPR militant.</p> <p>In June 2015, she was arrested by the SBU and claimed to have been kept in a basement.</p> <p>The Prosecution alleged that the Accused committed intentional promotion of activities of a terrorist organisation and being an accessory in conducting an aggressive war and aggressive hostilities under Art. 258-3(1); Arts 27(5), 437(2) of the CCU. The Accused pleaded not guilty claiming to have learnt about the Russian citizen who allegedly received information from her only in the SBU basement.</p> <p>The Court, having dismissed the evidence as unreliable and coming from an unidentified source, and noting that the pre-trial investigation had been conducted with procedural violations, acquitted the Accused of all charges.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation.</p>
52.	<p>Case No. 265/4500/16-к, Judgement of 24 April 2017, Ordzhonikidze District Court of Mariupol, Donetsk region</p>	<p>Citizen of Ukraine, DPR member</p>	<p>Court findings:</p> <p>After joining the DPR, the Accused acted as a bodyguard of one of the DPR leaders. In August 2014, the Accused arrived in Crimea and</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p>

			<p>underwent special military training under the leadership of the Federal Security Service of the Russian Federation. From August to November 2014, he co-led a reconnaissance and sabotage group of the DPR that participated in hostilities against the UAF. In this role, the Accused admitted new members to the group, participated in seizing control over a city in the Donetsk region and provided his personnel with ammunition, weapons and food. Moreover, jointly with other members of the DPR and unidentified representatives of the special services of the Russian Federation, the Accused developed a plan to commit a terrorist act by initiating an explosion at the checkpoint of the UAF, which they implemented in November 2014. The explosion caused deaths and injuries of varying severity of Ukrainian servicemen.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of commission of a terrorist act (Art. 258(3) of the CCU); participation in a terrorist organisation and other support to the activities of a terrorist organisation (Art. 258-3(1) of the CCU); illegal manufacture of an explosive device upon prior</p>	<p>Art. 258(3) of the CCU as commission of a terrorist act, <i>i.e.</i>, an explosion that endangered human life or health and caused other serious consequences, in order to disrupt public safety, intimidate the population, upon prior conspiracy of a group of persons, which caused death of people and other serious consequences;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and other support to the activities of a terrorist organisation;</p> <p>Art. 263-1(1) of the CCU as illegal manufacture of an explosive device upon prior conspiracy of a group of persons.</p>
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			conspiracy of a group of persons (Art. 263-1(1) of the CCU); and conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU). He was sentenced to fifteen years of imprisonment with confiscation of all his property.	
53.	<p>Case No. 325/266/16-k, Judgement of 29 May 2017, Priazovsky District Court of the Zaporizhia region</p> <p>The case proceeded to the Court of Appeals of the Zaporizhia region on the ground of incompatibility of the punishment and the gravity of conduct, but the Court dismissed the prosecutor's appeal and left the Judgement of the first instance court unchanged</p>	Citizen of Ukraine, member of the "Semenivsky Battalion" of the DPR	<p><u>Court findings:</u></p> <p>The Accused enlisted in the DPR in 2014, serving in Slovyansk and Donetsk. He served as a rifleman, then defended a checkpoint to prevent the passage of the Ukrainian forces through it, and later monitored the area to identify Ukrainian military equipment, fortifications, and personnel. He was paid for his service.</p> <p>The Accused pleaded guilty to participation in a terrorist organisation and not guilty to conducting an aggressive war against Ukraine.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1)) and illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU) and sentenced to eight years of imprisonment. The Court acquitted the Accused</p>	<p>Art. 437(2) of the CCU as conducting an aggressive war;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.</p>

			in relation to charges under Art. 437(2) of the CCU.	
54.	<p>Case No. 263/15014/15-K, Judgement of 9 August 2017, Zhovtnevy District Court of Mariupol, Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the Judgement of the first instance court</p>	<p>Accused 1 - citizen of Ukraine, a commander of a T-72 tank of the DPR</p> <p>Accused 2 - citizen of Ukraine, a gunner of the T-72 tank of the DPR</p>	<p>Court findings:</p> <p>The two Accused enlisted in the DPR in September 2014 and served at a checkpoint in the Donetsk region, where they organised and monitored the work of the checkpoint, fought against the Ukrainian forces if they approached the checkpoint, and defended the DPR installations and constructions.</p> <p>Later, Accused 1 became a commander of a T-72 tank, and Accused 2 became a gunner of the same tank. Both Accused actively participated in hostilities against the Ukrainian forces.</p> <p>Each Accused pleaded guilty to participation in the activities of an illegal armed formation and not guilty to conducting an aggressive war against Ukraine.</p> <p>The Court found both Accused guilty of participation in the activities of an illegal armed formation, upon prior conspiracy of a group of persons (Arts 28(2), 260(2) of the CCU) and conducting an aggressive war, upon prior conspiracy of a group of persons (Arts 28(2),</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war, upon prior conspiracy of a group of persons;</p> <p>Arts 28(2), 260(2) of the CCU as participation in the activities of an illegal armed formation, upon prior conspiracy of a group of persons.</p>

			437(2) of the CCU) and sentenced each of them to 10 years of imprisonment.	
55.	<p>Case No. 221/1956/15-к, Judgement of 21 September 2017, Druzhkivka City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which closed the appellate proceedings because the Prosecution withdrew its appeal</p>	Citizen of Ukraine, member of the DPR's "Vostok" brigade	<p>Court findings:</p> <p>The Accused, as an armed member of the DPR's "Vostok" brigade, guarded the checkpoints and repaired weapons of the brigade. He also acquired firearms and ammunition, carried and stored them.</p> <p>The Court acquitted the Accused of waging an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU) due to the lack of sufficient evidence of his guilt. The Court also concluded that as elements of participation in a terrorist organisation were not established (Art. 258-3(1) of the CCU), the Accused's actions shall be qualified as participation in the activities of an illegal armed group (Art. 260(2) of the CCU).</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and illegal acquisition, storing and carrying of firearms (Art. 263(1) of the CCU), and sentenced him to five years and three months of imprisonment.</p>	<p>Arts 28(2), 437(2) of the CCU as waging an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation changed by the Court to Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, storing and carrying of firearms.</p>

56.	<p>Case No. 235/9442/15-к, Judgement of 22 September 2017, Krasnoarmiysk City District Court of the Donetsk region</p>	<p>Citizen of the Russian Federation, member of the Oplot brigade of the DPR</p>	<p><u>Court findings:</u></p> <p>In July 2015, the Accused joined DPR and received military training, weapons and ammunition which he further carried with him. As a DPR member, the Accused monitored the location of military equipment and personnel of the UAF, and transferred the information to DPR members. The DPR conducted three mortar and four artillery shellings during this period.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), illegal acquisition and carrying of firearms and ammunition (Art. 263(1) of the CCU) and waging an aggressive war against Ukraine upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU) and sentenced to four years of imprisonment with confiscation of all his property.</p>	<p>Arts 28(2), 437(2) of the CCU as waging an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition and carrying of firearms and ammunition.</p>
57.	<p>Case No. 419/2610/15-к, Judgement of 27 October 2017, Rubizhne City Court of the Luhansk region</p>	<p>Accused 1 - citizen of Ukraine, officer of the battery of the jet division of the 10th artillery brigade of the people's militia of the LPR</p>	<p><u>Court findings:</u></p> <p>As a member of the LPR, Accused 1 repaired trucks that transported "Grad" artillery systems and later oversaw the distribution of food and uniforms among the members of the LPR artillery unit. While performing his duties, he illegally obtained and carried weapons.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p>

		<p>Accused 2 - citizen of Ukraine, commander of the battery of the jet division of the 10th artillery brigade of the people's militia of the LPR</p>	<p>Accused 2, also a member of the LPR, was in charge of maintaining discipline of the "Zarya" battalion and later became a commander of an artillery unit.</p> <p>Both Accused confirmed in court that they had admitted their guilt and had entered into an agreement with the Prosecution.</p> <p>Having received a confirmation that the agreement between the Accused and the Prosecution was voluntary, the Court did not study the evidence but implemented the said agreement finding both Accused guilty of participating in a terrorist organisation (Art 258-3(1) of the CCU) and conducting an aggressive war against Ukraine (Arts 28(2), 437(2) of the CCU). Additionally, Accused 1 was found guilty of illegal acquisition and carrying of firearms and ammunition (Art. 263(1) of the CCU). Each Accused was sentenced to four years and five months of imprisonment.</p>	<p>Art. 263(1) of the CCU as illegal acquisition and carrying of firearms and ammunition.</p>
58.	<p>Case No. 221/2405/15-k, Judgement of 24 November 2017, Illichivsk District Court of Mariupol, Donetsk region</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p><u>Court findings:</u></p> <p>In 2014, the Accused trained other members of the DPR's armed unit "Voluntary Cossack Squad" in handling weapons. The Accused, acting together with other DPR members,</p>	<p>Arts 28(2), 437(2) of the CCU as waging an aggressive war upon prior conspiracy of a group of persons;</p>

			<p>guarded the DPR facilities in Donetsk and conducted resistance to the UAF. He also serviced military equipment and transported the DPR personnel and ammunition by car.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); illegal handling of weapons (Art. 263(1) of the CCU); and waging an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU) and sentenced him to five years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal handling of weapons.</p>
59.	<p>Case No. 235/7506/15-k, Judgement of 11 December 2017, Krasnoarmiysk City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, member of the People's Militia of Donbas of the DPR</p>	<p>Court findings:</p> <p>The Accused, being an armed DPR member, served at the checkpoint, where he inspected cars. He also guarded objects, captured by the DPR, defended them during offensives and participated in hostilities against the UAF. Additionally, the Accused acquired grenades, carried and stored them.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU); and</p>	<p>Arts 28(2), 437(2) of the CCU as waging an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>

			waging an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU) and sentenced to ten years of imprisonment.	
60.	Case No. 415/3619/17 , Judgement of 26 February 2018, Lysychansk City Court of the Luhansk region	Five Accused were citizens of Ukraine, members of the LPR	<p>Court findings:</p> <p>In 2014, the five Accused enlisted in an armed formation of the LPR and received weapons. They served at a checkpoint and fought against the Ukrainian forces. Furthermore, one of the Accused organised the four others into a group that, on multiple occasions, abducted, beat, confined and subjected to forced labour at least seven individuals in Lysychansk, Luhansk region.</p> <p>All Accused had been notified of the proceedings but did not appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found all Accused guilty of abduction of individuals by an organised group (Art. 146(3) of the CCU), trafficking in human beings by an organised group (Art. 149(3) of the CCU), participation in an illegal armed formation (Art. 260(2) of the CCU), illegal handling of weapons (Art. 263(1) of the CCU) and conducting an aggressive war against Ukraine (Arts 27(2),</p>	<p>Arts 27(2), 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed formation;</p> <p>Art. 263(1) of the CCU as illegal carrying, storage and acquisition of firearms and ammunition;</p> <p>Art. 146(3) of the CCU as illegal confinement and abduction of a person for selfish motives, in a manner dangerous to the life and health of the victim, in such a way as to inflict physical suffering on the victim, with the use of weapons carried out over a long period of time by an organised group;</p> <p>Art. 149(3) of the CCU as the implementation of an illegal deal with</p>

			28(2), 437(2) of the CCU). The Accused 1, who organised and planned criminal activities of the group, was sentenced to 12 years and six months of imprisonment with confiscation of all his property, and each of the four other Accused was sentenced to 12 years of imprisonment with confiscation of all their property.	regard to a person committed for the purpose of exploitation, against several persons, by an organised group, combined with the threat of violence, dangerous to life or health of victims.
61.	Case No. 415/452/17-к , Judgement of 21 September 2018, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, member of a reconnaissance company of the 4th separate motorised infantry brigade of the LPR	<p>Court findings:</p> <p>Between 2014 and 2017, as a member of a reconnaissance company of the LPR, the Accused carried out intelligence gathering activities and fired at the Ukrainian forces positioned in the Luhansk and Donetsk regions.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participating in an illegal armed formation (Art. 260(2) of the CCU) and conducting an aggressive war against Ukraine (Arts 27(2), 28(2), 437(2) of the CCU), and sentenced him to 13 years of imprisonment.</p>	<p>Arts 27(2), 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed formation.</p>
62.	Case No. 415/459/17 , Judgement of 10 April	Citizen of Ukraine, commander of a	Court findings:	Arts 27(2), 28(2), 437(1) of the CCU as participation in a conspiracy aimed at

	<p>2019, Lysychansk City Court of the Luhansk region</p>	<p>sniper platoon of a reconnaissance company of the 4th separate motorised infantry brigade of the LPR</p>	<p>In summer 2014, the Accused joined an armed formation of the LPR and was trained to handle weapons, conduct hostilities and engage into hand-to-hand combat. She then became a commander of a sniper platoon of the LPR reconnaissance unit, participated in hostilities, and carried out reconnaissance activities.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participating in an illegal armed formation (Art. 260(2) of the CCU) and participation in a conspiracy aimed at planning and preparing of an aggressive war upon prior conspiracy of a group of persons (Arts 27(2), 28(2), 437(1) of the CCU), and sentenced her to seven years of imprisonment.</p>	<p>planning and preparing of an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed formation.</p>
<p>63.</p>	<p>Case No. 415/2645/17, Judgement of 12 June 2019, Lysychansk City Court of the Luhansk region</p>	<p>Citizen of Ukraine, commander of a reconnaissance company of the 4th separate motorised</p>	<p>Court findings:</p> <p>The Accused enlisted in an armed formation of the LPR, eventually becoming a commander of the intelligence unit. In this capacity, he participated in hostilities and gathered</p>	<p>Arts 27(2), 28(2), 437(1) of the CCU as participation in a conspiracy aimed at planning, preparing an aggressive war upon prior conspiracy of a group of persons;</p>

		infantry brigade of the LPR	<p>intelligence data in the Donetsk and Luhansk regions.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participating in an illegal armed formation (Art. 260(2) of the CCU) and participation in a conspiracy aimed at planning, preparing an aggressive war upon prior conspiracy of a group of persons (Arts 27(2), 28(2), 437(1) of the CCU), and sentenced him to eight years of imprisonment.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed formation.
64.	Case No. 219/10228/15-к , Judgement of 22 August 2019, Artemivsk City District Court of the Donetsk region	Citizen of the Russian Federation, member of the "Avgust" batallion of the LPR	<p>Court findings:</p> <p>Having served 15 days of administrative arrest for drunk driving in Rostov-on-Don, Russia, in December 2014, the Accused was informed by an unidentified police officer of an ongoing criminal investigation against him. To avoid criminal charges, the Accused then agreed to assist in maintaining military equipment in Donetsk, Rostov region, Russian Federation.</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258(3) of the CCU as use of weapons and other acts that endangered human life and health, causing significant property damage and causing other serious consequences that were committed to violate public safety, intimidate the population, provoke military conflict,</p>

			<p>Subsequently, unidentified representatives of the Russian authorities brought the Accused and 21 other persons to Donetsk, Russia, where they were informed of the transfer of the military equipment that they were supposed to maintain in Krasnyi Luch, Ukraine (the territory controlled by the armed groups). The Accused then went to Krasnyi Luch, where he joined the “Avgust” battalion of the LPR.</p> <p>As a member of the “Avgust” battalion, the Accused attacked organisations, enterprises and persons, including the members of the ATO forces. Later, he maintained T-64 and T-72 tanks of the “Avgust” battalion and served as a driver of the T-64-B tank that attacked the ATO forces in the Donetsk region on 25 January 2015.</p> <p>As a result of the attack, eight servicemen of the UAF died, four servicemen received severe bodily injuries, five servicemen received moderate bodily injuries, five servicemen received light bodily injuries, and military property worth 2,622,735 UAH was destroyed.</p> <p>The Accused was found guilty of the use of weapons and committing other acts that</p>	<p>international complications, upon prior conspiracy of a group of persons, which led to significant property damage, other serious consequences and deaths;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Arts 28(2), 263(1) of the CCU as illegal acquisition and storage of firearms and ammunition, committed prior conspiracy of a group of persons.</p>
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			<p>endangered human life and health, causing significant property damage and other serious consequences that were committed to violate public safety, intimidate the population, provoke military conflict, international complications, upon prior conspiracy of a group of persons, which led to significant property damage, other serious consequences and deaths (Art. 258(3) of the CCU); participation in a terrorist organisation (Art. 258-3(1) of the CCU); illegal acquisition and storage of firearms and ammunition, committed upon prior conspiracy of a group of persons (Arts 28(2), 263(1) of the CCU); and conducting an aggressive war by prior conspiracy by a group of persons (Arts 28(2), 437(2) of the CCU).</p> <p>The Accused was sentenced to 15 years of imprisonment with confiscation of all his property.</p>	
65.	<p>Case No. 642/6196/17, Judgement of 12 December 2019, Svatove District Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of</p>	<p>Citizen of Ukraine, member of the LPR who directed the activities of an artillery unit of the LPR</p>	<p>Court findings:</p> <p>In 2014, the Accused enlisted in the “KGB” (Committee of the State Security) of the LPR, where he directed the activities of an artillery unit in July – August 2014. Continuing to implement the orders and instructions of the LPR leadership, in September 2016 – July 2017,</p>	<p>Arts 28(2), 437(2) of the CCU as conducting an aggressive war upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p>

	<p>Luhansk region due to the alleged failure to reflect the factual circumstances of the case in trial, violations of procedural law and excessive gravity of the punishment. The Court upheld the Judgement of the first instance court</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court on the same grounds, which also upheld the Judgement of the first instance court</p>		<p>the Accused collected the intelligence information in Kyiv and Kharkiv, including on location and routes of one of the members of the Ukrainian Parliament. Finally, the Accused stored weapons in his garage in Kharkiv.</p> <p>The Accused pleaded not guilty and refused to testify in court.</p> <p>The Court found the Accused guilty of participating in a terrorist organisation (Art. 258-3(1) of the CCU) and illegal storage of weapons (Art. 263(1) of the CCU) and sentenced him to nine years of imprisonment. The Court acquitted the Accused of conducting an aggressive war upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU) due to the lack of evidence of commission of a crime.</p>	<p>Art. 263(1) of the CCU as illegal carrying, storing and acquisition of firearms, ammunition, explosives and explosive devices.</p>
66.	<p>Case No. 409/155/19, Judgement of 24 December 2019, Rubizhne City Court of the Luhansk region</p>	<p>Citizen of Ukraine, member of the LPR's "Leshyi" battalion</p>	<p>Court findings:</p> <p>In April 2014, the Accused joined the LPR's "Leshyi" battalion, conducted hostilities against the UAF and attacked enterprises, institutions and citizens in Luhansk. He also guarded the seized SBU building in the Luhansk region and</p>	<p>Arts 27(2), 28(2), 437(2) of the CCU as planning and preparation of aggressive war, conducting aggressive hostilities, committed upon prior conspiracy of a group of persons;</p> <p>Arts 28(3), 260(5) of the CCU as participation in the activities of an illegal armed group and its attack on</p>

			<p>the Severodonetsk city military commissariat and served at checkpoints.</p> <p>Additionally, the Accused, acting jointly with other LPR members, attacked the Luhansk border detachment, shelling the premises, buildings and servicemen to seize the building, weapons and other property. As a result, the building of the border detachment was seized and thirteen Ukrainian servicemen were injured.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of planning and preparation of aggressive war, conducting aggressive hostilities, committed upon prior conspiracy of a group of persons (Arts 27(2), 28(2), 437(2) of the CCU) and participation in the activities of an illegal armed group and its attack on enterprises, institutions, organisations, which caused serious consequences, committed by an organised group (Arts 28(3), 260(5) of the CCU). The Court sentenced him to two years ten months of imprisonment.</p>	enterprises, institutions, organisations, which caused serious consequences, committed by an organised group.
WAGING AGGRESSIVE WAR COMBINED WITH ENROACHMENT UPON TERRITORIAL INTEGRITY OF UKRAINE AND STATE TREASON				
ADJUDICATED CASES				
67.	Case No. 759/16863/16-k , Judgement of 18 March	Oleh Belantsev, citizen of the	Court findings:	Arts 27(5), 28(2), 437(2) of the CCU as accessory in conducting an aggressive

	<p>2019, Sviatoshynsky District Court of Kyiv</p> <p>The case proceeded to Kyiv Court of Appeals, which appointed a court hearing for consideration of the case at the appeals stage, but no developments occurred since May 2019</p>	<p>Russian Federation, representative of the President of the Russian Federation in the Crimean Federal District</p>	<p>In March 2014, the Accused and other representatives of the Armed Forces of the Russian Federation met with the command of the Ukrainian Navy in their Headquarters in Sevastopol, Crimea. Acting in furtherance of a criminal plan to wage an aggressive war against Ukraine and to annex its territories, the Accused introduced himself as a representative of the Russian President and demanded voluntary surrender of weapons by servicemen of the Navy of the UAF, trying to bribe them with promises of their further service in the newly formed military units on the territory of the occupied Crimea, preservation of their military ranks and command positions.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of accessory in committing intentional actions in order to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons which led to serious consequence (Arts 27(5), 110(3) of the CCU); incitement to treason (Arts 27(4),</p>	<p>war upon prior conspiracy of a group of persons;</p> <p>Arts 27(5), 110(3) of the CCU as accessory in committing intentional actions in order to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons which led to serious consequences;</p> <p>Arts 27(4), 111(1) of the CCU as incitement to treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of sovereignty, territorial integrity and inviolability in the form of transition to the enemy during an armed conflict, providing assistance to a foreign state and its representatives in carrying out subversive activities against Ukraine.</p>
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			111(1) of the CCU), and accessory in conducting an aggressive war upon prior conspiracy of a group of persons (Arts 27(5), 28(2), 437(2) of the CCU) and sentenced him to 13 years of imprisonment.	
STATE TREASON				
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
68.	Case No. 755/1317/17 , Order of 30 January 2017, Dniprovsky District Court of Kyiv	Volodymyr Klychnykov, former member of the Parliament of Crimea	<u>Allegations:</u>² The Accused was a member of the Verkhovna Rada of the Autonomous Republic of Crimea (Crimean Parliament) before and after Russia had established control over the peninsula. The Prosecution charged him with state treason (Art. 111(1) of the CCU), the case is ongoing.	Art. 111(1) of the CCU as state treason.
69.	Case No. 760/11297/17 , Order of 30 June 2017, Solomyansky District Court of Kyiv As of April 2021, the case is pending before the first instance court	Evelina Fedorenko, judge of the Central District Court of Simferopol	<u>Allegations:</u>³ The Accused continued to serve as a judge of the Central District Court of Simferopol after Russia had established control over Crimea. The Prosecution charged her with state treason (Art. 111(1) of the CCU), the case is pending before the Court.	Art. 111(1) of the CCU as state treason.

² "Crimean cases" of the week: announcements of hearings 18.11-21.11' [Bureau of Judicial Information](#) (16 November 2019).

³ "Crimean cases" of the week: announcements of hearings 18.11-21.11' [Bureau of Judicial Information](#) (16 November 2019).

Other ongoing cases against the Crimean judges into the alleged state treason are listed below chronologically:

70. [Case No. 756/2991/17](#), Order of 1 March 2017, Obolonsky District Court of Kyiv;⁴
71. [Case No. 753/12732/17](#), Order of 5 August 2019, Darnytsky District Court of Kyiv;⁵
72. [Case No. 756/10610/17](#), Order of 7 August 2019, Obolonsky District Court of Kyiv;⁶
73. [Case No. 755/11423/17](#), Order of 27 July 2017, Dniprovsky District Court of Kyiv;⁷
74. [Case No. 752/13085/17](#), Order of 5 July 2017, Holiivsky District Court of Kyiv;⁸
75. [Case No. 752/12393/17](#), Order of 18 October 2018, Holiivsky District Court of Kyiv;⁹
76. [Case No. 752/7631/17](#), Order of 18 April 2017, Holiivsky District Court of Kyiv;¹⁰
77. [Case No. 754/3401/17](#), Order of 25 October 2017, Desnyansky District Court of Kyiv;¹¹
78. [Case No. 752/15462/17](#), Order of 4 August 2017, Holiivsky District Court of Kyiv;¹²
79. [Case No. 754/4824/17](#), Order of 31 May 2019, Desnyansky District Court of Kyiv;¹³
80. [Case No. 755/3106/17](#), Order of 18 July 2017, Dniprovsky District Court of Kyiv.¹⁴

⁴ "Crimean cases" of the week: announcements of hearings 18.11-21.11' [Bureau of Judicial Information](#) (16 November 2019).

⁵ 'What "Crimean cases" will be considered by the courts this week' [Bureau of Judicial Information](#) (5 August 2019).

⁶ 'What "Crimean cases" will be considered by the courts this week' [Bureau of Judicial Information](#) (5 August 2019).

⁷ 'What "Crimean cases" will be considered by the courts this week' [Bureau of Judicial Information](#) (5 August 2019).

⁸ 'Court hearings on "Crimean cases": 29.07-02.08' [Bureau of Judicial Information](#) (29 July 2019).

⁹ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

¹⁰ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

¹¹ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

¹² 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

¹³ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

¹⁴ 'What "Crimean cases" will be considered by the courts this week' [Bureau of Judicial Information](#) (5 August 2019).

81.	Case No. 754/337/17 , Order of 23 February 2018, Desnyansky District Court of Kyiv	Hryhorii Ioffe, former Deputy Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea, member of the Public Chamber of the Republic of Crimea	<u>Allegations:</u> ¹⁵ The Accused was a Deputy Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea and after 2014 served as a member of Public Chamber of the Republic of Crimea. The Prosecution charged him with state treason (Art. 111(1) of the CCU), the case is ongoing.	Art. 111(1) of the CCU as state treason.
82.	Case No. 758/3266/18 , Order of 19 March 2018, Podilsky District Court of Kyiv	Dmytro Polonsky, former Deputy Chairman of the Council of Ministers of the Republic of Crimea - Minister of Internal Policy and Communications of the Republic of Crimea	<u>Allegations:</u> ¹⁶ After 2014, the Accused was a deputy Chairman of the Council of Ministers of the Republic of Crimea - Minister of Internal Policy and Communications of the Republic of Crimea. The Prosecution charged him with state treason (Art. 111(1) of the CCU), the case is ongoing.	Art. 111(1) of the CCU as state treason.
83.	Case No. 752/13604/18 , Kyiv Court of Appeals, Order of 10 June 2019	Valerii Chornobuk, former head of the Court of Appeals of	<u>Allegations:</u> ¹⁷ The case concerned Valerii Chornobuk, who allegedly assisted the Russia-established	Art. 111(1) of the CCU as state treason.

¹⁵ "Crimean cases" of the week: announcements of hearings 10.06-14.06' [Bureau of Judicial Information](#) (7 June 2019).

¹⁶ "Crimean cases" of the week: announcements of hearings 10.06-14.06' [Bureau of Judicial Information](#) (7 June 2019).

¹⁷ Media Initiative For Human Rights, '[Coverage of court proceedings related to the armed conflict in Ukraine](#)' (2020), p. 42.

	As of April 2021, the case was pending before the first instance court	the Autonomous Republic of Crimea	authorities in Crimea in ensuring the functioning of judiciary. The Prosecution charged the Accused with state treason (Art. 111(1) of the CCU), the case is ongoing.	
84.	Case No. 752/9894/18 , Order of 22 August 2019, Holiivsky District Court of Kyiv	Oleksandr Sattarov, member of the Dnipropetrovsk Cossack District	<u>Allegations:</u> ¹⁸ As a member of the "Self-Defence of Crimea" in March 2014, the Accused participated in the capture of the Ukrainian military airfield "Belbek" near Sevastopol. The Prosecution charged him with state treason (Art. 111(1) of the CCU). The Accused was released from custody to participate in the prisoners' exchange between Russia and Ukraine in 2019.	Art. 111(1) of the CCU as state treason.
85.	Case No. 753/12538/16-K , Order of 10 November 2020, Darnytsky District Court of Kyiv	Volodymyr Galichiy, former member of the city council of Sevastopol	<u>Allegations:</u> ¹⁹ The Accused was a member of the city council of Sevastopol and voted in favour of Crimean referendum held by Russia. The Prosecution charged him with state treason (Art. 111(1) of the CCU).	Art. 111(1) of the CCU as state treason.

¹⁸ Media Initiative For Human Rights, '[Coverage of court proceedings related to the armed conflict in Ukraine](#)' (2020), p. 40.

¹⁹ "Accused of treason": ex-deputy from Sevastopol on trial in Kyiv' [Krym.Realii](#) (6 October 2016).

	As of April 2021, the case was pending before the first instance court		In September 2019, he was exchanged for Ukrainian citizens detained in Russia. ²⁰	
	At least three similar cases into state treason of the former members of the Sevastopol City Council are pending before the first instance courts:			
86.	Case No. 760/5297/18 , Order of 28 February 2018, Solomyansky District Court of Kyiv; ²¹			
87.	Case No. 754/1784/18 , Order of 25 June 2019, Desnyansky District Court of Kyiv; ²²			
88.	Case No. 752/4634/18 , Order of 23 December 2019, Holiivsky District Court of Kyiv. ²³			
89.	Case No. 759/3421/19 , Order of 25 November 2020, Sviatoshynsky District Court of Kyiv	Mykola Sumulidi, former member of the Verkhovna Rada of Autonomous Republic of Crimea	<u>Allegations:</u> ²⁴ The Accused was a member of the Verkhovna Rada of Crimea who provided “assistance in carrying out subversive activities against Ukraine that resulted in ... the occupation of the peninsula”. ²⁵ The Prosecution charged him with state treason (Art. 111(1) of the CCU), the case is ongoing.	Art. 111(1) of the CCU as state treason.
	Other ongoing cases against the ex-members of the Crimean Parliament into the alleged state treason are listed below chronologically:			

²⁰ 'The ex-deputy who returned to Sevastopol after the exchange expects help from the authorities in rehabilitation' [Krym.Realii](#) (23 September 2019).

²¹ "'Crimean cases" of the week: announcements 15.07-19.07' [Bureau of Judicial Information](#) (14 July 2019).

²² 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

²³ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

²⁴ "'Crimean cases" of the week: announcements of hearings 18.11-21.11' [Bureau of Judicial Information](#) (16 November 2019).

²⁵ 'Seven former deputies of the Verkhovna Rada of the ARC are wanted' [Crimean Prosecution Office: official website](#) (17 January 2018); 'The prosecutor's office announced the search for seven ex-deputies of the Rada of Crimea' [Hromadske](#) (17 January 2018).

90.	Case No. 755/5666/17 , Order of 21 April 2017, Dniprovsky District Court of Kyiv; ²⁶			
91.	Case No. 752/7602/17 , Order of 18 April 2017, Holosiivsky District Court of Kyiv; ²⁷			
92.	Case No. 752/7597/17 , Order of 18 April 2017, Holosiivsky District Court of Kyiv; ²⁸			
93.	Case No. 752/7593/17 , Order of 18 April 2017, Holosiivsky District Court of Kyiv; ²⁹			
94.	Case No. 756/8740/17 , Order of 7 March 2019, Obolonsky District Court of Kyiv; ³⁰			
95.	Case No. 758/15519/17 , Order of 28 November 2017, Podilsky District Court of Kyiv; ³¹			
96.	Case No. 761/22396/17 , Order of 19 October 2018, Shevchenkivsky District Court of Kyiv; ³²			
97.	Case No. 754/3184/18 , Order of 16 March 2018, Desnyansky District Court of Kyiv; ³³			
ADJUDICATED CASES				
98.	Case No. 760/791/18 , Judgement of 24 January 2018, Solomyansky District Court of Kyiv	Citizen of Ukraine, engineer-operator of Radiation, Chemical, Biological Protection Service of the Environmental	Court findings: In 2016-2017, the Accused provided military information that constituted a state secret to the representatives of the Russian Federation. The Accused and the Prosecution reached a plea agreement which the Court approved.	Arts 28(2), 111(1) of the CCU as treason, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities

²⁶ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

²⁷ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

²⁸ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

²⁹ 'Announcements of the "Crimean" cases of this week' [Bureau of Judicial Information](#) (27 May 2019).

³⁰ 'What "Crimean cases" will be considered by the courts this week' [Bureau of Judicial Information](#) (5 August 2019).

³¹ "'Crimean cases" of the week: announcements of hearings 10.06-14.06' [Bureau of Judicial Information](#) (7 June 2019).

³² "'Crimean cases" of the week: announcements of hearings 10.06-14.06' [Bureau of Judicial Information](#) (7 June 2019).

³³ "'Crimean cases" of the week: announcements of hearings 10.06-14.06' [Bureau of Judicial Information](#) (7 June 2019).

		Safety Service of the Main Directorate of the National Guard of Ukraine	The Court found the Accused guilty of state treason, committed prior conspiracy of a group of persons (Arts 28(2), 111(1) of the CCU) and sentenced her to four years of imprisonment.	against Ukraine, committed upon prior conspiracy of a group of persons.
	Similar judgements were pronounced in at least two other cases of state treason:			
99.	Case No. 362/4079/18 , Judgement of 3 September 2018, Fastiv City District Court of the Kyiv region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years of imprisonment);			
100.	Case No. 757/28124/18-k , Judgement of 22 August 2019, Holosiivsky District Court of Kyiv (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years and 28 days of imprisonment).			
101.	Case No. 755/15405/15-k , Judgement of 19 November 2018, Dniprovsky District Court of Kyiv	Citizen of Ukraine who ran for the Feodosia City Council of the Republic of Crimea	Court findings: In April 2014, the Accused participated in the extraordinary session of the State Council of the Republic of Crimea, where Constitution of Crimea was adopted. Later, he ran for the Feodosia City Council of the Republic of Crimea, but was not elected. The Court found the Accused guilty of state treason (Art. 111(1) of the CCU) and sentenced him to 12 years of imprisonment.	Art. 111(1) of the CCU as state treason, <i>i.e.</i> , an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine.
102.	Case No. 759/5737/17 , Judgement of 11 July 2019, Sviatoshynsky District Court of Kyiv	Citizen of Ukraine, judge of the Court of Appeals of the Autonomous Republic of Crimea	Court findings: In March-November 2014, the Accused continued to serve as a judge of the Court of Appeals of the Republic of Crimea under the legislation of the Russian Federation. Later, she	Art. 111(1) of the CCU as treason, <i>i.e.</i> , an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a

			<p>was appointed to the Supreme Court of the Republic of Crimea and continued to administer justice on behalf of the Russian Federation.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of treason (Art. 111(1) of the CCU) and sentenced her to 12 years of imprisonment with confiscation of all her property.</p>	foreign state in carrying out subversive activities against Ukraine.
103.	<p>Similar judgements were pronounced in at least two other cases of state treason by the Crimean judges:</p> <p>Case No. 757/46325/17-к, Judgement of 8 October 2019, Sviatoshynsky District Court of Kyiv (the Accused was sentenced to 12 years of imprisonment with confiscation of all property);</p>			
104.	<p>Case No. 759/7443/17, Judgement of 27 January 2020, Sviatoshynsky District Court of Kyiv (the Accused was sentenced to 12 years of imprisonment with confiscation of all property).</p>			
105.	<p>Case No. 522/10548/18, Judgement of 12 July 2019, Primorsky District Court of Odesa</p> <p>The case proceeded to the Court of Appeals of the Mykolaiv region, which quashed the judgement</p>	Citizen of Ukraine	<p>Court findings:</p> <p>The Accused, acting on the territory of Crimea and in Odesa, provided information constituting a state secret of Ukraine to the officers of the Russian Security Service.</p> <p>The Court found the Accused guilty of state treason (Art. 111(1) of the CCU) and sentenced him to three years of imprisonment.</p>	<p>Art. 111(1) of the CCU as state treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine.</p>

	and sent the case for a retrial			
106.	Case No. 759/9485/17 , Judgement of 23 September 2019, Sviatoshynsky District Court of Kyiv	Citizen of Ukraine, former judge of the Court of Appeals of the Autonomous Republic of Crimea, judge of the Supreme Court of Crimea (after 2014)	<p>Court findings:</p> <p>Before 2014, the Accused served as a judge of the Court of Appeals of the Autonomous Republic of Crimea. After Russia gained control over Crimea, the Accused continued to perform his functions and was further appointed as a judge of the Supreme Court of the Republic of Crimea.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of treason (Art. 111(1) of the CCU) and sentenced him to 12 years of imprisonment with the confiscation of all his property.</p>	Art. 111(1) of the CCU as state treason, <i>i.e.</i> , an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine.
107.	Case No. 757/2992/17-к , Judgement of 10 December 2019, Sviatoshynsky District Court of Kyiv	Citizen of Ukraine, member of the Verkhovna Rada of the Autonomous Republic of Crimea; member of State Council of the Republic of Crimea	<p>Court findings:</p> <p>On 17 March 2014, the Accused participated in a session of the Verkhovna Rada of the Autonomous Republic of Crimea during which a number of decisions concerning the creation of the Republic of Crimea within the Russian Federation were adopted. Further, she was</p>	Art. 111(1) of the CCU as state treason, <i>i.e.</i> , an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine.

			<p>elected a deputy of the State Council of the Republic of Crimea.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of state treason (Art. 111(1) of the CCU) and sentenced her to 14 years of imprisonment.</p>	
STATE TREASON COMBINED WITH ENROACHMENT ON TERRITORIAL INTEGRITY AND INVOLABILITY OF UKRAINE AND / OR TERRORISM-RELATED OFFENCES AND/ OR ORDINARY CRIMES				
ADJUDICATED CASES				
108.	<p>Case No. 129/3415/15-к, Judgement of 22 September 2016, Vinnytsia City Court of the Vinnytsia region</p> <p>The case proceeded to the Court of Appeals of the Vinnytsia region, because the Prosecution considered the sentence too low. The Court quashed the judgement of the first instance court and acquitted the Accused of treason (Art. 111(1) of the</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>The Accused provided information on the location and routes of the UAF to the representatives of the Russian Federation and DPR.</p> <p>The Court found the Accused guilty of state treason (Art. 111(1) of the CCU) and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 14 years of imprisonment.</p> <p>The Court of Appeals acquitted the Accused of state treason (Art. 111(1) of the CCU) due to the lack of sufficient evidence of his guilt. The Court found the Accused guilty of assistance to the</p>	<p>Art. 111(1) of the CCU as state treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine;</p> <p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation.</p>

	CCU) and changed the sentence		activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to five years and two days of imprisonment.	
109.	<p>Case No. 319/85/17, Judgement of 15 November 2017, Kuibyshevsky District Court of the Zaporizhia region</p> <p>The case proceeded to the Court of Appeals of the Zaporizhia region, because the Prosecution appealed the sentence which was considered too low. The Court upheld the initial judgement</p>	Citizen of Ukraine, UAF serviceman, member of the DPR's first Sloviansk brigade	<p>Court findings:</p> <p>The Accused, a UAF's serviceman, was captured by the members of the Russian armed forces. While in detention, he joined the DPR and incited other captured Ukrainian servicemen to join the DPR by threats and persuasion.</p> <p>The Court acquitted the Accused of state treason (Art. 111(1) of the CCU) because the element of joining the hostile State, in the Court's view, was not satisfied.</p> <p>The Court found the Accused guilty of refusal to perform military duties (Art. 409(2) of the CCU) and participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to nine years of imprisonment with confiscation of all his property.</p>	<p>Art. 111(1) of the CCU as state treason;</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 409(2) of the CCU as refusal to perform military duties.</p>
110.	<p>Case No. 755/9714/18, Judgement of 13 July 2020, Dniprovsky District Court of Kyiv</p> <p>The defence appealed to the Kyiv Court of Appeals,</p>	Petro Mykhalchevsky, citizen of Ukraine, Minister of Health of the Autonomous Republic of Crimea in 2014	<p>Court findings:</p> <p>From 28 February 2014 until June 2014, the Accused served as the Minister of Health of the Autonomous Republic of Crimea. He supported the Russian administration, and issued orders on its behalf.</p>	<p>Art. 111(1) of the CCU as state treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in</p>

	where the case was pending as of April 2021		<p>The Accused also publicly supported Russia's actions and called on the Crimean residents to obtain Russian passports.</p> <p>The Court acquitted the Accused of intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU), because the Prosecution failed to prove the elements of crime and based its arguments on assumptions. The Court found the Accused guilty of treason (Art. 111(1) of the CCU) and sentenced him to ten years of imprisonment.</p>	<p>carrying out subversive activities against Ukraine;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.</p>
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
111.	<p>Case No. 758/3042/19, Order of 19 July 2019, Podilsky District Court of Kyiv</p> <p>The case is ongoing</p>	<p>Kyrylo Vyshynskyy, citizen of Ukraine, editor-in-chief of the "RIA Novosti Ukraine", an online publication not registered in Ukraine</p>	<p>Allegations:³⁴</p> <p>In the spring of 2014, in Crimea, the Accused created a network of journalists whose task was to justify the annexation of the peninsula in their materials. He was granted the Russian Federation's awards.</p> <p>The Prosecution charged him with actions aimed at forceful change or overthrow of the constitutional order or take-over of government,</p>	<p>Art. 111(1) of the CCU as state treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine;</p>

³⁴ *Ibid*, pp. 52-53.

			<p>committed upon prior conspiracy of a group of persons (Arts 28(2), 109(3) of the CCU), intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU), treason (Art. 111(1) of the CCU), violation of citizens' equality based on their race, nationality or religious preferences (Arts 28(2), 32(1), 161(1) of the CCU), unlawful handling of weapons, ammunition or explosives (Art. 263(1) of the CCU).</p> <p>The Accused participated in the prisoners' exchange between Russia and Ukraine in 2019.</p>	<p>Arts 28(2), 109(3) of the CCU as actions aimed at forceful change or overthrow of the constitutional order or take-over of government, committed upon prior conspiracy of a group of persons;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons;</p> <p>Arts 28(2), 32(1), 161(1) of the CCU as violation of citizens' equality based on their race, nationality or religious preferences;</p> <p>Art. 263(1) of the CCU as illegal handling of weapons, ammunition or explosives.</p>
112.	Case No. 752/14543/17 , Order of 4 October 2019, Holosiivsky District Court of Kyiv	Volodymyr Karpushenko, citizen of the Russian Federation,	<p><u>Allegations:</u>³⁵</p> <p>The Accused was a Deputy Commander of the 810th Separate Brigade of the Russian Black</p>	<p>Arts 27(4), 111(1) of the CCU as abetting state treason. <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the</p>

³⁵ 'Court hearings on "Crimean cases": 29.07-02.08' [Bureau of Judicial Information](#) (29 July 2019).

	The case is ongoing	Deputy Commander of the 810th Separate Brigade of the Russian Black Sea Fleet	<p>Sea Fleet. He participated in a special operation to seize Crimea. On 3 March 2014, the Accused participated in negotiations on surrender of weapons by the Ukrainian marines blocked in Feodosia.</p> <p>The Prosecution charged him with aggravated trespass against territorial integrity and inviolability of Ukraine (Art. 110(3) of the CCU), waging aggressive war, committed upon prior conspiracy of a group of persons (Arts 28(2), 437(2) of the CCU), and aiding and abetting state treason (Arts 27(4), 111(1) of the CCU).</p>	<p>sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in carrying out subversive activities against Ukraine;</p> <p>Art. 110(3) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons that caused death of people or other serious consequences;</p> <p>Arts 28(2), 437(2) of the CCU as waging aggressive war, committed upon prior conspiracy of a group of persons.</p>
113.	<p>Case No. 426/4/17, Order of 23 November 2020, Starobilsk District Court of the Luhansk region</p> <p>The case was pending as of April 2021</p>	Oleksandr Iefremov, former member of the Ukrainian Parliament, chairman of the “Party of Regions” faction in the	<p><u>Allegations:</u>³⁶</p> <p>The Accused organised the seizure of the Luhansk Regional State Administration building in the spring of 2014 and aided and abetted the seizure of the building of the Security Service of Ukraine in the Luhansk region.</p>	<p>Art. 111(1) of the CCU as state treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity of Ukraine in the form of assistance to a foreign state in</p>

³⁶ *Ibid*, pp. 49-50.

		Verkhovna Rada of Ukraine in 2010-2014	The Prosecution charged the Accused with organising capturing of government buildings (Arts 27(3), 341 of the CCU), aiding the capturing of government buildings (Arts 27(5), 341 of the CCU), intentional actions committed to change the territorial boundaries or national borders of Ukraine in violation of the order provided for in the Constitution of Ukraine, committed by a member of public authorities (Art. 110(3) of the CCU), creation of a terrorist organisation (Art. 258-3(1) of the CCU), and treason (Art. 111(1) of the CCU).	<p>carrying out subversive activities against Ukraine;</p> <p>Art. 110(3) of the CCU as intentional actions committed to change the territorial boundaries or national borders of Ukraine in violation of the order provided for in the Constitution of Ukraine, committed by a member of public authorities;</p> <p>Arts 27(3), 341 of the CCU as organising the capturing of government buildings;</p> <p>Arts 27(5), 341 of the CCU as aiding the capturing of government buildings;</p> <p>Art. 258-3(1) of the CCU as creation of a terrorist organisation.</p>
ENROACHMENT ON TERRITORIAL INTEGRITY AND INVIOABILITY OF UKRAINE				
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
114.	Case No. 766/21451/17 , Order of 10 December 2019, Kherson City Court of the Kherson region The case was still ongoing as of April 2021	Citizen of Ukraine, member of the “Avtokanal Sevastopol” organisation	Allegations: In March 2014, the Accused joined the “Avtokanal Sevastopol” organisation, aimed at monitoring Ukrainian citizens and servicemen in Sevastopol, Crimea. The information was to be transmitted to representatives of the Russian Federation.	Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.

			The Prosecution charged him with intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU).	
ADJUDICATED CASES				
115.	<p>Case No. 171/684/19, Judgement of 12 August 2020, Apostolove District Court of the Dnipropetrovsk region</p> <p>The case proceeded to the Dnipro Court of Appeals, which was considering the prosecutor's appeal as of April 2021</p>	Citizen of Ukraine	<p>Court findings:</p> <p>Being a member of the "Vkontakte" social network, the Accused posted separatist comments and calls on his own page and on pages of various groups, including the calls to disintegrate from Ukraine and join Russia, to fight against "Ukrainian occupiers", and to vote for the independence of the DPR and LPR during the referendum.</p> <p>The Accused pleaded not guilty and explained that the SBU threatened and pressured him to confess to a crime, by giving him the text to read out stating that he was an FSB agent.</p> <p>The Court acquitted the Accused due to lack of evidence.</p>	<p>Article 110(1) of the CCU as distribution of materials with calls to commit actions aimed at changing the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine.</p>
<p>Other judgements on the similar set of circumstances are listed below chronologically. In all these cases, the Accused posted calls to change territorial limits and state border of Ukraine on social networks "Vkontakte", "Odnoklasniki" or "Telegram", including by publishing</p>				

videos about the D/ LPR and reposting publications regarding the need for independence of the D/ LPR from Ukraine. The Accused were found guilty of dissemination of public calls to change the territorial limits of Ukraine (Art. 110(1) of the CCU), sentenced to three, four or five years of imprisonment and released from serving the sentence on probation.

116. [Case No. 201/71/17](#), Judgement of 13 February 2017, Zhovtnevy District Court of Dnipropetrovsk;
117. [Case No. 428/864/17](#), Judgement of 10 March 2017, Severodonetsk City Court of the Luhansk region;
118. [Case No. 176/388/17](#), Judgement of 20 March 2017, Zhovtovodsk City Court of the Dnipropetrovsk region;
119. [Case No. 199/1313/17](#), Judgement of 21 March 2017, Amur-Nyzhnodniprovsky District Court of Dnipropetrovsk;
120. [Case No. 428/927/17](#), Judgement of 22 March 2017, Severodonetsk City Court of the Luhansk region;
121. [Case No. 683/503/17](#), Judgement of 27 March 2017, Starokostiantyniv District Court of the Khmelnytsky region;
122. [Case No. 742/1011/17](#), Judgement of 11 April 2017, Pryluky City District Court of the Chernihiv region;
123. [Case No. 661/1902/17](#), Judgement of 3 July 2017, Novokakhovka City Court of the Kherson region;
124. [Case No. 211/2886/17](#), Judgement of 22 September 2017, Dovhyntsiv District Court of Kryvyi Rih, Dnipropetrovsk region;
125. [Case No. 428/10203/17](#), Judgement of 10 October 2017, Severodonetsk City Court of the Luhansk region;
126. [Case No. 640/13963/17](#), Judgement of 17 October 2017, Kyiv District Court of Kharkiv;
127. [Case No. 237/2136/17](#), Judgement of 15 November 2017, Maryinsky District Court of the Donetsk region;
128. [Case No. 186/727/18](#), Judgement of 6 June 2018, Pershotravensky city court of the Dnipropetrovsk region;
129. [Case No. 537/2485/18](#), Judgement of 14 June 2018, Kryukivsky District Court of Kremenchuk, Poltava region;

130. [Case No. 635/4514/18](#), Judgement of 23 July 2018, Kharkiv District Court of the Kharkiv region;
131. [Case No. 643/7136/18](#), Judgement of 16 August 2018, Moscow District Court of Kharkiv;
132. [Case No. 265/5682/18](#), Judgement of 22 August 2018, Ordzhonikidze District Court of Mariupol, Donetsk region;
133. [Case No. 320/6302/18](#), Judgement of 4 September 2018, Melitopol City District Court of the Zaporizhia region;
134. [Case No. 235/4000/18](#), Judgement of 5 October 2018, Krasnoarmiysk City District Court of the Donetsk region;
135. [Case No. 428/12757/18](#), Judgement of 2 November 2018, Severodonetsk City Court of the Luhansk region;
136. [Case No. 346/3673/18](#), Judgement of 7 November 2018, Kolomyia City District Court of the Ivano-Frankivsk region;
137. [Case No. 161/7254/18](#), Judgement of 12 December 2018, Lutsk City District Court of the Volyn region;
138. [Case No. 522/11066/18](#), Judgement of 21 December 2018, Primorsky District Court of Odesa;
139. [Case No. 642/240/19](#), Judgement of 28 January 2019, Leninsky District Court of Kharkiv;
140. [Case No. 226/2969/18](#), Judgement of 28 February 2019, Dymytrovsky City Court of the Donetsk region;
141. [Case No. 397/322/19](#), Judgement of 1 March 2019, Oleksandrivsky District Court of the Kirovohrad region;
142. [Case No. 207/1524/19](#), Judgement of 31 May 2019, Bagliysky District Court of Dniprodzerzhynsk, Dnipropetrovsk region;
143. [Case No. 266/2333/19](#), Judgement of 13 June 2019, Prymorsky District Court of Mariupol, Donetsk region;
144. [Case No. 161/8407/19](#), Judgement of 18 June 2019, Lutsk City District Court of the Volyn region;
145. [Case No. 205/4349/19](#), Judgement of 9 July 2019, Leninsky District Court of Dnipropetrovsk;

146. [Case No. 266/2332/19](#), Judgement of 7 August 2019, Prymorsky District Court of Mariupol, Donetsk region;
147. [Case No. 644/5335/19](#), Judgement of 3 September 2019, Ordzhonikidze District Court of Kharkiv;
148. [Case No. 265/5572/19](#), Judgement of 20 November 2019, Ordzhonikidze District Court of Mariupol, Donetsk region;
149. [Case No. 937/8313/19](#), Judgement of 2 December 2019, Melitopol City District Court of the Zaporizhia region;
150. [Case No. 591/7696/19](#), Judgement of 9 December 2019, Zarichny District Court of Sumy;
151. [Case No. 266/6354/19](#), Judgement of 17 January 2020, Prymorsky District Court of Mariupol, Donetsk region;
152. [Case No. 742/835/19](#), Judgement of 3 February 2020, Pryluky City District Court of the Chernihiv region;
153. [Case No. 523/1839/20](#), Judgement of 11 February 2020, Suvorovsky District Court of Odesa;
154. [Case No. 264/1742/20](#), Judgement of 6 April 2020, Illichivsk District Court of Mariupol, Donetsk region;
155. [Case No. 185/2466/20](#), Judgement of 15 April 2020, Pavlohrad City District Court of the Dnipropetrovsk region;
156. [Case No. 335/1541/20](#), Judgement of 27 April 2020, Ordzhonikidze District Court of Zaporizhia;
157. [Case No. 629/1430/20](#), Judgement of 8 May 2020, Lozivsky City District Court of the Kharkiv region;
158. [Case No. 948/364/20](#), Judgement of 26 May 2020, Mashivsky District Court of the Poltava region;
159. [Case No. 185/3113/20](#), Judgement of 27 May 2020, Pavlohrad City District Court of the Dnipropetrovsk region;
160. [Case No. 202/2759/20](#), Judgement of 22 June 2020, Industrialny District Court of Dnipropetrovsk;
161. [Case No. 618/617/20](#), Judgement of 7 July 2020, Dvorichna District Court of the Kharkiv region;

162.	Case No. 266/1776/20 , Judgement of 23 July 2020, Primorsky District Court of Mariupol, Donetsk region;			
163.	Case No. 199/5161/20 , Judgement of 10 August 2020, Amur-Nyzhnodniprovsky District Court of Dnipropetrovsk.			
164.	Case No. 423/1582/17 , Judgement of 14 June 2017, Popasna District Court of the Luhansk region	Citizen of Ukraine, Head of the Popasna District Election Commission	<p>Court findings:</p> <p>In May 2014, the Accused, intending to change territorial limits of Ukraine, entered into conspiracy with other persons and committed activities with the aim to organise and hold a referendum on independence of the Luhansk People’s Republic from Ukraine.</p> <p>The Accused was appointed as the Head of the Popasna District Election Commission. During his public speech, he said that he manages the process of preparation for the referendum.</p> <p>The day before the referendum, the Accused and other unidentified persons held a meeting in preparation of the referendum. During the meeting, the Accused instructed other persons on how to conduct the referendum. Later that day, the Accused received ballots and stamps and brought it to the place where the referendum was to be held.</p> <p>On 11 May 2014, the Accused together with other unidentified persons held the referendum on the LPR’s independence from Ukraine.</p>	Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.

			<p>On 14 May 2014, the Accused announced the results of the referendum. On 18 and 21 May 2014, the Accused participated in public gatherings where he announced the results of the referendum and called upon his fellow citizens to resist the UAF.</p> <p>The Accused admitted his guilt and entered into a plea agreement with the Prosecution, which was approved by the Court.</p> <p>The Court found the Accused guilty of intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced him to five years of imprisonment but released on probation.</p>	
<p>165.</p> <p>166.</p>	<p>Other judgements on the similar set of circumstances are listed below chronologically. In all these cases, the Accused <u>organised</u> the referendum on the independence of the DPR or LPR from Ukraine in 2014, including arranging a place, drawing up voter protocols, agitation, handing out and collecting the ballots. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced to five years of imprisonment and released on probation.</p> <p>Case No. 414/710/18, Judgement of 23 April 2018, Kreminna District Court of the Luhansk region;</p> <p>Case No. 426/4601/18, Judgement of 3 May 2018, Svatove District Court of the Luhansk region;</p>			

167.	Case No. 241/475/18 , Judgement of 28 July 2018, Pershotravnevy District Court of the Donetsk region;
168.	Case No. 237/1874/18 , Judgement of 17 September 2018, Maryinsky District Court of the Donetsk region;
169.	Case No. 408/3666/18-к , Judgement of 6 November 2018, Bilovodsk District Court of the Luhansk region;
170.	Case No. 408/11046/18-к , Judgement of 14 March 2019, Bilovodsk District Court of the Luhansk region;
171.	Case No. 409/2559/18 , Judgement of 3 June 2019, Starobilsk District Court of the Luhansk region;
172.	Case No. 221/472/19 , Judgement of 2 July 2019, Volnovakha District Court of the Donetsk region;
173.	Case No. 408/2340/19-к , Judgement of 9 August 2019, Bilovodsk District Court of the Luhansk region;
174.	Case No. 418/18/20 , Judgement of 11 March 2020, Milove District Court of the Luhansk region;
175.	Case No. 408/3253/19-к , Judgement of 19 May 2020, Bilovodsk District Court of the Luhansk region;
176.	Case No. 242/4497/19 , Judgement of 20 May 2020, Selydovo City Court of the Donetsk region;
177.	Case No. 408/2915/19-к , Judgement of 1 June 2020, Bilovodsk District Court of the Luhansk region;
178.	Case No. 417/13/20 , Judgement of 2 June 2020, Markivka District Court of the Luhansk region;
179.	Case No. 220/1782/19 , Judgement of 24 July 2020, Velykonovosilkivsky District Court of the Donetsk region.
<p>Other judgements on the similar set of circumstances are listed below chronologically. In all these cases, the Accused was a <u>head</u> of an election commission during the referendum on the independence of the DPR or LPR from Ukraine in May 2014. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced to five years of imprisonment and released on probation.</p>	
180.	Case No. 234/14768/16-к , Judgement of 18 October 2016, Kramatorsk City Court of the Donetsk region;

181. [Case No. 229/3538/16-к](#), Judgement of 13 December 2016, Druzhkivka City Court of the Donetsk region;
182. [Case No. 229/4076/16-к](#), Judgement of 19 December 2016, Druzhkivka City Court of the Donetsk region;
183. [Case No. 234/17166/16-к](#), Judgement of 4 January 2017, Kramatorsk City Court of the Donetsk region;
184. [Case No. 229/3308/16-к](#), Judgement of 9 March 2017, Druzhkivka City Court of the Donetsk region;
185. [Case No. 229/946/17](#), Judgement of 6 April 2017, Druzhkivka City Court of the Donetsk region;
186. [Case No. 227/482/17](#), Judgement of 12 April 2017, Dobropillia City District Court of the Donetsk region;
187. [Case No. 229/1221/17](#), Judgement of 21 April 2017, Druzhkivka City Court of the Donetsk region;
188. [Case No. 243/1819/17](#), Judgement of 21 April 2017, Sloviansk City District Court of the Donetsk region;
189. [Case No. 234/5909/17](#), Judgement of 29 May 2017, Kramatorsk City Court of the Donetsk region;
190. [Case No. 234/866/17-к](#), Judgement of 20 June 2017, Kramatorsk City Court of the Donetsk region;
191. [Case No. 243/4388/17](#), Judgement of 30 June 2017, Sloviansk City District Court of the Donetsk region;
192. [Case No. 236/2127/17](#), Judgement of 28 July 2017, Krasnoymansky City Court of the Donetsk region;
193. [Case No. 220/1159/17](#), Judgement of 1 August 2017, Velykonovosilkivsky District Court of the Donetsk region;
194. [Case No. 236/1817/17](#), Judgement of 2 August 2017, Krasnoymansky City Court of the Donetsk region;
195. [Case No. 243/5823/17](#), Judgement of 2 August 2017, Sloviansk City District Court of the Donetsk region;
196. [Case No. 236/2043/17](#), Judgement of 4 August 2017, Krasnoymansky City Court of the Donetsk region;

197. [Case No. 229/2414/17](#), Judgement of 15 August 2017, Druzhkivka City Court of the Donetsk region;
198. [Case No. 243/7707/17](#), Judgement of 11 September 2017, Sloviansk City District Court of the Donetsk region;
199. [Case No. 234/3350/17](#), Judgement of 12 September 2017, Kramatorsk City Court of the Donetsk region;
200. [Case No. 243/7695/17](#), Judgement of 19 September 2017, Sloviansk City District Court of the Donetsk region;
201. [Case No. 419/2738/17](#), Judgement of 20 September 2017, Novoaidar District Court of the Luhansk region;
202. [Case No. 243/7637/17](#), Judgement of 11 October 2017, Sloviansk City District Court of the Donetsk region;
203. [Case No. 243/8736/17](#), Judgement of 20 October 2017, Sloviansk City District Court of the Donetsk region;
204. [Case No. 234/10805/17](#), Judgement of 20 October 2017, Kramatorsk City Court of the Donetsk region;
205. [Case No. 243/8579/17](#), Judgement of 2 November 2017, Sloviansk City District Court of the Donetsk region;
206. [Case No. 233/3603/17](#), Judgement of 6 November 2017, Konstantynivka City District Court of the Donetsk region;
207. [Case No. 234/10550/17](#), Judgement of 6 November 2017, Kramatorsk City Court of the Donetsk region;
208. [Case No. 233/5094/17](#), Judgement of 17 November 2017, Konstantynivka City District Court of the Donetsk region;
209. [Case No. 219/10310/17](#), Judgement of 21 November 2017, Artemivsk City District Court of the Donetsk region;
210. [Case No. 221/5613/17](#), Judgement of 22 November 2017, Volnovakha District Court of the Donetsk region;
211. [Case No. 233/4629/17](#), Judgement of 11 December 2017, Konstantynivka City District Court of the Donetsk region;
212. [Case No. 219/13585/17](#), Judgement of 10 January 2018, Artemivsk City District Court of the Donetsk region;

213. [Case No. 225/384/18](#), Judgement of 26 February 2018, Dzerzhynsky City Court of the Donetsk region;
214. [Case No. 225/269/18](#), Judgement of 6 March 2018, Dzerzhynsky City Court of the Donetsk region;
215. [Case No. 408/4826/17](#), Judgement of 6 March 2018, Bilovodsk District Court of the Luhansk region;
216. [Case No. 234/13066/17](#), Judgement of 7 March 2018, Kramatorsk City Court of the Donetsk region;
217. [Case No. 234/12374/17](#), Judgement of 17 April 2018, Kramatorsk City Court of the Donetsk region;
218. [Case No. 425/980/18](#), Judgement of 24 April 2018, Rubizhne City Court of the Luhansk region;
219. [Case No. 423/1313/18](#), Judgement of 5 May 2018, Popasna District Court of the Luhansk region;
220. [Case No. 419/716/18](#), Judgement of 7 May 2018, Novoaidar District Court of the Luhansk region;
221. [Case No. 234/1911/18](#), Judgement of 15 May 2018, Kramatorsk City Court of the Donetsk region;
222. [Case No. 419/1121/18](#), Judgement of 15 May 2018, Novoaidar District Court of the Luhansk region;
223. [Case No. 233/1704/18](#), Judgement of 29 May 2018, Konstantynivka City District Court of the Donetsk region;
224. [Case No. 236/2819/17](#), Judgement of 4 June 2018, Krasnolymansky City Court of the Donetsk region;
225. [Case No. 423/1711/18](#), Judgement of 8 June 2018, Popasna District Court of the Luhansk region;
226. [Case No. 237/1873/18](#), Judgement of 19 June 2018, Maryinsky District Court of the Donetsk region;
227. [Case No. 225/2593/18](#), Judgement of 5 July 2018, Dzerzhynsky City Court of the Donetsk region;
228. [Case No. 225/1210/18](#), Judgement of 10 July 2018, Dzerzhynsky City Court of the Donetsk region;

229. [Case No. 408/1507/18-к](#), Judgement of 16 July 2018, Bilovodsk District Court of the Luhansk region;
230. [Case No. 233/3079/18](#), Judgement of 9 August 2018, Konstantynivka City District Court of the Donetsk region;
231. [Case No. 233/2958/18](#), Judgement of 10 August 2018, Konstantynivka City District Court of the Donetsk region;
232. [Case No. 220/1574/18](#), Judgement of 13 August 2018, Velykonovosilkivsky District Court of the Donetsk region;
233. [Case No. 233/3621/18](#), Judgement of 15 August 2018, Konstantynivka City District Court of the Donetsk region;
234. [Case No. 233/3246/18](#), Judgement of 27 September 2018, Konstantynivka City District Court of the Donetsk region;
235. [Case No. 234/2575/18](#), Judgement of 10 October 2018, Kramatorsk City Court of the Donetsk region;
236. [Case No. 425/3058/18](#), Judgement of 23 October 2018, Rubizhne City Court of the Luhansk region;
237. [Case No. 233/5055/18](#), Judgement of 24 October 2018, Konstantynivka City District Court of the Donetsk region;
238. [Case No. 233/2547/18](#), Judgement of 25 October 2018, Konstantynivka City District Court of the Donetsk region;
239. [Case No. 417/5960/18](#), Judgement of 6 November 2018, Markivka District Court of the Luhansk region;
240. [Case No. 408/3684/18-к](#), Judgement of 6 November 2018, Bilovodsk District Court of the Luhansk region;
241. [Case No. 234/5657/18](#), Judgement of 20 November 2018, Kramatorsk City Court of the Donetsk region;
242. [Case No. 219/2370/18](#), Judgement of 29 November 2018, Artemivsk City District Court of the Donetsk region;
243. [Case No. 233/5595/18](#), Judgement of 3 December 2018, Konstantynivka City District Court of the Donetsk region;
244. [Case No. 233/5665/18](#), Judgement of 6 December 2018, Konstantynivka City District Court of the Donetsk region;

245. [Case No. 234/17016/18](#), Judgement of 11 December 2018, Kramatorsk City Court of the Donetsk region;
246. [Case No. 233/3247/18](#), Judgement of 20 December 2018, Konstantynivka City District Court of the Donetsk region;
247. [Case No. 234/403/18](#), Judgement of 21 December 2018, Kramatorsk City Court of the Donetsk region (The case proceeded to the [Court of Appeals of the Donetsk region](#), which overturned the first instance court's judgement in part that concerned releasing the Accused from serving the sentence on probation because the age of the Accused could not be a ground for release on probation, while there were no other grounds for such a release);
248. [Case No. 233/6108/18](#), Judgement of 15 January 2019, Konstantynivka City District Court of the Donetsk region;
249. [Case No. 233/6114/18](#), Judgement of 16 January 2019, Kostiantynivka City District Court of the Donetsk region;
250. [Case No. 219/12035/18](#), Judgement of 8 February 2019, Artemivsk City District Court of the Donetsk region;
251. [Case No. 243/921/19](#), Judgement of 14 February 2019, Sloviansk City District Court of the Donetsk region;
252. [Case No. 221/7466/18](#), Judgement of 18 February 2019, Volnovakha District Court of the Donetsk region;
253. [Case No. 223/848/18](#), Judgement of 19 February 2019, Vugledar City Court of the Donetsk region;
254. [Case No. 233/509/19](#), Judgement of 22 February 2019, Kostiantynivka City District Court of the Donetsk region;
255. [Case No. 408/2046/18-к](#), Judgement of 26 February 2019, Bilovodsk District Court of the Luhansk region;
256. [Case No. 408/2044/18-к](#), Judgement of 26 February 2019, Bilovodsk District Court of the Luhansk region;
257. [Case No. 233/802/19](#), Judgement of 6 March 2019, Kostiantynivka City District Court of the Donetsk region;
258. [Case No. 233/508/19](#), Judgement of 20 March 2019, Kostiantynivka City District Court of the Donetsk region;
259. [Case No. 243/3152/19](#), Judgement of 29 March 2019, Sloviansk City District Court of the Donetsk region;

260. [Case No. 233/1235/19](#), Judgement of 29 March 2019, Kostiantynivka City District Court of the Donetsk region;
261. [Case No. 428/5116/19](#), Judgement of 10 May 2019, Severodonetsk City Court of the Luhansk region;
262. [Case No. 239/558/18](#), Judgement of 12 June 2019, Maryinsky District Court of the Donetsk region;
263. [Case No. 221/2326/19](#), Judgement of 19 June 2019, Volnovakha District Court of the Donetsk region;
264. [Case No. 415/4677/19](#), Judgement of 9 July 2019, Lysychansk City Court of the Luhansk region;
265. [Case No. 236/1184/19](#), Judgement of 17 July 2019, Krasnolymsky City Court of the Donetsk region;
266. [Case No. 233/3364/19](#), Judgement of 31 July 2019, Kostiantynivka City District Court of the Donetsk region;
267. [Case No. 423/2363/19](#), Judgement of 5 August 2019, Popasna District Court of the Luhansk region;
268. [Case No. 266/5159/19](#), Judgement of 10 September 2019, Prymorsky District Court of Mariupol, Donetsk region;
269. [Case No. 236/3212/19](#), Judgement of 11 September 2019, Krasnolymsky City Court of the Donetsk region;
270. [Case No. 219/3998/19](#), Judgement of 20 September 2019, Artemivsk City District Court of the Donetsk region;
271. [Case No. 423/3119/19](#), Judgement of 23 September 2019, Popasna District Court of the Luhansk region;
272. [Case No. 234/12748/18](#), Judgement of 25 September 2019, Kramatorsk City Court of the Donetsk region;
273. [Case No. 233/5432/19](#), Judgement of 2 October 2019, Kostiantynivka City District Court of the Donetsk region;
274. [Case No. 233/6169/19](#), Judgement of 15 October 2019, Kostiantynivka City District Court of the Donetsk region;
275. [Case No. 233/6313/19](#), Judgement of 17 October 2019, Kostiantynivka City District Court of the Donetsk region;

276. [Case No. 221/5889/19](#), Judgement of 22 October 2019, Volnovakha District Court of the Donetsk region;
277. [Case No. 423/2451/19](#), Judgement of 31 October 2019, Popasna District Court of the Luhansk region;
278. [Case No. 423/3755/19](#), Judgement of 3 December 2019, Popasna District Court of the Luhansk region;
279. [Case No. 408/1985/19-к](#), Judgement of 12 December 2019, Bilovodsk District Court of the Luhansk region;
280. [Case No. 219/6275/19](#), Judgement of 17 December 2019, Artemivsk City District Court of the Donetsk region;
281. [Case No. 236/4846/19](#), Judgement of 22 January 2020, Krasnolymansky City Court of the Donetsk region;
282. [Case No. 408/1867/19-к](#), Judgement of 11 March 2020, Bilovodsk District Court of the Luhansk region;
283. [Case No. 236/488/20](#), Judgement of 13 March 2020, Krasnolymansky City Court of the Donetsk region;
284. [Case No. 233/440/20](#), Judgement of 24 April 2020, Kostiantynivka City District Court of the Donetsk region;
285. [Case No. 408/5057/19-к](#), Judgement of 18 May 2020, Bilovodsk District Court of the Luhansk region;
286. [Case No. 423/1217/20](#), Judgement of 21 May 2020, Popasna District Court of the Luhansk region;
287. [Case No. 233/2344/20](#), Judgement of 15 June 2020, Kostiantynivka City District Court of the Donetsk region;
288. [Case No. 425/961/20](#), Judgement of 24 June 2020, Rubizhne City Court of the Luhansk region;
289. [Case No. 415/2857/20](#), Judgement of 10 July 2020, Lysychansk City Court of the Luhansk region;
290. [Case No. 221/1458/20](#), Judgement of 20 August 2020, Volnovakha District Court of the Donetsk region;
291. [Case No. 408/2336/20-к](#), Judgement of 29 September 2020, Bilovodsk District Court of the Luhansk region.

In the following cases, the Accused was a deputy head of an election commission during the referendum on the independence of the DPR or LPR from Ukraine in May 2014. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and, in certain cases, public calls for the commission of such acts, and sentenced to five years of imprisonment and released on probation.

- 292. [Case No. 236/1902/17](#), Judgement of 22 August 2017, Krasnoymansky City Court of the Donetsk region;
- 293. [Case No. 234/439/18](#), Judgement of 1 February 2018, Kramatorsk City Court of the Donetsk region;
- 294. [Case No. 219/3346/18](#), Judgement of 15 June 2018, Artemivsk City District Court of the Donetsk region;
- 295. [Case No. 264/6150/18](#), Judgement of 21 February 2019, Illichivsk District Court of Mariupol of the Donetsk region;
- 296. [Case No. 236/1426/19](#), Judgement of 12 June 2019, Krasnoymansky City Court of the Donetsk region;
- 297. [Case No. 223/409/19](#), Judgement of 9 July 2019, Vugledar City Court of the Donetsk region;
- 298. [Case No. 236/3213/19](#), Judgement of 23 September 2019, Krasnoymansky City Court of the Donetsk region;
- 299. [Case No. 236/3300/19](#), Judgement of 9 October 2019, Krasnoymansky City Court of the Donetsk region;
- 300. [Case No. 423/3145/19](#), Judgement of 21 October 2019, Popasna District Court of the Luhansk region;
- 301. [Case No. 221/5800/19](#), Judgement of 14 November 2019, Volnovakha District Court of the Donetsk region;
- 302. [Case No. 236/4814/19](#), Judgement of 5 December 2019, Krasnoymansky City Court of the Donetsk region;
- 303. [Case No. 942/188/20](#), Judgement of 20 February 2020, Novoposkov District Court of the Luhansk region;
- 304. [Case No. 234/9189/18](#), Judgement of 9 June 2020, Kramatorsk City Court of the Donetsk region;
- 305. [Case No. 234/9433/17](#), Judgement of 15 September 2020, Sloviansk City District Court of the Donetsk region;

306.	Case No. 234/10579/20 , Judgement of 21 September 2020, Kramatorsk City Court of the Donetsk region;
307.	Case No. 236/2097/20 , Judgement of 29 September 2020, Krasnoymansky City Court of the Donetsk region.
In the following cases, the Accused was a <u>secretary</u> of an election commission during the referendum on the independence of the DPR or LPR from Ukraine in May 2014. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced to five years of imprisonment and released on probation.	
308.	Case No. 234/18271/17 , Judgement of 28 December 2017, Kramatorsk City Court of the Donetsk region;
309.	Case No. 420/1185/18 , Judgement of 7 September 2018, Novopskov District Court of the Luhansk region;
310.	Case No. 419/2831/18 , Judgement of 1 November 2018, Novoaidar District Court of the Luhansk region;
311.	Case No. 419/3189/18 , Judgement of 3 December 2018, Novoaidar District Court of the Luhansk region;
312.	Case No. 221/8121/18 , Judgement of 26 February 2019, Volnovakha District Court of the Donetsk region;
313.	Case No. 234/9460/19 , Judgement of 31 May 2019, Kramatorsk City Court of the Donetsk region;
314.	Case No. 237/1750/19 , Judgement of 18 June 2019, Maryinsky District Court of the Donetsk region;
315.	Case No. 233/5433/19 , Judgement of 2 October 2019, Kostiantynivka City District Court of the Donetsk region;
316.	Case No. 233/6528/19 , Judgement of 28 October 2019, Kostiantynivka City District Court of the Donetsk region;
317.	Case No. 423/2448/19 , Judgement of 31 October 2019, Popasna District Court of the Luhansk region;
318.	Case No. 229/6183/19 , Judgement of 3 December 2019, Druzhkivka City Court of the Donetsk region;
319.	Case No. 408/4821/19-к , Judgement of 24 January 2020, Bilovodsk District Court of the Luhansk region;

<p>320.</p> <p>321.</p> <p>322.</p> <p>323.</p> <p>324.</p> <p>325.</p> <p>326.</p> <p>327.</p> <p>328.</p>	<p>Case No. 220/2473/19, Judgement of 31 January 2020, Velykonovosilkivsky District Court of the Donetsk region;</p> <p>Case No. 233/7977/19, Judgement of 17 February 2020, Kostiantynivka City District Court of the Donetsk region;</p> <p>Case No. 221/3719/19, Judgement of 18 February 2020, Volnovakha District Court of the Donetsk region;</p> <p>Case No. 229/788/20, Judgement of 22 May 2020, Druzhkivka City Court of the Donetsk region;</p> <p>Case No. 233/2418/20, Judgement of 1 June 2020, Kostiantynivka City District Court of the Donetsk region;</p> <p>Case No. 233/2779/20, Judgement of 18 June 2020, Kostiantynivka City District Court of the Donetsk region;</p> <p>Case No. 229/2497/20, Judgement of 21 July 2020, Druzhkivka City Court of the Donetsk region;</p> <p>Case No. 236/942/20, Judgement of 4 August 2020, Krasnolymansky City Court of the Donetsk region;</p> <p>Case No. 236/1925/20, Judgement of 10 September 2020, Krasnolymansky City Court of the Donetsk region.</p>
	<p>In the following cases, the Accused was a <u>member</u> of an election commission during the referendum on the independence of the DPR or LPR from Ukraine in May 2014. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced to five years of imprisonment and released on probation.</p> <p>329. Case No. 415/4558/17, Judgement of 9 August 2017, Lysychansk City Court of the Luhansk region;</p> <p>330. Case No. 426/8224/17, Judgement of 28 August 2017, Svatove District Court of the Luhansk region;</p> <p>331. Case No. 426/8455/17, Judgement of 1 September 2017, Svatove District Court of the Luhansk region;</p> <p>332. Case No. 415/5044/17, Judgement of 21 September 2017, Lysychansk City Court of the Luhansk region;</p> <p>333. Case No. 423/1002/18, Judgement of 23 April 2018, Popasna District Court of the Luhansk region;</p>

334. [Case No. 423/1313/18](#), Judgement of 5 May 2018, Popasna District Court of the Luhansk region;
335. [Case No. 419/1028/18](#), Judgement of 1 June 2018, Novoaidar District Court of the Luhansk region;
336. [Case No. 425/1205/18](#), Judgement of 4 June 2018, Rubizhne City Court of the Luhansk region;
337. [Case No. 419/1210/18](#), Judgement of 23 July 2018, Novoaidar District Court of the Luhansk region;
338. [Case No. 419/1211/18](#), Judgement of 23 July 2018, Novoaidar District Court of the Luhansk region;
339. [Case No. 415/2381/18](#), Judgement of 5 September 2018, Lysychansk City Court of the Luhansk region;
340. [Case No. 415/6770/18](#), Judgement of 5 September 2018, Lysychansk City Court of the Luhansk region;
341. [Case No. 423/3230/18](#), Judgement of 3 October 2018, Popasna District Court of the Luhansk region;
342. [Case No. 423/3405/18](#), Judgement of 16 October 2018, Popasna District Court of the Luhansk region;
343. [Case No. 408/3303/18-к](#), Judgement of 23 October 2018, Bilovodsk District Court of the Luhansk region;
344. [Case No. 425/3072/18](#), Judgement of 23 October 2018, Rubizhne City Court of the Luhansk region;
345. [Case No. 425/3075/18](#), Judgement of 23 October 2018, Rubizhne City Court of the Luhansk region;
346. [Case No. 420/1692/18](#), Judgement of 26 October 2018, Novopskov District Court of the Luhansk region;
347. [Case No. 423/4097/18](#), Judgement of 16 January 2019, Popasna District Court of the Luhansk region;
348. [Case No. 415/169/19](#), Judgement of 1 February 2019, Lysychansk City Court of the Luhansk region;
349. [Case No. 420/175/19](#), Judgement of 7 February 2019, Novopskov District Court of the Luhansk region;

350. [Case No. 419/216/19](#), Judgement of 8 February 2019, Novoaidar District Court of the Luhansk region;
351. [Case No. 419/217/19](#), Judgement of 21 February 2019, Novoaidar District Court of the Luhansk region;
352. [Case No. 423/398/19](#), Judgement of 5 March 2019, Popasna District Court of the Luhansk region;
353. [Case No. 423/399/19](#), Judgement of 5 March 2019, Popasna District Court of the Luhansk region;
354. [Case No. 420/154/19](#), Judgement of 12 March 2019, Novopskov District Court of the Luhansk region;
355. [Case No. 221/447/19](#), Judgement of 12 March 2019, Volnovakha District Court of the Donetsk region;
356. [Case No. 409/687/19](#), Judgement of 3 April 2019, Bilokurakhyne District Court of the Luhansk region;
357. [Case No. 408/487/19-к](#), Judgement of 9 April 2019, Bilovodsk District Court of the Luhansk region;
358. [Case No. 415/1963/19](#), Judgement of 17 April 2019, Lysychansk City Court of the Luhansk region;
359. [Case No. 221/1496/19](#), Judgement of 8 May 2019, Volnovakha District Court of the Donetsk region;
360. [Case No. 221/1687/19](#), Judgement of 8 May 2019, Volnovakha District Court of the Donetsk region;
361. [Case No. 419/1276/19](#), Judgement of 30 May 2019, Novoaidar District Court of the Luhansk region;
362. [Case No. 423/1047/19](#), Judgement of 30 May 2019, Popasna District Court of the Luhansk region;
363. [Case No. 423/1152/19](#), Judgement of 6 June 2019, Popasna District Court of the Luhansk region;
364. [Case No. 221/744/19](#), Judgement of 11 June 2019, Volnovakha District Court of the Donetsk region;
365. [Case No. 237/5003/18](#), Judgement of 12 June 2019, Maryinsky District Court of the Donetsk region;

366. [Case No. 414/1545/19](#), Judgement of 14 June 2019, Kreminna District Court of the Luhansk region;
367. [Case No. 414/1544/19](#), Judgement of 14 June 2019, Kreminna District Court of the Luhansk region;
368. [Case No. 221/2328/19](#), Judgement of 19 June 2019, Volnovakha District Court of the Donetsk region;
369. [Case No. 221/1031/19](#), Judgement of 20 June 2019, Volnovakha District Court of the Donetsk region;
370. [Case No. 266/3144/19](#), Judgement of 24 June 2019, Prymorsky District Court of Mariupol, Donetsk region;
371. [Case No. 221/2477/19](#), Judgement of 25 June 2019, Volnovakha District Court of the Donetsk region;
372. [Case No. 221/1688/19](#), Judgement of 2 July 2019, Volnovakha District Court of the Donetsk region;
373. [Case No. 419/1072/19](#), Judgement of 3 July 2019, Novoaidar District Court of the Luhansk region;
374. [Case No. 235/3701/19](#), Judgement of 3 July 2019, Krasnoarmiysk City District Court of the Donetsk region;
375. [Case No. 243/6846/19](#), Judgement of 4 July 2019, Sloviansk City District Court of the Donetsk region;
376. [Case No. 221/3119/19](#), Judgement of 11 July 2019, Volnovakha District Court of the Donetsk region;
377. [Case No. 423/2277/19](#), Judgement of 12 July 2019, Popasna District Court of the Luhansk region;
378. [Case No. 423/2276/19](#), Judgement of 12 July 2019, Popasna District Court of the Luhansk region;
379. [Case No. 235/3707/19](#), Judgement of 16 July 2019, Krasnoarmiysk City District Court of the Donetsk region;
380. [Case No. 225/4470/19](#), Judgement of 25 July 2019, Dzerzhynsky City Court of the Donetsk region;
381. [Case No. 225/4464/19](#), Judgement of 25 July 2019, Dzerzhynsky City Court of the Donetsk region;

382. [Case No. 234/12261/19](#), Judgement of 25 July 2019, Kramatorsk City Court of the Donetsk region;
383. [Case No. 266/3958/19](#), Judgement of 25 July 2019, Prymorsky District Court of Mariupol, Donetsk region;
384. [Case No. 225/4339/19](#), Judgement of 30 July 2019, Dzerzhynsky City Court of the Donetsk region;
385. [Case No. 235/3705/19](#), Judgement of 7 August 2019, Krasnoarmiysk City District Court of the Donetsk region;
386. [Case No. 423/2742/19](#), Judgement of 9 August 2019, Popasna District Court of the Luhansk region;
387. [Case No. 266/3196/19](#), Judgement of 27 August 2019, Prymorsky District Court of Mariupol, Donetsk region;
388. [Case No. 225/4341/19](#), Judgement of 4 September 2019, Dzerzhynsky City Court of the Donetsk region;
389. [Case No. 221/4140/19](#), Judgement of 5 September 2019, Volnovakha District Court of the Donetsk region;
390. [Case No. 225/5286/19](#), Judgement of 11 September 2019, Dzerzhynsky City Court of the Donetsk region;
391. [Case No. 942/1536/19](#), Judgement of 16 September 2019, Novopskov District Court of the Luhansk region;
392. [Case No. 221/4990/19](#), Judgement of 25 September 2019, Volnovakha District Court of the Donetsk region;
393. [Case No. 221/5892/19](#), Judgement of 26 September 2019, Volnovakha District Court of the Donetsk region;
394. [Case No. 234/11213/19](#), Judgement of 1 October 2019, Kramatorsk City Court of the Donetsk region;
395. [Case No. 229/5670/19](#), Judgement of 15 October 2019, Druzhkivka City Court of the Donetsk region;
396. [Case No. 233/6314/19](#), Judgement of 17 October 2019, Kostiantynivka City District Court of the Donetsk region;
397. [Case No. 266/4679/19](#), Judgement of 24 October 2019, Prymorsky District Court of Mariupol, Donetsk region;

398. [Case No. 425/1144/19](#), Judgement of 4 November 2019, Rubizhne City Court of the Luhansk region;
399. [Case No. 425/1142/19](#), Judgement of 4 November 2019, Rubizhne City Court of the Luhansk region;
400. [Case No. 425/2645/19](#), Judgement of 4 November 2019, Rubizhne City Court of the Luhansk region;
401. [Case No. 227/3552/19](#), Judgement of 5 November 2019, Dobropillia City District Court of the Donetsk region;
402. [Case No. 221/6861/19](#), Judgement of 7 November 2019, Volnovakha District Court of the Donetsk region;
403. [Case No. 221/4076/19](#), Judgement of 7 November 2019, Volnovakha District Court of the Donetsk region;
404. [Case No. 221/4291/19](#), Judgement of 11 November 2019, Volnovakha District Court of the Donetsk region;
405. [Case No. 417/8682/19](#), Judgement of 12 November 2019, Markivka District Court of the Luhansk region;
406. [Case No. 221/4135/19](#), Judgement of 12 November 2019, Volnovakha District Court of the Donetsk region;
407. [Case No. 221/6798/19](#), Judgement of 13 November 2019, Volnovakha District Court of the Donetsk region;
408. [Case No. 264/6495/19](#), Judgement of 27 November 2019, Illichivsk District Court of Mariupol, Donetsk region;
409. [Case No. 227/4663/19](#), Judgement of 5 December 2019, Dobropillia City District Court of the Donetsk region;
410. [Case No. 234/17592/19](#), Judgement of 5 December 2019, Kramatorsk City Court of the Donetsk region;
411. [Case No. 414/2945/19](#), Judgement of 12 December 2019, Kreminna District Court of the Luhansk region;
412. [Case No. 229/5973/19](#), Judgement of 13 December 2019, Druzhkivka City Court of the Donetsk region;
413. [Case No. 423/4046/19](#), Judgement of 16 December 2019, Popasna District Court of the Luhansk region;

414. [Case No. 233/8109/19](#), Judgement of 17 December 2019, Kostiantynivka City District Court of the Donetsk region;
415. [Case No. 233/7978/19](#), Judgement of 24 December 2019, Kostiantynivka City District Court of the Donetsk region;
416. [Case No. 221/8300/19](#), Judgement of 9 January 2020, Volnovakha District Court of the Donetsk region;
417. [Case No. 942/1552/19](#), Judgement of 14 January 2020, Novopskov District Court of the Luhansk region;
418. [Case No. 220/2808/19](#), Judgement of 14 January 2020, Velykonovosilkivsky District Court of the Donetsk region;
419. [Case No. 221/7566/19](#), Judgement of 16 January 2020, Volnovakha District Court of the Donetsk region;
420. [Case No. 408/121/20-к](#), Judgement of 23 January 2020, Bilovodsk District Court of the Luhansk region;
421. [Case No. 408/122/20-к](#), Judgement of 29 January 2020, Bilovodsk District Court of the Luhansk region;
422. [Case No. 233/260/20](#), Judgement of 5 February 2020, Kostiantynivka City District Court of the Donetsk region;
423. [Case No. 233/278/20](#), Judgement of 10 February 2020, Kostiantynivka City District Court of the Donetsk region;
424. [Case No. 243/657/20](#), Judgement of 17 February 2020, Sloviansk City District Court of the Donetsk region;
425. [Case No. 264/651/20](#), Judgement of 17 February 2020, Illichivsk District Court of Mariupol, Donetsk region;
426. [Case No. 414/249/20](#), Judgement of 18 February 2020, Kreminna District Court of the Luhansk region;
427. [Case No. 423/174/20](#), Judgement of 18 February 2020, Popasna District Court of the Luhansk region;
428. [Case No. 408/467/20-к](#), Judgement of 19 February 2020, Bilovodsk District Court of the Luhansk region;
429. [Case No. 233/8111/19](#), Judgement of 24 February 2020, Kostiantynivka City District Court of the Donetsk region;

430. [Case No. 243/629/20](#), Judgement of 25 February 2020, Sloviansk City District Court of the Donetsk region;
431. [Case No. 243/630/20](#), Judgement of 25 February 2020, Sloviansk City District Court of the Donetsk region;
432. [Case No. 408/4241/19-к](#), Judgement of 3 March 2020, Bilovodsk District Court of the Luhansk region;
433. [Case No. 221/834/20](#), Judgement of 5 March 2020, Volnovakha District Court of the Donetsk region;
434. [Case No. 233/709/20](#), Judgement of 11 March 2020, Kostiantynivka City District Court of the Donetsk region;
435. [Case No. 233/437/20](#), Judgement of 13 March 2020, Kostiantynivka City District Court of the Donetsk region;
436. [Case No. 942/311/20](#), Judgement of 16 March 2020, Novoposkov District Court of the Luhansk region;
437. [Case No. 227/2871/19](#), Judgement of 17 March 2020, Dobropillia City District Court of the Donetsk region;
438. [Case No. 425/318/20](#), Judgement of 18 March 2020, Popasna District Court of the Luhansk region;
439. [Case No. 234/16581/19](#), Judgement of 19 March 2020, Kramatorsk City Court of the Donetsk region;
440. [Case No. 221/1370/20](#), Judgement of 26 March 2020, Volnovakha District Court of the Donetsk region;
441. [Case No. 234/16387/19](#), Judgement of 27 March 2020, Kramatorsk City Court of the Donetsk region;
442. [Case No. 219/1272/20](#), Judgement of 8 April 2020, Artemivsk City District Court of the Donetsk region;
443. [Case No. 243/631/20](#), Judgement of 10 April 2020, Sloviansk City District Court of the Donetsk region;
444. [Case No. 425/841/20](#), Judgement of 10 April 2020, Popasna District Court of the Luhansk region;
445. [Case No. 408/434/20-к](#), Judgement of 15 April 2020, Bilovodsk District Court of the Luhansk region;

446. [Case No. 227/1304/20](#), Judgement of 22 April 2020, Dobropillia City District Court of the Donetsk region;
447. [Case No. 417/457/20](#), Judgement of 23 April 2020, Markivka District Court of the Luhansk region;
448. [Case No. 219/3260/20](#), Judgement of 23 April 2020, Artemivsk City District Court of the Donetsk region;
449. [Case No. 942/374/20](#), Judgement of 27 April 2020, Novopskov District Court of the Luhansk region;
450. [Case No. 243/2369/20](#), Judgement of 29 April 2020, Sloviansk City District Court of the Donetsk region;
451. [Case No. 221/4592/19](#), Judgement of 29 April 2020, Volnovakha District Court of the Donetsk region;
452. [Case No. 423/871/20](#), Judgement of 6 May 2020, Popasna District Court of the Luhansk region;
453. [Case No. 423/1006/20](#), Judgement of 8 May 2020, Popasna District Court of the Luhansk region;
454. [Case No. 221/1621/20](#), Judgement of 14 May 2020, Volnovakha District Court of the Donetsk region;
455. [Case No. 233/708/20](#), Judgement of 20 May 2020, Kostiantynivka City District Court of the Donetsk region;
456. [Case No. 219/1207/20](#), Judgement of 22 May 2020, Artemivsk City District Court of the Donetsk region;
457. [Case No. 408/1051/20-к](#), Judgement of 22 May 2020, Bilovodsk District Court of the Luhansk region;
458. [Case No. 229/1463/20](#), Judgement of 25 May 2020, Druzhkivka City Court of the Donetsk region;
459. [Case No. 408/1395/20-к](#), Judgement of 26 May 2020, Bilovodsk District Court of the Luhansk region;
460. [Case No. 233/2026/20](#), Judgement of 26 May 2020, Kostiantynivka City District Court of the Donetsk region;
461. [Case No. 408/5359/19-к](#), Judgement of 27 May 2020, Bilovodsk District Court of the Luhansk region;

462. [Case No. 233/2025/20](#), Judgement of 28 May 2020, Kostiantynivka City District Court of the Donetsk region;
463. [Case No. 236/1134/20](#), Judgement of 28 May 2020, Krasnolymansky City Court of the Donetsk region;
464. [Case No. 408/2913/20-к](#), Judgement of 1 June 2020, Bilovodsk District Court of the Luhansk region;
465. [Case No. 408/398/20-к](#), Judgement of 11 June 2020, Bilovodsk District Court of the Luhansk region;
466. [Case No. 423/1447/20](#), Judgement of 12 June 2020, Popasna District Court of the Luhansk region;
467. [Case No. 220/546/20](#), Judgement of 19 June 2020, Velykonovosilkivsky District Court of the Donetsk region;
468. [Case No. 425/317/20](#), Judgement of 26 June 2020, Rubizhne City Court of the Luhansk region;
469. [Case No. 236/2001/20](#), Judgement of 2 July 2020, Krasnolymansky City Court of the Donetsk region;
470. [Case No. 219/4924/20](#), Judgement of 9 July 2020, Artemivsk City District Court of the Donetsk region;
471. [Case No. 431/2540/20](#), Judgement of 23 July 2020, Starobilsk District Court of the Luhansk region;
472. [Case No. 219/12466/19](#), Judgement of 6 August 2020, Artemivsk City District Court of the Donetsk region;
473. [Case No. 219/11974/19](#), Judgement of 6 August 2020, Artemivsk City District Court of the Donetsk region;
474. [Case No. 219/11976/19](#), Judgement of 6 August 2020, Artemivsk City District Court of the Donetsk region;
475. [Case No. 433/1092/20](#), Judgement of 10 August 2020, Troyitske District Court of the Luhansk region;
476. [Case No. 426/3687/20](#), Judgement of 10 August 2020, Svatove District Court of the Luhansk region;
477. [Case No. 236/2279/20](#), Judgement of 10 August 2020, Krasnolymansky City Court of the Donetsk region;

478. [Case No. 234/11041/20](#), Judgement of 10 August 2020, Kramatorsk City Court of the Donetsk region;
479. [Case No. 234/9557/20](#), Judgement of 13 August 2020, Kramatorsk City Court of the Donetsk region;
480. [Case No. 233/2421/20](#), Judgement of 14 August 2020, Konstantynivka City District Court of the Donetsk region;
481. [Case No. 408/2306/20-к](#), Judgement of 20 August 2020, Bilovodsk District Court of the Luhansk region;
482. [Case No. 234/9560/20](#), Judgement of 26 August 2020, Kramatorsk City Court of the Donetsk region;
483. [Case No. 236/1926/20](#), Judgement of 26 August 2020, Krasnolymsky City Court of the Donetsk region;
484. [Case No. 221/3328/20](#), Judgement of 27 August 2020, Volnovakha District Court of the Donetsk region;
485. [Case No. 236/2438/20](#), Judgement of 31 August 2020, Krasnolymsky City Court of the Donetsk region;
486. [Case No. 241/1375/20](#), Judgement of 3 September 2020, Pershotravnevy District Court of the Donetsk region;
487. [Case No. 221/5268/20](#), Judgement of 8 September 2020, Volnovakha District Court of the Donetsk region;
488. [Case No. 417/8048/19](#), Judgement of 15 September 2020, Markivka District Court of the Luhansk region;
489. [Case No. 233/3485/20](#), Judgement of 15 September 2020, Kostiantynivka City District Court of the Donetsk region;
490. [Case No. 264/5751/20](#), Judgement of 21 September 2020, Illichivsk District Court of Mariupol, Donetsk region;
491. [Case No. 264/5750/20](#), Judgement of 21 September 2020, Illichivsk District Court of Mariupol, Donetsk region;
492. [Case No. 408/2304/19-к](#), Judgement of 23 September 2020, Bilovodsk District Court of the Luhansk region;
493. [Case No. 229/636/20](#), Judgement of 25 September 2020, Druzhkivka City Court of the Donetsk region;

494.	Case No. 236/2747/20 , Judgement of 25 September 2020, Krasnoymansky City Court of the Donetsk region;
495.	Case No. 425/2174/20 , Judgement of 28 September 2020, Rubizhne City Court of the Luhansk region;
496.	Case No. 236/2080/20 , Judgement of 29 September 2020, Krasnoymansky City Court of the Donetsk region.
<p>In the following cases, the Accused participated in the organisation of the referendum on the independence of the D/ LPR from Ukraine, including by agitation and taking part in a demonstration dedicated to the referendum, coordinating the organisation of the referendum, and being a secretary or an observer of an election commission. The Accused were found guilty of dissemination of public calls to change the territorial limits of Ukraine (Art. 110(1) of the CCU), sentenced to three years of imprisonment but released from serving the sentence on probation.</p>	
497.	Case No. 237/3328/17 , Judgement of 30 August 2017, Maryinsky District Court of the Donetsk region;
498.	Case No. 750/7402/17 , Judgement of 8 November 2017, Desniansky District Court of Chernihiv;
499.	Case No. 223/707/18 , Judgement of 18 October 2018, Vugledar City Court of the Donetsk region;
500.	Case No. 223/708/18 , Judgement of 18 October 2018, Vugledar City Court of the Donetsk region;
501.	Case No. 223/476/18 , Judgement of 22 March 2019, Selydovo City Court of the Donetsk region;
502.	Case No. 264/6152/18 , Judgement of 20 June 2019, Illichivsk District Court of Mariupol, Donetsk region.
<p>In the following cases, the Accused was a deputy head of an election commission during the election of the head of the DPR and members of the People’s Council of the DPR. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced to five years of imprisonment and released on probation.</p>	
503.	Case No. 243/3318/19 , Judgement of 25 April 2019, Sloviansk City District Court of the Donetsk region;
504.	Case No. 325/450/19 , Judgement of 9 July 2019, Priazovsky District Court of the Zaporizhia region;

505.	Case No. 225/4154/19 , Judgement of 16 July 2019, Dzerzhynsky City Court of the Donetsk region.		
<p>In the following cases, the Accused was a <u>member</u> of an election commission during the election of the head of the DPR and members of the People’s Council of the DPR. The Accused were found guilty of encroachment of territorial integrity of Ukraine committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced to five years of imprisonment and released on probation.</p>			
506.	Case No. 243/5345/19 , Judgement of 6 June 2019, Sloviansk City District Court of the Donetsk region;		
507.	Case No. 243/5255/19 , Judgement of 6 June 2019, Sloviansk City District Court of the Donetsk region;		
508.	Case No. 243/6222/19 , Judgement of 25 June 2019, Sloviansk City District Court of the Donetsk region;		
509.	Case No. 243/6843/19 , Judgement of 4 July 2019, Sloviansk City District Court of the Donetsk region;		
510.	Case No. 235/3183/19 , Judgement of 11 July 2019, Krasnoarmiysk City District Court of the Donetsk region;		
511.	Case No. 325/661/19 , Judgement of 12 August 2019, Priazovsky District Court of the Zaporizhia region;		
512.	Case No. 323/2446/19 , Judgement of 1 November 2019, Orikhivsky District Court of the Zaporizhia region;		
513.	Case No. 235/8525/19 , Judgement of 23 January 2020, Krasnoarmiysk City District Court of the Donetsk region.		
ENROACHMENT ON TERRITORIAL INTEGRITY AND INVIOABILITY OF UKRAINE COMBINED WITH ORDINARY CRIMES			
ADJUDICATED CASES			
514.	Case No. 185/2146/16-k , Judgement of 19 September 2016, Pavlohrad City District Court of the Dnipropetrovsk region	Citizen of Ukraine, member of the “Russian Orthodox Army of the DPR”	<p>Court findings:</p> <p>The Accused, being armed, served at checkpoints, patrolled the streets, and carried out activities to identify persons who did not support the idea of the creation of the DPR. He also participated in hostilities against the UAF in</p>
			Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons;

	<p>The case proceeded to the Court of Appeals of the Dnipropetrovsk region, which dismissed the defence appeal as such that was submitted outside the 30-days' time-limit</p>		<p>the Donetsk region. The Accused also carried ammunition and stored it in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU), and illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU). The Court sentenced him to eight years of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>
515.	<p>Case No. 610/748/17, Judgement of 27 April 2017, Balakliia District Court of the Kharkiv region</p>	<p>Citizen of Ukraine, member of the 3rd platoon of the 1st company of the 7th Sloviansk brigade of the DPR and "Vytiaz" of the Ministry of Transport of the DPR</p>	<p>Court findings:</p> <p>The Accused was an armed member of different units of the DPR, patrolling streets, guarding buildings, building fortifications, serving at checkpoints, and carrying out activities to identify persons who did not support the idea of the creation of the DPR. He also acquired ammunition and respective equipment and stored it in his apartment.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU); intentional actions</p>	<p>Art. 110(1) of the CCU as intentional actions committed to change the boundaries of the territory of Ukraine in violation of the procedure established by the Constitution of Ukraine;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition and explosives.</p>

			committed to change the boundaries of the territory of Ukraine in violation of the procedure established by the Constitution of Ukraine (Art. 110(1) of the CCU), and illegal acquisition, carrying and storage of ammunition and explosives (Art. 263(1) of the CCU). He was sentenced to four years of imprisonment.	
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
516.	Case No. 752/16514/18 , Order of 15 August 2018, Holosiivsky District Court of Kyiv The case is ongoing	Viktor Lytvynov, citizen of Ukraine, member of the Self- Defence of Crimea	<u>Allegations:</u> ³⁷ The Accused was a member of the "Self-Defence of Crimea" that participated in the Russian operations of establishing control over Crimea in 2014. The Prosecution charged him with participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine (Art. 110(1) of the CCU).	Art. 110(1) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine; Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
517.	Case No. 760/12901/19 , Order of 7 March 2019,	Oleh Sahan, citizen of Ukraine	<u>Allegations:</u> ³⁸	Arts 15(3), 109(3) of the CCU as incomplete attempt at committing actions aimed at forceful change or

³⁷ "'Crimean Cases" in Kyiv Courts: Announcements of Sessions 20.05 - 24.05' [Bureau of Judicial Information](#) (20 May 2019).

³⁸ 'Kyiv court has extended the arrest of Sagan, a suspect in separatism' [Bureau of Judicial Information](#) (15 May 2019).

	<p>Solomyansky District Court of Kyiv</p> <p>The case is ongoing</p>		<p>The Accused supported creation of Novorossiia, i.e. separation of south-eastern Ukraine, and created media footage for agitation purposes.</p> <p>The Prosecution charged him with an incomplete attempt to commit actions aimed at forceful change or overthrow of the constitutional order or take-over of government, committed upon prior conspiracy of a group of persons (Arts 15(3), 109(3) of the CCU) and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU).</p>	<p>overthrow of the constitutional order or take-over of government, committed upon prior conspiracy of a group of persons;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.</p>
TERRORISM-RELATED OFFENCES				
CREATION OF A TERRORIST GROUP OR ORGANISATION				
ADJUDICATED CASES				
518.	<p>Case No. 236/2050/15-к, Judgement of 5 September 2016, Krasnolymansky City Court of the Donetsk region</p>	<p>Citizen of Ukraine, acting chief of Krasny Lyman police affiliated with the DPR</p>	<p>Court findings:</p> <p>In May 2014, the Accused, an acting chief of local police in Krasny Lyman, organised cooperation with representatives of the DPR on joint measures to protect public order in Krasny Lyman and provided them with assistance. In particular, the Accused issued orders on joint</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation.</p>

			<p>patrolling, verbally announced the planned cooperation during a public demonstration organised by the DPR, supplied the latter with official information, including on the personal data of employees of the law enforcement.</p> <p>The Accused was found guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to eight years of imprisonment.</p>	
519.	<p>Case No. 221/2362/15-k, Judgement of 9 September 2016, Volnovakha District Court of the Donetsk</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first instance court and sent the case for a retrial</p> <p>Pursuant to the judgement of Ordzhonikidze District Court of Mariupol, Donetsk region, the</p>	Citizen of Ukraine	<p><u>Court findings:</u></p> <p>According to the Prosecution, the Accused provided reconnaissance information concerning the location of the UAF to the DPR.</p> <p>The Court found the Accused guilty of other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to three years six months of imprisonment.</p> <p>As a result of the appeal and subsequent retrial, the Accused was acquitted of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), because in the view of the Court the Prosecution did not prove the Accused's guilt beyond reasonable doubt.</p>	<p>Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation.</p>

	Accused was acquitted at the retrial			
520.	<p>Case No. 686/6951/16-K, Judgement of 9 September 2016, Khmelnytsky City District Court</p> <p>The case proceeded to the Court of Appeals of Khmelnytsky region, but the Court dismissed the motion to extend time for appeal, submitted by the defence, and returned the appeal without consideration</p>	Citizen of Ukraine, deputy platoon commander of the DPR military police	<p>Court findings:</p> <p>In May 2014, the Accused enlisted in the DPR, where he was subsequently engaged into armed daily shifts at a checkpoint and participated in an armed incident that could have caused casualties among the Ukrainian forces and in another armed incident in which he was wounded. Having received medical treatment and military training in Crimea, he returned to the DPR as a deputy commander, later a commander, of a special sabotage and reconnaissance group and assisted other DPR members to guard the SBU premises in Donetsk.</p> <p>Having been notified of the proceedings against him via announcements in printed media and attempted phone call, the Accused failed to appear in court and the proceedings were held <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to 11 years of</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

			imprisonment with confiscation of all his property.	
521.	<p>Case No. 236/726/16-K, Judgement of 12 September 2016, Krasnolymansky City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first instance court and ordered a retrial</p> <p>On 5 April 2018, Sloviansk City District Court of the Donetsk region rejected the prosecutor's request to conduct the retrial <i>in absentia</i> and paused the proceedings</p>	Citizen of Ukraine, head of the Department for Combating Economic Crimes and Corruption of the DPR	<p>Court findings:</p> <p>The Accused (previously an official of the MIA of Ukraine), joined the DPR as a head of the Department for Combating Economic Crimes and Corruption. In that position, he reported about the work of his department, e.g., about criminal cases and confiscated objects, in the media.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation under Art. 258-3(1) of the CCU and sentenced him to 10 years of imprisonment.</p> <p>The judgement was quashed and sent for a retrial which is paused pending arrest of the Accused.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
522.	<p>Case No. 219/7642/15-K, Judgement of 23 September 2016, Artemivsk City District</p>	Citizen of Ukraine, assisted the LPR	<p>Court findings:</p>	Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation.

	<p>Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which discontinued the proceedings when the Prosecution and the defence withdrew their appeals</p>		<p>The Accused provided the LPR with the information concerning the location of the UAF units, hospital, and checkpoints.</p> <p>The Court found the Accused guilty of other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to four years of imprisonment.</p>	
<p>Other judgements on the similar set of circumstances are listed below chronologically. In all of these cases, the Accused provided the D/LPR with the information concerning the location of the enemy positions, personnel, checkpoints, hospitals and other objects. The Accused were found guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU).</p> <p>523. Case No. 417/2034/16-k, Judgement of 12 December 2016, Kreminna District Court of the Luhansk region. The Accused was sentenced to eight years of imprisonment. The case proceeded to the Court of Appeals of the Luhansk region, which quashed the judgement of the first instance court and sent the case for retrial. On retrial, Starobilsk District Court of the Luhansk region sentenced the Accused to three years seven months of imprisonment on the same charges;</p> <p>524. Case No. 233/6265/15-k, Judgement of 9 February 2017, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to three years and one month of imprisonment);</p> <p>525. Case No. 235/7503/15-k, Judgement of 2 March 2017, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment. However, the Court of Appeals of the Donetsk region quashed the judgement and sent the case for a retrial. The Accused died before the retrial was completed);</p> <p>526. Case No. 221/3267/16-k, Judgement of 9 March 2017, Ordzhonikidze District Court of Mariupol, Donetsk region (the Accused was sentenced to two years two months of imprisonment);</p>				

527. [Case No. 227/5798/15-к](#), Judgement of 20 March 2017, Dobropillia City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment. However, the [Court of Appeals of the Donetsk region](#) quashed the judgement and sent the case for a retrial. [On retrial](#), the Accused was found guilty assisting a terrorist organisation and sentenced to four years seven months of imprisonment);
528. [Case No. 219/10734/15-к](#), Judgement of 27 March 2017, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to four years of imprisonment);
529. [Case No. 225/3653/15-к](#), Judgement of 29 March 2017, Dzerzhinsk City Court of the Donetsk region (the Accused was sentenced to four years of imprisonment);
530. [Case No. 243/6244/16-к](#), Judgement of 30 March 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment with confiscation of all her property. The case proceeded to the [Court of Appeals of the Donetsk region](#) which upheld the trial judgement);
531. [Case No. 243/782/16-к](#), Judgement of 26 May 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to three years five months of imprisonment);
532. [Case No. 235/4753/15-к](#), Judgement of 26 May 2017, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment. However, the [Court of Appeals of the Donetsk region](#) quashed the judgement and sent the case for a retrial due to the violation of the procedural rights of the Accused and lack of proper analysis and substantiation of evidence by the Court. As of March 2021, the proceedings [were paused](#) pending arrest of the Accused);
533. [Case No. 233/5414/16-к](#), Judgement of 31 May 2017, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to three years of imprisonment. However, the [Court of Appeals of the Donetsk region](#) quashed the judgement and sent the case for a retrial. [On retrial](#), the Accused was found guilty of assistance to a terrorist organisation and sentenced to four years three months of imprisonment);
534. [Case No. 227/286/16-к](#), Judgement of 1 June 2017, Dobropillia City District Court of the Donetsk region (the Accused was sentenced to four years of imprisonment);
535. [Case No. 461/5494/15-к](#), Judgement of 9 June 2017, Novomoskovsk City District Court of the Dnipropetrovsk region (the Accused was sentenced to nine years of imprisonment);

536. [Case No. 235/7057/15-к](#), Judgement of 9 June 2017, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to four years five months of imprisonment with the deprivation of a special rank of the police captain that the Accused possessed. However, the [Court of Appeals of the Donetsk region](#) quashed the judgement and sent the case for a retrial, which is ongoing);
537. [Case No. 419/294/17](#), Judgement of 21 June 2017, Kreminna District Court of the Luhansk region (the Accused was sentenced to eight years of imprisonment);
538. [Case No. 331/2738/17](#), Judgement of 23 June 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to three years of imprisonment, but released on probation for a two-year term);
539. [Case No. 415/1095/16-к](#), Judgement of 11 August 2017, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years seven months of imprisonment);
540. [Case No. 428/8449/16-к](#), Judgement of 15 September 2017, Starobilsk District Court of the Luhansk region (the Accused was sentenced to three years of imprisonment);
541. [Case No. 229/911/17](#), Judgement of 21 September 2017, Druzhkivka City Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to one year seven months sixteen days of imprisonment);
542. [Case No. 522/958/16-к](#), Judgement of 27 October 2017, Primorsky District Court of Odesa (the Accused was sentenced to four years five months of imprisonment);
543. [Case No. 221/1438/16-к](#), Judgement of 30 October 2017, Illichivsk District Court of Mariupol, Donetsk region (the Accused was sentenced to eight years of imprisonment);
544. [Case No. 219/368/17](#), Judgement of 1 November 2017, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to two years of imprisonment);
545. [Case No. 569/16783/17](#), Judgement of 8 November 2017, Rivne City Court (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);
546. [Case No. 428/3559/16-к](#), Judgement of 10 November 2017, Severodonetsk City Court of the Luhansk region (the Accused was sentenced to three years three months of imprisonment);

547. [Case No. 219/7491/16-к](#), Judgement of 15 November 2017, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to three years of imprisonment with the deprivation of a special rank of the senior soldier that the Accused possessed);
548. [Case No. 415/2/17-к](#), Judgement of 20 November 2017, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years of imprisonment);
549. [Case No. 225/2522/17](#), Judgement of 28 November 2017, Dzerzhinsk City Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to one year two months eighteen days of imprisonment);
550. [Case No. 221/1543/15-к](#), Judgement of 28 November 2017, Illichivsk District Court of Mariupol, Donetsk region (the Accused was sentenced to five years four months of imprisonment);
551. [Case No. 414/1608/15-к](#), Judgement of 28 November 2017, Rubizhne City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years five months of imprisonment);
552. [Case No. 235/4770/17](#), Judgement of 11 December 2017, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to six years of imprisonment);
553. [Case No. 569/17633/17](#), Judgement of 11 December 2017, Rivne City Court (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment);
554. [Case No. 227/431/16-к](#), Judgement of 14 December 2017, Dobropillia City District Court of the Donetsk region (the Accused was sentenced to three years nine months of imprisonment);
555. [Case No. 227/5798/15-к](#), Judgement of 14 December 2017, Dobropillia City District Court of the Donetsk region (the Accused was sentenced to four years seven months of imprisonment);
556. [Case No. 221/5388/15-к](#), Judgement of 14 December 2017, Ordzhonikidze District Court of Mariupol, Donetsk region (the Accused was sentenced to four years of imprisonment);
557. [Case No. 219/2996/17](#), Judgement of 14 December 2017, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to one year two months of imprisonment);

558. [Case No. 243/9008/17](#), Judgement of 15 December 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to five months sixteen days of imprisonment);
559. [Case No. 227/4232/15-к](#), Judgement of 15 December 2017, Dobropillia City District Court of the Donetsk region (the Accused was sentenced to four years seven months of imprisonment);
560. [Case No. 423/2425/16-к](#), Judgement of 18 December 2017, Rubizhne City Court of the Luhansk region (the Accused was sentenced to three years two months twenty eight days of imprisonment);
561. [Case No. 425/1703/17](#), Judgement of 18 December 2017, Rubizhne City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a two-year term);
562. [Case No. 423/487/17](#), Judgement of 18 December 2017, Rubizhne City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a two-year term);
563. [Case No. 331/10293/17](#), Judgement of 29 December 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to three years of imprisonment. The case proceeded to the [Court of Appeals of the Donetsk region](#) which dismissed the appeal without consideration as such that was submitted outside the thirty-day time-limit prescribed by law);
564. [Case No. 328/63/17](#), Judgement of 26 January 2018, Tokmak District Court of the Zaporizhia region (the Accused was sentenced to nine years of imprisonment)
565. [Case No. 243/8207/17](#), Judgement of 20 February 2018, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to six months of imprisonment);
566. [Case No. 219/10092/17](#), Judgement of 21 March 2018, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to one year of imprisonment);
567. [Case No. 419/987/18](#), Judgement of 24 May 2018, Novoaidar District Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years of imprisonment);

568. [Case No. 419/2395/16-к](#), Judgement of 25 May 2018, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years two months of imprisonment);
569. [Case No. 415/3989/18](#), Judgement of 31 May 2018, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to eight years of imprisonment);
570. [Case No. 233/1478/18](#), Judgement of 15 June 2018, Kostiantynivka City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to six months of arrest);
571. [Case No. 233/1479/18](#), Judgement of 15 June 2018, Kostiantynivka City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to six months of arrest);
572. [Case No. 225/5744/18](#), Judgement of 19 October 2018, Dzerzhinsky City Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to one year of imprisonment);
573. [Case No. 127/26250/18](#), Judgement of 6 November 2018, Vinnytsia City Court of the Vinnytsia region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years ten months of imprisonment);
574. [Case No. 127/26249/18](#), Judgement of 8 November 2018, Vinnytsia City Court of the Vinnytsia region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years ten months of imprisonment);
575. [Case No. 127/26248/18](#), Judgement of 9 November 2018, Vinnytsia City Court of the Vinnytsia region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years ten months of imprisonment);
576. [Case No. 607/491/17](#), Judgement of 5 December 2018, Ternopil City District Court of the Ternopil region (the Accused was sentenced to four years six months of imprisonment);
577. [Case No. 127/4482/17](#), Judgement of 12 December 2018, Vinnytsia City Court of the Vinnytsia region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years of imprisonment);
578. [Case No. 425/1334/19](#), Judgement of 19 April 2019, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years of imprisonment);

579.	Case No. 425/1532/19 , Judgement of 4 June 2019, Rubizhne City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);		
580.	Case No. 233/4827/17 , Judgement of 31 July 2019, Kostiantynivka City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years of imprisonment);		
581.	Case No. 415/3205/19 , Judgement of 23 August 2019, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to three years of imprisonment);		
582.	Case No. 408/5236/17 , Judgement of 28 August 2019, Lysychansk City Court of the Luhansk region (the Accused was sentenced to four years two months of imprisonment);		
583.	Case No. 461/2241/18 , Judgement of 24 December 2019, Rubizhne City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years six months of imprisonment. The Accused was released from serving his sentence because he was included in the prisoners' exchange list under the Minsk Agreement);		
584.	Case No. 314/3852/18 , Judgement of 25 February 2020, Zavodsky District Court of Zaporizhia (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to one year six months of imprisonment);		
585.	Case No. 236/1240/20 , Judgement of 14 April 2020, Krasnoymansky City Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);		
586.	Case No. 236/1241/20 , Judgement of 15 April 2020, Krasnoymansky City Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term).		
587.	Case No. 235/4946/15-k , Judgement of 23 September 2016, Krasnoarmiysk City	Citizen of Ukraine, assisted the DPR	<p>Court findings:</p> <p>The Accused provided reconnaissance information concerning the location of the UAF and results of the latest attacks to the DPR.</p>
			Art. 258-3(1) of the CCU as participation in a terrorist organisation;

<p>District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, on the ground of incorrect application of law and incompatibility of the low sentence with the gravity of the conduct. The Court quashed the judgement of the first instance, requalified the conduct and rendered a new verdict</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which quashed the judgement of the Court of Appeals and ordered a retrial</p> <p>Retrial is paused pending arrest of the Accused</p>		<p>The Court changed the legal qualification from participation in a terrorist organisation as submitted by the Prosecution (Art. 258-3(1) of the CCU) to participation in the activities of an illegal armed group (Art. 260(2) of the CCU). In view of the Court, due to the lack of a procedure for recognising an organisation as a terrorist one, it was impossible to apply the provisions of the Law of Ukraine “On Combating Terrorism”, which required a court decision to recognise the organisation as a terrorist one. There was not court decision in Ukraine which recognises the DPR as a terrorist organisation. The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years and three months of imprisonment.</p> <p>The Court of Appeals quashed the judgement of the first instance. The Court held that Ukrainian legislation does not require recognition of an organisation as a terrorist one by a particular legal act. In any case, the Court contended, there was a Parliamentary resolution recognising the DPR and LPR as terrorist organisations. The Accused was found guilty of participation in a terrorist organisation (Art.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
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			<p>258-3(1) of the CCU) and sentenced to four years of imprisonment.</p> <p>This judgement was quashed by the Criminal Court of Cassation of the Supreme Court and the case was sent to a first instance court for a retrial.</p>	
588.	<p>Case No. 522/5622/16-k, Judgement of 27 September 2016, Sloviansk City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, member of the DPR's "People's Militia of Donbas" unit</p>	<p><u>Court findings:</u></p> <p>The Accused being armed participated in hostilities against the UAF, captured governmental buildings in Sloviansk and undertook military training in Moscow and Crimea, organised by the Federal Security Service of Russia. He also posted agitation information about the DPR in social media.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to ten years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

<p>589.</p>	<p>Case No. 225/523/16-к, Judgement of 18 October 2016, Dzerzhinsky City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of Donetsk region, on the grounds of incorrect application of the law and incompability of the low sentence with the gravity of the conduct. The Court granted the Prosecution’s appeal in part, quashed the trial judgement finding the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p><u>Court findings:</u></p> <p>The Accused gathered the information on locations and routes of the ATO forces and weapons and, via his partner, transferred it to the DPR members.</p> <p>The Accused pleaded not guilty. During the trial, the Court rejected the Prosecution’s qualification of the case as assistance to a terrorist organisation (Art. 258-3(1) of the CCU) and found the Accused guilty of an unplanned assistance to the members of a criminal organisation (Art. 256(1) of the CCU), sentencing him to four years of imprisonment.</p> <p>The Court of Appeal partially granted the Prosecution motion, quashed the trial judgement, finding the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 256(1) of the CCU as unplanned assistance to the members of a criminal organisation;</p> <p>The Court of Appeals chanded the qualification to Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation.</p>
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	Supreme Court , which upheld the judgement			
590.	Case No. 236/733/16-k , Judgement of 12 December 2016, Krasnolymansky City Court of the Donetsk region	Citizen of Ukraine, analyst of the Information and Analytical Centre at the Anti-Terrorist Centre of the Ministry of Defence of the DPR	<p>Court findings:</p> <p>The Accused as a DPR member received information from other persons on the location of the UAF, which was then used by the DPR.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to eight years of imprisonment.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
591.	Case No. 243/5706/16-k , Judgement of 12 December 2016, Sloviansk City District Court of the Donetsk region	Citizen of Ukraine, commander of the 1st Motorised Rifle Battalion of the Ministry of Defence of the DPR	<p>Court findings:</p> <p>The Accused served as commander and deputy commander of various DPR units. He participated in hostilities against the UAF which caused death of Ukrainian servicemen. He also conducted reconnaissance activities to obtain information about the ATO.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 12 years of imprisonment with confiscation of all his property.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

<p>592.</p>	<p>Case No. 433/1642/16-к, Judgement of 27 December 2016, Troyitske District Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, which upheld the judgement</p>	<p>Citizen of Ukraine, officer-trainer of the Luhansk Cossack Cadet Corps of the LPR</p>	<p><u>Court findings:</u></p> <p>As an officer-trainer, the Accused supervised a platoon of cadets and provided military training to them for further participation in hostilities against the UAF.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.</p>
<p>593.</p>	<p>Case No. 766/6807/16-к, Judgement of 13 January 2017, Kherson City Court of the Kherson region</p>	<p>Citizen of Ukraine, ensign of the Rapid Response Group of the 6th Military Commandant's Office of the DPR</p>	<p><u>Court findings:</u></p> <p>In 2014, the Accused enlisted in the DPR, where he received weapons and attacked checkpoints of the ATO forces.</p> <p>The court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to nine years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation</p>

594.	Case No. 607/7838/16-к , Judgement of 31 January 2017, Ternopil City District Court of the Ternopil region	Citizen of Ukraine, member of the Third Motorised Battalion of the DPR	<p>Court findings:</p> <p>As a DPR member, in 2015-2016, the Accused participated in hostilities against the UAF, received monthly financial support and weapons from the DPR. Specifically, in February 2015, the Accused participated in capture of a city in the Donetsk region.</p> <p>At the same time, the Accused together with other DPR members of the DPR seized a column of five cars of the UAF and ordered his subordinates to shoot two captured Ukrainian servicemen.</p> <p>Further, the Accused was a commandant of a squadron in Donetsk and oversaw the detention of three POWs who were servicemen of the UAF. The Accused also instructed his subordinates and oversaw security, preservation of military equipment, premises, territory and weapons of the DPR.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to 14 years of</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
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			imprisonment with confiscation of all his property.	
595.	Case No. 569/1144/16-k , Judgement of 2 February 2017, Rivne City Court of the Rivne region	Citizen of Ukraine, LPR member	Court findings: The Accused, while being armed, served at a checkpoint and guarded it. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to three years of imprisonment.	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
596.	Case No. 415/1771/16-k , Judgement of 14 February 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, first Deputy Head of the Perevalsk District Administration of the LPR	Court findings: The Accused served as the first Deputy Head of the Perevalsk District Administration of the LPR and was responsible for management of business and agriculture activities in the district. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to two years and two months of imprisonment.	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
597.	Case No. 607/10797/16-k , Judgement of 14 February 2017, Ternopil City District Court of the Ternopil region	Citizen of Ukraine, member of the 5th Battalion and the 1st Sloviansk Battalion	Court findings: After the Accused joined the DPR, he undertook military training. He served as an assistant chief of staff of a battalion and performed various tasks related to the activities of his battalion.	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

			<p>In February-August 2016, he participated in hostilities against the UAF and reconnaissance operations as a sniper.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 14 years of imprisonment with confiscation of all his property.</p>	
598.	Case No. 727/9228/16-k , Judgement of 28 February 2017, Shevchenkivsky District Court of Chernivtsi	Citizen of Ukraine, member of the reconnaissance unit "Square A" of the Seventh separate motorised infantry brigade of the DPR, and the Second Company of the Special Purpose of the Main Intelligence Directorate of the First Army Corps of the DPR	<p>Court findings:</p> <p>The Accused, as a DPR member, was a commander of an armoured personnel carrier and participated in hostilities against the UAF.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation under Art. 258-3(1) of the CCU and sentenced to 11 years of imprisonment with confiscation of all his property, except real estate.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

599.	Case No. 243/1923/17 , Judgement of 5 May 2017, Sloviansk City District Court of the Donetsk region	Citizen of Ukraine, DPR member	Court findings: The Accused held various positions with the DPR, guarded buildings and participated in hostilities against the UAF. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to three years of imprisonment.	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
Other judgements on the similar set of circumstances are listed below chronologically. In all these cases, the Accused participated in hostilities against the UAF, conducted reconnaissance operations, patrolled the territory and guarded the administrative buildings, as well as carried out other activities on behalf of DPR/LPR units. The Accused were found guilty of participating in a terrorist organisation (Art. 258-3(1) of the CCU).				
600.	Case No. 243/3921/17 , Judgement of 23 May 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to five years of imprisonment. The Court of Appeals of the Donetsk region subsequently upheld the judgement);			
601.	Case No. 323/406/17 , Judgement of 12 June 2017, Orikhiv District Court of the Zaporizhia region (the Accused was sentenced to eight years of imprisonment);			
602.	Case No. 183/2152/17 , Judgement of 11 August 2017, Novomoskovsk City District Court of the Dnipropetrovsk region (the Accused was sentenced to eight years of imprisonment. The case proceeded to the Court of Appeals of the Dnipropetrovsk region . However, later, the Accused withdrew his appeal, and the Court closed the appellate proceedings);			
603.	Case No. 522/962/16-k , Judgement of 9 November 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to ten years of imprisonment);			
604.	Case No. 243/3013/17 , Judgement of 14 December 2017, Artemivsk City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);			

605. [Case No. 409/2867/16-к](#), Judgement of 18 December 2017, Kreminna District Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to four years and five months seven days of imprisonment);
606. [Case No. 415/6903/17](#), Judgement of 19 December 2017, Lysychansk City Court of the Luhansk region (the Accused was sentenced to five years of imprisonment but was released from serving the sentence on probation);
607. [Case No. 331/624/18](#), Judgement of 8 February 2018, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to four years of imprisonment);
608. [Case No. 310/7622/16-к](#), Judgement of 18 May 2018, Pryazovsky District Court of the Zaporizhia region (the Accused was sentenced to eight years of imprisonment);
609. [Case No. 328/2160/17](#), Judgement of 15 June 2018, Tokmak District Court of the Zaporizhia region (the Accused was sentenced to eleven years of imprisonment with confiscation of all his property);
610. [Case No. 712/5749/15-к](#), Judgement of 26 June 2018, Sosnivsky District Court of Cherkasy (the Accused was sentenced to five years eight months of imprisonment);
611. [Case No. 233/3032/18](#), Judgement of 23 August 2018, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment with confiscation of all his property);
612. [Case No. 727/8850/18](#), Judgement of 3 October 2018, Shevchenkivsky District Court of Chernivtsi (the Accused was sentenced to nine years of imprisonment with confiscation of all his property except his apartment);
613. [Case No. 311/614/17](#), Judgement of 5 November 2018, Vasylivka District Court of the Zaporizhia region (the Accused was sentenced to nine years of imprisonment);
614. [Case No. 328/1796/18](#), Judgement of 30 November 2018, Tokmak District Court of the Zaporizhia region (the Accused was sentenced to four years of imprisonment);
615. [Case No. 314/8121/16-к](#), Judgement of 30 November 2018, Vilniansk District Court of the Zaporizhia region (the Accused was sentenced to ten years of imprisonment);

616. [Case No. 318/2842/16-к](#), Judgement of 17 December 2018, Zhovtnevyi District Court of Zaporizhia (the Accused was sentenced to nine years of imprisonment);
617. [Case No. 233/3432/16-к](#), Judgement of 18 December 2018, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to nine years of imprisonment with confiscation of all his property);
618. [Case No. 766/10952/17](#), Judgement of 20 December 2018, Berdyansk City District Court of the Zaporizhia region (the Accused was sentenced to eight years of imprisonment; the case proceeded to the [Court of Appeals of Zaporizhia region](#), but the Court dismissed the appeal and left the Judgement of the first instance court unchanged);
619. [Case No. 359/8408/17](#), Judgement of 15 January 2019, Boryspil City District Court of the Kyiv region (the Accused was sentenced to four years of imprisonment);
620. [Case No. 243/1640/19](#), Judgement of 27 March 2019, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment);
621. [Case No. 414/920/19](#), Judgement of 10 April 2019, Kreminna District Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to eight years of imprisonment);
622. [Case No. 653/1919/19](#), Judgement of 4 July 2019, Hola Prystan District Court of the Kherson region (the Accused was sentenced to eight years of imprisonment);
623. [Case No. 331/2599/19](#), Judgement of 23 July 2019, Zhovtnevyi District Court of Zaporizhia (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment);
624. [Case No. 237/3814/19](#), Judgement of 16 September 2019, Krasnoarmiysk City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment);
625. [Case No. 419/3786/19](#), Judgement of 30 September 2019, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to eight years of imprisonment);
626. [Case No. 233/66/17](#), Judgement of 7 October 2019, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to ten years of imprisonment);

627. [Case No. 219/3626/19](#), Judgement of 11 October 2019, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to ten years of imprisonment with confiscation of all his property);
628. [Case No. 235/3607/19](#), Judgement of 4 December 2019, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to eight years six months of imprisonment);
629. [Case No. 378/996/19](#), Judgement of 18 December 2019, Volodarka District Court of the Kyiv region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);
630. [Case No. 461/8459/18](#), Judgement of 21 December 2019, Lysychansk City Court of the Luhansk region (the Accused was sentenced to eight years of imprisonment with confiscation of all his property. The Accused was released from serving his sentence because he was included in the prisoners' exchange list under the Minsk Agreement);
631. [Case No. 243/13556/19](#), Judgement of 24 December 2019, Sloviansk City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment);
632. [Case No. 761/8049/20](#), Judgement of 24 March 2020, Shevchenkivsky District Court of Kyiv (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);
633. [Case No. 415/2068/20](#), Judgement of 9 April 2020, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to eight years of imprisonment);
634. [Case No. 423/851/20](#), Judgement of 13 April 2020, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to eight years of imprisonment);
635. [Case No. 243/14629/19](#), Judgement of 14 April 2020, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment);
636. [Case No. 415/9693/19](#), Judgement of 14 April 2020, Lysychansk City Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);

637.	Case No. 243/13774/19 , Judgement of 28 May 2020, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to eight years and one month of imprisonment).			
638.	Case No. 727/2640/17 , Judgement of 26 May 2017, Shevchenkivsky District Court of Chernivtsi	Citizen of Ukraine, member of the Vostok brigade, the 11th Dunayisko-Yenakiyevo Motorised Rifle Regiment of the 1st Army Corps of the People's Militia of the DPR	<p>Court findings:</p> <p>The Accused, as an armed member of the DPR's "Vostok brigade", guarded DPR positions and checkpoints. After he joined another regiment, he participated in hostilities against the UAF.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 11 years of imprisonment with confiscation of all his property.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
639.	Case No. 727/2486/17 , Judgement of 2 June 2017, Shevchenkivsky District Court of Chernivtsi	Citizen of Ukraine, member of the Somali battalion and a separate reconnaissance platoon of the 2nd Motorised Rifle Battalion of the 5th Brigade of the DPR	<p>Court findings:</p> <p>The Accused was a member of different DPR units, acting as a sniper, machine gunner, gunner-operator, participated in hostilities against the UAF and carried out reconnaissance activities.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to 11</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

			years of imprisonment with confiscation of all her property, except real estate.	
640.	<p>Case No. 225/6385/15-к, Judgement of 6 June 2017, Dzerzhinsky City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the first instance court's judgement</p>	<p>Citizen of Ukraine, Deputy Head of Department - Head of the Unit for Combating Trafficking in Human Beings of the Department for Combating Crimes Related to Trafficking in Human Beings of the Ministry of Internal Affairs of Ukraine in the Donetsk region until July 2014; Deputy Minister of Internal Affairs of the DPR</p>	<p>Court findings:</p> <p>Before 2014, the Accused worked for the Ukrainian law enforcement.</p> <p>In May-June 2014, the Accused participated in seizure of administrative buildings by the DPR, heading the operations.</p> <p>After joining the DPR in 2014, the Accused served as a Deputy Minister of Internal Affairs (MIA) of the DPR and an acting MIA of the DPR. The head of the DPR awarded him with the rank of the Major General of the Police and the title "Hero of the DPR" for participation in the hostilities in Debaltseve.</p> <p>The Accused was found guilty of participation in a terrorist organisation, and other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU). He was sentenced to 12 years of imprisonment with confiscation of all his property and deprivation of a right to hold an office at the MIA of Ukraine for three years.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.</p>
641.	<p>Case No. 242/3982/16-к, Judgement of 12 June</p>	<p>Citizen of the Russian Federation, judge of the</p>	<p>Court findings:</p> <p>In September 2014, the Accused was appointed the head of the Supreme Court of the DPR. While</p>	<p>Art. 258-3(1) of the CCU as organisational assistance to the activities of a terrorist organisation.</p>

	<p>2017, Selidovo City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region on the ground that the court of the first instance failed to admit the evidence which was admissible. The Court of Appeals quashed the judgement of the first instance court and passed a new sentence, whereby it found the Accused guilty of assistance to a terrorist organisation</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which upheld the judgement of the Court of Appeals</p>	<p>Supreme Court of the DPR</p>	<p>in the office, he organised and held a briefing on the statistics of proceedings at DPR courts and the structure of the DPR judicial system. As part of his duties, the Accused signed orders, held a plenary session of the Supreme Court, organised the work of his employees and coordinated the work of the DPR's law enforcement agencies.</p> <p>The Court of the first instance acquitted the Accused of organisational assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) on several grounds. In the opinion of the Court, the Prosecution failed to provide evidence of existence of a terrorist organisation and crimes committed by it. The Court also ruled that the Prosecution failed to specify the time of the commission of the crime, the motive and purpose of the Accused as parts of <i>actus reus</i> and <i>mens rea</i> of the crime, respectively. Moreover, the Court did not receive a confirmation that the Accused was properly notified of suspicion.</p> <p>The Court of Appeals ruled that the evidence assessment given by the court of first instance was biased and one-sided, and rejected all the grounds for acquittal as ill-substantiated. The</p>	
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			<p>Court of Appeals quashed the first instance court's judgement, found the Accused guilty of organisational assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 12 years of imprisonment. The Supreme Court of Ukraine later upheld the judgement of the Court of Appeals.</p>	
642.	<p>Case No. 219/3059/16-к, Judgement of 15 June 2017, Kramatorsk City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which discontinued the when the defence withdrew its appeal</p>	<p>Citizen of Ukraine, member of the 1st Sloviansk Brigade, the second company of the second regiment of the Republican Guard of the DPR</p>	<p>Court findings:</p> <p>The Accused served in different DPR military units as an artillery gunner, conducted military trainings for other DPR members, participated in the DPR parades and took part in hostilities, conducting artillery shelling of the UAF positions.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
643.	<p>Case No. 727/5214/17, Judgement of 17 July 2017, Shevchenkivsky District Court of Chernivtsi</p>	<p>Citizen of Ukraine, member of the DPR's Oplot group</p>	<p>Court findings:</p> <p>The Accused joined the DPR, where she recruited new DPR members among local residents.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			<p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to ten years of imprisonment with confiscation of all her property, except real estate.</p>	
644.	Case No. 607/8476/17 , Judgement of 19 July 2017, Ternopil City District Court of the Ternopil region	Citizen of Ukraine, assisted the LPR	<p>Court findings:</p> <p>The Accused provided his crawler excavator for the LPR's usage.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation, committed upon prior conspiracy of a group of persons (Arts 28(2), 258-3(1) of the CCU) and sentenced him to a fine of 850,000 UAH.</p>	Arts 28(2), 258-3(1) of the CCU as assistance to the activities of a terrorist organisation, committed upon prior conspiracy of a group of persons.
645.	Case No. 325/1095/15-к , Judgement of 23 August 2017, Pryazovske District Court of the Zaporizhia region	Citizen of Ukraine, head of the DPR's administration of the Novoazovsk district	<p>Court findings:</p> <p>In May 2014, being an acting chief of the Mariupol Department of the MIA of Ukraine, the Accused participated in a press-conference with the DPR members. During this press-conference, the Accused agreed to participate</p>	Art. 258-3(1) of the CCU as organisational assistance to the activities of a terrorist organisation.

			<p>in DPR activities of patrolling the city. As a member of the DPR, he became a head of the DPR administration of the Novoazovsk district and issued orders, including on curfew in the Novoazovsk district.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of organisational assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 11 years of imprisonment.</p>	
646.	<p>Case No. 419/2180/17, Judgement of 23 August 2017, Lysychansk City Court of the Luhansk region</p>	<p>Citizen of Ukraine, commander of the group of snipers of the 4th separate mechanised brigade of the 2nd army corps and chief of staff of the battalion of the People's Militia of "Bryanka USSR" of the LPR</p>	<p>Court findings:</p> <p>In July 2014-November 2016, the Accused was a commander of a military group of snipers of the LPR, participated in hostilities against the UAF and supervised his subordinates.</p> <p>On 1 September 2015, together with other LPR members, the Accused placed two mines on the road and the surrounding areas to ensure the complete destruction of the mobile group of the UAF "Schastia" with additional fire from a grenade launcher. After the mine detonated, the accomplices of the Accused fired at the car</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 258(3) of the CCU as committing a terrorist act, <i>i.e.</i>, use of weapons to disrupt public safety, intimidate the population, provoke a military conflict, international complication upon prior conspiracy of a group of persons that resulted in death and other serious consequences.</p>

			<p>twice. As a result of the attack, two Ukrainian servicemen died and four were injured.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and committing a terrorist act (Art. 258(3) of the CCU) and sentenced him to 12 years of imprisonment.</p>	
647.	<p>Case No. 727/6836/17, Judgement of 4 October 2017, Shevchenkivsky District Court of Chernivtsi</p>	<p>Citizen of Ukraine, member of the Eleventh Regiment of the First Armed Corps of the DPR</p>	<p>Court findings:</p> <p>The Accused joined the DPR as a Deputy Commander for Disciplinary Work. In 2014-2015, he participated in hostilities against the UAF, during which Ukrainian servicemen were killed and the UAF's equipment was damaged. He was also responsible for the work with the DPR personnel.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation and assistance to its activities (Art. 258-3(1) of the CCU) and sentenced to 11 years of imprisonment with</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to its activities.</p>

			confiscation of all his property, except the real estate property.	
648.	Case No. 537/4700/16-K , Judgement of 19 October 2017, Kryukivsky District Court of Kremenchuk, Poltava region	Citizen of Ukraine, commander of the 2nd Battalion of the 1st Army Corps of the DPR, the 6th Battalion of the 1st Army Corps of the DPR, Deputy Head of the Combat Training Brigade of the 1st Army Corps of the DPR	<p>Court findings:</p> <p>After joining the DPR, the Accused participated in hostilities against the UAF. He also served as a commander of two battalions, overseeing participation of his subordinates in hostilities against the UAF, and a head of the combat training, directing the actions of the participants of his battalion during attacks on the UAF.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to ten years of imprisonment with confiscation of all his property.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
	Other judgements on a similar set of factual circumstances are listed below chronologically:			
649.	Case No. 328/836/17 , Judgement of 2 May 2018, Tokmak District Court of the Zaporizhia region (the Accused was sentenced to ten years of imprisonment with confiscation of all his property);			
650.	Case No. 328/1471/17 , Judgement of 18 June 2018, Tokmak District Court of the Zaporizhia region (the Accused was sentenced to 11 years of imprisonment with confiscation of all his property);			

651.	Case No. 242/3335/17 , Judgement of 3 August 2018, Dymytrovsky City Court of the Donetsk region (the Accused was sentenced to nine years of imprisonment with confiscation of all his property);			
652.	Case No. 461/1350/18 , Judgement of 27 November 2018, Halytsky District Court of Lviv (the Accused was sentenced to ten years of imprisonment with confiscation of all his property);			
653.	Case No. 766/5095/17 , Judgement of 13 March 2019, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to ten years of imprisonment);			
654.	Case No. 310/686/17 , Judgement of 28 February 2020, Berdyansk City District Court of the Zaporizhia region (the Accused was sentenced to ten years of imprisonment, with confiscation of all his property, except his place of residence);			
655.	Case No. 263/5108/20 , Judgement of 24 September 2020, Illichivsk District Court of Mariupol, Donetsk region (the Accused was sentenced to nine years of imprisonment).			
656.	Case No. 761/31167/17 , Judgement of 26 October 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, an acting director of an enterprise in the Luhansk region	<p>Court findings:</p> <p>As an acting director of an enterprise in the Luhansk region, the Accused provided the LPR with ammunition that was manufactured by the mentioned enterprise.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to five years of imprisonment with a release on probation for a two-year term.</p>	Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation.

657.	<p>Case No. 221/4110/16-k, Judgement of 6 November 2017, Illichivsk District Court of Mariupol of the Donetsk region</p>	<p>Citizen of Ukraine, DPR member</p>	<p><u>Court findings:</u></p> <p>The Accused, being an armed DPR member, served at a checkpoint and guarded the Ukrainian servicemen captured by the DPR.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
658.	<p>Case No. 221/3499/16-k, Judgement of 4 December 2017, Illichivsk District Court of Mariupol, Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which dismissed it after the defence withdrew its appeal</p>	<p>Citizen of Ukraine, member of the DPR's Oplot battalion and military units 08810 and 08805 of the DPR's Ministry of Defence</p>	<p><u>Court findings:</u></p> <p>The Accused served as a driver and a mechanic in the DPR units, patrolled the territory and participated in other activities of his units.</p> <p>The Court found the Accused guilty of other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation.</p>
659.	<p>Case No. 219/2036/15-k, Judgement of 8 December 2017, Artemivsk City District Court of the Donetsk region</p>	<p>The three Accused are citizens of Ukraine, members of the DPR</p>	<p><u>Court findings:</u></p> <p>In April-July 2014, the three Accused guarded the building of the prosecutor's office in Artemivsk, Donetsk region, which was under the DPR's control. They also guarded detainees in</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			<p>the building and basement of the Artemivsk prosecutor's office, particularly five local residents who were beaten and subjected to forced labour by the DPR representatives.</p> <p>The Accused were found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to five years and one month of imprisonment each.</p>	
660.	<p>Case No. 234/14629/16-к, Judgement of 12 December 2017, Sloviansk City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, former head of the Kramatorsk Department of the MIA of Ukraine, DPR member</p>	<p>Court findings:</p> <p>Before 2014, the Accused was a head of the Kramatorsk Police Department of Ukraine. He joined DPR and inclined other police officers to do the same, to transfer their service weapons to him for the DPR's purposes and to participate in patrolling of the streets jointly with the DPR members.</p> <p>In April-May 2014, the Accused ordered his subordinates to identify and arrest pro-Ukrainian civilians and UAF servicemen, assisted the DPR members in illegal detention of a police inspector, and threatened a civilian with physical violence.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to two</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			years seven months and three days of imprisonment.	
661.	Case No. 227/4234/15-K , Judgement of 15 December 2017, Dobropillia City District Court of the Donetsk region	Citizen of Ukraine, assisted the DPR	<p>Court findings:</p> <p>The Accused, acting jointly with other armed DPR members, arrived in the territory of the plant of concrete structures and building materials, started to demand building materials for the construction of the DPR checkpoints and subsequently obtained them.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to four years and seven months of imprisonment.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.
662.	Case No. 409/2349/17 , Judgement of 18 December 2017, Rubizhne City Court of the Luhansk region	Citizen of Ukraine, member of a separate battalion of material support of the 2nd army corps of People's militia of the LPR	<p>Court findings:</p> <p>The Accused was a dispatcher of an LPR battalion and provided instructions to the LPR members on the movement of vehicles, provision of ammunition and other materials.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to five</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

			years of imprisonment with a release on probation for a one-year term.	
663.	<p>Case No. 428/3280/16-k, Judgement of 18 December 2017, Starobilsk District Court of the Luhansk region</p>	<p>Citizen of Ukraine, operative officer of the criminal investigation department of the Kamyanobrodsky District Department of the MIA of the LPR</p>	<p>Court findings:</p> <p>The Accused served as an officer of the criminal investigation department of the MIA of the LPR, performing the duties assigned to him by the LPR.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to two years, five months, and twenty-four days of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
664.	<p>Case No. 761/25764/16-k, Judgement of 18 December 2017, Shevchenkivsky District Court of Kyiv</p> <p>The case proceeded to the Kyiv City Court of Appeals, which dismissed the appeal of the defence as it lacked substantial arguments</p>	<p>Citizen of Ukraine, head of the DPR's rear service</p>	<p>Court findings:</p> <p>The Accused was a head of the DPR's rear service, provided materials, vehicles, ammunition, and other means to the DPR members who waged hostilities against the UAF.</p> <p>He also approved seizure of property of a private entrepreneur by the DPR members.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to five years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.</p>

665.	Case No. 310/10054/15-к , Judgement of 19 December 2017, Berdyansk City District Court of the Zaporizhia region	Citizen of Ukraine, member of the Police of the Ministry of Internal Affairs of the DPR, an operative officer at the department of fight against economic crimes and corruption of the Torez city department of the MIA of the DPR	<p>Court findings:</p> <p>When the building of the Main Directorate of the MIA of Ukraine in the Donetsk region was seized on 1 July 2014, the Accused refused to execute the order of his supervisor to relocate to Mariupol and serve in the Ukrainian police there. Instead, he joined the DPR as an operative officer.</p> <p>The Accused monitored criminal activities in Torez; identified alleged suspects; detained persons for alleged theft with subsequent seizure of their vehicles; stole alcoholic beverages in stores; facilitated the DPR investigations; threatened individual entrepreneurs with violence and damage to their property.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of organisational assistance to the operation of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to ten years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as organisational assistance to the activities of a terrorist organisation.</p>
<p>Other judgements on a similar set of factual circumstances are listed below chronologically:</p>				

666.	Case No. 310/7096/17 , Judgement of 28 March 2018, Berdyansk City District Court of the Zaporizhia region (the Accused was sentenced to nine years of imprisonment with confiscation of all his property);		
667.	Case No. 243/8929/15-к , Judgement of 15 November 2018, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to nine years of imprisonment);		
668.	Case No. 324/585/17 , Judgement of 21 October 2019, Kuibyshevsky District Court of the Zaporizhia region (the Accused was sentenced to ten years of imprisonment with confiscation of all his property).		
669.	Case No. 727/11271/17 , Judgement of 28 December 2017, Shevchenkivsky District Court of Chernivtsi	Citizen of Ukraine, member of the DPR's Vostok brigade	<p>Court findings:</p> <p>The Accused, being a DPR member, recruited new members of the DPR and participated in hostilities against the UAF.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to its activities (Art. 258-3(1) of the CCU) and sentenced her to 11 years of imprisonment with confiscation of all her property.</p>
<p>Other judgements on a similar set of circumstances are listed below chronologically. In all these cases, the Accused participated in hostilities against the UAF, and organised /carried out other activities of the D/ LPR or recruited personnel for the D/LPR. The Accused were found guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU).</p>			
670.	Case No. 727/9418/17 , Judgement of 7 December 2017, Shevchenkivsky District Court of Chernivtsi (the Accused was sentenced to 11 years of imprisonment with confiscation of all property);		

671.	Case No. 235/6583/16-k , Judgement of 15 December 2017, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to eight years and six months of imprisonment);			
672.	Case No. 727/13005/17 , Judgement of 16 March 2018, Shevchenkivsky District Court of Chernivtsi (the Accused was sentenced to ten years of imprisonment);			
673.	Case No. 727/7959/17 , Judgement of 5 April 2018, Shevchenkivsky District Court of Chernivtsi (the Accused was sentenced to ten years of imprisonment with confiscation of all his property);			
674.	Case No. 727/3812/18 , Judgement of 26 June 2018, Shevchenkivsky District Court of Chernivtsi (the Accused was sentenced to ten years of imprisonment with confiscation of all property, except his place of residence).			
675.	<p>Case No. 227/678/17, Judgement of 20 April 2018, Dobropillia City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region as such which allegedly lacked proof of the accused participation in the crime. The Court quashed the judgement of the first instance court and sent the case for a retrial due to procedural violations, including lack of</p>	<p>Citizen of Ukraine, judge of the Khartsyzk interdistrict court of the DPR</p>	<p>Court findings:</p> <p>In 2015, the Accused was appointed a judge of the Khartsyzsk interdistrict court of the DPR. In that role, he pronounced illegal decisions on behalf of the DPR releasing three convicts from serving their sentences for especially grave crimes and granting pecuniary and moral damage in a case that had been heard by a Ukrainian judge in 2013.</p> <p>The Accused had been notified of the proceedings against him but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation, as well as other assistance to the operation of a terrorist organisation (Art. 258-3(1) of the CCU) and</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation, as well as other assistance to the operation of a terrorist organisation.</p>

	<p>elaboration on (in)admissibility of evidence during the trial</p> <p>On retrial, the Dobropillia City District Court of the Donetsk region ordered to search for the Accused and suspended the court proceedings until the Accused is located</p>		<p>sentenced to nine years of imprisonment with confiscation of all his property.</p>	
676.	<p>Case No. 461/3086/17, Judgement of 16 May 2018, Halytsky District Court of Lviv</p>	<p>Citizen of Ukraine, member of the LPR and the DPR</p>	<p>Court findings:</p> <p>The Accused served in the DPR and LPR as a driver and a member of several military units.</p> <p>In January-February 2015, the Accused participated in hostilities against the UAF and in the capture of the UAF servicemen.</p> <p>The Accused had been notified of the proceedings against him but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to 10 years of</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			imprisonment with confiscation of all his property.	
677.	Case No. 727/2167/18 , Judgement of 17 May 2018, Shevchenkivsky District Court of Chernivtsi	Citizen of Ukraine, press secretary of the head of the DPR, director of the Department of Informational Policy and Public Relations of the Administration of the Head of the DPR	<p>Court findings:</p> <p>In 2014, the Accused became a press secretary of the head of the DPR. She served as the director of the Department of Information Policy and Public Relations of the Administration of the Head of the DPR, coordinating activities of media in the territories uncontrolled by Ukrainian government.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to eight years of imprisonment with confiscation of all her property, except her place of residence.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
678.	Case No. 242/4502/16-к , Judgement of 21 May 2018, Kostiantynivka City District Court of the Donetsk region	Citizen of Ukraine, head of the awards department of the Ministry of Defence of the DPR and member of the People's Council of the DPR, deputy	<p>Court findings:</p> <p>The Accused was a member of the DPR, serving as the head of the awards department of the Ministry of Defence of the DPR and the member of the People's Council of the DPR.</p> <p>As a deputy chairman of the Committee of the People's Council on Constitutional Legislation</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.

		<p>chairman of the Committee of the People's Council on Constitutional Legislation and Urban Development of the DPR</p>	<p>and Urban Development of the DPR, the Accused carried out various public functions, including holding meetings, preparing draft laws, organising activities of the DPR parliamentary bodies, coordinating and funding activities of other DPR members, etc.</p> <p>She also provided information on the location and movement of the UAF to the DPR members.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to eight years of imprisonment with confiscation of all her property.</p>	
679.	<p>Case No. 607/6748/17, Judgement of 1 June 2018, Ternopil City District Court of Ternopil region</p>	<p>Citizen of Ukraine, chief of staff of the LPR's unit "Bryanka USSR"</p>	<p>Court findings:</p> <p>The Accused was responsible for organising the work of the unit headquarters, liaised with other military units, checked the availability and condition of weapons and property for the unit, organised military training and recruitment of new members.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			<p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 15 years of imprisonment with confiscation of all his property.</p>	
680.	<p>Case No. 607/6746/17, Judgement of 13 June 2018, Ternopil City District Court of the Ternopil region</p>	<p>Citizen of Ukraine, member of the LPR's "Bryanka USSR" group</p>	<p>Court findings:</p> <p>The Accused, being a member of the LPR, participated in hostilities against the UAF, including the shelling of the ATO forces' positions. Further, he was arrested by the LPR police for shooting and wounding a civilian.</p> <p>The Accused had been notified of the proceedings against him but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to 14 years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

681.	<p>Case No. 727/454/18, Judgement of 3 August 2018, Shevchenkivsky District Court of Chernivtsi</p>	<p>Citizen of Ukraine, member of the Eleventh Regiment of the First Armed Corps of the DPR</p>	<p><u>Court findings:</u></p> <p>Having undergone military trainings, the Accused joined the DPR, servicing and operating a mortar. He participated in hostilities against the UAF and fired the mortar at the UAF's positions.</p> <p>The Accused had been notified of the proceedings against him but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation and assistance to its activities (Art. 258-3(1) of the CCU) and sentenced to 12 years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to its activities.</p>
682.	<p>Case No. 242/4942/16-k, Judgement of 24 September 2018, Dymytrovsky City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region because the defence argued that the court of the first</p>	<p>Citizen of Ukraine, a judge of the Supreme Court of the DPR</p>	<p><u>Court findings:</u></p> <p>Before 2014, the Accused served as a judge in the Donetsk region. In January 2015, she was appointed to the Supreme Court of the DPR.</p> <p>On 13 October 2015, the Accused participated in a hearing of the military tribunal of the Supreme Court of the DPR in a criminal case against a DPR member for committing banditisme, unlawful handling of weapons and</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to its activities.</p>

	<p>instance incorrectly concluded that the Accused was the DPR member. The Court of Appeals upheld the first instance court's judgement</p>		<p>aggravated murder which are punishable with death penalty.</p> <p>The Accused had been notified of the proceedings against her but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation and assistance to its activities (Art. 258-3(1) of the CCU) and sentenced to ten years of imprisonment with confiscation of all her property.</p>	
683.	<p>Case No. 264/7163/15-к, Judgement of 9 October 2018, Illichivsk District Court of Mariupol, Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, which closed the appellate proceedings when the parties withdrew their appeals</p>	<p>Two Accused were citizens of the Russian Federation affiliated with the DPR; three other Accused were citizens of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>All Accused collected information on the location and movement of the UAF and its military equipment, other activities of the UAF, including trainings and patrolling, and provided it to the DPR.</p> <p>The Court found all Accused guilty of other assistance to the activities of a terrorist organisation, committed upon prior conspiracy of a group of persons (Arts 28(2), 258-3(1) of the CCU). Two Accused were sentenced to ten years of imprisonment with confiscation of all their property, while the other three Accused were sentenced to five years of imprisonment.</p>	<p>Arts 28(2), 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation, committed upon prior conspiracy of a group of persons.</p>

684.	Case No. 310/5529/15-к , Judgement of 5 December 2018, Berdyansk City District Court of the Zaporizhia region	Citizen of Ukraine, a DPR member	<p>Court findings:</p> <p>The Accused, previously a Ukrainian police officer, joined the DPR and became a Chief of Criminal Police of Torez in 2014. In that role, he gave interviews about the close cooperation of the Torez Police with the DPR militia in apprehending criminals and searching for fugitives and the other activities of the Torez police units. Moreover, the Accused showed to an unidentified videographer the cells, where two unidentified female detainees were held for their alleged assistance to the UAF in locating the military ammunition and personnel of the DPR.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of organisational assistance to the operation of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to eight years of imprisonment with confiscation of all his property.</p>	Art. 258-3(1) of the CCU as organisational assistance to the operation of a terrorist organisation.
685.	Case No. 607/4329/17 , Judgement of 10 December 2018, Ternopil	Citizen of Ukraine, member of the LPR's "Bryanka USSR" group	<p>Court findings:</p> <p>In April 2014 - March 2017, the Accused was the deputy commander of the LPR's "Bryanka</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

	City District Court of the Ternopil region		<p>USSR” group, members of which committed robberies, looting, killings of civilians, terrorist acts and participated in hostilities against the UAF in the Luhansk region.</p> <p>In his role, the Accused led the activities of the group members, <i>i.e.</i>, directed the shelling at the UAF’s positions in Debaltseve, Donetsk region; coordinated fighters of the group who participated in hostilities against the UAF; provided the members with vehicles, ammunition and relevant documents.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to 14 years of imprisonment with confiscation of all his property.</p>	
686.	Case No. 263/1629/17 , Judgement of 12 December 2018, Zhovtnevy District Court of Mariupol, Donetsk region	Citizen of the Russian Federation, member of the DPR’s Vostok group; head of a department within the Security Council of the DPR; adviser	<p>Court findings:</p> <p>The Accused was a curator of one of the units within the DPR’s Vostok group and gave orders on reconnaissance and sabotage activities to his subordinates. He also assisted in organising trainings and issuing weapons to DPR members in the territory of the Russian Federation.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

		to the Internal Troops of the MIA of the DPR	<p>Further, he participated in hostilities against the UAF and received information about the location and routes of the UAF from his subordinates, transferring it to the other DPR members.</p> <p>As the head of a department within the Security Council of the DPR, the Accused supervised reconnaissance activities of the DPR and served as an adviser to the Internal Troops of the MIA of the DPR.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 15 years of imprisonment with confiscation of all his property.</p>	
687.	Case No. 233/6019/17 , Judgement of 26 December 2018, Kostiantynivka City District Court of the Donetsk region	Citizen of Ukraine, judge of the DPR's Central City Interdistrict Court of Makiyivka	<p>Court findings:</p> <p>The Accused was appointed as a judge of the Central City Interdistrict Court of Makiyivka, established by the DPR. At this position, she adjudicated applications on bringing the sentences imposed by the Ukrainian courts before 2014 in accordance with the Criminal Code of the DPR.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation and other assistance to the activities of a terrorist organisation.

			<p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to eight years of imprisonment with confiscation of all her property.</p>	
688.	<p>Similar judgements against the DPR judges were pronounced in at least two other cases:</p> <p>Case No. 233/5869/17, Judgement of 10 September 2019, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to nine years of imprisonment);</p>			
689.	<p>Case No. 233/6164/17, Judgement of 3 February 2020, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment with confiscation of all property).</p>			
690.	<p>Case No. 727/8119/18, Judgement of 18 January 2019, Shevchenkivsky District Court of Chernivtsi</p>	<p>Citizen of Ukraine, member of the DPR's Berkut brigade</p>	<p>Court findings:</p> <p>The Accused, being a DPR member, participated in hostilities against the UAF and defensive operations.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to ten</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			years and six months of imprisonment with confiscation of all his property.	
691.	<p>Case No. 727/13085/18, Judgement of 12 March 2019, Shevchenkivsky District Court of Chernivtsi</p> <p>The case proceeded to the Court of Appeals of the Chernivtsi region on the ground that the conduct of the Accused did not constitute the crime of participation in a terrorist organisation. The Court upheld the trial judgement</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which granted the appeal in part and sent the case for reconsideration at the Court of Appeals, finding that the court failed to consider the defence arguments concerning</p>	Citizen of Ukraine, platoon commander of the DPR's Vostok brigade	<p>Court findings:</p> <p>The Accused organised and coordinated the actions of the DPR unit in hostilities against the UAF, participated in organisation and training of sabotage and reconnaissance groups, selected personnel for his unit.</p> <p>He participated in hostilities against the UAF during which UAF's servicemen were killed and wounded.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to ten years of imprisonment with confiscation of all his property. Following numerous appeals, the retrial is ongoing.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

	<p>admissibility of the evidence</p> <p>On reconsideration, the Court of Appeals of the Chernivtsi region sent the case for a retrial to the first instance court</p>			
692.	<p>Case No. 242/505/17, Judgement of 14 March 2019, Dymyrovsky City Court of the Donetsk region</p>	<p>Citizen of Ukraine, judge of the Supreme Court of the DPR</p>	<p>Court findings:</p> <p>The Accused, who served as a judge of the Court of Appeals before 2014, was appointed to the Supreme Court of the DPR. She participated in the Plenum of the Supreme Court of the DPR as the first deputy chairperson.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to ten years of imprisonment with confiscation of all her property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.</p>
693.	<p>Case No. 233/261/18, Judgement of 12 April 2019, Kostiantynivka City</p>	<p>Citizen of Ukraine, commander of the</p>	<p>Court findings:</p> <p>The Accused, who served at the of Ukrainian MIA in 2014, participated in the armed seizure</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	District Court of the Donetsk region	DPR's Sloviansk company	<p>of the building of the Kostiantynivka police department and then guarded the building.</p> <p>He appealed to the President of the Russian Federation for support in the activities of the DPR in a publicly available video.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	
694.	Case No. 607/9951/18 , Judgement of 16 April 2019, Ternopil City District Court of the Ternopil region	Citizen of Ukraine, member of the LPR's group "Bryanka USSR"	<p>Court findings:</p> <p>The Accused served as a radio operator of the LPR's "Bryanka USSR" group, providing communication between the members and organising documentation of the military unit.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced her to eight years of imprisonment with confiscation of all her property.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

695.	<p>Case No. 242/4713/15-к, Judgement of 20 May 2019, Dymytrovsky City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the judgement of the first instance court</p>	<p>Citizen of Ukraine, head of the Investigative Department of the General Prosecutor's Office of the DPR</p>	<p>Court findings:</p> <p>The Accused, who previously worked for the Ukrainian prosecutor's office, was appointed a head of the Investigative Department of the General Prosecutor's Office of the DPR. At his position, the Accused was issued instructions and orders to his subordinates on conducting investigative actions, arresting persons, organising illegal inspections at enterprises and organisations.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to nine years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation.</p>
696.	<p>Case No. 233/4574/17, Judgement of 31 May 2019, Kostiantynivka City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, head of the Makiyivka City Department of the Ministry of State Security of the DPR</p>	<p>Court findings:</p> <p>As a head of the Makiyivka City Department of the DPR Ministry of State Security, the Accused was responsible for implementation of operational, investigative and counterintelligence activities. He was also responsible for recruiting personnel to the DPR, including civilians for gathering information</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and leadership of a terrorist group.</p>

			<p>about UAF units, persecuting local residents for alleged assistance to Ukrainian law enforcement agencies, etc.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and leadership of a terrorist group (Art. 258-3(1) of the CCU) and sentenced him to 12 years of imprisonment with confiscation of all his property.</p>	
697.	<p>Case No. 242/5437/17, Judgement of 16 September 2019, Dymytrivsky City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which dismissed the defence appeal as such that contained legal errors</p>	<p>Citizen of Ukraine, head of the DPR's Donetsk city police department</p>	<p>Court findings:</p> <p>As a head of the DPR's Donetsk city police department, the Accused supervised investigative actions, inspections, and detention of individuals. He also regularly discussed the work of the Donetsk police with his subordinates.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to ten</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

			years of imprisonment with confiscation of all his property.	
698.	Case No. 766/7881/18 , Judgement of 13 November 2019, Berdyansk City District Court of the Zaporizhia region	Citizen of Ukraine, deputy commander of the 1st Motorised Rifle Battalion of the 7th Separate Motorised Rifle Brigade of the 1st Army Corps of the Ministry of Defence of the DPR	<p>Court findings:</p> <p>The Accused served as a deputy commander in different units of the DPR and LPR. He was responsible for recruitment of new members, promoted the activities of the DPR/LPR, supervised compliance with the military discipline by his subordinates, etc.</p> <p>After the DPR members captured a UAF's serviceman, the Accused interrogated him and posted a video of the interrogation on the Internet.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation.
699.	Case No. 242/4392/16-к , Judgement of 26 November 2019, Kostiantynivka City	Citizen of Ukraine, Minister of Civil Defence, Emergencies and Elimination of the	<p>Court findings:</p> <p>In November 2014, the Accused was appointed the Minister for Civil Defence, Emergencies and Elimination of the Consequences of the Natural</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.

	<p>District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the judgement of the first instance court</p>	<p>Consequences of the Natural Disaster of the DPR</p>	<p>Disaster of the DPR by the Head of the DPR. His duties included, <i>inter alia</i>, planning of the activities of the Ministry, coordination of activities of various DPR bodies, issuing orders on structure of the Ministry and staffing, etc.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 12 years of imprisonment with confiscation of all his property.</p>	
700.	<p>Case No. 461/4784/18, Judgement of 24 December 2019, Halytsky District Court of Lviv</p>	<p>Citizen of Ukraine, commander of the 3rd Division of the Reconnaissance Platoon of the 2nd Separate Guards Motorised Rifle Brigade of the 2nd Army Corps of the LPR</p>	<p>Court findings:</p> <p>The Accused joined the LPR as a paramedic for evacuation of wounded of the medical platoon. Later, he served as an engineer-deminer and a commander of a military division of the LPR.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
701.	<p>Case No. 235/4130/17, Judgement of 27 December 2019,</p>	<p>Citizen of Ukraine, member of the DPR's Cossack</p>	<p>Court findings:</p> <p>After joining the DPR, the Accused served as a cook and, later, a sniper with a DPR armed</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	<p>Krasnoarmisky City District Court of the Donetsk region</p>	<p>Union "Region of the Don Army"</p>	<p>formation. She was also a part of a group that ensured safety of one of the DPR political leaders. As a sniper, the Accused protected other group members and implemented various tasks assigned to them. As a part of the armed formation, the Accused participated in looting and robberies of buildings, killings of civilians and UAF servicemen detained by the DPR, and in the killings of members of other DPR units. She received pecuniary rewards for her damage.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to ten years of imprisonment with confiscation of all her property.</p>	
702.	<p>Case No. 310/686/17, Judgement of 28 February 2020, Berdyansk City District Court of the Zaporizhia region</p> <p>The case proceeded to the Court of Appeals of the Zaporizhia region which ruled that a part of evidence was wrongfully</p>	<p>Citizen of Ukraine, member of the LPR's "Sverdlovsk Cossack Regiment"</p>	<p>Court findings:</p> <p>As a head of the LPR's "Sverdlovsk Cossack Regiment", the Accused fought the UAF and participated in other activities of the LPR unit.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to ten years of</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	<p>admitted by the first instance court but overall, upheld the judgement</p> <p>The case proceeded to the Criminal Court of Cassation of the Supreme Court and was pending as of April 2021</p>		<p>imprisonment with confiscation of all his property, except his place of residence.</p>	
703.	<p>Case No. 607/7470/17, Judgement of 8 April 2020, Ternopil City District Court of the Ternopil region</p>	<p>Citizen of Ukraine, member of the LPR's Pryzrak group and the group "Bryanka USSR"</p>	<p>Court findings:</p> <p>The Accused served in different units of the LPR, participated in hostilities against the UAF and controlled the activities of other members of his unit.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 15 years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
704.	<p>Case No. 219/9404/17, Judgement of 21 May 2020, Ordzhonikidze</p>	<p>Citizen of Ukraine, member of the DPR</p>	<p>Court findings:</p> <p>After joining the DPR as a gunner operator, the Accused guarded a checkpoint and a hospital</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	<p>District Court of Mariupol, Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the judgement of the first instance court</p> <p>The case proceeded to the Criminal Court of Cassation of the Supreme Court which refused to open the appellate proceedings because the arguments presented in the appeal were unsubstantiated</p>		<p>and participated in hostilities against the UAF, including deliberate artillery shelling of the UAF positions and civilians to discredit the UAF.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced to six years and six months of imprisonment.</p>	
705.	<p>Case No. 242/2268/17, Judgement of 16 June 2020, Kostiantynivka City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of</p>	<p>Citizen of Ukraine, deputy company commander of the DPR's "Bastion" unit</p>	<p>Court findings:</p> <p>As alleged in the indictment, the Accused served in the DPR and participated in hostilities against the UAF.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>

	<p>the first instance court and sent the case for a retrial because the court failed to analyse the evidence and facts of the case</p> <p>As of April 2021, the retrial is paused pending arrest of the Accused</p>		<p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to nine years of imprisonment.</p> <p>The case has been sent for a retrial which the Court refused to conduct <i>in absentia</i> and paused the case pending arrest of the Accused.</p>	
FINANCING OF TERRORISM				
706.	<p>Case No. 727/7881/16-k, Judgement of 2 November 2016, Shevchenkivsky District Court of Chernivtsi</p>	<p>Citizen of Ukraine, entrepreneur</p>	<p>Court findings:</p> <p>The Accused founded and together with other persons organised the work of an institution that provided financial services on the territory controlled by the LPR. They provided cash to the members of the LPR, cashed money transfers from Russia and Ukraine, exchanged currency and carried out other financial operations. He also paid taxes and provided material assistance to the law enforcement and regulatory agencies of the LPR.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism, committed by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU).</p>	<p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.</p>

			The Accused was sentenced to a fine of 340,000.00 UAH with deprivation of the right to hold positions related to the performance of financial, economic and administrative functions for a period of three years and confiscation of property.	
707.	Case No. 204/1094/17 , Judgement of 2 March 2017, Krasnohvardiysk District Court of Dnipropetrovsk	Citizen of Ukraine, entrepreneur	<p>Court findings:</p> <p>The Accused together with other persons created a business entity in the DPR-controlled territory and paid taxes to the DPR budget.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism, committed by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a three-year term.</p>	Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.
708.	Case No. 607/9498/16-k , Judgement of 6 March 2017, Ternopil City District Court of the Ternopil region The case proceeded to the Court of Appeals of the	Citizen of Ukraine, an entrepreneur assisting the LPR	<p>Court findings:</p> <p>From August 2015 to February 2016, the Accused provided organisational assistance to the LPR by establishing and operating an organisation that provides financial services. The Accused set up its operation to ensure money transfers to the LPR members' bank</p>	<p>Art. 258-3(1) of the CCU as organisational assistance to the activities of a terrorist organisation;</p> <p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, acts committed with the purpose of financial support of a</p>

	<p>Ternopil region, which upheld the first instance court's judgement</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which sent the case for a retrial because of the substantial violations of procedural law during the trial <i>in absentia</i></p>		<p>accounts, currency exchange and issuance of permits to entrepreneurs of the Luhansk region to perform their financial activities. To ensure the operation of his organisation, the Accused paid taxes in the LPR.</p> <p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of organisational assistance to the activities of a terrorist organisation (Art. 258-3(1)) and financing of terrorism, <i>i.e.</i>, acts committed with the purpose of financial support of a terrorist organisation, for selfish motives, on a large scale (Art. 258-5(2) of the CCU). The Court sentenced him to ten years of imprisonment with confiscation of all his property and deprivation of a right to carry out business activities for three years.</p>	<p>terrorist organisation, for selfish motives, on a large scale.</p>
709.	<p>Case No. 761/18202/17, Judgement of 5 July 2017, Shevchenkivsky District Court of Kyiv</p>	<p>Citizen of Ukraine, entrepreneur</p>	<p>Court findings:</p> <p>The Accused, while residing in the territory controlled by the Ukrainian government, transferred funds to a DPR member through the financial services of a third person. The money was spent, <i>inter alia</i>, on terrorist activities.</p>	<p>Art. 258-5(1) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of an individual terrorist and a terrorist organisation.</p>

			<p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism (Art. 258-5(1) of the CCU) and sentenced him to five years of imprisonment with deprivation of the right to hold positions related to the performance of financial, economic and administrative functions for two years. However, the Accused was released from serving the sentence with a two-year probationary period.</p>	
710.	<p>Case No. 263/13081/17, Judgement of 11 October 2017, Zhovtnevyi District Court of Mariupol, Donetsk region</p>	<p>Citizen of Ukraine, entrepreneur</p>	<p>Court findings:</p> <p>The Accused together with another person re-registered a business entity which he had previously founded in the DPR-controlled territory. The business paid taxes to the DPR budget. The Accused also funded the DPR member's participation in election of a head of the city administration, which the latter won.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism, committed by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU), and sentenced him to a fine of 100,300 UAH.</p>	<p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.</p>

711.	Case No. 504/3996/17 , Judgement of 17 November 2017, Kominternivsky District Court of the Odesa region	Citizen of Ukraine	<p><u>Court findings:</u></p> <p>The Accused sent a military uniform and ammunition to his acquaintance, who was an LPR member.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism (Art. 258-5(1) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a two-year term.</p>	<p>Art. 258-5(1) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of an individual terrorist.</p>
712.	Case No. 727/11208/17 , Judgement of 19 January 2018, Shevchenkivsky District Court of Chernivtsi	Citizen of Ukraine, chief accountant of the Krasnodon Department of the Ministry of Internal Affairs of the LPR	<p><u>Court findings:</u></p> <p>At her position as the chief accountant of the “Krasnodon Department of the MIA” of the LPR, the Accused carried out cash disbursements, kept records of the financial activities of the institution and paid taxes to the “tax authorities” of the LPR.</p> <p>She also created a financial institution together with another person. This institution carried out various financial operations, <i>e.g.</i>, currency exchanges for the local population. The Accused assisted other LPR members in carrying out their financial operations and paid taxes to the LPR budget.</p>	<p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.</p>

			<p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of financing of terrorism, committed by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU). She was sentenced to ten years of imprisonment with the deprivation of the right to hold positions related to the performance of financial, economic, and administrative functions for a period of three years and confiscation of all her property.</p>	
713.	Case No. 409/194/18 , Judgement of 5 February 2018, Bilokurakynе District Court of the Luhansk region	Citizen of Ukraine, director general of “Lutuhyne Research and Production Rolling Mill” (Ukrainian State enterprise)	<p><u>Court findings:</u></p> <p>The Accused was appointed by the LPR as a director general of the state enterprise “Lutuhyne Research and Production Rolling Mill”, restored and organised its work, reregistered the enterprise with the LPR tax organs and paid taxes to the LPR.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism (Art. 258-5(1) of the CCU) and sentenced him to a fine of 425,000 UAH.</p>	Art. 258-5(1) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation.

714.	Case No. 409/90/18 , Judgement of 6 February 2018, Bilokurakyyne District Court of the Luhansk region	Citizen of Ukraine, entrepreneur	<p><u>Court findings:</u></p> <p>The Accused provided services on the transfer of funds from Kharkiv to the LPR-controlled territory of the Luhansk region and assisted LPR members with currency operations, receiving profit therefrom and sharing it with a LPR member.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism (Art. 258-5(1) of the CCU) and sentenced him to a fine of 255,000 UAH.</p>	Art. 258-5(1) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of an individual terrorist.
715.	Case No. 263/2412/18 , Judgement of 3 March 2018, Zhovtnevyi District Court of Mariupol, Donetsk region	Citizen of Ukraine, entrepreneur	<p><u>Court findings:</u></p> <p>The Accused created a business entity in the DPR-controlled territory, which paid taxes to the DPR budget and provided material support to some DPR formations.</p> <p>The Court found the Accused guilty of financing of terrorism, committed by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU) and sentenced her to a fine of 200,600 UAH.</p>	Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.
716.	Case No. 591/1186/18 , Judgement of 29 March	Citizen of Ukraine, regional manager of a company	<p><u>Court findings:</u></p> <p>The Accused was a regional manager of a company which supplied commercial products</p>	Arts 27(5), 258-5(2) of the CCU as aiding and abetting the financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material

	2018, Zarichnyi District Court of Sumy		<p>to the DPR/LPR-controlled areas via the territories of Belarus and Russia. The supplies determined the amount of taxes paid to the DPR/LPR budgets by the company's counterparties.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of aiding and abetting the financing of terrorism, committed upon prior conspiracy of a group of persons (Arts 27(5), 258-5(2) of the CCU) and sentenced him to a fine of 149,600 UAH.</p>	support of a terrorist organisation, upon prior conspiracy of a group of persons.
717.	Case No. 619/1116/18 , Judgement of 27 April 2018, Dergachiv District Court of the Kharkiv region	Entrepreneur	<p><u>Court findings:</u></p> <p>The Accused served as a liaison between the DPR members and enterprises in the government-controlled territories, and attempted to supply goods to the DPR-controlled territory. He intended to provide money to the DPR members in the payment of customs duties. The Accused had been arrested before he managed to implement his plan.</p> <p>The Court found the Accused guilty of a completed attempt of financing of terrorism (Arts 15(2), 258-5(1) of the CCU) and sentenced</p>	Arts 15(2), 258-5(1) of the CCU as a completed attempt of financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of an individual terrorist and a terrorist organisation.

			him to five years of imprisonment with a release on probation for a three-year term.	
718.	<p>Case No. 310/6655/16-K, Judgement of 16 May 2019, Kuibyshevsky District Court of the Zaporizhia region</p> <p>The case proceeded to the Court of Appeals of the Zaporizhia region, which quashed the judgement and sent the case for retrial</p>	Citizen of Ukraine, entrepreneur	<p>Court findings:</p> <p>The Accused together with other persons reregistered a business entity in the DPR, organised its functioning, opened a bank account in the DPR Central Bank and paid taxes to the DPR.</p> <p>The Accused also allegedly contacted the DPR members once the UAF members arrived at his farm in the village looking for a missing fellow soldier. As a result, DPR members reportedly arrived shortly after and attacked Ukrainian soldiers, ten of whom died and five of whom were captured.</p> <p>The Accused was acquitted on the charges of committing a terrorist act upon prior conspiracy of a group of persons (Art. 258(3) of the CCU), because in the view of the Court the Prosecution's evidence, including witness testimonies, did not prove the Accused's guilt beyond reasonable doubt.</p> <p>The Court found the Accused guilty of financing of terrorism, by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU) and sentenced him to eight years of imprisonment</p>	<p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons;</p> <p>Art. 258(3) of the CCU as terrorist act, <i>i.e.</i>, through the use of weapons to disrupt public safety, intimidate the population, provoke a military conflict, international complication that resulted in death and other serious consequences, upon prior conspiracy of a group of persons.</p>

			with the deprivation of the right to hold positions related to the performance of financial, economic and administrative functions for two years and confiscation of all his property.	
719.	Case No. 587/1380/19 , Judgement of 12 July 2019, Sumy District Court of the Sumy region	Citizen of Ukraine, entrepreneur	<p>Court findings:</p> <p>The Accused transported trucks from Ukraine to the LPR-controlled territory through Russia and paid customs duty to the LPR.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism (Art. 258-5(1) of the CCU) and sentenced him to a fine of 42,500 UAH.</p>	Art. 258-5(1) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation.
720.	Case No. 428/10219/19 , Judgement of 24 September 2019, Severodonetsk City Court of the Luhansk region	Citizen of Ukraine, commercial director of a company	<p>Court findings:</p> <p>The Accused as a commercial director of a company gave money to a LPR member for transportation of goods from the LPR-controlled areas to the territory controlled by Ukraine.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p>	Art. 258-5(1) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of an individual terrorist or a terrorist organisation.

			The Court found the Accused guilty of financing of terrorism (Art. 258-5(1) of the CCU) and sentenced him to five months of arrest.	
721.	<p>Case No. 233/2982/17, Judgement of 11 December 2019, Kostiantynivka City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement and sent the case for a retrial</p>	Citizen of Ukraine, entrepreneur	<p>Court findings:</p> <p>The Accused registered two business entities in the DPR-controlled territory, which paid taxes to the DPR budget. One of the entities also transferred products to the DPR administration as a sponsorship.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of financing of terrorism, committed by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU) and sentenced him to eight years of imprisonment with confiscation of all his property.</p>	Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.
722.	<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused supplied goods from Ukraine to the territory of the Luhansk region via Russia and paid taxes to the LPR, as well as provided vehicles for transportation of goods. The Accused were found guilty of financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU), sentenced to five years of imprisonment and released on probation.</p> <p>Case No. 409/1218/19, Judgement of 4 June 2019, Bilokurakyne District Court of the Luhansk region;</p>			

723.	Case No. 409/1219/19 , Judgement of 4 June 2019, Bilokurakyne District Court of the Luhansk region;		
724.	Case No. 409/1278/19 , Judgement of 6 June 2019, Bilokurakyne District Court of the Luhansk region;		
725.	Case No. 409/1279/19 , Judgement of 6 June 2019, Bilokurakyne District Court of the Luhansk region;		
726.	Case No. 409/1280/19 , Judgement of 6 June 2019, Bilokurakyne District Court of the Luhansk region;		
727.	Case No. 409/1281/19 , Judgement of 6 June 2019, Bilokurakyne District Court of the Luhansk region.		
728.	Case No. 344/4587/18 , Judgement of 17 January 2020, Ivano-Frankivsk City Court of the Ivano-Frankivsk region	Citizen of Ukraine, entrepreneur affiliated with the DPR	<p>Court findings:</p> <p>The Accused, acting together with other persons, registered a business entity in the DPR and organised production of raw materials in the DPR-controlled territory and supply of uniforms and other textile products to the DPR members. He also represented the enterprise in the relations with other entities, concluded contracts for cross-border materials supply from Russia via the border crossing points uncontrolled by the Ukrainian government. The enterprise paid taxes to the DPR.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), and financing of terrorism (Art. 258-5(2) of the CCU)</p>
			<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, by the prior conspiracy of a group of persons.</p>

			and sentenced him to four years and two months of imprisonment.	
TERRORISM-RELATED OFFENCES COMBINED WITH FORCIBLE CHANGE OR OVERTHROWING CONSTITUTIONAL ORDER AND/ OR ENROACHMENT ON TERRITORIAL INTEGRITY AND INVOLABILITY OF UKRAINE AND / OR STATE TREASON				
ADJUDICATED CASES				
729.	<p>Case 578/828/16-k, Judgement of 7 February 2017, Okhtyrka City District Court of the Sumy region</p> <p>The case proceeded to the Court of Appeals of the Sumy region, which upheld the judgement of the first instance court</p>	Citizen of Ukraine, member of the DPR's Rus battalion	<p>Court findings:</p> <p>After joining the DPR in May 2014, the Accused participated in hostilities against the UAF in the Donetsk airport and near Ilovaisk. As a DPR member, the Accused killed Ukrainian servicemen, acted as a personal bodyguard of one of the DPR leaders and participated in the organisation of military operations in which captured servicemen of Ukraine, who refused to surrender, were killed. He also directed the DPR's fire.</p> <p>Further, wishing for separation of the Sumy region from Ukraine and creation of the so-called "Sumy People's Republic", the Accused created a terrorist group that was to engage in terrorist acts in the Sumy region to destabilise the political situation there. The Accused attempted to organise the group's activities, including military trainings and recruitment of new members.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Arts 15(2), 258-3(1) of the CCU as a competed attempt to create a terrorist group;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the territorial boundaries or national borders of Ukraine in violation of the procedure provided for in the Constitution of Ukraine, committed upon prior conspiracy of a group of persons.</p>

			<p>The Accused had been notified of the proceedings but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); intentional actions committed to change the territorial boundaries or national borders of Ukraine in violation of the procedure provided for in the Constitution of Ukraine, committed upon prior conspiracy of a group of persons (Art. 110(2) of the CCU); and a completed attempt to create a terrorist group (Arts 15(2), 258-3(1) of the CCU). The Court sentenced him to 14 years of imprisonment.</p>	
730.	<p>Case No. 426/15638/18, Judgement of 6 July 2018, Lysychansk City Court of the Luhansk region</p>	<p>Citizen of Ukraine, member of the LPR Parliament</p>	<p><u>Court findings:</u></p> <p>In May 2014, the Accused was appointed to the LPR Parliament. At his position, he voted for adoption of the LPR legislation.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), actions committed for the purpose of forcible change or overthrow of the constitutional order and</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation;</p> <p>Art. 109(1) of the CCU as actions committed for the purpose of forcible change or overthrow of the constitutional order and seizure of state power;</p> <p>Art.110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the</p>

			seizure of state power (Art. 109(1) of the CCU), and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced him to eight years of imprisonment.	procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.
731.	Case No. 263/13077/17 , Judgement of 29 October 2018, Zhovtnevi District Court of Mariupol, Donetsk region	Citizen of Ukraine, Minister of Finance of the DPR	<p>Court findings:</p> <p>The Accused served as a minister of finance of the DPR in November 2014-October 2017. She exercised financial control over the use of “budget funds, state budget and extra-budgetary funds” of the DPR, which were used for financing of various DPR entities, signed the ministry’s documents, organised the entity’s work, etc.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of financing of terrorism, committed for selfish motives (Art. 258-5(2) of the CCU), and financing of actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution</p>	<p>Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i>, actions committed for the purpose of financial or material support of a terrorist organisation, for selfish motives;</p> <p>Art. 110-2(3) of the CCU as financing of actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, for selfish motives.</p>

			of Ukraine, for selfish motives (Art. 110-2(3) of the CCU). The Court sentenced her to ten years of imprisonment with confiscation of all her property.	
732.	<p>Case No. 419/2586/18, Judgement of 12 April 2019, Novoaidar District Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, which quashed the judgement of the first instance in relation to Art. 110(2) of the CCU but did not change the sentence</p>	Citizen of Ukraine affiliated with the LPR	<p>Court findings:</p> <p>The Accused provided information on the location and routes of the UAF to the LPR.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU). The Court sentenced the Accused to five years of imprisonment.</p> <p>The Court of Appeals acquitted the Accused of intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU). The Court of Appeals found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.</p>

			CCU) and sentenced her to five years of imprisonment.	
733.	Case No. 419/1225/19 , Judgement of 6 May 2019, Novoaidar District Court of the Luhansk region	Citizen of Ukraine, member of the 4th Separate Motorised Rifle Brigade of the 2nd Army Corps of the People's Militia of the LPR	<p>Court findings:</p> <p>After joining DPR, the Accused underwent military training. He built constructions at the positions of the LPR's People's Militia, served on duty in the military unit, carried out other orders of his command and participated in hostilities against the UAF.</p> <p>He also acquired firearms and ammunition from other LPR members and carried them with him.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), illegal storage of firearms and ammunition (Art. 263(1) of the CCU), and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU). The Court sentenced him to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons;</p> <p>Art. 263(1) of the CCU as illegal storage of firearms and ammunition.</p>

734.	Case No. 426/13772/19 , Judgement of 22 November 2019, Svatove District Court of the Luhansk region	Citizen of Ukraine, inspector of the customs post of the LPR	<p>Court findings:</p> <p>After joining LPR, the Accused gathered data about the location and routes of the UAF and served as a radio operator with an LPR military unit.</p> <p>Later, the Accused became an inspector of the customs post of the LPR and monitored maintenance of the permit regime.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU). The Accused was sentenced to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.</p>
735.	Case No. 185/3649/17 , Judgement of 7 April 2020, Shevchenkivsky District Court of Kyiv	Citizen of Ukraine, colonel with the UAF; deputy head of the 1st Department for Analytical Work of the DPR's	<p>Court findings:</p> <p>The Accused, who served as a colonel of the UAF and a head of the reconnaissance unit, was captured by the DPR.</p> <p>While in detention, he agreed to join the DPR as a deputy head of the 1st Department for</p>	<p>Art. 111(1) of the CCU as treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of sovereignty, territorial integrity and inviolability, defence capability, state security of Ukraine, namely defection during an armed conflict;</p>

		Intelligence Department	<p>Analytical Work of the DPR Intelligence Department that participated in hostilities against the UAF. The Accused collected information on the location and routes of the UAF and its equipment and reported to representatives of the Main Directorate of the General Staff of the Armed Forces of the Russian Federation.</p> <p>The Court found the Accused guilty of state treason (Art. 111(1) of the CCU) and participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to 13 years of imprisonment with the deprivation of a military rank of colonel.</p>	Art. 258-3(1) of the CCU as participation in a terrorist organisation.
736.	<p>Case No. 326/1385/18, Judgement of 3 September 2020, Berdyansk City District Court of the Zaporizhia region</p> <p>The defence appealed the judgement and the case proceeded to the Court of Appeals of the Zaporizhia region, which is considering the appeal</p>	Citizen of Ukraine, member of the People's Council of the DPR and of the Security and Defence Committee	<p>Court findings:</p> <p>In April-May 2014, the Accused, acting together with other persons, organised pro-DPR public demonstrations. Following the demonstrations, the local city council held an extraordinary session, where the pro-DPR activists called for the creation of the DPR and the referendum on independence from Ukraine.</p> <p>The Accused, together with other persons, assisted in organising the referendum and coordinating the work of election commissions and persons guarding them.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 110(2) of the CCU as intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons.</p>

			<p>Later, the Accused was elected to the People’s Council of the DPR and became a member of the Security and Defence Committee. During his service, he voted for the adoption of the DPR legislation and promoted pro-DPR ideas on the internet.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine, upon prior conspiracy of a group of persons (Art. 110(2) of the CCU) and sentenced him to eight years of imprisonment.</p>	
TERRORISM-RELATED OFFENCES AND PARTICIPATION IN AN ILLEGAL ARMED GROUP, IN CERTAIN CASES COMBINED WITH ORDINARY CRIMES				
ADJUDICATED CASES				
737.	Case No. 757/2179/17-k , Judgement of 25 January 2017, Pechersky District Court of Kyiv	Citizen of Brazil, company manager, instructor and intelligence officer of the 14th Battalion of the Territorial	<p>Court findings:</p> <p>The Accused, serving in various LPR and DPR units, participated in hostilities against the UAF.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

	<p>The case proceeded to the Kyiv Court of Appeals, which quashed the judgement of the first-instance court and sent the case for a retrial because the case was not tried in accordance with the territorial jurisdiction principle</p> <p>On retrial, the Pavlohrad City District Court of the Dnipropetrovsk region again found the Accused guilty</p> <p>The case then proceeded the Court of Appeals of Dnipro but was discontinued when the defence withdrew its appeal</p>	<p>Defence of the LPR, the First Cossack Regiment of the Great Army of the Don, the Cossack Battalion, the 1st Semenov Motorised Rifle Battalion of the 1st Separate Slavic Motorised Rifle Brigade, the Viking Battalion of the DPR</p>	<p>258-3(1) of the CCU); and participation in the activities of an illegal armed group (Art. 260(2) of the CCU). The Court sentenced him to 13 years of imprisonment with confiscation of all his property.</p>	
738.	<p>Case No. 554/18405/14-k, Judgement of 22 March 2017, Oktyabrsky District Court of Poltava</p>	<p>The four Accused are citizens of Ukraine, members of the D /LPR</p>	<p>Court findings: Accused 1, after joining the DPR/LPR, was responsible for the search and recruitment of persons to join the formation and participate in</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 258(1) of the CCU as a terrorist act;</p>

			<p>military training in Rostov-on-Don of the Russian Federation. He recruited the three other Accused, one of whom (Accused 4) also carried out recruitment operations and sold firearms and ammunition.</p> <p>Accused 1 also set fire to the door of the local SBU premises which was an architectural monument of national significance.</p> <p>The Court changed the legal qualification of the conduct committed by the Accused from participation in a terrorist organisation (Art. 258-3(1) of the CCU) to participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and a completed attempt to destroy or damage an architectural monument of national significance (Arts 15(2), 298(3) of the CCU) respectively.</p> <p>The Court found all the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU). Additionally, Accused 1 was found guilty of a completed attempt to destroy or damage an architectural monument of national significance (Arts 15(2), 298(3) of the CCU), while Accused 4 was found guilty of illegal storage and sale of firearms and ammunition (Art. 263(1) of the CCU).</p>	<p>Art. 260(2) of the CCU as a participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal storage and sale of firearms and ammunition;</p> <p>Arts 15(2), 298(3) of the CCU as completed attempt to destroy or damage an architectural monument of national significance.</p>
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			The Court sentenced Accused 1 and 4 to five years and two months of imprisonment and the other Accused to five years of imprisonment.	
739.	Case No. 221/1283/18 , Judgement of 22 October 2018, Ordzhonikidze District Court of Mariupol, Donetsk region	Citizen of Ukraine, member of the 1st Rifle Company of the 3rd Rifle Battalion, 9th Separate Assault Motorised Rifle Regiment of the 1st Donetsk Army Corps of the DPR Armed Forces	<p>Court findings:</p> <p>The Accused served on different military positions within the DPR and participated in shelling of the UAF positions.</p> <p>He also acquired weapons and ammunition from another DPR member and carried them with him.</p> <p>While conducting a reconnaissance operation against the UAF positions, the Accused spotted a Ukrainian soldier, fired at him, and subsequently was arrested by the UAF.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1)); illegal acquisition and carrying of firearms and ammunition (Art. 263(1)); and participation in the activities of an illegal armed group and an attack on a citizen (Art. 260(4) of the CCU). The Court sentenced him to ten years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 260(4) of the CCU as participation in the activities of an illegal armed group and an attack on a citizen;</p> <p>Art. 263(1) of the CCU as illegal acquisition and carrying of firearms and ammunition.</p>
740.	Case No. 296/2803/16-к , Judgement of 28 February	Citizen of Ukraine, member of the 1st separate Sloviansk	Court findings:	Art. 258-3(1) of the CCU as participation in a terrorist organisation;

	<p>2019, Koroliovsky District Court of Zhytomyr</p> <p>The defence appealed the judgement and the case proceeded to the Court of Appeals of the Zhytomyr region, which upheld the judgement of the first instance court</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which also upheld the judgement</p>	<p>motorised infantry brigade, the Vostok brigade and the 3rd Company of a separate battalion of special purpose “Patriot” of the Republican Guard of the DPR</p>	<p>The Accused served in different DPR units. As a commander of the artillery system, he participated in hostilities against the UAF and conducted resistance to Ukrainian military.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and participation in the activities of an illegal armed group (Art. 260(2) of the CCU). The Accused was sentenced to 12 years of imprisonment with confiscation of all his property.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
TERRORISM-RELATED OFFENCES COMBINED WITH ORDINARY CRIMES AND/ OR MILITARY-TYPE OFFENCES				
ADJUDICATED CASES				
741.	<p>Case No. 236/1707/14-к, Judgement of 8 September 2016, Krasnolymansky City Court of the Donetsk region</p> <p>The Prosecution appealed the judgement and the case proceeded to the Court of Appeals of the</p>	<p>Citizen of Ukraine, chief of Krasny Lyman police, affiliated with the DPR</p>	<p>Court findings:</p> <p>In April 2014, the Accused, a chief of local police in Krasny Lyman, ordered his subordinates to transfer firearms for a storage and protection to a head of a Cossack organisation.</p> <p>The Accused was acquitted of charges of organisational assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), but found guilty of excess of authority (Art.</p>	<p>Art. 365(1) of the CCU as excess of authority or official powers, <i>i.e.</i> intentional commission by a law enforcement officer of actions that clearly go beyond the rights and powers granted to him, which caused significant damage to the State and public interests protected by law;</p>

	<p>Donetsk region, which upheld the Judgement of the first instance court</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which also upheld the Judgement of the first instance court</p>		<p>365(1) of the CCU). The Accused was sentenced to four years of imprisonment and barred from holding official positions related to organisational and administrative functions for three years. He was subsequently granted amnesty and released from serving his sentence.</p>	<p>Art. 258-3(1) of the CCU as organisational assistance to the activities of a terrorist organisation</p>
742.	<p>Case No. 699/268/15-k, Judgement of 6 October 2016, Prydniprovsky District Court of Cherkasy</p> <p>The case proceeded to the Court of Appeals of Cherkasy region which returned the case for retrial to the first instance court</p> <p>As of 30 September 2020, the case was in a retrial phase before the Smilyansky City District Court of Cherkasy region</p>	<p>Citizen of Ukraine, member of the DPR</p>	<p>Court findings:</p> <p>In May 2014, as a member of the DPR, the Accused illegally stopped the broadcasting of the Ukrainian TV channels in the city of Artemivsk and Artemivsk district of the Donetsk region and arranged to broadcast the Russian TV channels instead. He then ensured that the premises of the TV station were guarded by the armed members of the DPR.</p> <p>Later, the Accused also collected the information on the location and movement of heavy military equipment and personnel of the UAF and transferred it to the members of the DPR.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and promoting the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal carrying and storage of firearm;</p> <p>Art. 263-1(1) of the CCU as illegal repair of firearms.</p>

			<p>The Accused pleaded not guilty and explained that his activities on stopping the broadcast of the Ukrainian TV channels were coordinated with the Ukrainian police and the SBU and were in response to the threats of the DPR to blow up the TV tower if the broadcast continued. He further explained that he did not transfer the information, but merely discussed the movement of the armed forces to ensure that his company's shipments delivery would not be affected by the unfolding conflict.</p> <p>The Accused was found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), illegal carrying of firearms (Art. 263(1) of the CCU), and illegal repair of firearms (Art. 263-1(1) of the CCU) and sentenced to nine years of imprisonment.</p>	
743.	<p>Case No. 477/233/16-к, Judgement of 18 January 2017, Zhovtnevyi District Court of the Mykolaiv region.</p> <p>The defence appealed the judgement and the case proceeded to the Court of Appeals of the Mykolaiv</p>	<p>Citizen of Ukraine, military correspondent at the DPR's Battalion of special purpose "Nikolaevskiy" and the "Olkhon" 9th militia regiment</p>	<p>Court findings:</p> <p>The Accused joined the LPR's Humanitarian Operations Department and took photos and videos of activities of the LPR, posting them on the Internet. Further, he served as a military correspondent operator at the LPR units.</p> <p>He also acquired explosive devices and stored them in his apartment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation, and other assistance to the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of explosive devices.</p>

	<p>region, which upheld the judgement of the first-instance court</p> <p>Then, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which also upheld the trial judgement</p>		<p>The Court found the Accused guilty of participation in terrorist organisations, and other assistance to the activities of terrorist organisations (Art. 258-3(1) of the CCU); and illegal acquisition, carrying and storage of explosive devices (Art. 263(1) of the CCU). The Court sentenced him to eight years six months of imprisonment.</p>	
744.	<p>Case No. 712/12962/15-k, Judgement of 3 March 2017, Sosnivsky District Court of Cherkasy</p> <p>Both parties submitted their appeals and the case proceeded to the Court of Appeals of the Cherkasy region, which upheld the judgement of the first instance court</p>	<p>Citizen of Ukraine, member of the First Sloviansk Brigade of the DPR</p>	<p><u>Court findings:</u></p> <p>In February-April 2015, the Accused was a driver of the DPR jet division.</p> <p>On several occasions in 2015, the Accused illegally crossed the state border of Ukraine and entered the territory of the Russian Federation and back to the Donetsk region through the checkpoint not controlled by the authorities of Ukraine, in violation of the law of Ukraine.³⁹</p> <p>Further, during 15-19 June 2015, the Accused crossed the state border of Ukraine and entered the territory of Crimea around the Ukrainian</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 332-1(2) of the CCU as violation of the procedure of entering and leaving the temporarily occupied territory of Ukraine in order to harm the interests of the state, committed repeatedly and upon prior conspiracy of a group of persons.</p>

³⁹ "Temporary Order on Control over the Movement of Persons, Vehicles and Goods across the Contact Line within the Donetsk and Luhansk Regions", approved by the Order of the Anti-Terrorist Center of the Security Service of Ukraine of 22 January 2015 № 27 or.

			<p>checkpoints,⁴⁰ in violation of the procedure established by the law of Ukraine.⁴¹</p> <p>The Accused was acquitted of participation in a terrorist organisation (Art. 258-3(1) of the CCU) due to lack of evidence.</p> <p>The Accused was found guilty of violating the procedure of entering and leaving the temporarily occupied territory of Ukraine in order to harm the interests of the state, committed repeatedly and upon prior conspiracy of a group of persons (Art. 332-1(2) of the CCU) and sentenced to four years of imprisonment.</p>	
745.	<p>Case No. 640/12514/15-к, Judgement of 9 March 2017, Kyiv District Court of Kharkiv</p> <p>The case proceeded to the Court of Appeals of the Kharkiv region, which granted the defence appeal in part and ordered</p>	<p>Citizen of Ukraine, head of the investigative department of the LPR's intelligence unit</p>	<p>Court findings:</p> <p>In May 2014, the Accused joined the LPR as a head of the investigative department of an intelligence unit which occupied the SBU premises in the Luhansk region. The Accused supervised investigators subordinate to him, participated in the illegal inspection and seizure of vehicles and other property of citizens, checked documents of citizens and</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation, as well as material and organisational assistance to the activities of a terrorist organisation;</p> <p>Art. 289(3) of the CCU as unlawful appropriation of a vehicle committed upon prior conspiracy of a group of persons, combined with the threat of</p>

⁴⁰ Resolution of the Cabinet of Ministers of Ukraine No. 367 "On entry into and exit from the temporarily occupied territory of Ukraine"; Resolution of the Cabinet of Ministers of Ukraine No. 424-p "On temporary closure of checkpoints across the state border and checkpoints" of 30 April 2014.

⁴¹ Law of Ukraine "On the creation of a free economic zone "Crimea" and on the peculiarities of economic activity in the temporarily occupied territory of Ukraine"

	<p>a retrial due to violations of procedural law by the first instance court</p>		<p>interrogated them with the use of weapons, as well as executed other illegal orders, using firearms.</p> <p>Together with other members of the LPR, the Accused developed a plan to seize vehicles and property of citizens on the roads leading to Luhansk. Members of the LPR threatened the owners of vehicles with firearms, forcing them to stop, and seized vehicles and other property of citizens. They moved all seized vehicles to the SBU premises, where the Accused presented himself as a “chief of investigation” of the LPR and interviewed the vehicle owners. Threatening them with physical violence dangerous to life and health, the Accused convinced victims to leave vehicles and property on the territory of the SBU premises in exchange for their lives.</p> <p>In particular, the Accused threatened to kill an elderly woman, and illegally took possession of her car, mobile phone and laptop.</p> <p>The Accused was found guilty of unlawful appropriation of a vehicle committed upon prior conspiracy of a group of persons, combined with the threat of violence, dangerous to the life and health of the victim, and which caused heavy property damage (Art. 289(3) of the CCU);</p>	<p>violence dangerous to the life and health of the victim, and which caused serious property damage;</p> <p>Art. 187(2) of the CCU as robbery, <i>i.e.</i>, assault for the purpose of taking possession of somebody else's property, accompanied with threats of violence, dangerous to life and health of an assaulted person, committed upon prior conspiracy of a group of persons.</p>
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			an aggravated robbery (Art. 187(2) of the CCU); participation in a terrorist organisation, and material and organisational assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU). He was sentenced to 13 years of imprisonment with confiscation of all his property.	
746.	<p>Case No. 225/3701/16-k, Judgement of 28 April 2017, Dzerzhinsky City Court of the Donetsk region</p> <p>The defence appealed the judgement, alleging violations of the procedural law, failure to consider all relevant facts and overly strict sentence. The case proceeded to the Court of Appeals of the Donetsk region, which upheld the trial judgement</p>	Citizen of Ukraine, member of the 9th Separate Motorised Rifle Regiment of the 1st Army Corps of the Ministry of Defence of the DPR	<p>Court findings:</p> <p>After joining the DPR, the Accused underwent military trainings, received ammunition and weapons and became an operator of the anti-tank missile system. His duties included serving at the observation posts, monitoring and collecting information on the activities of the UAF.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and illegal acquisition, storage and carrying of firearms and ammunition (Art. 263(1) of the CCU). The Court sentenced him to eight years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 263(1) of the CCU as illegal acquisition, storage and carrying of firearms and ammunition.</p>
747.	<p>Case No. 431/5144/15-k, Judgement of 13 May 2017, Starobilsk District</p>	Citizen of Ukraine affiliated with the LPR	<p>Court findings:</p> <p>The Accused provided information to the LPR on the UAF's locations, routes, ammunition,</p>	Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;

	Court of the Luhansk region		<p>military equipment, fortifications, etc. He also illegally stored grenades at his place of residence.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and illegal storage of ammunition (Art. 263(1) of the CCU) and sentenced him to the concurrent term of four years of imprisonment.</p>	Art. 263(1) of the CCU as illegal storage of ammunition.
<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused were found guilty of assistance to the activities of a terrorist group by conducting reconnaissance operations and gathering data concerning the activities or the equipment of the UAF and illegal acquisition, carrying or storage of weapon and ammunition.</p>				
748.	<p>Case No. 219/3800/15-к, Judgement of 13 June 2017, Artemivsk City District Court of the Donetsk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years and two months of imprisonment);</p>			
749.	<p>Case No. 236/974/17, Judgement of 29 June 2017, Krasnolymsky City Court of the Donetsk region (the Accused was sentenced to two years and six months of imprisonment);</p>			
750.	<p>Case No. 127/13/18, Judgement of 15 November 2018, Vinnytsia City Court of the Vinnytsia region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to one year and two months of imprisonment);</p>			
751.	<p>Case No. 415/2482/19, Judgement of 15 May 2019, Lysychansk City Court of the Luhansk region (the Accused was sentenced to three years and three months of imprisonment);</p>			
752.	<p>Case No. 265/4773/15-к, Judgement of 18 June 2019, Prymorsky District Court of Mariupol, Donetsk region (the Accused was sentenced to nine years of imprisonment).</p>			
753.	<p>Case No. 225/3812/16-к, Judgement of 1 June 2017, Dzerzhinsky City</p>	<p>Citizen of Ukraine, former acting commander of a</p>	Court findings:	Art. 258-3(1) of the CCU as participation in a terrorist organisation;

	<p>Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which dismissed the defence appeal and upheld the judgement of the first-instance court</p>	<p>sniper platoon of the UAF</p>	<p>The Accused, who was a Ukrainian serviceman, discussed the conditions of his transition to the DPR with the commander of the DPR's Berkut military unit. He also provided the information about the UAF's positions to the DPR.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and preparation for a crime of desertion, committed during a special period other than martial law (Arts 14(1), 408(3) of the CCU). The Court sentenced him to eight years of imprisonment.</p>	<p>Arts 14(1), 408(3) of the CCU as preparation for a crime of desertion, <i>i.e.</i>, leaving a military unit without permission in order to evade military service, committed during a special period other than martial law.</p>
754.	<p>Case No. 243/1645/16-k, Judgement of 15 June 2017, Sloviansk City District Court of the Donetsk region</p> <p>The defence submitted an appeal, arguing that the first instance court failed to consider all the relevant facts, erred in application of the criminal procedural law and dismissed the defendant's complaints of torture in detention. The</p>	<p>Citizen of Ukraine, member of the DPR's Berkut brigade</p>	<p>Court findings:</p> <p>The Accused, as a member of the DPR, provided security for the DPR warehouses and received ammunition for the battalion's activities there. He also carried a grenade with him.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU). The Court sentenced him to eight years and six months of imprisonment.</p> <p>The Court of Appeals quashed the judgement as such wherein the court did not consider the</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.</p>

	<p>case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first-instance court and sent the case for a retrial</p> <p>On retrial, the Court found the Accused guilty</p>		<p>Accused's complaints of physical and psychological violence and torture by the UAF and the SBU, forcing him to self-incriminate.</p> <p>On retrial, the Court found the Accused guilty of all charges and sentenced him to three years and eight months of imprisonment.</p>	
755.	<p>Case No. 323/357/16-к, Judgement of 8 August 2017, Orikhiv District Court of the Zaporizhia region</p>	<p>Citizen of Ukraine, member of the DPR</p>	<p>Court findings:</p> <p>The Accused, as an armed DPR member, used firearms against UAF's servicemen who served at the checkpoint.</p> <p>He also acquired and carried weapons and ammunition.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), terrorist act (Art. 258(2) of the CCU) and illegal carrying, storage and acquisition of firearms and</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation;</p> <p>Art. 258(2) of the CCU as a terrorist act, <i>i.e.</i>, the use of weapons that endangered human life or health, in order to violate public safety, provoke military conflict, intimidate the population, upon prior conspiracy of a group of persons;</p> <p>Art. 263(1) of the CCU as illegal carrying, storage and acquisition of firearms and ammunition.</p>

			ammunition (Art. 263(1) of the CCU). The Court sentenced him to eight years of imprisonment.	
756.	Case No. 419/3362/17 , Judgement of 19 September 2017, Novoaidar District Court of the Luhansk region	Citizen of Ukraine, member of the 1st Cossack Regiment named after Platov	<p>Court findings:</p> <p>The Accused, as an LPR member, served at a checkpoint and participated in hostilities against the UAF. He also acquired and carried weapons and ammunition.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal acquisition, carrying and storage of weapons and ammunition (Art. 263(1) of the CCU) and sentenced him to six years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of weapons and ammunition.</p>
	<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused participated in the activities of the D/ LPR by carrying out/ participating in reconnaissance, military trainings, hostilities against UAF, etc. and acquired weapons or ammunition, mainly from the D/ LPR members. The Accused were found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and illegal acquisition, carrying and storage of weapons and ammunition (Art. 263(1) of the CCU):</p>			
757.	<p>Case No. 414/1444/17, Judgement of 13 December 2017, Kreminna District Court of the Luhansk region (the Court approved the plea agreement between the Accused and the Prosecution and sentenced the Accused to five years of imprisonment with a release on probation for a three-year term);</p>			
758.	<p>Case No. 243/4895/16-к, Judgement of 14 December 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to ten years of imprisonment);</p>			

759.	Case No. 243/10035/16-к , Judgement of 14 December 2017, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment);		
760.	Case No. 419/3461/17 , Judgement of 25 January 2018, Novoaidar District Court of the Luhansk region (the Accused was sentenced to ten years of imprisonment with confiscation of all his property);		
761.	Case No. 235/1997/18 , Judgement of 1 June 2018, Krasnoarmiysk City District Court of the Donetsk region (the Accused was sentenced to four years of imprisonment. The Court of Appeals of the Donetsk region changed the sentence to eight years of imprisonment);		
762.	Case No. 326/1763/16-к , Judgement of 8 June 2018, Pryazovsky District Court of the Zaporizhia region (the case concerned two Accused individuals, each of the two Accused were sentenced to eight years of imprisonment);		
763.	Case No. 325/1002/16-к , Judgement of 17 September 2018, Pryazovsky District Court of the Zaporizhia region (the Accused was sentenced to eight years of imprisonment);		
764.	Case No. 415/7339/15-к , Judgement of 20 September 2018, Lysychansk City Court of the Luhansk region (the Accused was sentenced to nine years of imprisonment);		
765.	Case No. 233/3326/18 , Judgement of 12 December 2018, Kostiantynivka City District Court of the Donetsk region (the Accused was sentenced to ten years of imprisonment with confiscation of all his property);		
766.	Case No. 243/3571/18 , Judgement of 29 December 2018, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to nine years and six months of imprisonment. The Court of Appeals of the Donetsk region upheld the judgement);		
767.	Case No. 219/4664/18 , Judgement of 26 December 2019, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to eight years of imprisonment with confiscation of all his property);		
768.	Case No. 243/6451/18 , Judgement of 27 December 2019, Sloviansk City District Court of the Donetsk region (all three Accused were sentenced to nine years of imprisonment with confiscation of all their property).		
769.	Case No. 766/12453/17 , Judgement of 26 September 2017, Kherson	Citizen of Ukraine, entrepreneur	<p>Court findings:</p> <p>The Accused, acting together with other persons, re-registered a business entity in the DPR and opened a bank account for the</p>
			Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation, for

	City Court of the Kherson region		<p>company in the DPR Central Bank. Further, to organise the work of the enterprise, he issued power of attorney, <i>inter alia</i>, for the payment of taxes to the DPR. The taxes were paid.</p> <p>The Accused also bought and stored firearms in his apartment.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of financing of terrorism, committed for selfish motives by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU), and illegal storage of firearms (Art. 263(1) of the CCU). He was sentenced to five years of imprisonment with probation for a one-year term.</p>	<p>selfish motives by the prior conspiracy of a group of persons;</p> <p>Art. 263(1) of the CCU as illegal storage of firearms.</p>
770.	<p>Case No. 296/3990/16-k, Judgement of 28 September 2017, Andrushivka District Court of the Zhytomyr region</p> <p>The Court of Appeals returned the case to the court of the first instance,</p>	<p>The two Accused are citizens of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>Both Accused provided the representatives of “Novorossiia TV” channel of the DPR with hardware and software and technically assisted in maintaining the channel. They created an opportunity to post materials about the DPR on the Internet. Accused 2 also made publications on the Internet promoting the DPR.</p> <p>The Court found Accused 1 guilty of organisational and other (informational) assistance to the activities of a terrorist</p>	<p>Art. 258-3(1) of the CCU as organisational and other assistance to the activities of a terrorist organisation;</p> <p>Art. 258-2(2) of the CCU as dissemination through the media of materials with public appeals to commit a terrorist act;</p> <p>Art. 161(1) of the CCU as incitement of national enmity, humiliation of national</p>

	where it was pending as of April 2021		organisation (Art. 258-3(1) of the CCU) and sentenced him to nine years of imprisonment. The Court found Accused 2 guilty of organisational and other (informational) assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), dissemination through the media of materials with public appeals to commit a terrorist act (Art. 258-2(2) of the CCU), and incitement of national enmity, humiliation of national honour and dignity of the Ukrainian people (Art. 161(1) of the CCU) and sentenced him to nine years of imprisonment.	honour and dignity of the Ukrainian people.
771.	Case No. 415/5861/17 , Judgement of 28 September 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, member of the LPR's Pryzrak brigade	<p>Court findings:</p> <p>The Accused, as an armed LPR member, undertook military training, guarded administrative buildings of LPR and participated in hostilities against the UAF. During his participation in the activities of the LPR unit, he acquired, transported and stored ammunition in his apartment.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal storage of</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 263(1) of the CCU as illegal storage of ammunition.</p>

			ammunition (Art. 263(1) of the CCU) and sentenced him to ten years of imprisonment.	
772.	Case No. 419/3065/17 , Judgement of 29 September 2017, Novoaidar District Court of the Luhansk region	Citizen of Ukraine affiliated with the LPR's Pryzrak brigade, member of the "SMAK" unit; the 1st Cossack Brigade of the People's Militia of the LPR; and the "YARHA" subdivision of the LPR	Court findings: The Accused, as a member of different LPR units, assisted in construction of checkpoints, guarded weapons storages and dug trenches for the LPR. He also acquired, carried and stored weapons and ammunition. The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal acquisition, carrying and storage of weapons and ammunition (Art. 263(1) of the CCU) and sentenced him to eight years of imprisonment.	Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 263(1) of the CCU as illegal acquisition, carrying and storage of weapons and ammunition.
773.	Case No. 219/7761/15-к , Judgement of 8 December 2017, Artemivsk City District Court of the Donetsk region	Citizens of Ukraine, members of the 3rd Company of the 1st Motorised Rifle Battalion of the DPR Ministry of Defence	Court findings: The three Accused, being armed DPR members, attempted to attack the UAF checkpoint in order to avoid being captured. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU) and	Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.

			sentenced them to four years and nine months of imprisonment.	
774.	Case No. 426/1579/17 , Judgement of 14 December 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, commander of a military unit within the People's Militia of the LPR	Court findings: The Accused, who was a commander of a military unit of the LPR, stole a number of objects from a private residence. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and theft (Art. 185(1) of the CCU) and sentenced him to a year and nine months of imprisonment.	Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 185(1) of the CCU as a theft, <i>i.e.</i> , covert stealing of somebody else's property.
775.	Case No. 433/546/17 , Judgement of 14 December 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, LPR member, first assistant to the chief of department of the crime prevention of the LPR's military commandant's office of the Zhovtnevy district of Luhansk, chief of staff of the LPR's military commandant's office	Court findings: The Accused served at the LPR's military commandant's office in Luhansk, where he was responsible for communicating with the LPR members, scheduling patrols and preparing safety rules. At the time of the arrest, the Accused carried grenades with him. The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and illegal carrying of ammunition (Art. 263(1) of the CCU) and sentenced him to eight years of imprisonment.	Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 263(1) of the CCU as illegal carrying of ammunition.

776.	Case No. 219/3354/17 , Judgement of 15 December 2017, Artemivsk City District Court of the Donetsk region	Citizen of Ukraine affiliated with the DPR	<p>Court findings:</p> <p>The Accused provided information about the location of the UAF and its armament to the DPR and Russian servicemen. He also underwent a course on sabotage activities organised by a DPR member and was tasked with committing sabotage operations against railway infrastructure in the territory controlled by the Ukrainian government.</p> <p>Then, he received a plastic explosive from a Russian serviceman and stored it at his residence.</p> <p>During arrest, the police found cannabis at the residence of the Accused.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), illegal acquisition, carrying and storage of ammunition and explosives (Art. 263(1) of the CCU) and illegal acquisition, manufacture and storage of drugs without the purpose of sale (Art. 309(1) of the CCU) and sentenced him to a year and four months of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition and explosives;</p> <p>Art. 309(1) of the CCU as illegal acquisition, manufacture and storage of drugs without the purpose of sale.</p>
777.	Case No. 263/11399/15-k , Judgement of 15 December 2017,	The two Accused were citizens of Ukraine, members	<p>Court findings:</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p>

	<p>Zhovtnevy District Court of Mariupol, Donetsk region</p>	<p>of the First Sloviansk Battalion of the DPR</p>	<p>Armed with firearms, the two Accused guarded the checkpoints in the Donetsk region, controlling the movement of vehicles and individuals through the checkpoints, checking documents of persons who crossed it, establishing and maintaining the curfew. Accused 1 also acquired weapons and ammunition from other DPR members, carried and stored the weapons.</p> <p>On 15 February 2015, the two Accused and another unidentified DPR member arrived at the house of a local civilian to abduct him and illegally deprive him of property because the victim did not allow one of the Accused to date his daughter. Accused 1 fired at least once at the victim's house to make him leave. Then, the two Accused abducted and detained the victim until he was released after an inspection by the DPR leadership. Thereafter, the two Accused returned to the victim's house and took possession of his car.</p> <p>Both Accused were found guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU); unlawful appropriation of a vehicle committed upon prior conspiracy of a group of persons, with entering into storage a (Art. 289(2) of the CCU); illegal confinement and</p>	<p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition;</p> <p>Art. 146(2) of the CCU as illegal confinement and abduction of a person, committed upon prior conspiracy of a group of persons, with the use of weapons;</p> <p>Art. 289(2) of the CCU as unlawful appropriation of a vehicle committed upon prior conspiracy of a group of persons, with entering into a storage.</p>
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			abduction of a person, upon prior conspiracy of a group of persons, with the use of weapons (Art. 146(2) of the CCU). Accused 1 was additionally found guilty of illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU) and sentenced to nine years of imprisonment.	
778.	Case No. 428/1136/17 , Judgement of 15 December 2017, Severodonetsk City Court of the Luhansk region	Citizen of Ukraine, LPR member	<p>Court findings:</p> <p>The Accused joined the LPR as a commander of a unit. He supplied ammunition, military equipment and small arms to the LPR positions, which were then used to carry out artillery shelling against the positions of the UAF, resulting in casualties.</p> <p>During arrest, the police found cannabis that the Accused was carrying with him.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal acquisition, storage, transporting and sending of drugs without the purpose of sale (Art. 309(1) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a three-year term.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 309(1) of the CCU as illegal acquisition, storage, transporting and sending of drugs without the purpose of sale.</p>
779.	Case No. 423/2047/16-k , Judgement of 18	Citizen of Ukraine	Court findings:	Art. 258-3(1) of the CCU as participation in a terrorist organisation,

	<p>December 2017, Lysychansk City Court of the Luhansk region</p>		<p>The Accused, as a member of an armed unit of the LPR, underwent military training, patrolled the territory and performed other activities within the unit.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation, and other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU); and illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU). The Court sentenced him to three years of imprisonment.</p>	<p>and other assistance to the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.</p>
780.	<p>Case No. 419/3461/17, Judgement of 19 December 2017, Novoaidar District Court of the Luhansk region</p> <p>The defence submitted an appeal, arguing the failure to prove the guilt of the Accused beyond reasonable doubt. The case proceeded to the Court of Appeals of the Luhansk region, which</p>	<p>Two Accused were citizens of Ukraine and LPR members</p>	<p>Court findings:</p> <p>Accused 1 was a soldier at different LPR units, guarded commanders of the LPR military units, patrolled a checkpoint and carried out other activities of the LPR unit. He also acquired weapons and ammunition from another LPR member and carried them with him.</p> <p>Accused 2 was a soldier with different LPR units, carrying out orders of the commanders of a unit.</p> <p>Both Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found both Accused guilty of participation in a terrorist organisation (Art.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.</p>

	upheld the judgement of the first instance court		258-3(1) of the CCU), and illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU). The two Accused were sentenced to eight years of imprisonment each.	
781.	Case No. 229/3626/16-k , Judgement of 27 March 2018, Kostiantynivka City District Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused, being an armed DPR member, supplied food to other DPR members and served as a guard. He also acquired weapon and ammunition and carried them with him.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found both Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), and illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU). The Accused was sentenced to nine years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation; Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.</p>
782.	Case No. 235/8373/15-k , Judgement of 23 June 2018, Krasnoarmiysk City District Court of the Donetsk region	Citizen of Ukraine affiliated with the DPR	<p>Court findings:</p> <p>The Accused repeatedly transported firearms, ammunition and explosives given to him by DPR members through the Ukrainian checkpoints for their subsequent use for DPR's purposes.</p>	<p>Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation;</p>

	The case proceeded to the Court of Appeals of the Donetsk region , which upheld the judgement of the first instance court		The Court found the Accused guilty of other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and illegal acquisition, carrying and storage of firearms, ammunition and explosives (Art. 263(1) of the CCU). The Court sentenced him to four years and eight months of imprisonment.	Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms, ammunition and explosives.
783.	Case No. 761/24238/18 , Judgement of 9 July 2018, Shevchenkivsky District Court of Kyiv	Citizen of Ukraine	<p>Court findings:</p> <p>In 2015-2017, an organised group, which included the Accused and the DPR members, looked for people willing to buy real estate in the territories uncontrolled by the Ukrainian government and forged documents on such real estate, including court decisions which transferred the right of ownership to the buyers. Then, the group, and particularly the Accused, searched for state registrars who could conduct illegal registration of real estate. After such registrar unlawfully transferred a title to property to the buyers, the group received money from the buyers. These operations were implemented several times.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1)); taking possession</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 190(4) of the CCU as taking possession of somebody else's property by deception, committed repeatedly on a particularly large scale, by an organised group;</p> <p>Arts 15(3), 190(4) of the CCU as incomplete attempt at taking possession of somebody else's property by deception, committed repeatedly on a particularly large scale, by an organised group;</p> <p>Arts 28(3), 369-2(1) of the CCU as providing illegal benefit to a person who promises (agrees) for such benefit to influence the decision of a person authorised to perform state</p>

			<p>of somebody else's property by deception, committed repeatedly on a particularly large scale, by an organised group (Art. 190(4)); incomplete attempt at taking possession of somebody else's property by deception, committed repeatedly on a particularly large scale, by an organised group (Arts 15(3), 190(4)); providing illegal benefit to a person who promises (agrees) for such benefit to influence the decision of a person authorised to perform state functions, committed repeatedly by an organised group (Arts 28(3), 369-2(1)); and use of a knowingly forged documents, committed repeatedly, by an organised group (Arts 28(3), 358(4) of the CCU). The Court sentenced her to five years of imprisonment with a release on probation for a three-year term.</p>	<p>functions, committed repeatedly by an organised group;</p> <p>Arts 28(3), 358(4) of the CCU as use of a knowingly forged documents, committed repeatedly by an organised group.</p>
784.	<p>Case No. 221/2636/17, Judgement of 17 September 2018, Ordzhonikidze District Court of Mariupol, Donetsk region</p>	<p>Citizen of the Russian Federation, member of the Oplot brigade of the DPR</p>	<p>Court findings:</p> <p>The Accused entered the territory of Ukraine from the Rostov region (Russia) through a customs checkpoint located in the territory not controlled by the Ukrainian government. Then, he joined the Oplot brigade of the DPR as a shooter and acquired weapons and ammunition. The Accused also patrolled the territory of his military unit and the DPR combat</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition and carrying of firearms and ammunition;</p> <p>Art. 332-1(1) of the CCU as violation of the order of entry into the temporarily occupied territory of</p>

			<p>positions, underwent military trainings, arranged platoon bases and collected information on the activities of the UAF.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU), illegal acquisition and carrying of firearms and ammunition (Art. 263(1) of the CCU), and violation of the order of entry into the temporarily occupied territory of Ukraine in order to harm the interests of the state (Art. 332-1(1) of the CCU). The Court sentenced him to ten years of imprisonment with confiscation of all his property.</p>	Ukraine in order to harm the interests of the state.
785.	<p>Case No. 623/757/15-к, Judgement of 5 October 2018, Iziium City District Court of the Kharkiv region</p> <p>The case proceeded to the Court of Appeals of the Kharkiv region, which quashed the judgement and sent the case for a retrial due to the violations of due process, particularly the rules</p>	Citizen of Ukraine assisted the DPR	<p>Court findings:</p> <p>The Accused provided the DPR with the information concerning the location of the UAF units, their bases and checkpoints, planned operations, and visits of Ukrainian high-ranking officials to the ATO areas.</p> <p>He also acquired ammunition and stored it in his apartment.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and illegal acquisition, carrying and storage of</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>

	related to admissibility of evidence As of March 2021, the retrial was ongoing		ammunition (Art. 263(1) of the CCU). He was sentenced to nine years of imprisonment.	
786.	Case No. 761/10191/19 , Judgement of 11 April 2019, Obolonsky District Court of Kyiv	Citizen of Ukraine affiliated with the DPR	Court findings: In 2015-2017, as a part of an organised group, the Accused took possession of apartments in the DPR-controlled territory by forging documents in a state registrar and provided the DPR members with real estate. The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), taking possession of someone else's property by deceit committed repeatedly, on a particularly large scale, by an organised group (Art. 190(4) of the CCU), and incomplete attempt at taking possession of someone else's property by deceit, committed repeatedly, on a particularly large scale, by an organised group. The Court sentenced him to five years of imprisonment.	Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation; Art. 190(4) of the CCU as taking possession of someone else's property by deceit, committed repeatedly, on a particularly large scale, by an organised group; Arts 15(3), 190(4) of the CCU as incomplete attempt at taking possession of someone else's property by deceit, committed repeatedly, on a particularly large scale, by an organised group.
787.	Case No. 221/6671/16-k , Judgement of 25 April 2019, Illichivsk District	Citizen of Ukraine, serviceman of the UAF later affiliated with the DPR	Court findings: The Accused, who was a UAF's serviceman, left his military unit without authorisation, took weapons and ammunition provided to him for	Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;

	<p>Court of Mariupol of the Donetsk</p>		<p>service and crossed the contact line to join the DPR. He gave interviews to the DPR and Russian media wherein he provided information on the location of UAF units and discredited the UAF.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), desertion committed during a special period other than martial law (Art. 408(3) of the CCU), and misappropriation of weapons and ammunition committed during a special period other than martial law (Art. 410(3) of the CCU). The Court sentenced him to ten years of imprisonment.</p>	<p>Art. 408(3) of the CCU as desertion, <i>i.e.</i>, leaving a military unit without permission in order to evade military service, committed during a special period other than martial law;</p> <p>Art. 410(3) of the CCU as misappropriation of weapons and ammunition committed during a special period other than martial law.</p>
788.	<p>Case No. 237/4298/18, Judgement of 14 May 2019, Maryinsky District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement and sent the case for a retrial</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p><u>Court findings:</u></p> <p>The Accused received food products with an explosive device inside from his acquaintance, a DPR member, and agreed to pass it along to another person. He brought the explosive device across the contact line to the territory controlled by the Ukrainian government and kept it at his place of residence.</p> <p>The Court acquitted him of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), as, in the Court's view, the Prosecution failed to prove beyond a reasonable doubt that the Accused knew that</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of explosive devices and explosives.</p>

	<p>The case was pending before the Ordzhonikidze District Court of Mariupol, Donetsk region as of April 2021</p>		<p>his acquaintance was the DPR member and that he particularly agreed to assist the DPR.</p> <p>The Court found the Accused guilty of illegal acquisition, carrying and storage of explosive devices and explosives (Art. 263(1) of the CCU) and sentenced him to six years of imprisonment.</p>	
789.	<p>Case No. 761/44670/16-к, Judgement of 28 October 2019, Pavlohrad City District Court of the Dnipropetrovsk region</p> <p>The Prosecution appealed the judgement, arguing that the court failed to consider all the facts and erred in application of the procedural law. The case proceeded to the Court of Appeals of the Dnipropetrovsk region, which quashed the judgement of the first instance court and sent the case for a retrial</p>	<p>Serhii Bilohorodskyy, citizen of Ukraine, former member of the Donetsk city council</p>	<p>Court findings:</p> <p>As alleged in the indictment, in April 2014, as a member of the regional council of Ukraine, the Accused provided material and technical support to activities of the DPR’s “Oplot” group.</p> <p>This aid was allegedly used for constructing checkpoints. He later registered a business enterprise on the territory not controlled by the Ukrainian government, and the enterprise pays taxes and provides material and technical aid to the DPR. The Accused also stored ammunition in his apartment.</p> <p>The Court acquitted the Accused of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and illegal acquisition and storing of ammunition (Art. 263(1) of the CCU), due to lack of evidence.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal acquisition and storing of ammunition.</p>

	<p>The retrial was pending as of April 2021.</p>			
<p>790.</p>	<p>Case No. 263/13128/18, Judgement of 26 December 2019, Illichivsk District Court of Mariupol of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which dismissed the defence appeal as such that was made outside the thirty-day time-limit prescribed by law</p>	<p>Two Accused were citizens of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>Accused 1 agreed to transfer information about the UAF units, their location and composition to the DPR for personal benefit.</p> <p>Both Accused stored and transported explosives and components of explosive devices across the contact line for its subsequent use in terrorist acts by the DPR.</p> <p>Additionally, Accused 1 assembled all the parts of an explosive device in a single mechanism.</p> <p>DPR members used these explosives to commit an attack which resulted in the death of a person in Mariupol.</p> <p>The Court found both Accused guilty of other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU); illegal acquisition, carrying and storage of explosive devices and explosives committed upon prior conspiracy of a group of persons (Arts 28(2), 263(1) of the CCU); and committing a terrorist act which led to the death of a person and caused significant property damage, committed upon prior conspiracy of a group of persons</p>	<p>Art. 258(3) of the CCU as committing a terrorist act, <i>i.e.</i>, committing an explosion for the purpose of violating public safety, intimidating the population, provoking an armed conflict, which led to the death of a person and caused significant property damage, committed upon prior conspiracy of a group of persons;</p> <p>Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation;</p> <p>Arts 28(2), 263(1) of the CCU as illegal acquisition, carrying and storage of explosive devices and explosives committed upon prior conspiracy of a group of persons;</p> <p>Art. 263-1(2) of the CCU as illegal manufacture of explosive devices, committed upon prior conspiracy of a group of persons.</p>

			<p>upon prior conspiracy of a group of persons (Art. 258(3) of the CCU).</p> <p>Accused 1 was additionally found guilty of illegal manufacture of explosive devices, committed upon prior conspiracy of a group of persons (Art. 263-1(2) of the CCU).</p> <p>The Court sentenced both Accused to 12 years of imprisonment with confiscation of all their property.</p>	
791.	<p>Case No. 428/12346/19, Judgement of 14 April 2020, Lysychansk City Court of the Luhansk region</p>	<p>Citizen of Ukraine affiliated with the LPR</p>	<p>Court findings:</p> <p>The Accused provided information on the location and routes of the UAF to the LPR.</p> <p>During the search of his place of residence, cannabis, precursors, ammunition and explosives were found.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), illegal storage of ammunition, explosives and explosive devices (Art. 263(1) of the CCU), and illicit manufacture and storage of drugs for sale, in especially large amounts (Art. 307(3) of the CCU) and sentenced him to five years of</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation;</p> <p>Art. 263(1) of the CCU as illegal storage of ammunition, explosives and explosive devices;</p> <p>Art. 307(3) of the CCU as illicit manufacture and storage of drugs for sale, in especially large amounts.</p>

			imprisonment with a release on probation for a two-year term.	
792.	Case No. 552/3764/19 , Judgement of 10 September 2020, Kyiv District Court of Poltava	Citizen of Ukraine, UAF serviceman later affiliated with the LPR	<p>Court findings:</p> <p>The Accused, who was a UAF's serviceman, left his military unit without authorisation and went to the Russian Federation. He also committed combat and other sabotage tasks to assist the Luhansk division of the Don Cossacks of the LPR while on duty.</p> <p>The Accused had been notified of the proceedings, but failed to appear in court, which is why the case was tried <i>in absentia</i>.</p> <p>The Court found the Accused guilty of participation in a terrorist organisation and assistance to its activities (Art. 258-3(1) of the CCU), and desertion (Art. 408(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation and assistance to the activities of a terrorist organisation;</p> <p>Art. 408(1) of the CCU as desertion, <i>i.e.</i>, leaving a military unit without permission in order to evade military service.</p>
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
793.	Case No. 263/2918/19 , Order of 21 March 2019, Prymorsky District Court of Mariupol, Donetsk region	Ihor Skliarov, citizen of Ukraine, entrepreneur	<p>Allegations:⁴²</p> <p>The Accused was a director of a company which lent its premises to the "Donbasauto" enterprise.</p>	Art. 258-5(2) of the CCU as financing of terrorism, <i>i.e.</i> , actions committed for the purpose of financial or material support of a terrorist organisation, by

⁴² *Ibid*, p. 48.

	The case is ongoing		The Prosecution charged him with financing of terrorism by the prior conspiracy of a group of persons (Art. 258-5(2) of the CCU) and illegal movement of persons across the state border of Ukraine (Art. 332(3) of the CCU).	the prior conspiracy of a group of persons; Art. 332(3) of the CCU as illegal movement of persons across the state border of Ukraine.
794.	Case No. 265/13/18 , Order of 11 November 2020, Ordzhonikidze District Court of Mariupol, Donetsk region The case is ongoing	Serhiy Ishchenko, Denis Bityai, Mykola Koryuk – citizens of Ukraine	Allegations: ⁴³ The Accused planned to blow up the base of the National Guard unit under the coordination of the members of the D/LPR. The Prosecution charged them with assisting a terrorist act (Arts 27(5), 258(2) of the CCU) and illegal handling of weapons, ammunition or explosives (Art. 263(1) of the CCU).	Arts 27(5), 258(2) of the CCU as assisting to commission of a terrorist act; Art. 263(1) of the CCU as illegal handling of weapons, ammunition or explosives.
PARTICIPATION IN AN ILLEGAL ARMED GROUP				
ADJUDICATED CASES				
795.	Case No. 325/1527/15-k , Judgement of 2 November 2016, Priazovsky District Court of the Zaporizhzhia region The case proceeded to the Court of Appeals of	Citizen of Ukraine, member of the 1st Sloviansky Battalion of the DPR	Court findings: In September 2014, the Accused enlisted in an armed unit of the DPR where he served at a checkpoint, controlling the movement through the checkpoint and monitoring of the area until	Art. 258-3(1) of the CCU as participation in the activities of a terrorist organisation. However, the Court changed qualification of the crime to Art. 260(2) of the CCU as participation in

⁴³ *Ibid*, p. 51.

	<p>Zaporizhzhia region which overturned the judgement and returned the case for retrial to the first instance court</p>		<p>he was captured by the Ukrainian forces in February 2015.</p> <p>The court agreed with the defence that the qualification of the crime had to be changed from participation in a terrorist organization to participation in an illegal armed formation because no evidence proved that the DPR was, in fact, a terrorist organization.</p> <p>The first instance court found the Accused guilty of participating in an illegal armed formation (Art. 260(2) of the CCU) and sentenced him to five years of imprisonment. Agreeing with the Prosecution's appeal, the court of appeal later overturned the judgement due to a mismatch between factual circumstances and legal qualification and an incorrect application of criminal law. The case was returned to a first instance court for a retrial.</p>	<p>the activities of an illegal armed formation.</p>
796.	<p>Case No. 428/6916/14-к, Judgement of 5 December 2016, Severodonetsk City Court of the Luhansk region</p>	<p>Citizen of Ukraine, member of the Army of the South-East</p>	<p>Court findings:</p> <p>The Accused interrogated persons taken to the headquarters of the group in Severodonetsk, Luhansk region.</p> <p>The Court changed the initial legal qualification from participation in the activities of an illegal</p>	<p>Art. 260(1) of the CCU as participation in the activities of an illegal paramilitary group;</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

	<p>The Prosecution submitted an appeal arguing that the court erred in application of the procedural law and the sentence was too lenient. The case proceeded to the Court of Appeals of the Luhansk region, which quashed the judgement of the first instance court and passed a new sentence</p>		<p>armed group (Art. 260(2) of the CCU) to participation in the activities of an illegal paramilitary group (Art. 260(1) of the CCU). In the view of the Court, the Prosecution did not prove that the formation in question was an armed group.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal paramilitary group (Art. 260(1) of the CCU) and sentenced him to two years of imprisonment with a release on probation for a one-year term.</p> <p>The Court of Appeals changed the legal qualification of the conduct to participation in the activities of an illegal armed group (Art. 260(2) of the CCU), as the available evidence appeared sufficient to consider the formation in question as an armed formation. Accordingly, the Court sentenced the Accused to three years of imprisonment.</p>	
797.	<p>Case No. 425/2709/15-k, Judgement of 26 December 2016, Rubizhne City Court of the Luhansk region</p>	<p>Citizen of Ukraine assisted the DPR</p>	<p><u>Court findings:</u></p> <p>The Accused posted the DPR-related information in her social media page, urging other persons to join the DPR and to provide material support to the DPR. She also revealed personal information of the members of Ukrainian volunteer battalions on her social</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation changed by the Court to Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

			<p>media. She also provided the reconnaissance information concerning the location of the UAF to the DPR.</p> <p>The Court changed the legal qualification from participation in a terrorist organisation as submitted by the Prosecution (Art. 258-3(1) of the CCU) to participation in the activities of an illegal armed group (Art. 260(2) of the CCU). The Court held that due to the lack of a procedure for recognising an organisation as a terrorist one, it was impossible to apply the provisions of the Law of Ukraine “On Combating Terrorism” which was required if Art. 258-3(1) were to apply.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced her to three years and six months of imprisonment.</p>	
798.	<p>The Court held the same view in the following cases:</p>			
799.	<p>Case No. 233/425/16-к, Judgement of 28 April 2017, Dobropillia City District Court of the Donetsk region (the Accused was sentenced to six years of imprisonment);</p> <p>Case No. 229/865/16-к, Judgement of 12 June 2017, Druzhkivka City Court of the Donetsk region (the Accused was sentenced to four years of imprisonment. However, the Court of Appeals of the Donetsk region quashed the judgement and found the Accused guilty of participation in a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to eight years of imprisonment).</p>			

800.	Case No. 243/120/17-к , Judgement of 16 February 2017, Sloviansk City District Court of the Donetsk region	Citizen of Ukraine, DPR member	Court findings: The Accused as a DPR member guarded an administrative building of the factory where DPR forces were stationed. The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to one year of imprisonment.	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused guarded buildings and/ or territories, while in certain cases the Accused also served at checkpoints. The Accused were found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), sentenced to three, four or five years of imprisonment and released on probation.</p> <p>801. Case No. 415/3059/16-к, Judgement of 1 November 2016, Lysychansk City Court of the Luhansk region;</p> <p>802. Case No. 221/4532/16-к, Judgement of 4 November 2016, Volnovakha District Court of the Donetsk region;</p> <p>803. Case No. 243/8964/16-к, Judgement of 8 November 2016, Sloviansk City District Court of the Donetsk region;</p> <p>804. Case No. 219/9755/16-к, Judgement of 15 November 2016, Artemivsk City District Court of the Donetsk region;</p> <p>805. Case No. 243/9929/16-к, Judgement of 7 December 2016, Sloviansk City District Court of the Donetsk region;</p> <p>806. Case No. 221/644/17, Judgement of 24 February 2017, Volnovakha District Court of the Donetsk region;</p> <p>807. Case No. 225/1530/17, Judgement of 24 April 2017, Dzerzhynsky City Court of the Donetsk region;</p>				

808. [Case No. 219/4133/17](#), Judgement of 4 July 2017, Artemivsk City District Court of the Donetsk region (the case proceeded to the [Court of Appeals of the Donetsk region](#), which quashed the judgement of the first instance court because of the procedural violations and sent the case for a retrial);
809. [Case No. 219/7023/17](#), Judgement of 4 August 2017, Artemivsk City District Court of the Donetsk region;
810. [Case No. 243/8710/17](#), Judgement of 24 October 2017, Sloviansk City District Court of the Donetsk region;
811. [Case No. 233/5357/17](#), Judgement of 20 November 2017, Kostiantynivka City District Court of the Donetsk region;
812. [Case No. 233/5600/17](#), Judgement of 30 January 2018, Kostiantynivka City District Court of the Donetsk region;
813. [Case No. 219/14236/17](#), Judgement of 7 February 2018, Artemivsk City District Court of the Donetsk region;
814. [Case No. 221/684/18](#), Judgement of 12 February 2018, Volnovakha District Court of the Donetsk region;
815. [Case No. 219/454/18](#), Judgement of 13 March 2018, Artemivsk City District Court of the Donetsk region;
816. [Case No. 243/1177/18](#), Judgement of 23 March 2018, Sloviansk City District Court of the Donetsk region;
817. [Case No. 221/1246/17](#), Judgement of 6 April 2018, Volnovakha District Court of the Donetsk region;
818. [Case No. 219/1408/18](#), Judgement of 1 June 2018, Artemivsk City District Court of the Donetsk region;
819. [Case No. 243/4536/18](#), Judgement of 4 June 2018, Sloviansk City District Court of the Donetsk region;
820. [Case No. 415/2321/19](#), Judgement of 20 March 2019, Lysychansk City Court of the Luhansk region;
821. [Case No. 233/3848/19](#), Judgement of 18 July 2019, Kostiantynivka City District Court of the Donetsk region;
822. [Case No. 242/1813/18](#), Judgement of 5 September 2018, Selydovo City Court of the Donetsk region;

823.	Case No. 225/5053/18 , Judgement of 21 September 2018, Dzerzhynsky City Court of the Donetsk region;			
824.	Case No. 942/1632/19 , Judgement of 1 October 2019, Novopskov District Court of the Luhansk region;			
825.	Case No. 237/3959/19 , Judgement of 29 July 2019, Maryinsky District Court of the Donetsk region;			
826.	Case No. 415/2234/20 , Judgement of 2 April 2020, Lysychansk City Court of the Luhansk region;			
827.	Case No. 219/7250/20 , Judgement of 14 September 2020, Artemivsk City District Court of the Donetsk region;			
828.	Case No. 242/4433/17 , Judgement of 23 September 2020, Dymytrovsky City Court of the Donetsk region;			
829.	Case No. 428/8747/20 , Judgement of 26 October 2020, Sievierodonetsk City Court of the Luhansk region;			
830.	Case No. 423/1519/20 , Judgement of 24 November 2020, Popasna District Court of the Luhansk region.			
831.	<p>Case No. 227/5991/15-k, Judgement of 23 February 2017, Dobropillia City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first instance court and sent the case for a retrial</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>The Accused provided information concerning the location of the UAF to the DPR.</p> <p>The Court changed the legal qualification from assistance to the activities of a terrorist organisation as submitted by the Prosecution (Art. 258-3(1) of the CCU) to participation in the activities of an illegal armed group (Art. 260(2) of the CCU).</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to five years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation; changed by the Court to Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

	On retrial , the Accused was found guilty		On retrial, another Court found the Accused guilty of assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) and sentenced him to four years and six months of imprisonment.	
832.	Case No. 221/1073/17 , Judgement of 11 April 2017, Volnovakha District Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused was a guard at a pre-trial detention centre, controlled by the DPR.</p> <p>The Accused entered into a plea agreement with the Prosecution which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a three-year term.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
	<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused acted to the benefit of the D/ LPR by servicing military equipment, patrolling territory, transporting weapons, guarding buildings or interviewing detainees. The Accused were found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), sentenced to three or five years of imprisonment and released on probation.</p>			
833.	Case No. 237/2034/16-k , Judgement of 2 September 2016, Maryinsky District Court of the Donetsk region			
834.	Case No. 237/2201/16-k , Judgement of 6 September 2016, Maryinsky District Court of the Donetsk region;			
835.	Case No. 235/10373/15-k , Judgement of 24 November 2016, Krasnoarmiysk City District Court of the Donetsk region;			

836.	Case No. 423/1486/16-к , Judgement of 16 March 2017, Popasna District Court of the Luhansk region;		
837.	Case No. 221/1524/17 , Judgement of 24 May 2017, Volnovakha District Court of the Donetsk region;		
838.	Case No. 425/925/17 , Judgement of 30 May 2017, Rubizhne City Court of the Luhansk region;		
839.	Case No. 229/1912/17 , Judgement of 20 June 2017, Druzhkivka City Court of the Donetsk region;		
840.	Case No. 428/5754/14-к , Judgement of 23 June 2017, Severodonetsk City Court of the Luhansk region;		
841.	Case No. 221/3556/17 , Judgement of 30 October 2017, Volnovakha District Court of the Donetsk region;		
842.	Case No. 235/3051/17 , Judgement of 21 December 2017, Krasnoarmiysk City District Court of the Donetsk region;		
843.	Case No. 221/6459/17 , Judgement of 12 January 2018, Volnovakha District Court of the Donetsk region;		
844.	Case No. 221/1182/18 , Judgement of 22 March 2018, Volnovakha District Court of the Donetsk region;		
845.	Case No. 573/951/17 , Judgement of 2 October 2018, Tokmak District Court of the Zaporizhia region;		
846.	Case No. 264/921/19 , Judgement of 6 February 2019, Illichivsk District Court of Mariupol, Donetsk region;		
847.	Case No. 229/1293/19 , Judgement of 10 April 2019, Druzhkivka City Court of the Donetsk region;		
848.	Case No. 229/575/16-к , Judgement of 23 April 2019, Druzhkivka City Court of the Donetsk region.		
849.	Case No. 221/1592/17 , Judgement of 12 May 2017, Volnovakha District Court of the Donetsk region	Citizen of Ukraine, member of the DPR's "Vostok" battalion	<p>Court findings:</p> <p>The Accused was a member of the engineering and construction company of the DPR's "Vostok" battalion and provided building materials for the construction of fortifications.</p> <p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

			<p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment with a release on probation for a one-year term.</p>	
850.	Case No. 418/240/17 , Judgement of 15 May 2017, Milove District Court of the Luhansk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>As a DPR member, the Accused, being armed, served at a checkpoint and checked documents of the passers-by.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years six months of imprisonment. As the Accused had been previously sentenced to four years of imprisonment for theft and this sentence was not yet served, the Court passed the cumulative sentence of four years of imprisonment.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
851.	Case No. 428/6471/14-k , Judgement of 2 June 2017, Severodonetsk City Court of the Luhansk region	Citizen of Ukraine, member of the LPR's "Army of the South East" group	<p>Court findings:</p> <p>The Accused guarded a building in Severodonetsk that was seized by the LPR. He also asked another person to join the armed formation.</p>	Art. 260(1) of the CCU as participation in the activities of an illegal paramilitary group.

			<p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal paramilitary group (Art. 260(1) of the CCU) and sentenced him to three years nine months of imprisonment.</p>	
852.	<p>Case No. 243/5385/17, Judgement of 23 June 2017, Sloviansk City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, member of the DPR's "Sons of Donbas" group</p>	<p>Court findings:</p> <p>The Accused as a DPR member, being armed, guarded the administrative buildings of the local division of MIA and patrolled the surrounding streets.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment. As the Accused had been previously sentenced to three years six months of imprisonment for unlawful handling of weapons and this sentence was not yet served, the Court passed the cumulative sentence of four years of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

<p>853.</p>	<p>Case No. 243/4257/16-к, Judgement of 23 June 2017, Sloviansk City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which discontinued the appellate proceedings when the parties withdrew their appeals</p>	<p>Citizen of Ukraine, DPR member</p>	<p>Court findings:</p> <p>After joining the DPR in 2014, the Accused guarded the premises of the Sloviansk city department of the Ministry of Internal Affairs of Ukraine in the Donetsk region seized by the DPR. He also patrolled the adjacent areas, controlled the movement of persons near the guarded building and performed other tasks assigned to him by the command.</p> <p>The Court changed the legal qualification of the Accused conduct from organisational assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) as submitted by the Prosecution to participation in the activities of an illegal armed group (Art. 260 of the CCU).</p> <p>The Accused was found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced to six years of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation changed by the Court to Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
<p>854.</p>	<p>Case No. 234/8861/17, Judgement of 14 August 2017, Kramatorsk City Court of the Donetsk region</p>	<p>Citizen of Ukraine, DPR member</p>	<p>Court findings:</p> <p>The Accused was a DPR member and served at a checkpoint, where he maintained the permit regime, <i>i.e.</i>, checked documents and cars of the</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>

	The defence appealed the judgement arguing that mitigating factors were not considered and the court erred in application of the procedural law. The case proceeded to the Courts of Appeals of the Donetsk region , which upheld the judgement of the first instance court		<p>passers-by, detected persons with a pro-Ukrainian position, etc.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment. Due to a previous sentence, which had not been served in full, and violation of the probation conditions, the Court sentenced the Accused to the overall term of three years one month of imprisonment.</p>	
855.	Case No. 418/394/16-к , Judgement of 25 October 2017, Milove District Court of the Luhansk region	Citizen of Ukraine, member of the LPR's "Terykon" group	<p>Court findings:</p> <p>The Accused as an LPR member, being armed, performed various service duties, including guarding military equipment and ammunition.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to four years of imprisonment. Due to a previous sentence, which had not been served in full, and violation of the probation conditions, the Court sentenced the Accused to the overall term of four years two months of imprisonment.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
856.	Case No. 766/19384/17 , Judgement of 16 November 2017, Kherson	Citizen of Ukraine, member of the DPR's "Somali" and	Court findings:	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

	City Court of the Kherson region	Kramatorsk motorised infantry battalions	<p>The Accused, being armed, served at the DPR checkpoints, built and repaired fortifications, conducted patrolling and reconnaissance. He was also a journalist writing and publishing propaganda articles, photos and videos on the Internet.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to five years of imprisonment.</p>	
857.	Case No. 234/4805/17 , Judgement of 13 December 2017, Kramatorsk City Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused was a member of the DPR and served at a checkpoint, where he maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by, detected persons with a pro-Ukrainian position, etc.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment. Due to a previous sentence, which had not been served in full, and violation of the probation conditions, the Court sentenced the Accused to the overall term of three years one month of imprisonment.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

858.	<p>Case No. 415/2450/17, Judgement of 19 December 2017, Lysychansk City Court of the Luhansk region</p>	Citizen of Ukraine	<p>Court findings:</p> <p>As a member of an illegal armed group, the Accused guarded an administrative building of the SSU after it was seized by the LPR and transported other group members.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to one year and four months of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
859.	<p>Case No. 221/5459/17, Judgement of 10 January 2018, Volnovakha District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement and sent the case for retrial without providing any reasons</p>	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>After the Accused joined the DPR, he was tasked with charging artillery for a monetary reward and participated in military trainings.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment. As the Accused had been previously sentenced to two years of imprisonment for theft and this sentence was in the process of serving, the Court passed the cumulative sentence of four years six months of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 260(1) of the CCU as participation in the activities of an illegal paramilitary formation.</p>

	On retrial, the guilty verdict was passed on 30 October 2019 by the Volnovakha District Court of the Donetsk region		After the Court of Appeals sent the case to a retrial quashing the previous judgement, a new guilty verdict was passed. The Court changed the qualification and found the Accused guilty of participation in the activities of an illegal paramilitary formation under (Art. 260(1)) and sentenced him to two years four months of imprisonment. Given the Accused's previous convictions, the Court passed the cumulative sentence of three years six months of imprisonment.	
860.	Case No. 408/7965/16-k , Judgement of 19 February 2018, Bilovodsk District Court of the Luhansk region	Citizen of Ukraine, member of the DPR's "Rym" formation	<p>Court findings:</p> <p>The Accused was a deputy military commandant of Sverdlovsk (DPR) in charge for economic activity and responsible for material supply of the formation. He also instructed the activity of the local customshouse, organising and coordinating smuggling of goods to the DPR.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

861.	<p>Case No. 417/6054/18, Judgement of 1 August 2018, Markivka District Court of the Luhansk region</p>	<p>Citizen of Ukraine, LPR member</p>	<p>Court findings:</p> <p>As an LPR shooter, the Accused served at a checkpoint and guarded military equipment and a warehouse with ammunition.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to six years of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
862.	<p>Case No. 417/8318/19, Judgement of 8 May 2019, Markivka District Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region which changed the verdict only to include the length of the pre-trial detention into the sentence</p>	<p>Citizen of Ukraine, member of the LPR's "Zoria" battalion</p>	<p>Court findings:</p> <p>The Accused was an armed member of the LPR, dug trenches and implemented other orders aimed at preventing the offensive of Ukrainian forces.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years six months of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
863.	<p>Case No. 417/8474/19, Judgement of 4 June 2019, Markivka District</p>	<p>Citizen of Ukraine, member of the</p>	<p>Court findings:</p>	<p>Art. 260(1) of the CCU as participation in the activities of an illegal paramilitary formation.</p>

	Court of the Luhansk region	LPR's "Nochniye Volki" formation	<p>The Accused, being a LPR member, extracted metals, transported materials, and convoyed the trucks.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal paramilitary formation (Art. 260(1) of the CCU) and sentenced him to two years of imprisonment with a release on probation for a one-year term.</p>	
<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused, being a D/ LPR fighter, acted to the benefit of the D/ LPR by undergoing military training, serving as a driver, repairing military equipment or transporting weapons, personnel or food. The Accused were found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), sentenced to three, four or five years of imprisonment and released on probation.</p> <p>864. Case No. 237/2952/16-к, Judgement of 8 September 2016, Vugledar City Court of the Donetsk region;</p> <p>865. Case No. 480/2345/16-к, Judgement of 3 November 2016, Mykolayivsky District Court of the Mykolaiv region;</p> <p>866. Case No. 237/5512/16-к, Judgement of 23 January 2017, Maryinsky District Court of the Donetsk region;</p> <p>867. Case No. 221/6758/16-к, Judgement of 24 January 2017, Volnovakha District Court of the Donetsk region;</p> <p>868. Case No. 223/667/16-к, Judgement of 10 April 2017, Volnovakha District Court of the Donetsk;</p> <p>869. Case No. 221/2123/17, Judgement of 21 June 2017, Volnovakha District Court of the Donetsk;</p>				

870. [Case No. 223/356/17](#), Judgement of 25 July 2017, Vugledar City Court of the Donetsk region;
871. [Case No. 409/2156/17](#), Judgement of 22 November 2017, Bilokurakhyne District Court of the Luhansk region;
872. [Case No. 221/5381/17](#), Judgement of 5 December 2017, Volnovakha District Court of the Donetsk region;
873. [Case No. 425/925/17](#), Judgement of 15 December 2017, Rubizhne City Court of the Luhansk region;
874. [Case No. 221/873/18](#), Judgement of 19 February 2018, Volnovakha District Court of the Donetsk region;
875. [Case No. 328/527/18](#), Judgement of 27 March 2018, Tokmak District Court of the Zaporizhia region;
876. [Case No. 182/2352/18](#), Judgement of 2 May 2018, Nikopolskyy City District Court of the Dnipropetrovsk region;
877. [Case No. 425/741/18](#), Judgement of 22 May 2018, Svativsky District Court of the Luhansk region;
878. [Case No. 766/5383/18](#), Judgement of 10 August 2018, Kherson City Court of the Kherson region;
879. [Case No. 426/14213/18](#), Judgement of 5 September 2018, Svativsky District Court of the Luhansk region;
880. [Case No. 408/3472/18](#), Judgement of 18 October 2018, Bilovodsk District Court of the Luhansk region.
881. [Case No. 237/1637/18](#), Judgement of 23 August 2018, Maryinsky District Court of the Donetsk region;
882. [Case No. 237/5279/18](#), Judgement of 23 January 2019, Maryinsky District Court of the Donetsk region;
883. [Case No. 426/10902/19](#), Judgement of 18 September 2019, Svativsky District Court of the Luhansk region;
884. [Case No. 619/3174/20](#), Judgement of 7 July 2020, Dergachiv District Court of the Kharkiv region.

885.	<p>Case No. 219/3125/19, Judgement of 23 August 2019, Artemivsk City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which clarified the final sentence regarding the time served by the Accused</p>	Citizen of Ukraine, DPR member	<p><u>Court findings:</u></p> <p>The Accused, while being armed, served at several checkpoints and maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by. He also guarded fragments of the downed Malaysian Boeing 777 near the place of accident.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years six months of imprisonment. Due to a previous sentence for a theft, which had not been served in full, and violation of the probation conditions, the Court sentenced the Accused to the overall term of five years of imprisonment with a release on probation for a three-year term.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
886.	<p>Case No. 415/9178/19, Judgement of 26 December 2019, Lysychansk City Court of the Luhansk region</p>	Citizen of Ukraine	<p><u>Court findings:</u></p> <p>The Accused was a member of an armed formation, served as a sapper and constructed the checkpoints.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

			group (Art. 260(2) of the CCU) and sentenced him to three months of arrest.	
887.	Case No. 234/19586/19 , Judgement of 14 January 2020, Kramatorsk City Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused coordinated members of the armed formations and provided them access to the administrative buildings of the local business entities to assist the formations' operations.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment with a release on probation for a three-year term.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
888.	Case No. 229/2242/18 , Judgement of 24 January 2020, Druzhkivka City Court of the Donetsk region The Accused appealed to the Court of Appeals of the Donetsk region , which returned the appeal without consideration as	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused as a DPR member, served at a checkpoint and maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment. Previously the other court had sentenced the Accused to</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

	such that was made outside the thirty-day time-limit prescribed by law		eight years of imprisonment for crimes connected with the drug circulation and this sentence was in progress. Thus, the Court passed the cumulative sentence of nine years of imprisonment with the confiscation of part of the property.	
889.	Case No. 310/817/20 , Judgement of 27 February 2020, Berdyansk City District Court of the Zaporizhia region	Citizen of Ukraine, DPR member	Court findings: The Accused served at the checkpoint. The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to four years and five months of imprisonment.	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
890.	Case No. 415/9145/19 , Judgement of 15 April 2020, Lysychansk City Court of the Luhansk region	Citizen of Ukraine	Court findings: The Accused as a member of an armed formation patrolled territory and maintained public order. The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment. As the	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

			Accused's previous sentence had not been served in full, the Court sentenced him to the overall term of four years and seven months of imprisonment.	
891.	Case No. 237/1391/20 , Judgement of 10 June 2020, Maryinsky District Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused, being armed, served at several checkpoints and maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years six months of imprisonment which replaced the previous milder sentence that was not served in full. The Court released the Accused on probation for a term of one year and six months.</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.
	<p>Other judgements on a similar set of circumstances, i.e. the cases wherein the Accused served at a DPR/LPR checkpoints, are listed below chronologically. In all of these cases, the Accused either maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by, or conducted reconnaissance activities in relation to servicemen and equipment of the UAF, sometimes combined with other activities, <i>e.g.</i>, building fortifications, convoying detainees. The Accused were found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), sentenced to three, four or five years of imprisonment and released on probation.</p>			
892.	Case No. 243/6758/16-k , Judgement of 2 September 2016, Sloviansk City District Court of the Donetsk region;			
893.	Case No. 225/4872/16-k , Judgement of 7 September 2016, Dzerzhynsky City Court of the Donetsk region;			

894. [Case No. 234/13420/16-к](#), Judgement of 7 September 2016, Kramatorsk City Court of the Donetsk region;
895. [Case No. 234/9771/16-к](#), Judgement of 13 September 2016, Kramatorsk City Court of the Donetsk region;
896. [Case No. 236/2058/16-к](#), Judgement of 14 September 2016, Krasnolymansky City Court of the Donetsk region;
897. [Case No. 234/13127/16-к](#), Judgement of 16 September 2016, Kramatorsk City Court of the Donetsk region;
898. [Case No. 229/2954/16-к](#), Judgement of 26 September 2016, Druzhkivka City Court of the Donetsk region;
899. [Case No. 263/11801/16-к](#), Judgement of 27 September 2016, Zhovtnevy District Court of Mariupol, Donetsk region;
900. [Case No. 263/12296/16-к](#), Judgement of 6 October 2016, Zhovtnevy District Court of Mariupol, Donetsk region;
901. [Case No. 243/8113/16-к](#), Judgement of 11 October 2016, Sloviansk City District Court of the Donetsk region;
902. [Case No. 243/8201/16-к](#), Judgement of 12 October 2016, Sloviansk City District Court of the Donetsk region;
903. [Case No. 243/8200/16-к](#), Judgement of 18 October 2016, Sloviansk City District Court of the Donetsk region;
904. [Case No. 243/7798/16-к](#), Judgement of 21 October 2016, Sloviansk City District Court of the Donetsk region;
905. [Case No. 219/8714/16-к](#), Judgement of 24 October 2016, Artemivsk City District Court of the Donetsk region;
906. [Case No. 234/12735/16-к](#), Judgement of 24 October 2016, Kramatorsk City Court of the Donetsk region;
907. [Case No. 234/12862/16-к](#), Judgement of 25 October 2016, Kramatorsk City Court of the Donetsk region;
908. [Case No. 234/12864/16-к](#), Judgement of 27 October 2016, Kramatorsk City Court of the Donetsk region;
909. [Case No. 237/3015/16-к](#), Judgement of 28 October 2016, Maryinsky District Court of the Donetsk region;

910. [Case No. 229/3146/16-к](#), Judgement of 28 October 2016, Druzhkivka City Court of the Donetsk region;
911. [Case No. 234/12911/16-к](#), Judgement of 31 October 2016, Kramatorsk City Court of the Donetsk region;
912. [Case No. 234/16177/16-к](#), Judgement of 2 November 2016, Kramatorsk City Court of the Donetsk region;
913. [Case No. 234/16179/16-к](#), Judgement of 2 November 2016, Kramatorsk City Court of the Donetsk region;
914. [Case No. 225/5668/16-к](#), Judgement of 4 November 2016, Dzerzhynsky City Court of the Donetsk region;
915. [Case No. 236/671/16-к](#), Judgement of 9 November 2016, Krasnolymansky City Court of the Donetsk region;
916. [Case No. 243/8652/16-к](#), Judgement of 9 November 2016, Sloviansk City District Court of the Donetsk region;
917. [Case No. 234/16180/16-к](#), Judgement of 18 November 2016, Kramatorsk City Court of the Donetsk region;
918. [Case No. 229/3432/16-к](#), Judgement of 23 November 2016, Druzhkivka City Court of the Donetsk region;
919. [Case No. 243/7682/16-к](#), Judgement of 24 November 2016, Sloviansk City District Court of the Donetsk region;
920. [Case No. 236/2923/16-к](#), Judgement of 1 December 2016, Krasnolymansky City Court of the Donetsk region;
921. [Case No. 237/3834/16-к](#), Judgement of 8 December 2016, Maryinsky District Court of the Donetsk region;
922. [Case No. 243/10170/16-к](#), Judgement of 9 December 2016, Sloviansk City District Court of the Donetsk region;
923. [Case No. 234/17828/16-к](#), Judgement of 12 December 2016, Kramatorsk City Court of the Donetsk region;
924. [Case No. 236/3032/16-к](#), Judgement of 21 December 2016, Krasnolymansky City Court of the Donetsk region;
925. [Case No. 234/19212/16-к](#), Judgement of 28 December 2016, Kramatorsk City Court of the Donetsk region;

926. [Case No. 234/19009/16-к](#), Judgement of 6 January 2017, Kramatorsk City Court of the Donetsk region;
927. [Case No. 243/252/17-к](#), Judgement of 19 January 2017, Sloviansk City District Court of the Donetsk region;
928. [Case No. 236/72/17](#), Judgement of 20 January 2017, Krasnolymansky City Court of the Donetsk region;
929. [Case No. 234/11314/16-к](#), Judgement of 24 January 2017, Kramatorsk City Court of the Donetsk region;
930. [Case No. 236/135/17](#), Judgement of 31 January 2017, Krasnolymansky City Court of the Donetsk region;
931. [Case No. 234/1033/17](#), Judgement of 2 February 2017, Kramatorsk City Court of the Donetsk region;
932. [Case No. 236/203/17](#), Judgement of 6 February 2017, Krasnolymansky City Court of the Donetsk region;
933. [Case No. 221/45/17](#), Judgement of 13 February 2017, Volnovakha District Court of the Donetsk region;
934. [Case No. 236/242/17](#), Judgement of 14 February 2017, Krasnolymansky City Court of the Donetsk region;
935. [Case No. 234/1030/17](#), Judgement of 15 February 2017, Kramatorsk City Court of the Donetsk region;
936. [Case No. 428/6831/14-к](#), Judgement of 17 February 2017, Severodonetsk City Court of the Luhansk region;
937. [Case No. 234/1847/17](#), Judgement of 20 February 2017, Kramatorsk City Court of the Donetsk region;
938. [Case No. 234/19357/16-к](#), Judgement of 21 February 2017, Kramatorsk City Court of the Donetsk region;
939. [Case No. 219/730/17](#), Judgement of 21 February 2017, Artemivsk City District Court of the Donetsk region;
940. [Case No. 234/17473/16-к](#), Judgement of 23 February 2017, Kramatorsk City Court of the Donetsk region;
941. [Case No. 229/40/17](#), Judgement of 24 February 2017, Druzhkivka City Court of the Donetsk region;

942. [Case No. 221/641/17](#), Judgement of 10 March 2017, Volnovakha District Court of the Donetsk region;
943. [Case No. 243/1365/17](#), Judgement of 14 March 2017, Sloviansk City District Court of the Donetsk region;
944. [Case No. 221/776/17](#), Judgement of 16 March 2017, Volnovakha District Court of the Donetsk region;
945. [Case No. 234/2755/17](#), Judgement of 16 March 2017, Kramatorsk City Court of the Donetsk region;
946. [Case No. 236/697/17](#), Judgement of 21 March 2017, Krasnoymansky City Court of the Donetsk region;
947. [Case No. 243/2437/17](#), Judgement of 22 March 2017, Sloviansk City District Court of the Donetsk region;
948. [Case No. 219/11683/16-k](#), Judgement of 23 March 2017, Artemivsk City District Court of the Donetsk region;
949. [Case No. 229/738/17](#), Judgement of 23 March 2017, Druzhkivka City Court of the Donetsk region;
950. [Case No. 234/3582/17](#), Judgement of 24 March 2017, Kramatorsk City Court of the Donetsk region;
951. [Case No. 234/2218/17](#), Judgement of 24 March 2017, Kramatorsk City Court of the Donetsk region;
952. [Case No. 236/759/17](#), Judgement of 27 March 2017, Krasnoymansky City Court of the Donetsk region;
953. [Case No. 236/694/17](#), Judgement of 28 March 2017, Krasnoymansky City Court of the Donetsk region;
954. [Case No. 225/977/17](#), Judgement of 4 April 2017, Dzerzhynsky City Court of the Donetsk region;
955. [Case No. 234/4863/17](#), Judgement of 11 April 2017, Kramatorsk City Court of the Donetsk region;
956. [Case No. 236/943/17](#), Judgement of 11 April 2017, Krasnoymansky City Court of the Donetsk region;
957. [Case No. 221/773/17](#), Judgement of 18 April 2017, Volnovakha District Court of the Donetsk region;

958. [Case No. 234/16178/16-к](#), Judgement of 20 April 2017, Kramatorsk City Court of the Donetsk region;
959. [Case No. 219/403/17](#), Judgement of 27 April 2017, Artemivsk City District Court of the Donetsk region;
960. [Case No. 243/4765/16-к](#), Judgement of 28 April 2017, Sloviansk City District Court of the Donetsk region;
961. [Case No. 229/1641/17](#), Judgement of 3 May 2017, Druzhkivka City Court of the Donetsk region;
962. [Case No. 236/956/17](#), Judgement of 11 May 2017, Krasnolymansky City Court of the Donetsk region;
963. [Case No. 234/17197/16-к](#), Judgement of 13 May 2017, Kramatorsk City Court of the Donetsk region;
964. [Case No. 229/1658/17](#), Judgement of 15 May 2017, Druzhkivka City Court of the Donetsk region;
965. [Case No. 234/17199/16-к](#), Judgement of 15 May 2017, Kramatorsk City Court of the Donetsk region;
966. [Case No. 243/3585/17](#), Judgement of 16 May 2017, Sloviansk City District Court of the Donetsk region;
967. [Case No. 234/2215/17](#), Judgement of 18 May 2017, Kramatorsk City Court of the Donetsk region;
968. [Case No. 236/1219/17](#), Judgement of 19 May 2017, Krasnolymansky City Court of the Donetsk region;
969. [Case No. 234/7690/17](#), Judgement of 30 May 2017, Kramatorsk City Court of the Donetsk region;
970. [Case No. 229/3489/16-к](#), Judgement of 6 June 2017, Druzhkivka City Court of the Donetsk region;
971. [Case No. 236/1484/17](#), Judgement of 8 June 2017, Krasnolymansky City Court of the Donetsk region;
972. [Case No. 234/7824/17](#), Judgement of 9 June 2017, Kramatorsk City Court of the Donetsk region;
973. [Case No. 219/4259/17](#), Judgement of 12 June 2017, Artemivsk City District Court of the Donetsk region;

974. [Case No. 229/2036/17](#), Judgement of 15 June 2017, Druzhkivka City Court of the Donetsk region;
975. [Case No. 236/1581/17](#), Judgement of 21 June 2017, Krasnolymansky City Court of the Donetsk region;
976. [Case No. 236/1792/17](#), Judgement of 23 June 2017, Krasnolymansky City Court of the Donetsk region;
977. [Case No. 428/6002/17](#), Judgement of 29 June 2017, Severodonetsk City Court of the Luhansk region;
978. [Case No. 234/1206/17](#), Judgement of 4 July 2017, Kramatorsk City Court of the Donetsk region;
979. [Case No. 243/3948/17](#), Judgement of 4 July 2017, Sloviansk City District Court of the Donetsk region;
980. [Case No. 233/3220/17](#), Judgement of 13 July 2017, Kostiantynivka City District Court of the Donetsk region;
981. [Case No. 234/7823/17](#), Judgement of 17 July 2017, Kramatorsk City Court of the Donetsk region;
982. [Case No. 234/7688/17](#), Judgement of 18 July 2017, Kramatorsk City Court of the Donetsk region;
983. [Case No. 236/2125/17](#), Judgement of 27 July 2017, Krasnolymansky City Court of the Donetsk region;
984. [Case No. 234/1127/17](#), Judgement of 1 August 2017, Kramatorsk City Court of the Donetsk region;
985. [Case No. 225/3861/17](#), Judgement of 7 August 2017, Dzerzhynsky City Court of the Donetsk region;
986. [Case No. 243/6790/17](#), Judgement of 9 August 2017, Sloviansk City District Court of the Donetsk region;
987. [Case No. 234/8962/17](#), Judgement of 14 August 2017, Kramatorsk City Court of the Donetsk region;
988. [Case No. 219/623/17](#), Judgement of 15 August 2017, Artemivsk City District Court of the Donetsk region;
989. [Case No. 234/18048/16-к](#), Judgement of 17 August 2017, Kramatorsk City Court of the Donetsk region;

990. [Case No. 229/2391/17](#), Judgement of 18 August 2017, Druzhkivka City Court of the Donetsk region;
991. [Case No. 234/12064/17](#), Judgement of 31 August 2017, Kramatorsk City Court of the Donetsk region;
992. [Case No. 234/1031/17](#), Judgement of 4 September 2017, Kramatorsk City Court of the Donetsk region;
993. [Case No. 234/12667/17](#), Judgement of 4 September 2017, Kramatorsk City Court of the Donetsk region;
994. [Case No. 234/12033/17](#), Judgement of 7 September 2017, Kramatorsk City Court of the Donetsk region;
995. [Case No. 234/17474/16-k](#), Judgement of 7 September 2017, Kramatorsk City Court of the Donetsk region;
996. [Case No. 229/3093/17](#), Judgement of 13 September 2017, Druzhkivka City Court of the Donetsk region;
997. [Case No. 221/2991/17](#), Judgement of 14 September 2017, Volnovakha District Court of the Donetsk region;
998. [Case No. 236/2602/17](#), Judgement of 19 September 2017, Krasnolymansky City Court of the Donetsk region;
999. [Case No. 219/7544/17](#), Judgement of 4 October 2017, Artemivsk City District Court of the Donetsk region;
1000. [Case No. 234/8625/17](#), Judgement of 9 October 2017, Kramatorsk City Court of the Donetsk region;
1001. [Case No. 428/10357/17](#), Judgement of 10 October 2017, Severodonetsk City Court of the Luhansk region;
1002. [Case No. 234/3989/17](#), Judgement of 12 October 2017, Kramatorsk City Court of the Donetsk region;
1003. [Case No. 234/14197/17](#), Judgement of 17 October 2017, Kramatorsk City Court of the Donetsk region;
1004. [Case No. 234/11392/17](#), Judgement of 23 October 2017, Kramatorsk City Court of the Donetsk region;
1005. [Case No. 234/9557/17](#), Judgement of 25 October 2017, Kramatorsk City Court of the Donetsk region;

1006. [Case No. 219/3821/17](#), Judgement of 30 October 2017, Artemivsk City District Court of the Donetsk region;
1007. [Case No. 234/15529/17](#), Judgement of 30 October 2017, Kramatorsk City Court of the Donetsk region;
1008. [Case No. 234/15847/17](#), Judgement of 1 November 2017, Kramatorsk City Court of the Donetsk region;
1009. [Case No. 234/11393/17](#), Judgement of 2 November 2017, Kramatorsk City Court of the Donetsk region;
1010. [Case No. 225/5554/17](#), Judgement of 6 November 2017, Dzerzhynsky City Court of the Donetsk region;
1011. [Case No. 234/14264/17](#), Judgement of 14 November 2017, Kramatorsk City Court of the Donetsk region;
1012. [Case No. 234/17279/17](#), Judgement of 21 November 2017, Kramatorsk City Court of the Donetsk region;
1013. [Case No. 243/10387/17](#), Judgement of 28 November 2017, Sloviansk City District Court of the Donetsk region;
1014. [Case No. 234/17278/17](#), Judgement of 29 November 2017, Kramatorsk City Court of the Donetsk region;
1015. [Case No. 234/14483/17](#), Judgement of 6 December 2017, Kramatorsk City Court of the Donetsk region;
1016. [Case No. 234/13096/17](#), Judgement of 8 December 2017, Kramatorsk City Court of the Donetsk region;
1017. [Case No. 234/17981/17](#), Judgement of 11 December 2017, Kramatorsk City Court of the Donetsk region;
1018. [Case No. 234/19538/17](#), Judgement of 21 December 2017, Kramatorsk City Court of the Donetsk region;
1019. [Case No. 229/3474/17](#), Judgement of 27 December 2017, Druzhkivka City Court of the Donetsk region;
1020. [Case No. 229/3851/16-к](#), Judgement of 28 December 2017, Druzhkivka City Court of the Donetsk region;
1021. [Case No. 219/7789/17](#), Judgement of 29 December 2017, Dzerzhynsky City Court of the Donetsk region;

1022. [Case No. 219/15222/17](#), Judgement of 17 January 2018, Artemivsk City District Court of the Donetsk region;
1023. [Case No. 234/18550/17](#), Judgement of 22 January 2018, Kramatorsk City Court of the Donetsk region;
1024. [Case No. 229/5009/17](#), Judgement of 26 January 2018, Druzhkivka City Court of the Donetsk region;
1025. [Case No. 234/19537/17](#), Judgement of 29 January 2018, Kramatorsk City Court of the Donetsk region;
1026. [Case No. 234/630/18](#), Judgement of 30 January 2018, Kramatorsk City Court of the Donetsk region;
1027. [Case No. 234/12062/17](#), Judgement of 5 February 2018, Kramatorsk City Court of the Donetsk region;
1028. [Case No. 234/836/18](#), Judgement of 7 February 2018, Kramatorsk City Court of the Donetsk region;
1029. [Case No. 242/2372/16-к](#), Judgement of 8 February 2018, Selydovo City Court of the Donetsk region;
1030. [Case No. 243/940/18](#), Judgement of 8 February 2018, Sloviansk City District Court of the Donetsk region;
1031. [Case No. 229/246/18](#), Judgement of 20 February 2018, Druzhkivka City Court of the Donetsk region;
1032. [Case No. 428/1872/18](#), Judgement of 27 February 2018, Severodonetsk City Court of the Luhansk region;
1033. [Case No. 234/780/18](#), Judgement of 12 March 2018, Kramatorsk City Court of the Donetsk region;
1034. [Case No. 234/2278/18](#), Judgement of 13 March 2018, Kramatorsk City Court of the Donetsk region;
1035. [Case No. 234/629/18](#), Judgement of 14 March 2018, Kramatorsk City Court of the Donetsk region;
1036. [Case No. 243/8248/17](#), Judgement of 20 March 2018, Sloviansk City District Court of the Donetsk region;
1037. [Case No. 234/5376/18](#), Judgement of 26 April 2018, Kramatorsk City Court of the Donetsk region;

1038. [Case No. 234/5506/18](#), Judgement of 27 April 2018, Kramatorsk City Court of the Donetsk region;
1039. [Case No. 234/5770/18](#), Judgement of 5 May 2018, Kramatorsk City Court of the Donetsk region;
1040. [Case No. 229/2115/18](#), Judgement of 30 May 2018, Druzhkivka City Court of the Donetsk region;
1041. [Case No. 234/3727/18](#), Judgement of 4 June 2018, Kramatorsk City Court of the Donetsk region;
1042. [Case No. 234/7252/18](#), Judgement of 6 June 2018, Kramatorsk City Court of the Donetsk region;
1043. [Case No. 234/7992/18](#), Judgement of 7 June 2018, Kramatorsk City Court of the Donetsk region;
1044. [Case No. 234/5864/18](#), Judgement of 8 June 2018, Kramatorsk City Court of the Donetsk region;
1045. [Case No. 225/2384/18](#), Judgement of 12 June 2018, Dzerzhynsky City Court of the Donetsk region;
1046. [Case No. 225/2908/18](#), Judgement of 4 July 2018, Dzerzhynsky City Court of the Donetsk region;
1047. [Case No. 229/2243/18](#), Judgement of 4 July 2018, Druzhkivka City Court of the Donetsk region;
1048. [Case No. 234/9290/18](#), Judgement of 15 August 2018, Kramatorsk City Court of the Donetsk region;
1049. [Case No. 234/9638/18](#), Judgement of 20 August 2018, Kramatorsk City Court of the Donetsk region;
1050. [Case No. 219/5790/17](#), Judgement of 28 August 2018, Artemivsk City District Court of the Donetsk region;
1051. [Case No. 234/7091/18](#), Judgement of 31 August 2018, Kramatorsk City Court of the Donetsk region;
1052. [Case No. 225/4696/18](#), Judgement of 4 September 2018, Dzerzhynsky City Court of the Donetsk region;
1053. [Case No. 237/2225/18](#), Judgement of 10 September 2018, Maryinsky District Court of the Donetsk region;

1054. [Case No. 229/3898/18](#), Judgement of 14 September 2018, Druzhkivka City Court of the Donetsk region;
1055. [Case No. 229/1735/18](#), Judgement of 21 September 2018, Druzhkivka City Court of the Donetsk region;
1056. [Case No. 229/4206/18](#), Judgement of 24 September 2018, Druzhkivka City Court of the Donetsk region;
1057. [Case No. 243/9000/18](#), Judgement of 24 September 2018, Sloviansk City District Court of the Donetsk region;
1058. [Case No. 237/3801/18](#), Judgement of 1 October 2018, Maryinsky District Court of the Donetsk region;
1059. [Case No. 229/3351/18](#), Judgement of 1 October 2018, Druzhkivka City Court of the Donetsk region;
1060. [Case No. 420/1552/18](#), Judgement of 2 October 2018, Novopskov District Court of the Luhansk region;
1061. [Case No. 229/3298/18](#), Judgement of 5 October 2018, Druzhkivka City Court of the Donetsk region;
1062. [Case No. 229/3996/18](#), Judgement of 8 October 2018, Druzhkivka City Court of the Donetsk region;
1063. [Case No. 234/7014/18](#), Judgement of 11 October 2018, Kramatorsk City Court of the Donetsk region;
1064. [Case No. 243/9004/18](#), Judgement of 12 October 2018, Sloviansk City District Court of the Donetsk region;
1065. [Case No. 234/7165/18](#), Judgement of 18 October 2018, Kramatorsk City Court of the Donetsk region;
1066. [Case No. 234/8606/18](#), Judgement of 31 October 2018, Kramatorsk City Court of the Donetsk region;
1067. [Case No. 243/11478/18](#), Judgement of 20 November 2018, Sloviansk City District Court of the Donetsk region;
1068. [Case No. 229/2708/18](#), Judgement of 22 November 2018, Druzhkivka City Court of the Donetsk region;
1069. [Case No. 229/4671/18](#), Judgement of 23 November 2018, Druzhkivka City Court of the Donetsk region;

1070. [Case No. 229/5089/18](#), Judgement of 23 November 2018, Druzhkivka City Court of the Donetsk region;
1071. [Case No. 234/9347/18](#), Judgement of 5 December 2018, Kramatorsk City Court of the Donetsk region;
1072. [Case No. 229/1042/18](#), Judgement of 14 December 2018, Druzhkivka City Court of the Donetsk region;
1073. [Case No. 243/12216/18](#), Judgement of 17 December 2018, Sloviansk City District Court of the Donetsk region;
1074. [Case No. 234/16426/18](#), Judgement of 18 December 2018, Kramatorsk City Court of the Donetsk region;
1075. [Case No. 243/12630/18](#), Judgement of 19 December 2018, Sloviansk City District Court of the Donetsk region;
1076. [Case No. 225/7652/18](#), Judgement of 27 December 2018, Dzerzhynsky City Court of the Donetsk region;
1077. [Case No. 243/12939/18](#), Judgement of 3 January 2019, Sloviansk City District Court of the Donetsk region;
1078. [Case No. 229/5998/18](#), Judgement of 11 January 2019, Druzhkivka City Court of the Donetsk region;
1079. [Case No. 243/775/19](#), Judgement of 5 February 2019, Sloviansk City District Court of the Donetsk region;
1080. [Case No. 229/478/19](#), Judgement of 18 February 2019, Druzhkivka City Court of the Donetsk region;
1081. [Case No. 242/5495/16-к](#), Judgement of 22 February 2019, Selydovo City Court of the Donetsk region;
1082. [Case No. 415/1714/19](#), Judgement of 4 March 2019, Lysychansk City Court of the Luhansk region;
1083. [Case No. 236/2802/18](#), Judgement of 11 April 2019, Krasnozymansky City Court of the Donetsk region;
1084. [Case No. 243/11823/18](#), Judgement of 22 April 2019, Sloviansk City District Court of the Donetsk region;
1085. [Case No. 229/2149/19](#), Judgement of 22 May 2019, Druzhkivka City Court of the Donetsk region;

1086. [Case No. 229/2921/19](#), Judgement of 18 June 2019, Druzhkivka City Court of the Donetsk region;
1087. [Case No. 657/408/19](#), Judgement of 20 June 2019, Kalanchak District Court of the Kherson region;
1088. [Case No. 415/5050/19](#), Judgement of 21 June 2019, Lysychansk City Court of the Luhansk region;
1089. [Case No. 234/6719/19](#), Judgement of 4 July 2019, Kramatorsk City Court of the Donetsk region;
1090. [Case No. 229/3778/19](#), Judgement of 16 July 2019, Druzhkivka City Court of the Donetsk region;
1091. [Case No. 243/8213/19](#), Judgement of 31 July 2019, Sloviansk City District Court of the Donetsk region;
1092. [Case No. 243/8091/19](#), Judgement of 24 October 2019, Sloviansk City District Court of the Donetsk region;
1093. [Case No. 221/7382/19](#), Judgement of 30 October 2019, Volnovakha District Court of the Donetsk region;
1094. [Case No. 431/5936/19](#), Judgement of 18 November 2019, Severodonetsk City Court of the Luhansk region;
1095. [Case No. 243/13520/19](#), Judgement of 25 November 2019, Sloviansk City District Court of the Donetsk region;
1096. [Case No. 229/5116/19](#), Judgement of 27 November 2019, Druzhkivka City Court of the Donetsk region;
1097. [Case No. 243/14007/19](#), Judgement of 19 December 2019, Sloviansk City District Court of the Donetsk region;
1098. [Case No. 229/6689/19](#), Judgement of 19 December 2019, Druzhkivka City Court of the Donetsk region;
1099. [Case No. 236/5127/19](#), Judgement of 14 January 2020, Krasnolymansky City Court of the Donetsk region;
1100. [Case No. 236/4960/19](#), Judgement of 20 January 2020, Krasnolymansky City Court of the Donetsk region;
1101. [Case No. 242/1219/17](#), Judgement of 4 February 2020, Selydovo City Court of the Donetsk region;

1102.	Case No. 243/1597/20 , Judgement of 3 March 2020, Sloviansk City District Court of the Donetsk region;			
1103.	Case No. 243/1707/20 , Judgement of 10 March 2020, Sloviansk City District Court of the Donetsk region;			
1104.	Case No. 243/2069/20 , Judgement of 10 March 2020, Sloviansk City District Court of the Donetsk region;			
1105.	Case No. 237/3548/18 , Judgement of 12 March 2020, Maryinsky District Court of the Donetsk region;			
1106.	Case No. 243/1836/20 , Judgement of 12 March 2020, Sloviansk City District Court of the Donetsk region;			
1107.	Case No. 229/1107/20 , Judgement of 27 April 2020, Druzhkivka City Court of the Donetsk region;			
1108.	Case No. 243/2721/20 , Judgement of 28 April 2020, Sloviansk City District Court of the Donetsk region;			
1109.	Case No. 243/3738/20 , Judgement of 8 May 2020, Sloviansk City District Court of the Donetsk region;			
1110.	Case No. 229/1561/20 , Judgement of 13 May 2020, Druzhkivka City Court of the Donetsk region;			
1111.	Case No. 236/1946/20 , Judgement of 4 August 2020, Krasnolymsky City Court of the Donetsk region;			
1112.	Case No. 243/6774/20 , Judgement of 20 August 2020, Sloviansk City District Court of the Donetsk region;			
1113.	Case No. 243/7435/20 , Judgement of 22 September 2020, Sloviansk City District Court of the Donetsk region;			
1114.	Case No. 236/2847/20 , Judgement of 29 September 2020, Krasnolymsky City Court of the Donetsk region.			
1115.	Case No. 229/680/20 , Judgement of 10 August 2020, Druzhkivka City Court of the Donetsk region	Citizen of Ukraine, member of the DPR's "Oplot" formation	Court findings: The Accused was a chief of the DPR local police unit and registered persons who breached curfew. Later, when the Accused joined the	Art. 260(2) of the CCU as participation in the activities of an illegal armed group.

			<p>Oplot group, he patrolled banks, petrol stations, and storages in Donetsk.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and sentenced him to three years of imprisonment with a release on probation for a two-year term.</p>	
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
1116.	<p>Case No. 760/30233/19, Order of 18 December 2019, Solomyansky District Court of Kyiv</p> <p>The case is ongoing</p>	<p>Stepan Rezunik, member of the armed formation "Self-Defence of Sevastopol"</p>	<p><u>Allegations:</u>⁴⁴</p> <p>The Accused was a member of the illegal armed formation "Self-Defence of Sevastopol" and participated in the Russian operations of establishing control over Crimea.</p> <p>The Prosecution charged him with participation in the activities of an illegal armed group (Art. 260(2) of the CCU).</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group.</p>
PARTICIPATION IN AN ILLEGAL ARMED GROUP AND ENROACHMENT ON TERRITORIAL INTEGRITY AND INVIOABILITY OF UKRAINE, IN CERTAIN CASES COMBINED WITH ORDINARY CRIMES				
ADJUDICATED CASES				
1117.	<p>Case No. 640/16434/15-k, Judgement of 29 June 2017, Kyiv District Court of Kharkiv</p>	<p>Citizen of the Russian Federation, DPR member</p>	<p><u>Court findings:</u></p> <p>The Accused, being a DPR member, interrogated Ukrainian servicemen and civilians</p>	<p>Art. 260(4) of the CCU as participation in the activities of an illegal armed group and an illegal paramilitary group,</p>

⁴⁴ 'Solomensky Court of Kyiv considered the indictment in the case of "self-defence" Rezunik' [Bureau of Judicial Information](#) (19 December 2019).

	<p>The case is being heard by the Court of Appeals of the Kharkiv region (as of February 2021)</p>		<p>detained by the DPR, searched for and analysed information regarding the activities of the UAF. She also participated in the seizure of administrative buildings of the local police unit.</p> <p>Later, the Accused became a city commandant of Starobeshevo and Komsomolske, Donetsk region. She also acquired explosives and stored them in her apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group and an illegal paramilitary group, and attacks on enterprises, organisations and citizens (Art. 260(4) of the CCU); intentional actions committed to change the boundaries of the territory and state border of Ukraine in violation of the procedure established by the Constitution of Ukraine (Art. 110(1) of the CCU), and illegal acquisition and storage of explosives (Art. 263(1) of the CCU). She was sentenced to 11 years of imprisonment with confiscation of all her property.</p>	<p>and attacks on enterprises, organisations and citizens;</p> <p>Art.110(1) of the CCU as intentional actions committed to change the boundaries of the territory of Ukraine in violation of the procedure established by the Constitution of Ukraine;</p> <p>Art. 263(1) of the CCU as illegal acquisition and storage of explosives.</p>
1118.	<p>Case No. 648/872/18, Judgement of 20 March 2018, Chuhuiv City Court of the Kharkiv region</p>	<p>Citizen of Ukraine, member of the LPR's "Bryanka USSR" battalion</p>	<p>Court findings:</p> <p>The Accused, being an armed LPR member, served at checkpoints, where he maintained the permit regime by checking documents and cars of the passers-by and carrying out activities to</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 110(1) of the CCU as intentional actions committed to change the boundaries of the territory of Ukraine in</p>

			<p>identify persons who did not support the idea of the creation of the DPR. Moreover, he was engaged in digging trenches, taking care of military equipment, uploading and unloading GRAD missiles, etc. He also stored grenades in his apartment.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU); intentional actions committed to change the boundaries of the territory of Ukraine in violation of the procedure established by the Constitution of Ukraine (Art. 110(1) of the CCU), and illegal acquisition, carrying and storage of ammunition, explosives and explosive devices (Art. 263(1) of the CCU). He was sentenced to three years and two months of imprisonment.</p>	<p>violation of the procedure established by the Constitution of Ukraine;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition, explosives or explosive devices.</p>
PARTICIPATION IN AN ILLEGAL ARMED GROUP COMBINED WITH ORDINARY CRIMES				
ADJUDICATED CASES				
1119.	Case No. 621/1621/16-k , Judgement of 8 September 2016, Zmiiv District Court of the Kharkiv region	Citizen of Ukraine, member of the DPR's "Vostok" group	Court findings: The Accused, being armed, served at a checkpoint and maintained the permit regime. He also bought and stored grenades and ammunition.	Art. 260(2) of the CCU as participation in the activities of an illegal armed group;

			<p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU) and sentenced him to three years one month of imprisonment.</p>	<p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>
1120.	<p>Case No. 428/6853/14-к, Judgement of 10 October 2016, Severodonetsk City Court of the Luhansk region</p>	Citizen of Ukraine	<p>Court findings:</p> <p>The Accused, being a member of an armed formation, served at a checkpoint, where he maintained order and checked the vehicles.</p> <p>Later, when the Accused had found a package with cannabis, he was arrested by police.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and illegal acquisition and storage of drugs without the purpose of sale (Art. 309(1) of the CCU) and sentenced him to the concurrent term of one year five months of imprisonment. As the Accused's previous sentence had not been served in full, the Court sentenced him to the overall term of one year six months of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 309(1) of the CCU as illegal acquisition and storage of drugs without the purpose of sale.</p>

1121.	Case No. 243/10421/15-к , Judgement of 13 October 2016, Sloviansk City District Court of the Donetsk region	Citizen of Ukraine, DPR member	<p><u>Court findings:</u></p> <p>The Accused served at a DPR checkpoint, regulated the road traffic and maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by. He also stored ammunition in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and illegal storage of ammunition (Art. 263(1) of the CCU). The Accused was sentenced to three years six months of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal storage of ammunition.</p>
1122.	Case No. 428/8961/15-к , Judgement of 29 December 2016, Severodonetsk City Court of the Luhansk region	Citizen of Ukraine, member of the LPR's "Army of the South-East"	<p><u>Court findings:</u></p> <p>The Accused, as a member of the LPR, constructed a checkpoint, later served at a checkpoint and participated in hostilities against the UAF. He also stored ammunition in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and illegal acquisition and storage of ammunition (Art. 263(1) of the CCU). The Accused was</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition and storage of ammunition.</p>

			sentenced to three years and one month of imprisonment.	
1123.	Case No. 629/177/17 , Judgement of 13 February 2017, Lozova City District Court of the Kharkiv region	Citizen of Ukraine, member of the DPR's "Zorya" subdivision	<p>Court findings:</p> <p>The Accused as an armed DPR member was engaged in the delivery and unloading of weapons and ammunition, as well as other tasks assigned to him by the command. During these activities, he appropriated ammunition.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU). The Accused was sentenced to three years and one month of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>
1124.	Case No. 415/5510/15-к , Judgement of 16 March 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine	<p>Court findings:</p> <p>The Accused, being an armed member of an armed formation, inspected mined objects, patrolled the territory and guarded the administrative SBU building in Lysychansk seized by the LPR.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of weapons and ammunition.</p>

			<p>Later, he found a gun and ammunition and stored them in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and illegal acquisition, carrying and storage of weapons and ammunition (Art. 263(1) of the CCU). The Accused was sentenced to three years and two months of imprisonment.</p>	
1125.	<p>Case No. 243/10947/15-к, Judgement of 29 September 2017, Sloviansk City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region which discontinued the proceedings when the parties withdrew its appeals</p>	<p>Accused 1 – citizen of Ukraine, former investigator at the investigative department of the Sloviansk city department of the MIA of Ukraine in the Donetsk region</p> <p>Accused 2 – citizen of Ukraine, former operative officer of criminal police in cases concerning children of the Mykolaivka branch of the Sloviansk city department of the</p>	<p>Court findings:</p> <p>Before 2014, the two Accused served at the MIA of Ukraine in the Donetsk region. After the DPR seized the building of the Sloviansk police department in April 2014, the Accused agreed to participate in the DPR activities.</p> <p>The Prosecution alleged that during June 2014, the two Accused, acting together with other DPR members, arrested intoxicated civilians and brought them to the DPR checkpoints, where they were illegally detained for several days and subjected to forced labour.</p> <p>The Court changed the legal qualification of the Accused’s conduct from participation in the activities of a terrorist organisation as submitted by the Prosecution (Art. 258-3(1) of</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation changed by the Court to Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 365(1) of the CCU as excess of official authority, <i>i.e.</i>, wilful commission by a law enforcement officer of acts which patently exceed the rights and powers granted to him, which caused substantial damage to the rights and interest of citizens and state interests, protected by law.</p>

		MIA of Ukraine in the Donetsk region; affiliated with the DPR	<p>the CCU) to participation in the activities of an illegal armed group (Art. 260 of the CCU).</p> <p>The Court acquitted the first Accused of all charges because victims and eyewitnesses identified only the second Accused as the perpetrator of crimes. The latter was found guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU) and excess of official authority (Art. 365(1) of the CCU). He was sentenced to four years of imprisonment with the deprivation of the right to hold an office at the MIA of Ukraine for three years.</p>	
1126.	Case No. 310/11388/15-к , Judgement of 4 October 2017, Berdyansk City District Court of the Zaporizhia region	Citizen of Ukraine, member of the DPR's "Oplot" group	<p>Court findings:</p> <p>The Accused was an armed driver for the DPR and participated in escorting the captured servicemen of the UAF. He also stored explosives and ammunition in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and illegal acquisition, carrying and storage of ammunition and explosives (Art. 263(1) of the CCU). He was sentenced to three years eight months and eight days of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition and explosives.</p>

<p>1127.</p>	<p>Case No. 235/3762/15-к, Judgement of 6 December 2017, Dobropillia City Court of the Donetsk region</p> <p>Both parties appealed the judgement as such that failed to consider all factual circumstances. The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement and returned the case for retrial to the first instance court. The criminal proceedings in this case were subsequently suspended until the Accused is located</p>	<p>Citizen of Ukraine, member of the “Oplot” brigade of the DPR</p>	<p>Court findings:</p> <p>In September 2014, the Accused enlisted in an illegal armed formation of the DPR, received weapons and patrolled territories. In December 2014, he joined a sabotage group and underwent training in orienteering, handling of weapons and performing reconnaissance and sabotage tasks in the government-controlled territory.</p> <p>To gather the information on the location of checkpoints, military equipment and personnel of the ATO forces, the Accused received firearms and crossed the border to the government-controlled territory where he and other members of his unit broke into a civilian’s house and threatened the owner with weapons forcing him to give up his car. To conceal the crime, the Accused then shot the civilian, killing him. Later, on the way back to the DPR, the Accused also shot a representative of the State Border Guard Service of Ukraine, who, however, survived.</p> <p>The Accused pleaded guilty to all charges, but disagreed with the qualification of his acts as participation in a terrorist organisation. He</p>	<p>Art. 260(2) of the CCU as participation in the activities of illegal armed formations;</p> <p>Art. 115(2)(1), (6), (9), (12) of the CCU as intentional unlawful infliction of death of two persons, committed by a group of persons with mercenary intent, in order to conceal another crime or facilitate its commission;</p> <p>Arts 15(2), 115(2)(13) of the CCU as completed attempted murder, i.e. intentional unlawful infliction of death on another person, by a person who previously committed premeditated murder;</p> <p>Art. 289(3) of the CCU as unlawful appropriation of a vehicle, committed upon prior conspiracy of a group of persons, with entry into the premises, combined with violence dangerous to life and health of the victim, threat of such violence, which caused significant material damage;</p>
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			<p>stated that the DPR was created because the residents of Donbas did not accept the Government in Kyiv, and his intelligence-gathering activity was to obtain information about the hostile party for protection. He agreed to qualification of his acts as participation in an illegal armed formation.</p> <p>The Court agreed that the actions of the Accused were wrongfully qualified as participation in a terrorist organisation (Art. 258-3(1) of the CCU). The Accused was found guilty of participation in an illegal armed group (Art. 260(2) of the CCU), aggravated murder and attempted murder, attempted murder of a serviceman (Arts 115(2)(1), (6), (9), (12); 15(2), 115(2)(13); 348 of the CCU); unlawful appropriation of a vehicle (Art. 289(3) of the CCU), and illegal possession of firearms (Art. 263(1) of the CCU). He was sentenced to life imprisonment.</p>	<p>Art. 348 of the CCU as an attempted murder of a serviceman in connection with his duties to protect public order and state border;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying, storage and transfer of firearms and ammunition.</p> <p>Art. 258-3(1) of the CCU as participation in a terrorist organisation.</p>
1128.	Case No. 635/7066/17 , Judgement of 22 December 2017, Kharkiv District Court of the Kharkiv region	Citizen of Ukraine, member of the “Triumph” unit, “Cossacks” battalion of the LPR	<p>Court findings:</p> <p>The Accused, being a LPR shooter, participated in hostilities against the UAF.</p> <p>Later, he found and acquired cannabis.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 309(1) of the CCU as illegal manufacture and storage of drugs without the purpose of sale.</p>

			The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and illegal manufacture and storage of drugs without the purpose of sale (Art. 309(1) of the CCU). He was sentenced to five years of imprisonment with a release on probation for a two-year term.	
1129.	Case No. 243/942/18 , Judgement of 5 March 2018, Sloviansk City District Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused, being an armed DPR member, served at a checkpoint and performed other tasks of the DPR command. He also acquired firearms and ammunition and stored it in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and illegal acquisition, carrying and storage of ammunition and weapons (Art. 263(1) of the CCU). He was sentenced to three years of imprisonment</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition and weapons.</p>
	Similar judgements on the same set of factual circumstances were pronounced by other courts:			
1130.	Case No. 760/1875/15-k , Judgement of 11 May 2017, Solomiansky District Court of Kyiv (the Accused was sentenced to five years two months of imprisonment);			
1131.	Case No. 243/7276/18 , Judgement of 20 August 2018, Sloviansk City District Court of the Donetsk region (the Accused was sentenced to five years of imprisonment with a release on probation for a three-year term);			

1132.	Case No. 200/6809/17 , Judgement of 31 October 2018, Kirovsky District Court of Dnipropetrovsk (the Accused was sentenced to three years two months of imprisonment, the Court ruled that the sentence was already served during a pre-trial detention).		
1133.	Case No. 756/35/18 , Judgement of 13 March 2018, Obolonsky District Court of Kyiv	Citizen of the Russian Federation, member of the 11th Separate Motorised Rifle Regiment of the 1st Army Corps of the DPR	<p>Court findings:</p> <p>The Accused, being an armed DPR member, guarded infrastructure objects in Donetsk. He also acquired and stored grenades and other ammunition in his apartment.</p> <p>Later, the Accused asked another person to forge a passport of Ukraine for him and attempted to use that document for personal goals.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), illegal acquisition, carrying and storage of ammunition and explosives (Art. 263(1) of the CCU), and use of a knowingly forged document (Art. 358(4) of the CCU). He was sentenced to five years of imprisonment with a release on probation for a three-year term.</p>
1134.	Case No. 229/2548/16-k , Judgement of 29 March 2018, Druzhkivka City	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused, while being armed, served at a DPR checkpoint, where he maintained the</p>

Art. 260(2) of the CCU as participation in the activities of an illegal armed group;

Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition and explosives;

Art. 358(4) of the CCU as use of a knowingly forged document.

Art. 260(2) of the CCU as participation in the activities of an illegal armed group;

	<p>Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first instance court in part concerning the calculations of the overall term of the sentence. However, the final term imposed by the Court of Appeals remained the same</p>		<p>permit regime, <i>i.e.</i>, checked the documents and cars of the passers-by.</p> <p>Later, he forcibly took a tablet from an owner.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and robbery with the threat of violence that was not dangerous to the life or health of the victim (Art. 186(2) of the CCU) and sentenced him to the concurrent term of six years of imprisonment.</p>	<p>Art. 186(2) of the CCU as robbery with the threat of violence that is not dangerous to the life or health of the victim.</p>
1135.	<p>Case No. 229/3339/16-k, Judgement of 5 June 2018, Druzhkivka City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the judgement of the first instance court</p>	<p>Citizen of Ukraine, DPR member</p>	<p>Court findings:</p> <p>The Accused being armed patrolled streets and monitored public order in Druzhkivka. Together with other DPR members, he abducted a person with the use of physical violence and confined the victim at the DPR headquarters in Druzhkivka, where he was held for four days. The Accused also stole a TV from his acquaintance's house.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), illegal</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 146(2) of the CCU as illegal confinement or abduction, committed upon prior conspiracy of a group of persons;</p> <p>Art. 185(3) of the CCU as theft, accompanied with unlawful breaking into a residence.</p>

			confinement or abduction, committed upon prior conspiracy of a group of persons (Art. 146(2) of the CCU), and theft, accompanied with unlawful breaking into a residence (Art. 185(3) of the CCU). He was sentenced to six years of imprisonment.	
1136.	Case No. 234/18142/17 , Judgement of 23 June 2018, Kramatorsk City Court of the Donetsk region	Citizen of Ukraine, DPR member	<p>Court findings:</p> <p>The Accused was a DPR member and served at a checkpoint, where he maintained the permit regime, <i>i.e.</i>, checked documents and cars of the passers-by, detected persons with a pro-Ukrainian position, etc.</p> <p>Later, he broke into someone's garage and stole construction materials.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and theft accompanied with unlawful breaking into a building (Art. 185(3) of the CCU) and sentenced him to three years and one month of imprisonment.</p>	<p>Art. 260(2) of the CCU as participation in the activities of an illegal armed group;</p> <p>Art. 185(3) of the CCU as theft, accompanied with unlawful breaking into a building.</p>
1137.	Case No. 415/5715/16 , Judgement of 25 September 2018,	Citizen of Ukraine, member of the LPR	<p>Court findings:</p> <p>In May 2014, the Accused enlisted in an armed formation on the territory of the Luhansk region,</p>	Art. 115(1) of the CCU as murder;

	Lysychansk City Court of the Luhansk region		<p>received uniforms and automatic firearms and patrolled the territory.</p> <p>On 2 June 2014, while patrolling, the Accused noticed a car that was being pulled with a rope by another car. He stopped the two cars, ordered the two drivers and one passenger to leave the vehicles and lie on the ground. Then he started beating them. When the Accused hit a female passenger, one of the male drivers tried to stop him. The Accused shot the male driver, killing him.</p> <p>Having been notified of the proceedings against him, the Accused failed to appear before the court, and the trial was held <i>in absentia</i>.</p> <p>The Court found the Accused guilty of murder (Art. 115(1) of the CCU) and participation in an illegal armed formation (Art. 260(2) of the CCU) and sentenced him to 11 years of imprisonment.</p>	Art. 260(2) of the CCU as participation in the activities of illegal armed formations.
1138.	Case No. 636/1087/19 , Judgement of 7 May 2019, Chuhuiv City Court of the Kharkiv region	Citizen of Ukraine, DPR member	<p><u>Court findings:</u></p> <p>The Accused as an armed DPR member served at a checkpoint, monitored the routes of the UAF, assisted in digging trenches, and carried out activities to identify persons who did not</p>	Art. 260(2) of the CCU as participation in the activities of an illegal armed group;

			<p>support the idea of the creation of the DPR. He also stored ammunition in his apartment.</p> <p>The Court found the Accused guilty of participation in the activities of an illegal armed group (Art. 260(2) of the CCU), and illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU). He was sentenced to three years and six months of imprisonment</p>	<p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>
ASSISTANCE TO THE MEMBERS OF A CRIMINAL ORGANISATION				
ADJUDICATED CASES				
1139.	<p>Case No. 235/3606/15-k, Judgement of 16 November 2015, Krasnoarmiisky City District Court of the Donetsk region</p> <p>The Prosecution appealed the judgement arguing that the court erred in application of the procedural law and failed to consider all available evidence. The case proceeded to the Court of Appeals of the Donetsk region which overturned</p>	<p>Citizen of Ukraine, affiliated with the DPR</p>	<p>Court findings:</p> <p>During January 2015, on the territory of Dimitrov, Donetsk region, the Accused contributed to the activities of the DPR on his own initiative. The Accused provided members of this terrorist organisation with information about the places of deployment, number and routes of movement, units and military equipment of the UAF and other military formations of Ukraine.</p> <p>The first instance court found the Accused not guilty of other assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU).</p>	<p>Art. 258-3(1) of the CCU as other assistance to the activities of a terrorist organisation, changed on retrial to Art. 256(1) of the CCU as assistance to members of a criminal organization, which was not promised in advance.</p>

	<p>the judgement of the first instance court</p> <p>Thereafter, the case proceeded to the Supreme Specialised Court of Ukraine for civil and criminal cases, which quashed the Judgement of the Court of Appeal of the Donetsk region and sent the case for a retrial in the Court of Appeals</p> <p>Subsequently, the case was returned for a retrial to Krasnoarmiisky city district court of the Donetsk region, which found the Accused guilty</p>		<p>However, the Court of Appeals overturned the Judgement of the first instance court, finding the Accused guilty of other assistance to the activities of a terrorist organisation under Art. 258-3(1) of the CCU and sentencing him to four years of imprisonment.</p> <p>On a retrial by the first instance court, the Accused was found guilty of assistance to members of a criminal organization, which was not promised in advance under Art. 256(1) of the CCU. The Court sentenced the Accused to three years of imprisonment and released him from serving the sentence with a probationary period of two years.</p>	
1140.	<p>Case No. 461/981/16-k, Judgement of 6 September 2016, Volnovakha District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>The Accused provided information on the location, routes, composition of the UAF and its equipment to the DPR.</p> <p>The Court changed legal qualification from participation in a terrorist organisation (Art. 258-3(1) of the CCU) to assistance to the</p>	<p>Art. 258-3(1) of the CCU as participation in a terrorist organisation, changed by the Court to Art. 256(1) of the CCU as assistance to the members of a criminal organisation, which was not promised in advance.</p>

	<p>Donetsk region, which placed the Accused on the wanted list and paused the proceedings</p>		<p>members of a criminal organisation which was not promised in advance (Art. 256(1) of the CCU), because the Prosecution failed to prove that the DPR is a terrorist organisation and that the Accused is its member.</p> <p>The Court, during the trial <i>in absentia</i>, found the Accused guilty of assistance to members of a criminal organisation, which was not promised in advance (Art. 256(1) of the CCU) and sentenced her to three years of imprisonment with a release on probation for a two-year term.</p>	
<p>1141. 1142. 1143. 1144.</p>	<p>Other judgements on a similar set of circumstances are listed below chronologically. In all of these cases, the Accused provided military information to the D/ LPR and were charged with participation in a terrorist organisation (Art. 258-3(1) of the CCU) but found guilty of assistance to members of a criminal organisation, which was not promised in advance (Art. 256 of the CCU):</p> <p>Case No. 225/6151/15-к, Judgement of 15 February 2017, Dzerzhinsky City Court of the Donetsk region (the Accused was sentenced to three years and six months of imprisonment. The Court of Appeals of the Donetsk region upheld the judgement);</p> <p>Case No. 264/1103/16-к, Judgement of 29 March 2017, Illichivsk District Court of Mariupol of the Donetsk region (the Accused was sentenced to three years and six months of imprisonment);</p> <p>Case No. 219/5143/15-к, Judgement of 20 November 2017, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to five years of imprisonment);</p> <p>Case No. 127/18569/17, Judgement of 15 December 2017, Artemivsk City District Court of the Donetsk region (the Accused was sentenced to five months of arrest. The Accused was released from serving her sentence because she was included in the prisoners' exchange list under the Minsk Agreement).</p>			

<p>1145.</p>	<p>Case No. 223/223/16-к, Judgement of 11 October 2016, Primorsky District Court of Mariupol, Donetsk region</p> <p>The defence appealed the judgement, arguing that it did not reflect the factual circumstances of the case. The case proceeded to the Court of Appeals of the Donetsk region, which changed the legal qualification to Art. 256(1) of the CCU and sentenced the Accused to three years of imprisonment</p>	<p>Citizen of Ukraine, affiliated with the DPR</p>	<p>Court findings:</p> <p>In June-September 2015, the Accused resided in the city of Vugledar, in the government- controlled part of the Donetsk region. Having intercepted his phone conversations, the Prosecution alleged that the Accused intentionally gathered the information on the movement and location of personnel, weapons and military equipment of the Ukrainian forces and transferred this information to the DPR.</p> <p>In court, the Accused pleaded not guilty. He explained that he was arrested by the SBU over separatism allegations on his way home from a grocery shop and taken to another city in the Donetsk region where he was forced to confess to a crime. He was then transferred to a city in western Ukraine, where he awaited his trial.</p> <p>The first instance court established that the Accused passed the aforementioned information to the DPR, found him guilty of assisting a terrorist 269rganization (Art. 258- 3(1) of the CCU) and sentenced him to eight years of imprisonment with confiscation of all his property.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation, changed by the Court to Art. 256(1) of the CCU as assistance to members of a criminal 269rganization, which was not promised in advance.</p>
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			<p>The Court of Appeals later changed the legal qualification from assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU) to assistance to members of a criminal organization, which was not promised in advance (Art. 256(1) of the CCU). The Court of Appeals sentenced the Accused to three years of imprisonment and ruled that the sentence was served while the Accused awaited his trial in a pre-trial detention center.</p>	
1146.	<p>Case No. 428/7083/14-k, Judgement of 16 November 2016, Severodonetsk City Court of the Luhansk region</p>	Citizen of Ukraine	<p>Court findings:</p> <p>The Accused assisted the activities of the armed formation by monitoring the construction of fortified structures at the checkpoint and transporting food to the checkpoint.</p> <p>The Court found the Accused guilty of assistance to members of a criminal organisation and commission of other actions not promised in advance thereby creating conducive conditions to their criminal activity (Art. 256(1) of the CCU). The Accused was sentenced to three years of imprisonment with a release on probation for a two-year term.</p>	<p>Art. 256(1) of the CCU as assistance to members of a criminal organisation and commission of other actions not promised in advance thereby creating conducive conditions to their criminal activity.</p>

<p>1147.</p>	<p>Case No. 415/1238/16-к, Judgement of 8 December 2016, Lysychansk City Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of the Luhansk region, which upheld the trial judgement</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which dismissed the appeals due to the defects that were not corrected</p>	<p>Citizen of Ukraine affiliated with the LPR</p>	<p>Court findings:</p> <p>The Accused provided information on the location, routes of the UAF and its equipment to the LPR. He also stored weapons and ammunition at his place of residence.</p> <p>The Court further changed legal qualification from assistance to the activities of a terrorist organisation (Art. 258-3(1) of the CCU), as was originally indicated in the indictment, to assistance to the members of a criminal organisation which was not promised in advance (Art. 256(1) of the CCU), because the Prosecution failed to prove that the person that received the information is a member of a terrorist organisation.</p> <p>The Court found the Accused guilty of assistance to the members of a criminal organisation (Art. 256(1) of the CCU) and illegal storing of firearms and ammunition (Art. 263(1) of the CCU) and sentenced him to three years and one month of imprisonment.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation, changed by the Court to Art. 256(1) of the CCU as assistance to the members of a criminal organisation, which was not promised in advance.</p> <p>Art. 263(1) of the CCU as illegal storage of firearms and ammunition.</p>
<p>1148.</p>	<p>Case No. 225/3172/16-к, Judgement of 20 March 2017, Dzerzhinsky City Court of Donetsk</p>	<p>Citizen of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>The Accused provided information on the location, routes of the UAF and its equipment to the DPR.</p>	<p>Art. 258-3(1) of the CCU as assistance to the activities of a terrorist organisation changed by the Court to Art. 256(1) of the CCU as assistance to the members of a criminal</p>

	<p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first instance court in part and, additionally, found the Accused guilty of illegal storage of ammunition (Art. 263(1) of the CCU)</p>		<p>He also acquired and stored ammunition at his residence.</p> <p>The Court changed legal qualification from participation in a terrorist organisation (Art. 258-3(1) of the CCU), as was originally indicated in the indictment, to assistance to them members of a criminal organisation, which was not promised in advance (Art. 256(1) of the CCU), because the Prosecution failed to prove that the DPR is a terrorist organisation.</p> <p>The Court acquitted the Accused of illegal storage of ammunition (Art. 263(1) of the CCU), because the Prosecution failed to prove beyond reasonable doubt that the ammunition belonged to the Accused, and the Court alleged that presence of the ammunition could have been a result of the provocation of the law-enforcement against the Accused.</p> <p>The Court found the Accused guilty of assistance to members of a criminal organisation, which was not promised in advance (Art. 256(1) of the CCU) and sentenced him to four years of imprisonment.</p> <p>The Court of Appeals found the acquittal unsubstantiated and found the Accused guilty of illegal storage of ammunition (Art. 263(1) of the CCU) and assistance to the members of a</p>	<p>organisation, which was not promised in advance;</p> <p>Art. 263(1) of the CCU as illegal storage of ammunition.</p>
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			criminal organisation (Art. 256(1) of the CCU) and sentenced him to five years of imprisonment.	
CONFLICT-RELATED OFFENCES ADJUDICATED AS ORDINARY CRIMES				
ADJUDICATED CASES				
1149.	Case No. 225/837/16-k , Judgement of 5 February 2016, Dzerzhinsky City Court of the Donetsk region	Citizen of Ukraine	<p><u>Court findings:</u></p> <p>In May 2014, the Accused, acting upon prior conspiracy with a group of persons, armed with a rifle, seized a police building in the Donetsk region.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Accused was found guilty of seizing a governmental building (Art. 341 of the CCU) and sentenced to three years of imprisonment.</p>	Art. 341 of the CCU as seizure of a governmental building.
1150.	Case No. 414/1859/17 , Judgement of 25 September 2017, Kreminna District Court of the Luhansk region	Citizen of Ukraine	<p><u>Court findings:</u></p> <p>In May 2016, the Accused found a detonator at a checkpoint in Luhansk region, transported it to his private residence and stored it there until September 2017, when the item was seized by the law enforcement.</p>	Art. 263(1) of the CCU as illegal acquisition and storage of ammunition

			<p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Accused was found guilty of illegal acquisition and storage of ammunition (Art. 263(1) of the CCU) and sentenced to three years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	
1151.	<p>Case No. 225/6311/15-к. Judgement of 10 November 2017, Dzerzhinsky City Court of the Donetsk region</p> <p>The defence appealed the judgement on the ground of inadmissibility of evidence upon which the court relied to establish the guilt of the Accused. The case proceeded to the Court of Appeals of Donetsk region, which upheld the trial judgement</p>	<p>Three Accused were citizens of Ukraine affiliated with the DPR</p>	<p>Court findings:</p> <p>In July 2014, the victim, a civilian of pro-Ukrainian views under the age of 18, was travelling between the two government-controlled cities via Donetsk, the city controlled by the DPR. In Donetsk, he was arrested by DPR members, kept in a place of illegal detention and tortured. He was forced to dig trenches. At some point, the three Accused brought the victim to one of the trenches and each shot the victim with firearms, killing him.</p> <p>Having been notified of the proceedings against them, the three Accused failed to appear before the court, and the trial was held <i>in absentia</i>.</p>	<p>Art. 115(2)(3), (12) of the CCU as premeditated murder of a kidnapped person, committed by a group of persons upon prior conspiracy.</p>

			The Court found all three Accused guilty of committing a premeditated murder of a kidnapped person upon prior conspiracy of a group of persons (Art. 115(2)(3), (12) of the CCU) and sentenced each of them to life imprisonment.	
1152.	<p>Case No. 653/1302/15-k, Judgement of 15 May 2017, Henichevsk District Court of the Kherson region</p> <p>The case proceeded to the Court of Appeals of the Kherson region, which upheld the trial judgement</p>	Citizen of Ukraine	<p>Court findings:</p> <p>In January 2015, being dissatisfied with Ukrainian policy of the mobilisation to the Armed Forces, the Accused used his loudspeaker and twice publicly incited other citizens near the military commissariat to end the mobilisation by blocking roads, storming military enlistment offices, regional police departments and other authorities. Later, he repeated his calls during the broadcast of the TV program on one of the Russian channels.</p> <p>The Court found the Accused guilty of organisation of obstruction of lawful activity of the Ukrainian Armed Forces (Art. 114-1(1) of the CCU) and public calls to seize buildings and structures that threaten public order (Art. 295 of the CCU), and sentenced him to five years of imprisonment.</p>	<p>Art. 114-1(1) of the CCU as organisation of obstruction of lawful activity of the Ukrainian Armed Forces.</p> <p>Art. 295 of the CCU as public calls to seize buildings and structures that threaten public order.</p>

1153.	Case No. 419/3857/17 , Judgement of 27 November 2018, Novoaidar District Court of the Luhansk region	Citizen of Ukraine	<p><u>Court findings:</u></p> <p>In mid-April 2014, being dissatisfied with Ukrainian policy of the employment of armed forces in Donbas, the Accused organised and involved the local population of the village to block the movement of the column of military equipment of the UAF to the place of military service. Later, he blocked the routes of the UAF via the local road with various materials, guarded them and expressed his dissatisfaction with the presence of the UAF in the area.</p> <p>The Court found the Accused guilty of the organisation of obstruction of lawful activity of the Ukrainian Armed Forces (Art. 114-1(1) of the CCU) and sentenced him to six years of imprisonment.</p>	<p>Art. 114-1(1) of the CCU as organisation of obstruction of lawful activity of the Ukrainian Armed Forces.</p>
1154.	Case No. 552/2404/20 , Judgement of 2 June 2020, Kyivsky District Court of Poltava	Resident of Poltava, Ukraine	<p><u>Court findings:</u></p> <p>In 2019-2020, the Accused intentionally launched flights of his unmanned aerial vehicle in the direction of the military unit, which created obstacles for the flights of the military aircraft for the performance of military operations in the area of the Operation of the</p>	<p>Art. 114-1(1) of the CCU as organisation of obstruction of lawful activity of the Ukrainian Armed Forces.</p>

			<p>United Forces in the Donetsk and Luhansk regions.</p> <p>The Prosecution and the Accused reached a plea agreement, which the Court approved.</p> <p>The Court found the Accused guilty of organisation of obstruction of lawful activity of the Ukrainian Armed Forces (Art. 114-1(1) of the CCU) and sentenced him to five years of imprisonment.</p>	
1155.	<p>Case No. 554/1972/20, Judgement of 29 December 2020, Oktyabrsky District Court of Poltava</p>	Citizen of Ukraine	<p>Court findings:</p> <p>In 2017-2019, the company where the Accused served as a chief, interfered into the system of radiocommunications, which destabilised radiocommunication channel used by several military units and blocked receipt of some data during the special period.</p> <p>The Prosecution and the Accused reached a plea agreement, which the Court approved.</p> <p>The Court found the Accused guilty of the organisation of obstruction of lawful activity of the Ukrainian Armed Forces (Art. 114-1(1) of the CCU) and unauthorised interference in the</p>	<p>Art. 114-1(1) of the CCU as organisation of obstruction of lawful activity of the Ukrainian Armed Forces.</p> <p>Art. 361(1) of the CCU as unauthorised interference in the operation of telecommunication networks, which led to the blocking of information.</p>

			operation of telecommunication networks, which led to the blocking of information (Art. 361(1) of the CCU), and imposed a fine equivalent to 13,600 UAH.	
1156.	Case No. 425/1847/19 , Judgement of 6 April 2021, Novoaidar District Court of the Luhansk region	Citizen of Ukraine	<p>Court findings:</p> <p>The Prosecution alleged that in May 2014, the Accused, who served the Head of the Department in the local district council, convinced a mayor of one of the settlements to involve the local population in creating obstacles for the movement of the UAF units. The mayor, convinced that he complied with official orders, blocked the routes of the UAF column. As a result, the column was forced to change its route.</p> <p>The Court stated that the Prosecution's allegations were unsubstantiated and acquitted the Accused of the organisation of obstruction of lawful activity of the Ukrainian Armed Forces of Ukraine during the special period (Art. 114-1(1) of the CCU).</p>	Arts 27(3), 114-1(1) of the CCU as in organisation of obstruction of lawful activity of the Ukrainian Armed Forces of Ukraine during the special period.
A similar judgement was pronounced in another case:				

1157.	<p>Case No. 425/3250/14-k, Judgement of 12 June 2017, Rubizhne District Court of the Luhansk region. The case proceeded to the Court of Appeals of the Luhansk region, which quashed the initial judgement and sent the case for a retrial. As of April 2021, the case was still pending before the Rubizhne District Court of the Luhansk region.</p>
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PART II: PROCEEDINGS ON CRIMES REPORTED IN DONBAS AND CRIMEA INVOLVING UKRAINIAN SERVICEMEN AND LAW ENFORCEMENT OFFICIALS

In Part II, 73 cases are divided into five categories, namely:

- (i) Waging aggressive war combined with encroachment upon territorial integrity of Ukraine and state treason;
- (ii) State treason combined with desertion;
- (iii) Conflict-related offences adjudicated as ordinary crimes combined with desertion and / or other military offences;
- (iv) Military-type offences; and
- (v) Conflict-related offences adjudicated as ordinary crimes.

For ease of reference, when a case involves charges under more than one provision of the Criminal Code, the authors of the Report have placed the case under the category where the gravest crime belongs. According to Articles 12(3) and 72 of the CCU, the gravity of crimes is defined based on the prescribed criminal punishment. Within each category, cases are listed chronologically based on the date of the trial judgement indicated in the URCD.

CASE DETAILS	ACCUSED	DECISION SUMMARY	CHARGE
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WAGING AGGRESSIVE WAR COMBINED WITH ENCROACHMENT UPON TERRITORIAL INTEGRITY OF UKRAINE AND STATE TREASON			
ADJUDICATED CASES			
<p>1.</p>	<p>Case No. 756/4855/17, Judgement of 24 January 2019, Obolonsky District Court of Kyiv</p> <p>The defence appealed the judgement, arguing that the court failed to consider the case fully, erred in application of the procedural law and the judgement did not reflect the factual circumstances of the case. The case proceeded to Kyiv Court of Appeals, which upheld the Judgement of the first instance court</p>	<p>Viktor Yanukovych, citizen of Ukraine, former president of Ukraine</p>	<p><u>Court findings:</u></p> <p>The Accused fled from Ukraine to the Russian Federation and stayed there from the beginning of March 2014. Thinking of himself as a legitimate president of Ukraine, he participated in the criminal plan of the Russian Government to annex Crimea by requesting the Russian President to deploy the Russian Armed Forces in Ukraine. This statement was used by the Russian Parliament to launch the operation in Crimea and to justify the deployment of armed forces before the United Nations Security Council.</p> <p>Being notified about the proceeding against him, the Accused waived his right to be present at his trial and participated via his counsel.</p> <p>The defence argued that the Accused had not been properly informed about of the nature and cause of the charges against him, <i>inter alia</i>, as neither a notice of suspicion, nor an indictment were delivered to the Accused in writing. The Court considered such arguments to be ill-founded because the facts indicated proper</p> <p>Arts 27(5), 437(2) of the CCU as accessory in conducting an aggressive war;</p> <p>Arts 27(5), 110(3) of the CCU as assistance in intentional actions, conducted in order to change the territorial limits or state border of Ukraine, in violation of the procedure established by the Constitution of Ukraine, committed by the governmental officials, upon prior conspiracy of a group of persons, which led to serious consequences;</p> <p>Art. 111(1) of the CCU as state treason.</p>

			<p>awareness of the Accused about the substance of the charges.</p> <p>The Accused was found guilty of treason (Art. 111(1) of the CCU) and assistance in waging an aggressive war (Art. 27(5), 437(2) of the CCU), and sentenced to 13 years of imprisonment. The Court found the Accused not guilty of assistance in aggravated intentional actions committed to change the territorial limits or state border of Ukraine (Arts 27(5), 110(3) of the CCU) due to the lack of evidence of intent.</p>	
STATE TREASON COMBINED WITH DESERTION				
ADJUDICATED CASES				
2.	<p>Case No. 753/3981/16-к, Judgement of 16 January 2017, Darnytsky District Court of Kyiv</p> <p>The case proceeded to the Kyiv Court of Appeals, which quashed the judgement of the first instance court due to substantial violations of the procedural law and sent the case for a retrial</p>	<p>Citizen of Ukraine, former Deputy Head of the Medical Centre – Chief of the Medical Centre of the Centre for Medical Rehabilitation, Sanatorium Treatment and Special Training of Personnel of the Air</p>	<p>Court findings:</p> <p>In March 2014, the Accused, who was a UAF serviceman, did not obey the orders of Ukrainian command and did not leave Crimean Peninsula for the mainland of Ukraine. Instead, he continued his service at the previously held position under the Russian command.</p> <p>The Court found the Accused guilty of state treason (Art. 111(1) of the CCU) and desertion (Art. 408(1) of the CCU) and sentenced him to eight years of imprisonment.</p>	<p>Art. 111(1) of the CCU as state treason, <i>i.e.</i>, an act intentionally committed by a citizen of Ukraine to the detriment of the sovereignty, territorial integrity, defense capabilities of Ukraine, namely defection during an armed conflict;</p> <p>Art. 408(1) of the CCU as desertion, <i>i.e.</i>, non-appearance for military service in the case of transfer in order to evade military service.</p>

		and Naval Forces of the UAF "Sudak"		
3.	Similar judgements were pronounced in at least two other cases when Ukrainian servicemen failed to obey the order to relocate from Crimea in 2014 and served in the Russian armed forces:			
4.	Case No. 753/24070/16-к , Judgement of 6 February 2018, Darnytsky District Court of Kyiv (the Accused was sentenced to 14 years of imprisonment);			
	Case No. 758/367/17 , Judgement of 8 February 2018, Podilsky District Court of Kyiv (the Accused was sentenced to 13 years of imprisonment and deprived of a military rank of sergeant).			
CASES IN THE PRE-TRIAL / TRIAL PROCESS				
5.	Case No. 58/3317/17 , Order of 7 March 2017, Podilsky District Court of Kyiv The case is ongoing	Oleh Khomenko, citizen of Ukraine, serviceman of the UAF	Allegations: ⁴⁵ The Accused was a UAF serviceman from Crimea who did not leave the peninsula after Russia had gained control over it, instead continuing his service for the Russian authorities. The Prosecution charged him with state treason (Art. 111(1) of the CCU) and desertion (Art. 408(1) of the CCU).	Art. 111(1) of the CCU as state treason; Art. 408(1) of the CCU as desertion.

⁴⁵ "Crimean cases" of the week: announcements of hearings 18.11-21.11' [Bureau of Judicial Information](#) (16 November 2019).

In at least seven following cases, Ukrainian servicemen were accused of state treason and desertion when they failed to leave Crimea and continued their military service for the Russian Federation:

6. [Case No. 127/13806/16-к](#), Order of 12 December 2018, Vinnytsia City Court of the Vinnytsia region;
7. [Case No. 127/4019/16-к](#), Order of 31 January 2020, Desnyansky District Court of Kyiv;⁴⁶
8. [Case No. 127/27617/16-к](#), Order of 6 May 2019, Solomyansky District Court of Kyiv;⁴⁷
9. [Case No. 127/15965/16-к](#), Order of 24 April 2019, Kyiv Court of Appeals;⁴⁸
10. [Case No. 127/4032/16-к](#), Order of 17 July 2019, Dniprovsky District Court of Kyiv;⁴⁹
11. [Case No. 127/15964/16-к](#), Order of 23 January 2019, Sviatoshynsky District Court of Kyiv;⁵⁰
12. [Case No. 757/13910/17-к](#), Order of 30 May 2019, Shevchenkivsky District Court of Kyiv.⁵¹

CONFLICT-RELATED OFFENCES ADJUDICATED AS ORDINARY CRIMES COMBINED WITH DESERTION AND / OR OTHER MILITARY OFFENCES

CASES IN THE PRE-TRIAL / TRIAL PROCESS

⁴⁶ 'Court hearings on "Crimean cases": 29.07-02.08' [Bureau of Judicial Information](#) (29 July 2019).

⁴⁷ 'Court hearings on "Crimean cases": 29.07-02.08' [Bureau of Judicial Information](#) (29 July 2019).

⁴⁸ "'Crimean cases" of the week: announcements 15.07-19.07' [Bureau of Judicial Information](#) (14 July 2019).

⁴⁹ "'Crimean cases" of the week: announcements 15.07-19.07' [Bureau of Judicial Information](#) (14 July 2019).

⁵⁰ "'Crimean cases" of the week: announcements of hearings 10.06-14.06' [Bureau of Judicial Information](#) (7 June 2019).

⁵¹ 'Announcements of the "Crimean cases" of the week' [Bureau of Judicial Information](#) (27 May 2019).

13.	Case No. 420/3257/15-к , Order of 5 April 2016, Novopskov District Court of the Luhansk region	Citizens of Ukraine, servicemen of the 24th Battalion of Territorial Defence “Aidar”	<p>Allegations:⁵²</p> <p>The case concerned an attack against Oleksandr Dudnyk and Olha Moskaliuk committed by the servicemen of the 24th Battalion of Territorial Defence “Aidar” on 17 September 2014. The servicemen allegedly abducted the victims and shot them with a rifle. The bodies were discovered in June 2015.</p> <p>The Prosecution charged the Accused with murder of two or more persons (Art. 115(2) of the CCU); leaving of a military unit or place of service without an authorisation during a special period except martial law (Art. 407(4) of the CCU); and illegal confinement or abduction of a person, committed by an organised group, or having caused any grave consequences (Art. 146(3) of the CCU).</p>	<p>Art. 115(2) of the CCU as murder of two or more persons;</p> <p>Art. 146(3) of the CCU as unlawful confinement or abduction of a person committed by an organised group, or having caused any grave consequences</p> <p>Art. 407(4) of the CCU as leaving a military unit or place of service without authorisation, as well as non-appearance in time for service without valid reasons committed during a special period except martial law.</p>
ADJUDICATED CASES				
14.	Case No. 264/6729/15-к , Judgement of 7 November 2016, Illichivsk District	Citizens of Ukraine, servicemen of the UAF	<p>Court findings:</p> <p>In May 2015, the three Accused, Ukrainian servicemen, illegally abducted and confined two local residents with the use of weapons and</p>	<p>Arts 146(2) of the CCU as illegal confinement or abduction, committed upon prior conspiracy of a group of</p>

⁵² Center for Civil Liberties, [‘Investigation of crimes related to violation of the right to life, the right to liberty and security of person, freedom from torture committed in the ATO zone: shortcomings in the work of investigative bodies and recommendations of human rights defender’](#) (2016), p. 14.

<p>Court of Mariupol, Donetsk region</p> <p>Appellate proceedings regarding Accused 1, on the one hand, and Accused 2 and 3, on the other hand, were separated because Accused 1 was hiding from justice. The Court of Appeals of the Donetsk region revoked the sentence of Accused 2 and 3 and imposed a new sentence of three years of imprisonment on both Accused. The case proceeded to the Criminal Court of Cassation of the Supreme Court, but the Court dismissed the appeal and left the Judgement of the Court of Appeals unchanged</p> <p>After Accused 1 was apprehended, the Court of Appeals renewed the</p>		<p>physical violence. The victims were detained and subjected to various bodily injuries, forced to disclose their alleged contacts with the illegal armed formations.</p> <p>All three Accused were found guilty of aggravated illegal confinement and abduction (Art. 146(2) of the CCU), while Accused 2 was additionally found guilty of intentional minor bodily injury (Art. 125(2) of the CCU). Accused 1 was also found guilty of unauthorised leave of a military unit and non-appearance for military service for more than a month (Art. 407(3) of the CCU). Accused 1 and 2 were sentenced to three years of imprisonment each, while Accused 3 was sentenced to two years of imprisonment. The Court released Accused 3 from serving the sentence with a probationary period of one year.</p>	<p>persons, or with the use of weapons, or with the infliction of physical suffering;</p> <p>Art. 125(2) of the CCU as intentional minor bodily injury resulting in a short-term health disorder or minor disability;</p> <p>Art. 407(3) of the CCU as unauthorised leave of a military unit and non-appearance for military service for more than a month.</p>
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	<p>appellate proceedings and subsequently quashed the sentence imposed by the first instance court. Accused 1 was sentenced to five years of imprisonment</p>			
15.	<p>Case No. 225/3479/16-k, Judgement of 20 November 2017, Dzerzhynsk City Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, but the Court dismissed the defence appeal and left the Judgement of the first instance court unchanged. Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, but the Court dismissed the appeal and left the Judgement of the first instance court and the</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p><u>Court findings:</u></p> <p>In August 2014, the Accused, a Ukrainian serviceman, being aware that his subordinates arbitrarily detained three civilians and held them in inadequate conditions, failed to take any actions to stop the crime. In December 2014, the Accused intentionally inflicted grievous bodily harm to another individual. In August 2015, the Accused for no reason fired shots at the tyres of the vehicle of Ukrainian servicemen in a populated area, having engaged into a dispute with them.</p> <p>The Accused was found guilty of intentional failure of a military official to perform actions that he was obliged to perform in his official duties, which caused significant damage (Art. 426(1) of the CCU); intentional grievous bodily injury, which was life-threatening at the time of infliction, and caused mental illness or another</p>	<p>Art. 426(1) of the CCU as intentional failure of a military official to perform actions that he was obliged to perform under his official duties, which caused significant damage;</p> <p>Art. 121(1) of the CCU as intentional grievous bodily injury, which was life-threatening at the time of infliction, and caused mental illness;</p> <p>Art. 296(4) of the CCU as hooliganism, committed with the use of weapons.</p>

	order of the Court of Appeals unchanged		health crisis (Art. 121(1) of the CCU); hooliganism, committed with the use of weapons (Art. 296(4) of the CCU). The Accused was sentenced to six years of imprisonment, but subsequently amnestied and released from serving his sentence.	
16.	<p>Case No. 237/3220/17, Judgement of 7 December 2018, Dzerzhynsk City Court of the Donetsk region⁵³</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which upheld the judgement of the first instance court</p> <p>Thereafter, it proceeded to the Court of Cassation within the Supreme Court, which also upheld the initial judgement</p>	Citizen of Ukraine, a serviceman of a military unit B2950	<p><u>Court findings:</u></p> <p>On 6 February 2017, the Accused met his acquaintance and accompanied her home. There, the Accused used physical violence against the victim and threatened to use violence against her children, two minors, who were present in the same house. The Accused abused and raped her several times.</p> <p>The Court found the Accused guilty of multiple acts of violent unnatural gratification of sexual desire combined with physical violence and threats of violence, committed by taking advantage of the victim's helpless condition (Art. 153(1), (2) of the CCU); multiple acts of rape (Art. 152(2) of the CCU); intended minor bodily injury (Art. 125(1) of the CCU); disobedience committed in times of martial law (Art. 402(3) of</p>	<p>Art. 153(1), (2) of the CCU as violent unnatural gratification of sexual desire combined with physical violence and threats of violence, or carried out by taking advantage of the victim's helpless condition, committed repeatedly;</p> <p>Art. 152(2) of the CCU as rape, <i>i.e.</i>, sexual intercourse combined with violence, threats of violence, or carried out by taking advantage of the victim's helpless condition, committed repeatedly, or by a person who previously committed rape or violent unnatural gratification of sexual desire;</p>

⁵³ Access to the judgement is restricted. See the Law of Ukraine "On the access to court decisions" of 22 December 2005 № 3262-IV, Art. 7 concerning information that cannot be disclosed in the texts court decisions open to the public. Some facts of the case are listed in the orders of the [Mariinsky District Court of the Donetsk region](#) and the [Dzerzhynsk City Court of the Donetsk region](#).

			the CCU); desertion in times martial law (Art. 408(3) of the CCU); and illegal confinement, committed in regard of two or more persons, by causing bodily suffering to the victim (Art. 146(2) of the CCU). The Court sentenced the Accused to ten years of imprisonment.	<p>Art. 126(1) of the CCU as committing other acts of violence that caused physical pain and did not cause bodily harm;</p> <p>Art. 146(1) of the CCU as illegal confinement of a person;</p> <p>Art. 402(3) of the CCU as disobedience committed in times of martial law;</p> <p>Art. 408(3) of the CCU as desertion, <i>i.e.</i>, leaving a military unit without permission in order to evade military service, committed in times of martial law.</p>
17.	<p>Another judgement on a seemingly similar set of factual circumstances was pronounced in the following case:</p> <p>Case No. 219/7237/17 (allegations of facts and legal qualification presented in the Order of the Court of Appeals of the Donetsk region from 26 July 2017).</p>			
MILITARY-TYPE OFFENCES				
ADJUDICATED CASES				
18.	Case No. 185/12161/15-к , Judgement of 27 March 2017, Pavlograd City District Court of the Dnipropetrovsk region	Viktor Nazarov, citizen of Ukraine, military officer of the UAF and the Chief of Staff - First Deputy Chief of the ATO	<p>Court findings:</p> <p>The Accused served as a Ukrainian military officer and the Chief of Staff - First Deputy Chief of the ATO. In June 2014, he failed to organise and maintain an isolated zone around Luhansk Airport, as was prescribed by the 2014 Plan of</p>	<p>Art. 425(3) of the CCU as negligent attitude of a military officer to the service, which caused significant damage, committed during a special period other than martial law.</p>

	<p>The case proceeded to the Court of Appeals of the Dnipropetrovsk region</p>		<p>Protection of the State Border and required by the circumstances, <i>inter alia</i>, due to the reportedly planned offensive of the LPR on the Airport. Furthermore, the Accused did not organise or coordinate sufficient cooperation between various military units for the protection of the Airport. As a result, a military aircraft IL-76 carrying equipment and weapons was attacked and destroyed, and 49 servicemen were killed.</p> <p>The Accused pleaded not guilty and explained that the duties peculiar to his position were not precisely enshrined, he was not entitled to issue orders single-handedly, the obtained data about the militants' plans was not credible enough, the aircraft breached certain air traffic rules, while the military-tactical expertise was conducted with various violations.</p> <p>The Court found the Accused guilty of a negligent attitude to the service, which caused significant damage, committed during a special period (Art. 425(3) of the CCU), and sentenced him to seven years of imprisonment. In addition, the Ministry of Defence was ordered to pay moral damages to the next of kin of the victims.</p>	
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19.	Case No. 460/1294/17 , Judgement of 17 July 2017, Yavoriv District Court of the Lviv region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In December 2016, the Accused, a Ukrainian serviceman, intentionally failed to notify the pre-trial investigation body about physical violence between his subordinates which amounted to a crime, namely, a violation of the statutory rules of relations between servicemen (Art. 406(1) of the CCU).</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of an intentional failure to notify a pre-trial investigation body of a subordinate, who committed a criminal offence, committed during a special period other than martial law (Art. 426(3) of the CCU) and ordered him to pay a fine of UAH 3,400.</p>	<p>Art. 426(3) of the CCU as intentional failure of a military official to notify a pre-trial investigation body of a subordinate who committed a criminal offence, committed during a special period other than martial law.</p>
20.	Case No. 237/3913/17 , Judgement of 13 October 2017, Maryinka District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In August 2017, the Accused, a Ukrainian serviceman and a company commander, failed</p>	<p>Art. 425(3) of the CCU as negligent attitude of a military officer to the service, which caused significant damage, committed during a special period other than martial law.</p>

			<p>to secure storage of weapons appropriately and prevent their stealing.</p> <p>The Court found the Accused guilty of a negligent attitude to the service, which caused significant damage, committed during a special period (Art. 425(3) of the CCU). The Court sentenced the Accused to five years of imprisonment but released him from serving the sentence with a probationary period of two years. Subsequently, the Accused was granted amnesty and released from serving his sentence.</p>	
21.	<p>Case No. 222/1112/17, Judgement of 19 January 2018, Volodarka District Court of the Donetsk region</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p>Court findings:</p> <p>In March 2017, the Accused, a Ukrainian serviceman, in order to evade military service, left a military unit without permission.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to six months of arrest in a guardhouse, imposing a milder</p>	<p>Article 408(3) of the CCU as desertion committed during a special period other than martial law.</p>

			penalty than a minimal sanction, prescribed by the abovementioned article of the CCU.	
22.	Case No. 243/4612/17 , Judgement of 2 April 2018, Slovyansk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	Court findings: The Accused, a Ukrainian serviceman, in order to evade military service, failed to appear for his duty to his military unit. The Court found the Accused guilty of desertion (Art. 408(1) of the CCU) and sentenced him to two years and six months of imprisonment.	Article 408(1) of the CCU as desertion
23.	Case No. 221/822/18 , Judgement of 4 May 2018, Volnovakha District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	Court findings: In June 2017, the Accused, a Ukrainian serviceman, arbitrarily left his military unit without permission. The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of two years.	Article 408(3) of the CCU as desertion committed during a special period other than martial law.
24.	Case No. 225/4477/18 , Judgement of 24 October 2018, Dzerzhinsky City	Citizen of Ukraine, serviceman of the UAF	Court findings: From March 2015 to August 2016, the Accused, a Ukrainian serviceman and a company	Art. 425(3) of the CCU as negligent attitude of a military officer to the service, which caused significant

	Court of the Donetsk region		<p>commander, failed to ensure appropriate storage of weapons and prevent their loss.</p> <p>The Court found the Accused guilty of a negligent attitude to the service, which caused significant damage, committed during a special period (Art. 425(3) of the CCU) and sentenced him to five years of imprisonment. The Accused was subsequently granted amnesty and released from serving his sentence.</p>	damage, committed during a special period other than martial law.
25.	Case No. 241/766/18 , Judgement of 12 December 2018, Pervomaisky District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In December 2014, the Accused, a Ukrainian serviceman, in order to evade military service, failed to appear for his duty to his military unit.</p> <p>The Court found the Accused guilty of desertion (Art. 408(1) of the CCU) and sentenced him to two years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	Article 408(1) of the CCU as desertion.
26.	Case No. 243/1110/19 , Judgement of 18 February 2019, Slovyansk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In August 2015, the Accused, a Ukrainian serviceman, in order to evade military service arbitrarily left his military unit without permission, and did not return until February</p>	Article 408(3) of the CCU as desertion, committed during a special period other than martial law.

			<p>2016, when he was apprehended by law enforcement.</p> <p>The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment.</p>	
27.	<p>Case No. 243/789/19, Judgement of 28 March 2019, Slovyansk City District Court of the Donetsk region</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p>Court findings:</p> <p>From June 2016 to May 2017, the Accused, a Ukrainian serviceman, in order to evade military service, failed to appear for his duty to his military unit.</p> <p>The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of three years.</p>	<p>Article 408(3) of the CCU as desertion, committed during a special period other than martial law.</p>
28.	<p>Case No. 216/1917/19, Judgement of 25 April 2019, Central City District Court of Kryvyi Rih, Dnipropetrovsk Region</p>	<p>Citizen of Ukraine, a serviceman of the UAF</p>	<p>Court findings:</p> <p>The military unit of the Accused received the order to relocate to the area of the Operation of the United Forces. However, the Accused openly refused to execute the mentioned order.</p>	<p>Art. 402(3) of the CCU as disobedience, <i>i.e.</i>, an open refusal to comply with the order of the commander, committed during a special period other than martial law.</p>

			The Accused and the Prosecution reached a plea agreement which the Court approved. The Court found the Accused guilty of disobedience, committed during a special period other than martial law (Art. 402(3) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a two-year term.	
29.	Case No. 222/453/19 , Judgement of 8 May 2019, Volodarsky District Court of the Donetsk region	Citizen of Ukraine, a serviceman of the UAF	<p><u>Court findings:</u></p> <p>The Accused, whose military unit participated in the defensive operations in the area of the Operation of the United Forces, got drunk and failed to appear for the performance of his duty to construct the facilities on the defensive line in breach of his commander's order.</p> <p>The Court found the Accused guilty of disobedience, committed during a special period other than martial law (Art. 402(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving a sentence under the Law of Ukraine "On Amnesty in 2016".</p>	Art. 402(3) of the CCU as disobedience, <i>i.e.</i> , an open refusal to comply with the order of the commander, committed during a special period other than martial law.
30.	Case No. 415/3810/19 , Judgement from 1 July 2019, Lysychansk City	Citizen of Ukraine, a serviceman of the UAF	<u>Court findings:</u>	Art. 406(1) of the CCU as violation of statutory rules of conduct of military

	Court of the Luhansk region		<p>The Accused, who underwent military service in the Luhansk region during a special period, left his military unit and spent his time in the adjacent city at his own discretion. He also hit another serviceman in the face and body.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of violation of statutory rules of conduct of military servants not subordinated to each other, manifested in beatings (Art. 406(1) of the CCU) and unauthorized leave of a place of service, committed during a special period other than martial law (Art. 407(4) of the CCU). He was sentenced to the concurrent term of four years of imprisonment. The Court released the Accused from serving a sentence under the Law of Ukraine "On Amnesty in 2016".</p>	<p>servants not subordinated to each other, manifested in beatings;</p> <p>Art. 407(4) of the CCU as unauthorized leave of a place of service, committed during a special period other than martial law.</p>
31.	Case No. 229/2794/19 , Judgement of 14 August 2019, Druzhkivka City Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In February 2016, the Accused, a Ukrainian serviceman, in order to evade military service, failed to appear for duty to his military unit.</p>	<p>Article 408(3) of the CCU as desertion, committed during a special period other than martial law.</p>

			The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.	
32.	Case No. 219/6348/19 , Judgement of 27 August 2019, Artemivsk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In February 2017, the Accused, a Ukrainian serviceman, arbitrarily left his military unit in order to evade military service, and did not return until February 2018, when he was apprehended by law enforcement for another crime.</p> <p>The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years and two months of imprisonment.</p>	Article 408(3) of the CCU as desertion, committed during a special period other than martial law.
33.	Case No. 221/2573/17 , Judgement of 19 September 2019, Volnovakha District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In September 2014, the Accused, a Ukrainian serviceman, arbitrarily left his military unit taking his service weapon without permission.</p> <p>The Court found the Accused guilty of desertion with the use of weapons (Art. 408(2) of the CCU) and sentenced him to five years of</p>	Article 408(2) of the CCU as desertion with the use of weapons.

			imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.	
34.	<p>Case No. 229/2154/19, Judgement of 9 October 2019, Druzhkivka City Court of the Donetsk region</p> <p>Judgement of a first instance court. The case proceeded to the Court of Appeals of the Donetsk region, which rejected the prosecutor's appeal and left the Judgement of the first instance court unchanged</p>	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In October 2014, the Accused, a Ukrainian serviceman, witnessed a murder of a taxi driver by another serviceman. Driven by emotions, the Accused arbitrarily left his military unit, and did not return until January 2019, when he was apprehended by law enforcement.</p> <p>The Court found the Accused guilty of desertion (Art. 408(1) of the CCU) and sentenced him to three years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	Article 408(1) of the CCU as desertion.
35.	<p>Case No. 235/4282/19, Judgement of 15 October 2019, Krasnoarmiysky City District Court of the Donetsk region</p>	Citizen of Ukraine, a serviceman of the UAF	<p><u>Court findings:</u></p> <p>The Accused, who underwent military service in the Donetsk region, being dissatisfied with a task assigned to him, beat his commander.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p>	Art. 405(3) of the CCU as infliction of bodily injuries to the commander in connection with the performance of the military service duties by the latter, committed during a special period other than martial law.

			The Court found the Accused guilty of infliction of bodily injuries to the commander in connection with the performance of the military service duties by the latter, committed during a special period other than martial law (Art. 405(3) of the CCU) and sentenced him to five months of arrest in a guardhouse.	
36.	Case No. 423/3150/19 , Judgement of 28 November 2019, Popasna District Court of the Luhansk region	Citizen of Ukraine, a serviceman of the UAF	<p>Court findings:</p> <p>The Accused, whose military unit participated in the Operation of the United Forces, got drunk and started to offend other servicemen. After his commander ordered the Accused to hand over his weapons and prepare for undergoing the sobriety test, the Accused openly refused to abide by the order.</p> <p>The Court found the Accused guilty of disobedience, committed during a special period other than martial law (Art. 402(3) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a one-year term.</p>	Art. 402(3) of the CCU as disobedience, <i>i.e.</i> , an open refusal to comply with the order of the commander, committed during a special period other than martial law.
37.	Case No. 241/21/20 , Judgement of 15 January 2020, Pershotravnevy	Citizen of Ukraine, a serviceman of the UAF	<p>Court findings:</p> <p>The Accused, who underwent military service in the Donetsk region, being drunk and dissatisfied</p>	Art. 405(3) of the CCU as infliction of bodily injuries to the commander in connection with the performance of the military service duties by the latter,

	District Court of the Donetsk region		<p>with the actions of his commander, beat the latter.</p> <p>The Accused and the Prosecution reached a plea agreement which the Court approved.</p> <p>The Court found the Accused guilty of infliction of bodily injuries to the commander in connection with the performance of the military service duties by the latter, committed during a special period other than martial law (Art. 405(3) of the CCU) and sentenced him to five years of imprisonment with a release on probation for a two-year term.</p>	committed during a special period other than martial law.
38.	Case No. 235/7377/19 , Judgement of 17 January 2020, Krasnoarmiysky City District Court of the Donetsk region	Citizen of Ukraine, a serviceman of the UAF	<p>Court findings:</p> <p>The Accused, whose military unit participated in the military operations aimed at maintaining national security in the area of the Operation of the United Forces, acting together with a third person, beat another serviceman.</p> <p>The Court found the Accused guilty of violation of statutory rules of conduct of military servants not subordinated to each other, which caused minor bodily injuries, committed by a group of persons (Art. 406(3) of the CCU) and sentenced</p>	Art. 406(3) of the CCU as violation of statutory rules of conduct of military servants not subordinated to each other, which caused minor bodily injuries, committed by a group of persons.

			him to three years of imprisonment with a release on probation for a one-year term.	
39.	Case No. 219/7401/19 , Judgement of 28 January 2020, Artemivsk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In May 2015, the Accused, a Ukrainian serviceman, in order to evade military service, failed to appear for his duty to a military unit.</p> <p>The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment.</p>	Article 408(3) of the CCU as desertion, committed during a special period other than martial law.
40.	Case No. 219/7673/19 , Judgement of 19 February 2020, Artemivsk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In June 2015, the Accused, a Ukrainian serviceman, arbitrarily left his military unit without permission, and did not return until June 2019.</p> <p>The Court found the Accused guilty of desertion, committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of three years.</p>	Article 408(3) of the CCU as desertion, committed during a special period other than martial law.

41.	Case No. 229/749/20 , Judgement of 13 March 2020, Druzhkivka City Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In December 2019, the Accused, a Ukrainian serviceman, intentionally failed to notify the pre-trial investigation body about the crime of desertion (Art. 408(3) of the CCU), committed by his subordinate.</p> <p>The Court found the Accused guilty of an intentional failure to notify the pre-trial investigation body of a subordinate, who committed a criminal offence, committed during a special period other than martial law (Art. 426(3) of the CCU), and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	<p>Art. 426(3) of the CCU as intentional failure of a military official to notify a pre-trial investigation body of a subordinate who committed a criminal offence, committed during a special period other than martial law.</p>
42.	Case No. 636/722/20 , Judgement of 5 June 2020, Chuhuiv City Court of the Kharkiv region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In February 2019, the Accused, a Ukrainian serviceman, intentionally failed to notify the pre-trial investigation body about the crime of theft of a piece of military equipment committed by his subordinate.</p>	<p>Art. 426(3) of the CCU as intentional failure of a military official to notify a pre-trial investigation body of a subordinate who committed a criminal offence, committed during a special period other than martial law.</p>

			<p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of an intentional failure to notify a pre-trial investigation body of a subordinate, who committed a criminal offence, committed during a special period other than martial law (Art. 426(3) of the CCU), and imposed a penalty in the form of service restriction for a year period with a monthly deduction of 10% of his salary in the State revenue.</p>	
43.	<p>Case No. 229/2026/20, Judgement of 17 July 2020, Druzhkivka City Court of the Donetsk region</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p><u>Court findings:</u></p> <p>In May –July 2016, the Accused, a Ukrainian serviceman, intentionally failed to notify the pre-trial investigation body about a crime of an unauthorised leaving of a military unit or place of service (Art. 407(4) of the CCU), committed by his subordinate.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p>	<p>Art. 426(3) of the CCU as intentional failure of a military official to notify a pre-trial investigation body of a subordinate who committed a criminal offence, committed during a special period other than martial law.</p>

			The Court found the Accused guilty of an intentional failure to notify a pre-trial investigation body of a subordinate, who committed a criminal offence, committed during a special period other than martial law (Art. 426(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.	
44.	Case No. 243/4264/20 , Judgement of 27 July 2020, Slovyansk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In April 2016, the Accused, a Ukrainian serviceman, being unsatisfied with the conditions of his military service, abandoned his military unit without permission or a good reason, and did not return until April 2020, when he was arrested by the law enforcement.</p> <p>The Court found the Accused guilty of desertion committed during a special period (Art. 408(3) of the CCU) and sentenced him to five years of imprisonment.</p>	Article 408(3) of the CCU as desertion, committed during a special period other than martial law.
45.	Case No. 229/2744/20 , Judgement of 15 September 2020,	Citizen of Ukraine, a serviceman of the UAF	<p>Court findings:</p> <p>The Accused, who served at the checkpoint in the area of the Operation of the United Forces,</p>	Art. 406(1) of the CCU as violation of statutory rules of conduct of military servants not subordinated to each other.

	Druzhkivka City Court of the Donetsk region		<p>being drunk, beat another serviceman and further threatened him with weapons.</p> <p>The Court found the Accused guilty of violation of statutory rules of conduct of military servants not subordinated to each other (Art. 406(1) of the CCU) and sentenced him to one month of arrest in a guardhouse.</p>	
CONFLICT-RELATED OFFENCES ADJUDICATED AS ORDINARY CRIMES				
ADJUDICATED CASES				
46.	<p>Case No. 419/1653/16-к, Judgement of 16 June 2016, Rubizhne City Court of the Luhansk region</p> <p>The case proceeded to the Court of Appeals of Luhansk region, but the Court rejected the motion for the extension of time for appeal submitted by the defence, and returned the appeal</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p><u>Court findings:</u></p> <p>In summer 2014, the Accused, a Ukrainian serviceman and a member of the “Aidar” volunteer battalion, joined an armed gang, organised by some members of the battalion. In August 2014, the Accused and other members of the gang broke into several households, threatened the residents, unlawfully confined them, appropriated their personal belongings, weapons and vehicles, while the Accused seriously wounded one resident.</p> <p>The Accused was found guilty of participation in an armed gang and its attacks (Art. 257 of the CCU); aggravated robbery (Art. 187(4) of the CCU), stealing of firearms (Art. 262(3) of the</p>	<p>Art. 257 of the CCU as participation in an armed gang and its attacks;</p> <p>Art. 187(4) of the CCU as robbery, committed with an entry into a building, and seizure of one’s property in an especially large amount, committed by an organised group;</p> <p>Art. 262(3) of the CCU as stealing of firearms, committed by an organised group;</p> <p>Arts 28(3), 357(3) of the CCU as illegal appropriation of important personal</p>

	Supreme Court , which refused to open cassation proceedings		CCU), illegal appropriation of important personal documents (Arts 28(3), 357(3) of the CCU), committed by an organised group; aggravated illegal appropriation of a vehicle (Art. 289(3) of the CCU); a completed attempt of murder for gainful motives (Arts 15(2), 115(2)(6) of the CCU), and sentenced to 12 years of imprisonment with confiscation of all his property.	documents, committed by an organised group; Art. 289(3) of the CCU as illegal appropriation of a vehicle committed repeatedly by an organised group, combined with the threat of violence dangerous to life and health and with an entry into the premises, and causing a significant material damage; Arts 15(2), 115(2)(6) of the CCU as completed attempt of murder for gainful motives.
47.	Case No. 489/4613/16-к , Judgement of 28 September 2016, Leninsky District Court of Mykolaiv	Citizen of Ukraine, serviceman of the UAF	Court findings: In February 2015, the Accused, a Ukrainian serviceman, found ammunition in a forest in the ATO zone, took it to his military unit and carried it during a trip to the railway station in Mykolaiv, where he was apprehended by the law enforcement. The Court found the Accused guilty of illegal carrying and storage of ammunition (Art. 263(1) of the CCU) and sentenced to three years of imprisonment. The Court released the Accused	Art. 263(1) of the CCU as illegal carrying and storage of ammunition.

			from serving the sentence with a probationary period of one year.	
48.	Case No. 419/2897/16-к , Judgement of 7 October 2016, Novoaidar District Court of the Luhansk region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In November 2015, the Accused, a Ukrainian serviceman, took a grenade during one of his tasks and started carrying it with him. In June 2016, he showed the grenade in a public place and was apprehended by the law enforcement.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Accused was found guilty of illegally carrying and storing ammunition (Art. 263(1) of the CCU) and sentenced to four years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of three years.</p>	Art. 263(1) of the CCU as illegal carrying and storage of ammunition.
49.	Case No. 414/2194/16-к , Judgement of 2 December 2016, Kreminna District Court of the Luhansk region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In June 2016, the Accused, a Ukrainian serviceman, found a hand fragmentation grenade and detonators in a forest in the Luhansk region, transported them to a</p>	Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.

			<p>temporary stationing point and stored them there. When the military unit relocated, the items were found by the military law enforcement service.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU), and imposed a fine equivalent to UAH 5100.</p>	
50.	<p>Case No. 423/546/17-к, Judgement of 5 April 2017, Popasna District Court of the Luhansk region</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p><u>Court findings:</u></p> <p>In October 2016, the Accused, a Ukrainian serviceman, and his comrades were driving a vehicle and did not stop at a checkpoint of the UAF. Then, to stop the vehicle, the servicemen at the checkpoint fired several shots at it.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of resistance to a serviceman during performance of their</p>	<p>Art. 342(2) of the CCU as resistance to a serviceman during performance of their duties of protecting public order.</p>

			duties to protect public order (Article 342(2) of the CCU) and ordered to pay a fine, equivalent to UAH 5100.	
51.	Case No. 227/617/17 , Judgement of 14 April 2017, Dobropillia City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In June 2016, the Accused, a Ukrainian serviceman, found a gun in a non-residential building, failed to inform his command about it, transported it to his private residence and stored it there until February 2017, when he decided to hide the firearm in the forest, but was exposed by the law enforcement.</p> <p>The Accused was found guilty of illegal acquisition, carrying and storage of firearms (Art. 263(1) of the CCU) and sentenced to three years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms.
52.	Case No. 219/10313/16-к , Judgement of 27 April 2017, Artemivsk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In June-July 2016, the Accused, a Ukrainian serviceman, together with other servicemen, using physical violence, arbitrarily detained a civilian in order to question him about his affiliation with illegal armed formations of the</p>	Art. 146(3) of the CCU as illegal confinement or abduction, committed upon prior conspiracy of a group of persons, or in a manner dangerous to the life and health, or accompanied by

			<p>DPR. During the detention, the victim was subjected to physical violence and held in exhausting conditions, leading to his death.</p> <p>The Court found the Accused guilty of illegal confinement and abduction of a person which caused serious consequences (Art. 146(3) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of three years.</p>	<p>physical suffering, which caused serious consequences.</p>
53.	<p>Case No. 409/1530/16-к, Judgement of 25 May 2017, Rubizhne City Court of the Luhansk region</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p><u>Court findings:</u></p> <p>In July 2014, the Accused, a Ukrainian serviceman, murdered two civilians who were detained for their alleged cooperation with the LPR as a revenge for the death of his comrade.</p> <p>The Accused was found guilty of premeditated murder of two persons (Art. 115(2)(1) of the CCU) and sentenced to eight years of imprisonment.</p>	<p>Art. 115(2)(1) of the CCU as premeditated murder of two persons.</p>
54.	<p>Case No. 234/15312/16-к, Judgement of 22 June 2017, Kramatorsk City</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p><u>Court findings:</u></p> <p>In June 2016, the Accused, a Ukrainian serviceman, found a fragmentation grenade,</p>	<p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of an explosive</p>

	Court of the Donetsk region		<p>failed to inform his command about it, illegally transported and kept it with him, until the law enforcement discovered it at a checkpoint.</p> <p>The Court found the Accused guilty of illegal acquisition, carrying and storage of an explosive (Art. 263(1) of the CCU), and sentenced him to three years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	
55.	Case No. 263/6658/17 , Judgement of 27 June 2017, Zhovtnevy District Court of Mariupol, Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In March 2016, the Accused, a Ukrainian serviceman, during his military service purchased ammunition, which was not registered in his military unit, concealed it from his superiors, stored in the military unit and intended to carry it with him in during his private trip.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of illegal carrying, storage and acquisition of ammunition</p>	Art. 263(1) of the CCU as illegal carrying, storing and acquisition of ammunition.

			(Art. 263(1) of the CCU) and imposed a fine equivalent to UAH 10,200.	
56.	Case No. 415/1468/15-к , Judgement of 23 October 2017, Lysychansk City Court of the Luhansk region	Citizen of Ukraine, policeman of the patrol police unit of special purpose "Luhansk-1"	<p>Court findings:</p> <p>On 7 October 2014, the Accused, a Ukrainian policeman, was on duty at a checkpoint in the Luhansk region. Acting pursuant to his duties under the Law "On Combatting Terrorism", he tried to stop a moving car to check documents and a vehicle in the ATO zone by giving signs, verbal warning and one warning shot in the air. When the car did not stop, he made three shots in the back of the car. The splinter bullets hit the driver and caused multiple injuries which caused his death.</p> <p>The Court found the Accused guilty of a negligent murder (Art. 119(1) of the CCU) and sentenced him to four years and six months of imprisonment. The Accused was released from serving the sentence under the Law of Ukraine "On Amnesty in 2016".</p>	Art. 119(1) of the CCU as negligent murder.
57.	Case No. 237/3076/16-к , Judgement of 10 November 2017, Ordzhonikidze District	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In July 2015, the Accused, a Ukrainian serviceman, murdered one person whom he suspected to cooperate with illegal armed formations of the DPR. Afterwards, the Accused</p>	Art. 115(1) of the CCU as premeditated murder;

	<p>Court of Mariupol, Donetsk region</p> <p>The case proceeded to the Court of Appeals of Donetsk region, which quashed the judgement in relation to confiscation of property</p> <p>Thereafter, the case proceeded to the Criminal Court of Cassation of the Supreme Court, which upheld the decision of the Court of Appeals</p>		<p>and his accomplice illegally seized the victim's car.</p> <p>The Accused was found guilty of premeditated murder (Art. 115(1) of the CCU), unlawful appropriation of a vehicle, upon prior conspiracy of a group of persons (Art. 289(2) of the CCU), and sentenced to 13 years of imprisonment with confiscation of all his property.</p> <p>The Court of Appeals quashed the confiscation, leaving the term of imprisonment unchanged.</p>	<p>Art. 289(2) of the CCU as unlawful appropriation of a vehicle, upon prior conspiracy of a group of persons.</p>
58.	<p>Case No. 233/2935/15-к, Judgement of 30 November 2017, Kostiantynivka City District Court of the Donetsk region.</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which overturned the conviction of the Accused for a</p>	<p>Citizen of Ukraine, Assistant Chief of the Chutiv District Department – Operational Duty Officer of the Duty Unit of the Chutiv Regional Department of the Ministry of Internal</p>	<p>Court findings:</p> <p>On 17 December 2014, the Accused, a Ukrainian law enforcement officer, was on duty at a checkpoint in the Donetsk region. Another officer stopped a car with three persons inside, checked their documents and the trunk and allowed them to continue their journey. However, the Accused conducted a second check, after which, following a sudden conflict, shot and killed one passenger and incidentally inflicted severe injuries to another passenger.</p>	<p>Art. 115(1) of the CCU as murder, <i>i.e.</i>, intentional unlawful infliction of death on another person;</p> <p>Art. 128 of the CCU as causing negligent grievous bodily harm;</p> <p>Art. 365(2) of the CCU as excess of authority by a law enforcement officer, <i>i.e.</i>, actions that clearly go beyond the powers granted, committed with the use of weapons.</p>

	<p>criminal offence under Art. 365(2) of the CCU, but upheld the other parts of the judgement</p> <p>Then, the case proceeded to the Court of Cassation within the Supreme Court, which sent the case for a retrial to the Court of Appeals of the Donetsk region</p> <p>On 21 July 2020, the Court of Appeals upheld the initial judgement of the first instance court</p>	<p>Affairs of Ukraine in the Poltava region</p>	<p>The Court found the Accused guilty of murder (Art. 115(1) of the CCU), causing negligent grievous bodily harm (Art. 128 of the CCU), and exceeding official authority by a law enforcement officer committed with the use of weapons (Art. 365(2) of the CCU). The Accused was sentenced to 12 years of imprisonment deprived of the right to hold an office in the law enforcement for three years.</p> <p>The Court of Appeals quashed the judgement of the first instance court in relation to exceeding official authority by a law enforcement officer, committed with the use of weapons (Art. 365(2) of the CCU). The Court ruled that the Prosecution failed to prove that the prerequisite threshold of gravity of harm was reached.</p> <p>However, the Court of Cassation disagreed with the decision of the Court of Appeals and ruled that the threshold of harm was not required if a crime was committed with the use of weapons (Art. 365(2) of the CCU). This interpretation was further adopted by the Court of Appeals during the retrial, when the Court upheld the initial judgement.</p>	
59.	<p>Case No. 577/4040/17, Judgement of 11 December 2017, Konotop</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p>Court findings:</p>	<p>Art. 263(1) of the CCU as illegal acquisition, carrying and storage of ammunition.</p>

	City District Court of the Sumy region		<p>In December 2015, the Accused, a Ukrainian serviceman, found a hand fragmentation grenade in the ATO zone, transported and illegally stored it in the military unit, and later in his private apartment. The law enforcement seized the grenade when the Accused appeared with it in a public place.</p> <p>The Court found the Accused guilty of illegal acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU) and sentenced to three years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of two years.</p>	
60.	<p>Case No. 225/5972/15-к, Judgement of 25 January 2018, Dzerzhynsk City Court of the Donetsk region</p> <p>Accused 1 filed an appeal to the Court of Appeals of the Donetsk region. The Court changed the verdict in part concerning Art. 115(1), requalified the</p>	<p>The three Accused are citizens of Ukraine, servicemen of the military unit field post B0927 - a senior driver, a driver and a scout, respectively</p>	<p>Court findings:</p> <p>On 20 August 2015, the three Accused stopped a car and asked the driver to take them to their military unit. During the ride, Accused 1 made five shots at the driver following their sudden conflict. The shots caused the driver's death. Thereafter, the three Accused buried the body near the crime scene and went to their military unit with the victim's car.</p> <p>The Court found Accused 1 guilty of murder, (Art. 115(1) of the CCU) and illegal seizure of a vehicle upon prior conspiracy of a group of</p>	<p>Art. 115(1) of the CCU as murder, <i>i.e.</i>, intentional unlawful infliction of death on another person; changed by the Court of Appeals to Art. 414(2) of the CCU (violation of the rules of handling weapons, which caused the death of the victim).</p> <p>Art. 289(2) of the CCU as illegal seizure of a vehicle upon prior conspiracy of a group of persons;</p> <p>Art. 396(1) of the CCU as concealment of a particularly serious crime, which was not promised in advance.</p>

	conduct and passed a new sentence		<p>persons (Art. 289(2) of the CCU) and sentenced him to 12 years of imprisonment.</p> <p>The Court found Accused 2 and 3 guilty of concealment of a particularly serious crime, which was not promised in advance (Art. 396(1) of the CCU) and illegal seizure of a vehicle upon prior conspiracy of a group of persons (Art. 289(2) of the CCU) and sentenced them to six years of imprisonment each.</p> <p>The Court of Appeals changed the legal qualification of the conduct of Accused 1 from murder (Art. 115(1) of the CCU) to violation of the rules of handling weapons, which caused the death of the victim (Art. 414(2) of the CCU) and reduced his sentence to ten years of imprisonment. In the Court's view, the Prosecution failed to prove the <i>mens rea</i> element of murder.</p>	
61.	Case No. 263/13712/17 , Judgement of 22 February 2018, Illichivsk Court of Mariupol, Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In October-November 2016, the Accused, a Ukrainian serviceman serving in the ATO zone, found ammunition and, later, a firearm in a residential district of Mariupol. He transported them to his private residence and stored them until September 2017, when the law</p>	Art. 263(1) of the CCU as illegal acquisition, carrying and storage of firearms and ammunition.

			<p>enforcement discovered the items during a search.</p> <p>The Court found the Accused guilty of illegal acquisition, carrying and storage of firearms and ammunition (Art. 263(1) of the CCU). The Accused was sentenced to four years and six months of imprisonment. The Court released the Accused from serving the sentence with a probationary period of two years.</p>	
62.	<p>Case No. 414/396/18, Judgement of 27 February 2018, Kreminna District Court of the Luhansk region</p>	<p>Citizen of Ukraine, commander of a military unit of the UAF</p>	<p>Court findings:</p> <p>In June 2014, the Accused, as a commander of a military unit, together with two other servicemen, arbitrarily detained a civilian, questioned him about his affiliation with illegal armed formations of the LPR, and inflicted various bodily injuries, physical pain and psychological suffering upon the civilian. As a result of such treatment, the victim died. He was buried, without observance of any rituals, and further reburied as an attempt by the Accused and his accomplices to conceal the crime.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p>	<p>Art. 127(1) of the CCU as torture;</p> <p>Art. 146(3) of the CCU as illegal confinement or abduction, committed upon prior conspiracy of a group of persons, or in a manner dangerous to the life and health, or accompanied by physical suffering, which caused serious consequences;</p> <p>Art. 396 of the CCU as concealment of a serious or especially serious crime.</p>

			<p>The Accused was found guilty of torture (Art. 127(1) of the CCU); illegal confinement or abduction which caused serious consequences (Art. 146(3) of the CCU); concealment of a serious or especially serious crime (Art. 396 of the CCU) and sentenced to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of three years.</p>	
63.	<p>Case No. 755/6823/18, Judgement of 29 May 2018, Dniprovsky District Court of Kyiv</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p>Court findings:</p> <p>In June 2014, the Accused, a Ukrainian serviceman, picked up a grenade from a deceased body of a DPR militant during hostilities, later transported it to his private residence and carried it with him during a private trip in March 2018, when he was apprehended by the law enforcement.</p> <p>The Court found the Accused guilty of illegal carrying and acquisition of ammunition (Art. 263(1) of the CCU) and sentenced him to three years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of one year.</p>	<p>Art. 263(1) of the CCU as illegal carrying and acquisition of ammunition.</p>

<p>64.</p>	<p>Case No. 235/2223/18, Judgement of 15 August 2018, Krasnoarmiisky City District Court of Donetsk region</p> <p>The case proceeded to the Donetsk Court of Appeals, which quashed the previous judgement and rendered new Judgement of 13 March 2019</p> <p>Then the case proceeded to the Criminal Court of Cassation of the Supreme Court, which upheld the judgement</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p>Court findings:</p> <p>In August 2017, the Accused, a Ukrainian serviceman, found grenades and other ammunition at the firing positions in the ATO zone, transported and illegally stored them in the territory of his military unit. In October 2017, having received an order to transport the unit's equipment to another location, the Accused took the ammunition with an intention to sell it, but was exposed by the law enforcement.</p> <p>The first-instance court found the Accused guilty of unlawful acquisition, carrying and storage of ammunition (Art. 263(1) of the CCU) and uncompleted attempt of illegal sale of ammunition (Art. 15(3), 263(1) of the CCU) and sentenced him to five years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of three years. However, the Court of Appeals held that important factors were not considered (e.g. commission of the crimes in the ATO zone), and the release on probation would render social correction impossible. Therefore, the Court of Appeals sentenced the Accused to two years of detention in a disciplinary battalion.</p>	<p>Art. 263(1) as illegal acquisition, carrying and storage of ammunition;</p> <p>Art. 15(3), 263(1) of the CCU as uncompleted attempt of illegal sale of ammunition.</p>
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<p>65.</p>	<p>Case No. 219/9711/15-к, Judgement of 9 October 2018, Artemivsk City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of Donetsk region, which quashed the Judgement of the first instance court and returned the case for retrial to the same court</p>	<p>Citizens of Ukraine, servicemen of the UAF</p>	<p>Court findings:</p> <p>In June 2015, the two Accused, Ukrainian servicemen, illegally entered a private home searching for evidence of affiliation with illegal armed formations, threatened the residents with weapons, and murdered two of them.</p> <p>The two Accused were found guilty of premeditated murder (Art. 115(2)(1) and (12) of the CCU), unlawful entry into and search of a residence (Art. 162(2) of the CCU) and sentenced to 15 years of imprisonment each.</p> <p>The Court of Appeals quashed the judgement and sent the case for the retrial due to the lack of evidence and procedural violations.</p>	<p>Art. 115(2)(1) and (12) of the CCU as premeditated murder of two persons, committed upon prior conspiracy of a group of persons;</p> <p>Art. 162(2) of the CCU as unlawful entry into a residence and unlawful search of a residence.</p>
<p>66.</p>	<p>Case No. 235/7/15-к, Judgement of 8 November 2018, Krasnoarmiisky City District Court of the Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which quashed the judgement of the first instance court and</p>	<p>Citizen of Ukraine, serviceman of the 30th separate mechanised brigade of the UAF</p>	<p>Court findings:</p> <p>On 11 October 2014, while traveling in a taxi with another serviceman, the Accused asked the driver to stop the car and went out. Meanwhile, the other serviceman fired at least four shots at the driver, causing his death. He further explained to the Accused that the victim was “a separatist” which was a motive for the killing. Then, the two servicemen hid the body, took the</p>	<p>Art. 115(2)(12) of the CCU as murder, <i>i.e.</i>, intentional unlawful infliction of death on another person, committed upon prior conspiracy of a group of persons, changed by the Court to Art. 396(1) of the CCU as concealment of a particularly serious crime, which was not promised in advance.</p>

	<p>sent the case for a retrial to the Selydovo City Court of the Donetsk region</p> <p>As of April 2021, the retrial was ongoing</p>		<p>car and continued their journey to the military unit.</p> <p>The Court held that the Prosecution failed to prove that the murder of the victim was committed upon prior conspiracy (Art. 115(2)(12) of the CCU) and decided that the conduct of the Accused amounted to concealment of a particularly serious crime, which was not promised in advance (Art. 396(1) of the CCU).</p> <p>The Court found the Accused guilty of concealment of a particularly serious crime, which was not promised in advance (Art. 396(1) of the CCU) and illegal seizure of a vehicle upon prior conspiracy of a group of persons (Art. 289(2) of the CCU). The Court sentenced him to eight years of imprisonment with confiscation of all his property.</p>	<p>Art. 289(2) of the CCU as illegal seizure of a vehicle upon prior conspiracy of a group of persons.</p>
67.	<p>Case No. 414/1987/18, Judgement of 18 October 2018, Kreminna District Court of the Luhansk region</p>	<p>Citizen of Ukraine, serviceman of the UAF</p>	<p>Court findings:</p> <p>In July 2018, the Accused, a Ukrainian serviceman, illegally seized a car.</p> <p>The Accused was found guilty of unlawful appropriation of a vehicle (Art. 289(1) of the CCU) and ordered to pay a fine of UAH 850.</p>	<p>Art. 289(1) of the CCU as unlawful appropriation of a vehicle.</p>

68.	Case No. 148/2211/17 , Judgement of 11 January 2019, Tulchyn District Court of the Vinnytsia region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In September 2016, the Accused, a Ukrainian serviceman, found the ammunition, concealed it, stored the items and later illegally sold them.</p> <p>The Court found the Accused guilty of illegal carrying, storage, acquisition and selling of ammunition (Art. 263(1) of the CCU) and sentenced to four years of imprisonment. The Court released the Accused from serving the sentence with a probationary period of two years.</p>	<p>Art. 263(1) of the CCU as illegal carrying, storage, acquisition and selling of ammunition.</p>
69.	Case No. 222/1719/18 , Judgement of 16 May 2019, Prymorsky District Court of Mariupol, Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In July 2018, the Accused, a Ukrainian serviceman, forced an owner of a car to drive him to a specified location under the threat of weapons.</p> <p>The Accused was found guilty of unlawful appropriation of a vehicle, combined with the threat of violence, dangerous to the life and health (Art. 289(3) of the CCU), illegal confinement or abduction, committed with the use of a weapon (Art. 146(2) of the CCU), and sentenced to three years of imprisonment.</p>	<p>Art. 289(3) of the CCU as unlawful appropriation of a vehicle, combined with the threat of violence, dangerous to the life and health;</p> <p>Art. 146(2) of the CCU as illegal confinement or abduction, committed with the use of weapons.</p>

70.	Case No. 408/504/17 , Judgement of 24 September 2019, Severodonetsk City Court of the Luhansk region	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In July 2015, the Accused, a Ukrainian serviceman, acting in complicity with other servicemen, fired several shots at the door of the victim's residence which killed the latter. Then they broke into the victim's house, searched it and set it on fire.</p> <p>The Accused and the victim's next of kin reached a conciliation agreement on the amount of compensatory damages.</p> <p>The Accused was found guilty of premeditated murder (Art. 115(1) of the CCU); unlawful entry into and search of a residence, committed with the use of violence by a group of persons (Arts 28(1), 162(2) of the CCU); intentional destruction of another's property, committed by arson, by a group of persons, which caused serious consequences (Arts 28(1), 194(2) of the CCU), and sentenced him to seven years of imprisonment.</p>	<p>Art. 115(1) of the CCU as premeditated murder;</p> <p>Arts 28(1), 162(2) of the CCU as unlawful entry into a residence, illegal search in it, committed with the use of violence by a group of persons;</p> <p>Arts 28(1), 194(2) of the CCU as intentional destruction of another's property, committed by arson, by a group of persons, which caused serious consequences.</p>
71.	Case No. 237/4661/19 , Judgement of 19 December 2019, Illichivsk	Citizen of Ukraine, serviceman of the UAF	<p><u>Court findings:</u></p> <p>In July 2019, the Accused, a Ukrainian serviceman, together with two other individuals,</p>	<p>Art. 146(3) of the CCU as illegal confinement or abduction, committed upon prior conspiracy of a group of persons, or accompanied by physical</p>

	District Court of Mariupol, Donetsk region		<p>arbitrarily detained a person with the use of physical violence in order to obtain the latter's confession. The victim was threatened with weapons, subjected to psychological pressure and physical violence while in detention.</p> <p>The Accused pleaded guilty and signed a plea agreement with the Prosecution, which was later approved by the Court.</p> <p>The Court found the Accused guilty of illegal confinement and abduction which caused serious consequences (Art. 146(3) of the CCU) and sentenced him to six months of arrest in a guardhouse, imposing a milder penalty than a minimal sanction, prescribed by Art. 146(3) of the CCU.</p>	suffering, or with the use of weapons, which caused serious consequences.
72.	<p>Case No. 263/1264/17, Judgement of 4 March 2020, Zhovtnevy District Court of Mariupol, Donetsk region</p> <p>The case proceeded to the Court of Appeals of the Donetsk region, which</p>	<p>Citizen of Ukraine, chief sergeant of a reconnaissance platoon, 21st battalion, military unit field post B2604</p>	<p>Court findings:</p> <p>On 1 January 2017, the Accused was on duty when he was asked to help other servicemen in their quarrel with unidentified civilians. Armed with a gun, the Accused, together with other three servicemen, arrived to the place where the quarrel was happening. Then, the Accused fired a shot into the crowd of fighting servicemen and civilians, and killed a serviceman.</p>	<p>Art. 115(1) of the CCU as murder, <i>i.e.</i>, intentional unlawful infliction of death on another person.</p>

	upheld the judgement of the first instance court		The Court found the Accused guilty of murder, <i>i.e.</i> , intentional unlawful infliction of death on another person (Art. 115(1) of the CCU) and sentenced him to nine years of imprisonment.	
73.	Case No. 219/11298/18 , Judgement of 6 March 2020, Artemivsk City District Court of the Donetsk region	Citizen of Ukraine, serviceman of the UAF	<p>Court findings:</p> <p>In August 2018, the Accused, a Ukrainian serviceman, threatened a taxi driver with his service weapon, forcing the driver to carry out his orders, and inflicted bodily injuries upon a third person by negligent shooting from the service weapon.</p> <p>The Accused was found guilty of unlawful appropriation of a vehicle, combined with the threat of violence, dangerous to the life and health (Art. 289(3) of the CCU); hooliganism, accompanied with the use of weapons (Art. 296(4) of the CCU); and illegal confinement, accompanied with the use of weapons (Art. 146(2) of the CCU), and sentenced to two years of detention in a disciplinary battalion.</p>	<p>Art. 289(3) of the CCU as unlawful appropriation of a vehicle, combined with the threat of violence, dangerous to the life and health;</p> <p>Art. 296(4) of the CCU as hooliganism, accompanied with the use of weapons;</p> <p>Art. 146(2) of the CCU as illegal confinement, accompanied with the use of weapons.</p>

ANNEX B

Elements of a Selection of Specific Crimes

War crimes and other serious violations of international law, such as crimes against humanity, are committed in specific contexts (for example, with a specific nexus to an armed conflict or as part of a “widespread” or “systematic” attack on a civilian population) that shape the violations and place them into their overall context. Annex B outlines the precise questions that the ICC will be required to address in relation to specific war crimes.

International Armed Conflict

Wilful killing

Wilful killing requires it to be established that the perpetrator: (1) killed one or more persons; and (2) had the requisite intent. The jurisprudence of the ad hoc tribunals has defined murder (wilful killings) consistently as “the death of the victim which results from an act or omission by the accused, committed with the intent either to kill or to cause serious bodily harm with the reasonable knowledge that it would likely lead to death”.⁵⁴

Similarly the ordinary crime of murder under the Criminal Code of Ukraine requires the establishment of four elements: (1) an action (or omission) of the perpetrator; (2) the death of the victim; (3) a causal link between the action and the death of the victim; and (4) the intent of the perpetrator.⁵⁵ Ukrainian criminal law is therefore very similar to the elements of the war crime of murder. After demonstrating the contextual elements of war crimes, domestic prosecutors may thus rely on the ordinary crime of murder, along with the jurisprudence of the international tribunals, to interpret Article 438.

Physical Element

In international criminal law, the *actus reus* of wilful killing is the death of the victim as a result of the actions of the accused. Omissions as well as concrete actions can satisfy the *actus reus* element. Further, it must be established that the conduct of the accused was a substantial cause of the death of the victim.⁵⁶

⁵⁴ *Prosecutor v. Blagojević and Jokić* (Trial Judgment) Case No. ICTY-02-60-T (17 January 2005) para. 556. See also *Prosecutor v. Krstić* (Trial Judgment) Case No. ICTY-98-33-T (2 August 2001) para. 485; *Prosecutor v. Blaškić*, (Trial Judgment) Case No. ICTY-95-14-T (3 March 2000) para. 217; *Prosecutor v. Kordić and Čerkez* (Trial Judgment) Case No. ICTY-95-14/2-T (26 February 2001) para. 236; *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 589. See also *Prosecutor v. Germaine Katanga* (Trial Judgement) Case No. ICC-01/04-01/07 (7 March 2014) paras. 775-777.

⁵⁵ M.I. Melnyk and M.I. Khavroniuk, *Scientific and Practice Commentary to the Criminal Code of Ukraine* (7th edn lurydychna Dumka 2010) Art. 115 <www.pravoznavec.com.ua/books/162/12121/28/#chapter> accessed 31 March 2016.

⁵⁶ *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 424.

The physical perpetrator's act or omission need not have been the sole cause of the victim's death, it is sufficient that the "perpetrator's conduct contributed substantially to the death of the person".⁵⁷

The jurisprudence of the ICTY does not require that the body of the victim be recovered. The death may be established by circumstantial evidence, provided that the only reasonable inference available from the evidence presented is that "the victim is dead as a result of acts or omissions of the accused or of one or more persons for whom the accused is criminally responsible".⁵⁸ Furthermore:

The Trial Chamber notes that relevant factors to be considered include proof of incidents of mistreatment directed against the victim, patterns of mistreatment and disappearances of other victims, the coincident or near-coincident time of death of other victims, the fact that the victims were present in an area where an armed attack was carried out, when, where and the circumstances in which the victim was last seen, behaviour of soldiers in the vicinity, as well as towards other civilians, at the relevant time, and lack of contact by the victim with others whom the victim would have been expected to contact, such as his or her family.⁵⁹

For example, reducing the food rations of protected persons, resulting in their starvation and death is covered by the notion of willful killing.⁶⁰ Further, 'mercy killings' intended to put wounded combatants "out of their misery" are prohibited.⁶¹

Mental Element

Regarding the intent to kill, international criminal law covers both 'intent' and 'recklessness'. Some chambers have held that the perpetrator must have had the intent to kill, or to inflict serious bodily injury which, as it is reasonable to assume, was likely to lead to death.⁶² Others have required that the act be committed "with the intent to kill the victim or willfully causing serious bodily harm which the perpetrator should reasonably have

⁵⁷ *Prosecutor v. Lukić Milan & Lukić Sredoje* (Judgment) Case No. ICTY-98-32/1-T (20 July 2009) para. 903; *Prosecutor v. Milutinović et al.* (Judgment) Case No. ICTY-05-87-T (26 February 2009) Vol. 2, para. 137.

⁵⁸ *Prosecutor v. Lukić Milan & Lukić Sredoje* (Judgment) Case No. ICTY-98-32/1-T (20 July 2009) para. 904.

⁵⁹ *Ibid.*

⁶⁰ ICRC, 'Commentary of Article 50 of Geneva Convention I' (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

⁶¹ *Ibid.*

⁶² *Prosecutor v. Blaškić* (Trial Judgment) Case No. ICTY-95-14 (15 July 1999) para. 153. See also *Prosecutor v. Naletilić and Martinović* (Trial Judgment) Case No. ICTY-98-34-T (21 March 2003) para. 248.

known might lead to death”.⁶³ Other Chambers have required an “indirect intent”, which “comprises the perpetrator’s knowledge that the death of the victim was the probable or likely consequence of his act or omission”.⁶⁴

Torture

There is no definition of torture in the Geneva Conventions. The case law of international courts and tribunals and the elaboration of the ICC Elements of Crimes have clarified the constitutive elements of the crime of torture.⁶⁵

The ICTY, as well as the ICC, defines torture for the purposes of IHL as: (1) the infliction, by act or omission, of severe pain or suffering, whether physical or mental; (2) for such purposes as to obtain information or a confession, to punish, intimidate or coerce the victim or a third person, or to discriminate, on any ground, against the victim or a third person; and (3) the perpetrator should have the required intent.⁶⁶

The ordinary crime of torture in the Criminal Code of Ukraine closely resembles the war crime of torture. Ukrainian criminal law defines torture as wilfully causing severe physical pain or physical or mental suffering by beating, torturing or committing other violent actions for the purpose of inducing the victim or any other person to commit involuntary actions, including obtaining information, testimonies, or a confession, to punish or intimidate the victims or other individuals.⁶⁷ Domestic prosecutors need to establish: (1) the actions of the perpetrators - beating, torturing or other acts of violence; (2) the severe physical pain or physical or mental suffering of the victim; (3) a causal link between the actions and the pain or suffering of the victim; and (4) the direct intent of the perpetrator (the perpetrator acted for prohibited purposes).⁶⁸ Domestic prosecutors may therefore rely on the ordinary crime of torture to interpret Article 438. International tribunals and courts have also developed very useful guidance.

Physical Element

Pursuant to international criminal law, prosecutors must establish the perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession,

⁶³ *Prosecutor v. Setako* (Appeals Judgment) Case No. ICTR-04-81 (28 September 2011) para. 257; *Prosecutor v. Krstić* (Trial Judgment) Case No. ICTY-98-33-T (02 August 2001) para. 485; *Prosecutor v. Kvočka* (Trial Judgment) Case No. ICTY-98-30/1-T (02 November 2001) para. 132.

⁶⁴ *Prosecutor v. Orić* (Trial Judgment) Case No. ICTY-03-68 (30 June 2006) para. 348; *Prosecutor v. Limaj* (Trial Judgment) Case no. ICTY-03-66-T (30 November 2005) para. 241; *Prosecutor v. Stakić* (Trial Judgment) Case No. ICTY-97-24-T (31 July 2003) para. 587; *Prosecutor v. Brdanin* (Trial Judgment) Case No. ICTY-99-36-T (1 September 2004) para. 386.

⁶⁵ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

⁶⁶ *Ibid.* Elements of Crimes (2002) 14.

⁶⁷ M.I. Melnyk and M.I. Khavroniuk, *Scientific and Practice Commentary to the Criminal Code of Ukraine* (7th edn lurydychna Dumka 2010) Art.127 <www.pravoznavec.com.ua/books/162/12133/28/#chapter> accessed 31 March 2016.

⁶⁸ M.I. Melnyk and M.I. Khavroniuk, *Scientific and Practice Commentary to the Criminal Code of Ukraine* (7th edn lurydychna Dumka 2010) Art.127 <www.pravoznavec.com.ua/books/162/12133/28/#chapter> accessed 31 March 2016.

punishment, intimidation or coercion or for any reason based on discrimination of any kind.⁶⁹

The threshold of severe pain or suffering, be it physical or mental, has not been delineated. However, international tribunals define torture as severe pain or suffering, whether physical or mental, while cruel or inhuman treatment is generally defined as serious pain or suffering.⁷⁰ Lesser forms of mistreatment may constitute cruel or inhuman treatment.⁷¹ Prosecutors must evaluate the objective severity of the harm inflicted. Subjective criteria, such as the physical or mental effect of the treatment upon the particular victim and, in some cases, factors such as the victim's age, sex, or state of health will also be relevant in assessing the gravity of the harm.⁷² Indeed, the ICRC Commentary of Article 50 of Geneva Convention I provides that:

Some conduct which at first sight might not appear sufficiently serious to amount to torture could, because of its intensity, its duration or the manner in which it is implemented, amount to torture.⁷³

Another element of torture is that it is committed for a specific purpose or motive. The ICTY has stated that such purpose or motive may include "the purpose to obtain information or a confession, to punish, intimidate or coerce the victim or a third person, or to discriminate, on any ground, against the victim or a third person. In the absence of these purposes or goals, even very severe infliction of pain would not be classified as torture."⁷⁴

Further, the ICTY has also highlighted the fact that the act of torture does not need to cause a permanent injury or a physical injury, as mental harm is a recognised form of torture.⁷⁵ An ICTY Trial Chamber found that being forced to watch serious sexual attacks inflicted on a female acquaintance was torture for the forced observer. The presence of onlookers, particularly family members, also inflicts severe mental harm amounting to torture on a person being raped.⁷⁶

⁶⁹ Elements of Crimes (2002) 14; *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) paras. 442, 471-2.

⁷⁰ *Prosecutor v. Kunarac, Kovac and Vuković* (Appeals Judgment) Case No. ICTY-96-23-T and ICTY-96-23/1-A (12 June 2002) para. 149; *Prosecutor v. Mrkšić et al.* (Trial Judgment) Case No. ICTY-95-13/1 (27 September 2007) para. 514.

⁷¹ *Prosecutor v. Naletilić and Martinović* (Judgment) Case No. ICTY-98-34-T (31 March 2003).

⁷² *Prosecutor v. Kvočka* (Trial Judgment) Case No. ICTY-98-30/1-T (2 November 2001) para. 143. See also *Prosecutor v. Martić* (Trial Judgment) Case No. ICTY-95-11 (12 June 2007) para. 75.

⁷³ ICRC, 'Commentary of Article 50 of Geneva Convention I' (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

⁷⁴ *Prosecutor v. Haradinaj et al.* (Trial Judgment) Case No. ICTY-04-84 (29 November 2012) para. 418.

⁷⁵ *Prosecutor v. Mrkšić et al.* (Trial Judgment) Case No. ICTY-95-13/1 (27 September 2007) para. 514.

⁷⁶ *Prosecutor v. Kvočka* (Trial Judgment) Case No. ICTY-98-30/1-T (02 November 2001) para. 149.

Mental Element

Regarding the mental element, it must be established that the perpetrator meant to engage in the infliction of severe physical or mental pain or suffering upon one or more persons. Torture is a specific intent crime, as it must not only be committed deliberately (negligent or reckless behaviour cannot form the basis for responsibility for torture) and for prohibited purposes.⁷⁷

Inhuman treatment

Inhuman treatment has been defined as “an intentional act or omission, that is an act which, judged objectively, is deliberate and not accidental, which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity”.⁷⁸ Humane treatment is considered as the “cornerstone of all four Conventions”.⁷⁹ The Geneva Conventions do not specifically define inhuman treatment. The term covers treatment that ceases to be humane and therefore encompasses acts that violate the basic principle of humane treatment.⁸⁰

The Criminal Code of Ukraine does not contain any provisions criminalising serious mental or physical suffering or injury or serious attack on human dignity *per se*. Nevertheless, it contains two Articles that could assist in interpreting the war crime of inhuman treatment. For example, Article 121 (severe bodily harm), which criminalises wilful physical injuries that are dangerous to life or result in a loss of any organ or its functions, or caused a mental disease or any other health disorder, or Article 126 (battery) which criminalises blows, battery or other violent acts which cause physical pain but no bodily injuries. However, the Criminal Code does not criminalise mental injury or harm or serious attacks on human dignity.

Physical Element

To establish the crime of inhuman treatment/other inhumane acts, prosecutors must prove that the accused committed “an act of similar gravity and seriousness to the other enumerated crimes, with the intention to cause the [...] inhumane act. This important category of crimes is reserved for deliberate forms of infliction with (comparably serious)

⁷⁷ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016. See for example *Prosecutor v. Krnojelac* (Trial Judgment) Case No. ICTY-97-25 (15 March 2002) para. 184; *Prosecutor v. Kunarac* (Trial Judgment) Case No. ICTY-96-23-T&ICTY-96-23/1-T (22 February 2001) para. 497; *Prosecutor v. Furundžija* (Trial Judgment) Case No. ICTY-95-17/1-T (10 December 1998) para. 162; *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 594; *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 468.

⁷⁸ *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 543; see also paras. 516 -544.

⁷⁹ *Prosecutor v. Delalić* (Trial Judgment) Case No. ICTY-96-21-A (16 November 1998) para. 532.

⁸⁰ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 73 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

inhumane results that were intended or foreseeable and done with reckless disregard”.⁸¹
The seriousness of an act is determined on a case-by-case basis.⁸²

The ICTY provides several examples of conduct that could be characterised as inhuman treatment: mutilation and other types of severe bodily harm, beatings and other acts of violence, serious physical and mental injury, forcible transfer, inhumane and degrading treatment, forced prostitution, forced disappearance, serious bodily or mental harm through such means as beatings, torture, sexual violence, humiliation, harassment, psychological abuses, and confinement in inhumane conditions.⁸³

Mental Element

In addition to the above-mentioned requirements, prosecutors must establish that perpetrators intended to commit the relevant material elements of the offence of inhumane treatment.⁸⁴

Causing great suffering

The offence of wilfully causing great suffering or serious injury to body or health was defined at the ICTY as an “act or omission that is intentional, being an act which, judged objectively, is deliberate and not accidental, which causes serious mental or physical suffering or injury”.⁸⁵ It is different from torture since it does not have to be committed for any particular purpose.⁸⁶ It is also different inhuman treatment, as wilfully causing great suffering would not cover harm relating solely to the victim’s human dignity.⁸⁷

The Criminal Code of Ukraine does not contain any provisions criminalising causing great suffering *per se*. As noted, although Article 121 (severe bodily harm) and 126 (battery) could be used to interpret Article 438, they do not apply to mental injury and harm.

Physical Element

Prosecutors must demonstrate that the perpetrator caused great physical or mental suffering or serious injury to body or health, including the mental health, of one or more

⁸¹ *Prosecutor v. Kayishema* (Trial Judgment) Case No. ICTR-95-1 (21 May 1999) para. 583.

⁸² *Prosecutor v. Kayishema and Ruzindana* (Trial Judgment) Case No. ICTR-95-1-T (21 May 1999) para. 151.

⁸³ *Prosecutor v. Kvočka* (Trial Judgment) Case No. ICTY-98-30/1-T (02 November 2001) paras. 208 - 209.

⁸⁴ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

⁸⁵ *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 511; *Prosecutor v. Blaškić* (Trial Judgment) Case No. ICTY-95-14 (15 July 1999) para. 156.

⁸⁶ *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 511; *Blaškić* (Trial Judgment) Case No. ICTY-95-14 (03 March 2000) para. 156.

⁸⁷ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

persons. Great suffering could be act or omission.⁸⁸ The ICC Elements of Crimes, however, include ‘mental or physical’ only in relation to the suffering caused (and not the injury).⁸⁹

To establish the requisite level of suffering, defined as ‘great’ or ‘serious’, the ICTY Trial Chambers relied on the ordinary meaning of these words:

The Oxford English Dictionary defines this word [‘serious’] as ‘not slight or negligible’. Similarly, the term ‘great’ is defined as ‘much above average in size, amount or intensity’. The Trial Chamber therefore views these quantitative expressions as providing for the basic requirement that a particular act of mistreatment results in a requisite level of serious suffering or injury.⁹⁰

The assessment of the seriousness of the pain is relative and must take into account all relevant circumstances, including the nature of the act or omission, the context in which it occurred, its duration and/or repetition, the physical, mental and moral effects of the act on the victim, and the personal circumstances of the victim, including, age, sex and health.⁹¹ According to the international tribunals and courts, causing serious bodily or mental harm does not necessarily mean that the harm is permanent and irremediable,⁹² but it “must go beyond temporary unhappiness, embarrassment or humiliation. It must be harm that results in a grave and long-term disadvantage to a person’s ability to lead a normal and constructive life”.⁹³

For example, mutilation of the wounded, their exposure to useless and unnecessary suffering, or severe beatings or other severe forms of mistreatment of detainees can amount to causing great suffering or serious injury to body or health.⁹⁴

Mental Element

According to the commentary of Article 50 of Geneva Convention I (commenting on all the grave breaches of the Geneva Conventions), the reference to ‘wilfully causing’ covers both

⁸⁸ *Prosecutor v. Blaškić* (Trial Judgment) Case No. ICTY-95-14 (15 July 1999) para. 156; *Prosecutor v. Delalić* (Appeals Judgment) Case No. ICTY-96-21-A (20 February 2001) para. 424; *Prosecutor v. Kordić and Čerkez* (Trial Judgment) Case No. ICTY-95-14/2 (20 February 2001) para. 245; *Prosecutor v. Naletilić and Martinović* (Trial Judgment) Case No. ICTY-98-31 (31 March 2003) para. 339.

⁸⁹ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

⁹⁰ *Prosecutor v. Delalić* (Trial Judgment) Case No. IT - 96-21-T (16 November 1998) para. 510.

⁹¹ See *Prosecutor v. Krnojelac* (Trial Judgment) Case No. ICTY-97-25 (15 March 2002) para. 131; *Prosecutor v. Delalić* (Trial Judgment) Case No. CC/PIU/364-E (16 November 1998) para. 536, citing *A v. UK*, App. No. 100/1997/884/1096 (ECtHR, 23 September 1998) para. 24.

⁹² *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 502.

⁹³ *Prosecutor v. Kaing* (Trial Judgment) Case No. 001/18-07-2007/ECCC/TC (26 July 2010) para. 454. See also, *Prosecutor v. Krstić* (Trial Judgment) Case No. ICTY-98-33-T (02 August 2001) paras 511–513.

⁹⁴ ICRC, ‘Commentary of Article 50 of Geneva Convention I’ (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016.

'intent' and 'recklessness'.⁹⁵ This is also the approach taken by international courts and tribunals.⁹⁶ It is not sufficient to prove that the alleged perpetrator knew that his or her act might possibly cause such suffering or injury.⁹⁷

Confinement

The ICTY used the concept of 'arbitrary imprisonment' defined as the deprivation of liberty of the individual without due process of law.

The Criminal Code of Ukraine also criminalises illegal confinement (Article 146). Prosecutors must establish: (1) the unlawful imprisonment of a person not carried out in accordance with the Constitution, laws of Ukraine and international treaties ratified by the Verkhovna Rada of Ukraine; (2) the victim was held in a place where s/he does not want to be and where s/he is unable to leave freely; and (3) the perpetrator was aware that s/he was arbitrarily detaining the victim.⁹⁸ Domestic prosecutors may therefore rely on Article 146 and the jurisprudence of international tribunals and courts to interpret Article 438.

Similarly, the ICC has defined the elements of the crime of confinement as follows: (1) the perpetrator confined or continued to confine one or more persons to a certain location; and (2) the perpetrator had the requisite intent.⁹⁹

In international criminal law, it is necessary to determine the legality of imprisonment as well as the procedural safeguards pertaining to the subsequent imprisonment of the person or group of persons in question.¹⁰⁰ The imprisonment of civilians is considered unlawful where:

- Civilians have been detained in contravention of Article 42 of Geneva Convention IV, *i.e.*, they are detained without reasonable grounds to believe that the security of the Detaining Power makes it absolutely necessary; and
- The procedural safeguards required by Article 43 of Geneva Convention IV are not complied with in respect of detained civilians, even where initial detention may have been justified.¹⁰¹

⁹⁵ ICRC, 'Commentary of Article 50 of Geneva Convention I' (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016. See for example *Prosecutor v. Blaškić* (Trial Judgment) Case No. ICTY-95-14 (15 July 1999) para. 152.

⁹⁶ *Prosecutor v. Blaškić* (Trial Judgment) Case No. ICTY-95-14 (15 July 1999) para. 152; *Prosecutor v. Dordević* (Trial Judgment) Case No. ICTY-05-87/1-T (23 February 2011) para. 1708; *Prosecutor v. Orić* (Trial Judgment) Case No. ICTY-03-68 (30 June 2006) para. 348; *Prosecutor v. Rukundo* (Trial Judgment) Case No. ICTR-2001-70-A (27 February 2009) para. 579.

⁹⁷ *Prosecutor v. Martić* (Trial Judgment) Case No. ICTY-95-11 (12 June 2007) para. 60; *Prosecutor v. Strugar* (Trial Judgment) Case No. ICTY-01-42-T (31 January 2005) para. 235.

⁹⁸ M I Melnyk and M I Khavroniuk, *Scientific and Practice Commentary to the Criminal Code of Ukraine* (7th edn Iurydychna Dumka 2010) Art. 146 <www.pravoznavec.com.ua/books/162/12702/28/#chapter> accessed 31 March 2016.

⁹⁹ ICC Element of Crimes (2002) 17.

¹⁰⁰ *Prosecutor v. Kordić and Čerkez* (Trial Judgment) Case No. ICTY-95-14/2 (26 February 2001) paras. 302-303.

¹⁰¹ *Ibid.*

The ICTY held that although there is no absolute right in the Geneva Conventions to freedom of movement, this does not mean that there is a general suspension of this right during armed conflict either.¹⁰² Therefore, a deprivation of an individual's liberty will be arbitrary and, therefore, unlawful if no legal basis can be called upon to justify the initial deprivation of liberty. If at any time the initial legal basis ceases to apply, the initially lawful deprivation of liberty may become unlawful at that time and be regarded as arbitrary imprisonment.¹⁰³

Article 42 of Geneva Convention IV allows the detention of an individual if he or she constituted a threat to the security of the state. It must be established that there exists, with respect to each individual who has been deprived of his liberty, reasonable grounds for such detention.¹⁰⁴

The concept of "activities prejudicial or hostile to the security of the State" has been interpreted as including, above all, espionage, sabotage and intelligence activities for the enemy forces or enemy nationals. The individual's political attitude towards the state is not sufficient.¹⁰⁵

Outrages upon personal dignity

Outrages upon personal dignity is broader than torture, inhuman treatment and causing great suffering or serious injury. It protects persons from humiliation and ridicule, rather than harm to the integrity and physical and mental well being of persons.¹⁰⁶

In international criminal law, the Prosecution must prove that: (1) the perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons; (2) the severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity; and (3) the accused intended and knew that the act or omission could have that effect.¹⁰⁷

The Criminal Code of Ukraine does not contain a similar crime.

¹⁰² *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 565.

¹⁰³ *Prosecutor v. Krnojelac* (Trial Judgment) Case No. ICTY-97-25-T (15 March 2002) para. 114.

¹⁰⁴ *Prosecutor v. Krnojelac* (Trial Judgment) Case No. ICTY-97-25-T (15 March 2002) paras. 123, 578; *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) paras. 323, 327.

¹⁰⁵ *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 567.

¹⁰⁶ International Criminal Law Services, 'International Criminal Law and Practice Training Materials, Module 8: War Crimes' 48 <http://wcjp.unicri.it/deliverables/docs/Module_8_War_crimes.pdf> accessed 20 April 2016.

¹⁰⁷ ICC Elements of Crimes (2011) 33; *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T & ICTY-96-23/1-T (22 February 2001) paras. 511, 514; *Prosecutor v. Kunarac, Kovac and Vuković* (Appeals Judgment) Case No. ICTY-96-23-T & ICTY-96-23/1-A (12 June 2002) paras. 161, 163; *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 543. See also *Prosecutor v. Haradinaj et al.* (Trial Judgment) Case No. ICTY-04-84 (29 November 2012) para. 132 (using 'severe' instead of 'serious'); *Prosecutor v. Bagosora* (Trial Judgment) Case No. ICTR-98-41-T (18 December 2008) para. 2250; *Prosecutor v. Sesay et al.* (Trial Judgment) Case No. SCSL-04-15-T (2 March 2009) para. 175; *Prosecutor v. Brima et al.* (Trial Judgment) Case No. SCSL-04-16-T (20 June 2007) para. 716.

Physical Element

At the ICC, humiliating and degrading treatment includes such treatment committed against dead persons. The Pre-Trial Chamber in *Katanga* stated that the core element of this war crime is the humiliation, degradation, or violation of the person's dignity. These acts must also be committed with objectively sufficient gravity so as to be "generally recognized as an outrage upon personal dignity".¹⁰⁸

The ICTY has held that the assessment of the physical element should not be based only on subjective criteria related to the sensitivity of the victim, but also on objective criteria related to the gravity of the act.¹⁰⁹ Further, it provides that "so long as the serious humiliation or degradation is real and serious", there is no requirement that such suffering be lasting, or that it is "necessary for the act to directly harm the physical or mental well-being of the victim".¹¹⁰ According to the ICTY:

[T]he seriousness of an act and its consequences may arise either from the nature of the act per se or from the repetition of an act or from a combination of different acts which, taken individually, would not constitute a crime within the meaning of Article 3 of the [1993 ICTY] Statute. The form, severity and duration of the violence, the intensity and duration of the physical or mental suffering, shall serve as a basis for assessing whether crimes were committed.¹¹¹

The ICC has provided several types of conduct considered severe enough to constitute outrages upon personal dignity, including: "compelling victims to dance naked on a table, using detainees as human shields or trench diggers; forcing detainees to relieve bodily functions in their clothing; imposing conditions of constant fear of being subjected to physical, mental, or sexual violence on detainees; forced incest, burying corpses in latrine pits; and leaving infants without care after killing their guardians".¹¹²

According to the ICC, "[t]his war crime requires that the perpetrator, by action or omission, caused the humiliation, degradation, or violation of the personal dignity of individuals: (i) who are aligned or whose allegiance is to a party to the conflict who is adverse or hostile to the perpetrator; and (ii) who are in the hands of the party to the conflict to which the perpetrator belongs".¹¹³

¹⁰⁸ ICC Elements of Crimes (2011) 33.

¹⁰⁹ *Prosecutor v. Aleksovski* (Trial Judgment) Case No. ICTY-95-14/1 (25 June 1999) para. 56; *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T & ICTY-96-23/1-T (22 February 2001) para. 504; *Prosecutor v. Kunarac* (Appeals Judgment) Case No. ICTY-90-23/1, (12 June 2002) paras. 162–163.

¹¹⁰ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) para. 369; citing *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T&ICTY-96-23/1-T (22 February 2001).

¹¹¹ *Prosecutor v. Aleksovski* (Trial Judgment) Case No. ICTY-95-14/1 (25 June 1999) para. 57.

¹¹² *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) para. 371.

¹¹³ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) para. 368.

Mental Element

In international criminal law, the Prosecution must also establish that the perpetrator had intent and knowledge about the grave acts of humiliation, degradation, or violation of the victim's personal dignity. This subjective element includes, first and foremost, *dolus directus* of the first degree and *dolus directus* of the second degree.¹¹⁴

International tribunals and courts have also held that:

the mens rea of the offence does not require that the Accused had a specific intent to humiliate or degrade the victims, that is, that he perpetrated the act for that very reason. The act or omission must, however, have been done intentionally and the Accused must have known "that his act or omission could cause serious humiliation, degradation or otherwise be a serious attack on human dignity." The Chamber considers that there is no requirement to establish that the Accused knew of the "actual consequences of the act", but only of its possible consequences.¹¹⁵

Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities

Attacks against civilians are grave breaches of Additional Protocol I (Article 85 and Article 51 of Additional Protocol I). Prosecutors must demonstrate that: (1) the perpetrator directed an attack; (2) the object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities; and (3) the perpetrator intended to target the civilians (individual or population).¹¹⁶

The Criminal Code of Ukraine does not contain any similar crime.

Physical Element

Prosecutors must demonstrate that an attack was launched.¹¹⁷ The ICTY jurisprudence has defined 'attack' as a course of conduct involving the commission of acts of

¹¹⁴ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) para. 372; *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T&ICTY-96-23/1-T (22 February 2001) paras. 511, 514, citing *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 543; *Prosecutor v. Kunarac* (Appeals Judgment) Case No. ICTY-90-23/1 (12 June 2002).

¹¹⁵ *Prosecutor v. Sesay et al.* (Trial Judgment) Case No. SCSL-04-15-T (2 March 2009) para. 177; *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T&ICTY-96-23/1-T (22 February 2001) paras. 509-512, 514, 744; *Prosecutor v. Kunarac* (Appeals Judgment) Case No. ICTY-90-23/1 (12 June 2002) paras. 164-165.

¹¹⁶ ICC Elements of Crimes (2002) 18; *Prosecutor v. Stanilav Galić* (Appeals Judgement) Case No. ICTY-98-29-A (30 November 2006) para. 56.

¹¹⁷ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) para. 270.

violence.¹¹⁸ According to the ICTY, prohibited attacks are those launched deliberately against civilians in the course of an armed conflict and that are not justified by military necessity.¹¹⁹ They must have caused deaths and/or serious bodily injuries within the civilian population. Such attacks are in direct contravention of the prohibitions expressly recognised in international law including the relevant provisions of Additional Protocol I.¹²⁰

The ICC interpreted such crimes as crimes perpetrated in any of the two following scenarios:

- When individual civilians not taking direct part in the hostilities or the civilian population are the sole target of the attack, or
- When the perpetrator launches the attack with two distinct specific aims:
 - A military objective, within the meaning of Articles 51 and 52 of Additional Protocol I; and simultaneously,
 - The civilian population or individual civilians not taking direct part in the hostilities.¹²¹

The ICC considers that such crimes must be distinguished from situations where, in violation of the principle of proportionality, a disproportionate attack is intentionally launched with the specific aim of targeting a military objective, with the awareness that incidental loss of life or injury to civilians will or may occur as a result of such an attack. In such a case, the targeting of the civilian population is not the aim of the attack but only an incidental consequence thereof.¹²²

More importantly, at the ICC, the attack must be directed against individual civilians not taking part in hostilities, or a civilian population that has not yet fallen into the hands of the adverse or hostile party to the conflict to which the perpetrator belongs.¹²³ In accordance with the principles of distinction and protection of the civilian population, only military objectives may be lawfully attacked.¹²⁴ The concept of civilian is wider than that used for

¹¹⁸ *Prosecutor v. Krnojelac* (Trial Judgment) Case No. ICTY-97-25-T (15 March 2002) para. 54; *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T&ICTY-96-23/1-T (22 February 2001) para. 415.

¹¹⁹ *Prosecutor v. Kordić and Čerkez* (Trial Judgment) Case No. ICTY-95-14/2 (26 February 2001) para. 328; see also *Prosecutor v. Kordić and Čerkez* (Appeals Judgment) ICTY-95-14/2-A (17 December 2004) para. 67; *Prosecutor v. Strugar* (Trial Judgment) Case No. ICTY-01-42-T (31 January 2005) para. 280; *Prosecutor v. Tihomir Blaskić* (Trial Judgment) Case No. ICTY-95-14-T (3 March 2000) para. 180.

¹²⁰ *Ibid.*

¹²¹ *Prosecutor v. Mbarushimana* (Confirmation of Charges Decision) Case No. ICC-01/04-01/10 (16 December 2011) paras. 142-144; *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) paras. 273-274.

¹²² *Ibid.*

¹²³ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) paras. 267-269.

¹²⁴ Additional Protocol I, Art. 52(2). See *Prosecutor v. Kordić and Čerkez* (Trial Judgment) Case No. ICTY-95-14/2 (26 February 2001) para. 327.

the grave breaches of the Geneva Conventions. It should be interpreted in light of Article 50(1) of Additional Protocol I as persons who are not members of the armed forces.¹²⁵

According to the ICC:

[...] the term “civilian” applies to anyone who is not a combatant, and in case of doubt, the person shall be considered to be a civilian. Additionally, a civilian population comprises all civilians as opposed to members of armed forces and any other legitimate combatants. Further, pursuant to Article 50(3) of the AP I, the presence within the civilian population of individuals who do not fit within the definition of civilians does not deprive the entire population of its civilian character. Yet, civilians may lose protection only for such a time as they take direct part in hostilities or combat-related activities and not permanently. Further, the protection does not cease if such persons only use armed force in the exercise of their right to self-defence.¹²⁶

Relying on the guidance provided by the ICRC, the ICC defined when a civilian is taking part in hostilities as when a civilian uses weapons or other means to commit violence against human or material enemy forces, unless in self-defence.¹²⁷ It further held that supplying food and shelter and sympathising with one belligerent party are insufficient reasons to deny civilians protection against attack. The protection does not cease if such persons only use armed force in the exercise of their right to self-defence.¹²⁸

Reprisals against the civilian population as such, or individual civilians, are prohibited in all circumstances, regardless of the behaviour of the other party, since “no circumstances would legitimise an attack against civilians even if it were a response proportionate to a similar violation perpetrated by the other party”.¹²⁹

In addition, the civilian population does not need to be the sole and exclusive target of the attack.¹³⁰ The ICTY further held that it is not necessary to establish that particular areas or zones be designated as civilian or military in nature. Rather, a distinction is to be made between the civilian population and combatants, or between civilian and military objectives. Such distinctions must be made on a case-by-case basis.¹³¹

¹²⁵ *Prosecutor v. Martić* (Appeals Judgment) Case No. ICTY-95-11 (12 June 2007) (8 October 2008) paras. 297-300.

¹²⁶ *Prosecutor v. Mbarushimana* (Confirmation of Charges Decision) Case No. ICC-01/04-01/10 (16 December 2011) para. 148. See also *Prosecutor v. Stanilav Galić* (Appeals Judgement) Case No. ICTY-98-29-A (30 November 2006) para. 136.

¹²⁷ *Prosecutor v. Mbarushimana* (Confirmation of Charges Decision) Case No. ICC-01/04-01/10 (16 December 2011) para. 148.

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*, paras. 142-144.

¹³⁰ *Ibid.*

¹³¹ *Prosecutor v. Milošević, D.* (Judgment) Case No. ICTY-98-29/1-A, ICTY (12 November 2009) para. 54 (footnotes omitted).

Mental Element

Finally, prosecutors must establish that an attack was conducted intentionally with the knowledge, or when it was impossible not to know, that civilians were being targeted.¹³² It encompasses direct and indirect intent (recklessness). The intent to target civilians can be proved through inferences from direct or circumstantial evidence. There is no requirement of the intent to attack particular civilians; rather it is prohibited to make the civilian population, as well as individual civilians, the object of an attack.¹³³

Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians

Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians is a grave breach of Additional Protocol I (Article 85(3)(b)) and a violation of Article 51 of Additional Protocol I.

Prosecutors need to establish that: (1) the perpetrator launched an attack; (2) the attack was such that it would cause incidental death or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment and that such death, injury or damage would be of such an extent as to be clearly excessive in relation to the concrete and direct overall military advantage anticipated; and (3) the perpetrator knew of these possible consequences.¹³⁴

The Criminal Code of Ukraine does not contain a similar crime.

Physical Element

The first element is discussed above.¹³⁵ In addition, prosecutors must establish that the attack was disproportionate (such that it would cause incidental death or injury to civilians or damage to civilian objects and that such death, injury or damage would be of such an extent as to be clearly excessive in relation to the concrete and direct overall military advantage anticipated).

Under IHL, one type of indiscriminate attack violates the principle of proportionality: namely, an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.¹³⁶ Prosecutors must therefore demonstrate the indiscriminate nature of the attack.

In order to comply with the principle of proportionality, precautions must be taken (Article 57(2) of Additional Protocol I). The practical application of the principle of distinction requires that those who plan or launch an attack take all feasible precautions to verify that

¹³² *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) paras. 271, 275; *Prosecutor v. Tihomir Blaskić* (Trial Judgement) Case No. ICTY-95-14-T (3 March 2000) para. 180.

¹³³ *Prosecutor v. Milošević, D.* (Trial Judgment) Case No. ICTY-98-29/1-A (12 November 2009) paras. 66-67 (footnotes omitted).

¹³⁴ ICC Elements of Crimes (2011) 19.

¹³⁵ See *supra*, para. 44.

¹³⁶ Additional Protocol I, Art. 51(5).

the objectives attacked are neither civilians nor civilian objects, so as to spare civilians as much as possible. Prosecutors must therefore establish that the attack was carried out without taking necessary precautions to spare the civilian population or individual civilians, especially failing to seek precise information on the objects or persons attacked. This element has also been required by the ICTY:

The parties to a conflict are under an obligation to remove civilians, to the maximum extent feasible, from the vicinity of military objectives and to avoid locating military objectives within or near densely-populated areas. However, the failure of a party to abide by this obligation does not relieve the attacking side of its duty to abide by the principles of distinction and proportionality when launching an attack.¹³⁷

In determining whether an attack was proportionate it is necessary to examine whether a reasonably well-informed person in the circumstances of the actual perpetrator, making reasonable use of the information available to him or her, could have expected excessive civilian casualties to result from the attack.¹³⁸

It will be decided on a case-by-case basis, based on a variety of factors, including the means and method used in the course of the attack, the distance between the victims and the source of fire, the ongoing combat activity at the time and location of the incident, the presence of military activities or facilities in the vicinity of the incident, the status of the victims as well as their appearance, and the nature of the crimes committed in the course of the attack. In addition, the indiscriminate character of an attack can be indicative of the fact that the attack was indeed directed against the civilian population.¹³⁹

The protection of civilians may cease entirely or be reduced or suspended in three exceptional circumstances: (i) when civilians abuse their rights; (ii) when, although the object of a military attack is comprised of military objectives, belligerents cannot avoid causing so-called collateral damage to civilians; and (iii) at least according to some authorities, when civilians may legitimately be the object of reprisals.¹⁴⁰

Mental Element

Finally, prosecutors must establish that the attack was conducted intentionally with the knowledge, or when it was impossible not to know, that there was expectation of excessive

¹³⁷ *Prosecutor v. Milošević, D.* (Trial Judgment) Case No. ICTY-98-29/1-A (12 November 2009) para. 949 (footnotes omitted).

¹³⁸ *Prosecutor v. Stanislav Galić* (Judgment and Opinion) Case No. ICTY-98-29-T (05 December 2003) para. 58.

¹³⁹ *Prosecutor v. Milošević, D.* (Trial Judgment) Case No. ICTY-98-29/1-A (12 November 2009) paras. 66-67 (footnotes omitted); *Prosecutor v. Tihomir Blaskić* (Trial Judgment) Case No. ICTY-95-14-T (3 March 2000) 512 (footnotes omitted).

¹⁴⁰ *Prosecutor v. Kupreškić* (Trial Judgment) Case No. ICTY-95-16-T (14 January 2000) para. 522.

civilian casualties.¹⁴¹ The intent to target civilians can be proved through inferences from direct or circumstantial evidence.¹⁴²

Rape

Rape was not considered as a war crime *per se* at the ICTY but was established as part of other crimes such as torture or inhumane treatment. Although the ICTR Statute expressly includes rape, enforced prostitution and other forms of sexual violence as war crimes, these crimes were only considered as underlying acts of the offence of “outrages upon personal dignity”.¹⁴³

In contrast, the Rome Statute expressly contains the war crime of rape. At the ICC, the Prosecution must establish that: (1) the perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body; and (2) the invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent; and (3) the accused intended and knew that the penetration would occur in the ordinary course of events.¹⁴⁴

In Ukraine, the Criminal Code contains two provisions criminalising rape: Article 152 (Rape) and Article 153 (Sexual Violence). Under the Criminal Code, the crime of rape is a heterosexual or homosexual act.¹⁴⁵ Rape is defined as committing sexual acts involving vaginal, anal or oral penetration into another person’s body using the genitals or any other object without the voluntary consent of the victim.¹⁴⁶ Consent is considered voluntary if it is the result of a person’s free will, taking into account the accompanying circumstances.¹⁴⁷ In contrast, sexual violence is committing any violent acts of a sexual nature, not related to the penetration of another person’s body, without the voluntary consent of the victim.¹⁴⁸

Physical Element

¹⁴¹ *Prosecutor v. Stanislav Galić* (Judgment and Opinion) Case No. ICTY-98-29-T (05 December 2003) para. 59.

¹⁴² *Prosecutor v. Stanislav Galić* (Judgment and Opinion) Case No. ICTY-98-29-T (05 December 2003) para. 60.

¹⁴³ ICTR Statute, Art. 4(2).

¹⁴⁴ ICC Elements of Crimes (2011) 28.

¹⁴⁵ O.O. Dudorov and M.I. Khavroniuk, [Responsibility for Domestic Violence and Gender Violence, Scientific and Practical Commentary on Amendments to the Criminal Code of Ukraine](#) (Vaite 2019) Art. 152, p. 118.

¹⁴⁶ Criminal Code of Ukraine, Arts. 152, 153; Law of Ukraine № 2227–VIII “[On Amendments to the Criminal and Criminal Procedure Codes of Ukraine in order to implement the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#)”, 6 December 2017, para. 13.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*

The ICTY established the objective elements of penetration:

- The sexual penetration, however slight;
- Of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or
- Of the mouth of the victim by the penis of the perpetrator.¹⁴⁹

The SCSL stated that the penetration can be of any part of the body of either the victim or the accused with a sexual organ. “Any part of the body” includes genital, anal or oral penetration. It further clarified that both men and women can be victims of rape.¹⁵⁰ In addition, the ICTR ruled that the act of rape may include acts which involve the insertion of objects and/or the use of bodily orifices not considered to be intrinsically sexual.¹⁵¹

International tribunals and courts consider it necessary to establish that the victim could not be said to have voluntarily and genuinely consented to the act. The use or threat of force provides clear evidence of non-consent, but it is not required.¹⁵² Coercion can also take the form of intimidation, extortion and other forms of duress that prey on fear or desperation. Coercion may also be inherent in certain circumstances,¹⁵³ such as captivity.¹⁵⁴ In some situations, even in the absence of force or coercion, a person cannot be said to genuinely have consented to the act, for example a person may be not be capable of genuinely consenting if he or she is too young, under the influence of a substance, or suffering from an illness or disability.¹⁵⁵

Mental Element

Finally, the SCSL has held that the invasion should be intentional and done in the knowledge that the victim was not consenting.¹⁵⁶

Sexual Violence

Similarly to rape, the ICTY Statute does not expressly contain the war crime of sexual violence. In contrast, the Rome Statute incorporated this offence. The ICC requires prosecutors to establish that: (1) the perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a

¹⁴⁹ *Prosecutor v. Furundžija* (Trial Judgment) Case No. ICTY-95-17/1-T (10 December 1998) para. 185.

¹⁵⁰ *Prosecutor v. Sesay et al.* (Trial Judgment) Case No. SCSL-04-15-T (2 March 2009) para. 146.

¹⁵¹ *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 596.

¹⁵² *Prosecutor v. Sesay et al.* (Trial Judgment) Case No. SCSL-04-15-T (2 March 2009) para. 147; *Prosecutor v. Kunarac et al.* (Appeals Judgment) Case No. ICTY-96-23&ICTY-96-23/1-A (12 June 2002) para. 129.

¹⁵³ *Prosecutor v. Kunarac et al.* (Trial Judgment) Case No. ICTY-96-23-T&ICTY-96-23/1-T (22 February 2001) paras. 438, 442; *Prosecutor v. Kunarac et al.* (Appeals Judgment) Case No. ICTY-96-23&ICTY-96-23/1-A (12 June 2002) paras 129,130.

¹⁵⁴ *Prosecutor v. Furundžija* (Trial Judgment) Case No. ICTY-95-17/1-T (10 December 1998) para. 271.

¹⁵⁵ See *Prosecutor v. Sesay et al.* (Trial Judgment) Case No. SCSL-04-15-T (2 March 2009) para. 148.

¹⁵⁶ *Prosecutor v. Sesay et al.* (Trial Judgment) Case No. SCSL-04-15-T (2 March 2009) para. 150.

sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent; (2) the conduct was of a gravity comparable to that of a grave breach of the Geneva Conventions; and (3) the perpetrators had the requisite intent and knowledge.¹⁵⁷

The ICTR defined sexual violence as:

any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.¹⁵⁸

Prosecutors must prove that the act was of a sexual nature. According to the ICTY, this crime embraces all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of coercion, threat or force or intimidation in a way that is degrading and humiliating for the victim's dignity.¹⁵⁹ The ICC has held that not every act of violence that targets parts of the body commonly associated with sexuality should be considered an act of sexual violence.¹⁶⁰ The determination of whether an act is of a sexual nature is inherently a question of fact. For example, the ICC found that the acts of forcible circumcision and penile amputation motivated by ethnic prejudice and that were intended to demonstrate cultural superiority of one tribe over the other do not qualify as other forms of sexual violence.¹⁶¹

Similarly to rape, prosecutors must demonstrate any form of coercion which proves the lack of consent, including acts or threats of violence, detention, and generally oppressive surrounding circumstances.¹⁶² Coercion does not necessarily involve physical force. Threats, intimidation, extortion and other forms of duress, which prey on fear or

¹⁵⁷ ICC Elements of Crimes (2011) 10.

¹⁵⁸ *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 688; endorsed by *Prosecutor v. Rukundo* (Trial Judgment) Case No. ICTR-2001-70-A (27 February 2009) para. 379. See also *Prosecutor v. Milutinović et al.* (Trial Judgment) Case No. ICTY-05-87-T (26 February 2009) para. 199.

¹⁵⁹ *Prosecutor v. Furundžija* (Trial Judgment) Case No. ICTY-95-17/1-T (10 December 1998) para. 186; *Prosecutor v. Brima et al.* (Trial Judgment) Case No. SCSL-04-16-T (20 June 2007) para. 720.

¹⁶⁰ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) paras. 265-266.

¹⁶¹ *Prosecutor v. Katanga and Chui* (Confirmation of Charges Decision) Case No. ICC-01/04-01/07 (30 September 2008) paras. 265-266.

¹⁶² *Prosecutor v. Milutinović et al.* (Trial Judgment) Case No. ICTY-05-87-T (26 February 2009) para. 200; *Prosecutor v. Rukundo* (Trial Judgment) Case No. ICTR-2001-70-T (27 February 2009) para. 385.

desperation, may constitute coercion.¹⁶³ In certain circumstance, coercion and lack of consent can be inferred (*i.e.*, when a person is detained).¹⁶⁴

Intentionally directing attacks against civilian objects, that is, objects which are not military objectives

The offence of attacking civilian objects is a serious violation of IHL (Article 52 of Additional Protocol I).¹⁶⁵ Under IHL, civilian objects should not be attacked, except when they become military objectives. Military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.¹⁶⁶

Similar to attacks against civilians, prosecutors must demonstrate that: (1) the perpetrator directed an attack; (2) the object of the attack was civilian objects, that is, objects which are not military objectives; and (3) the perpetrator intended such civilian objects to be the object of the attack.¹⁶⁷

The Criminal Code of Ukraine does not contain a similar crime.

Physical Element

First, an attack must have been launched. The Rome Statute of the ICC does not mention that the attack must have had a particular result. However, the ICTY, as noted above, requires that the attack caused death, serious injury to body or health, or being of the same gravity. It defines a prohibited attack as follows:

In short, prohibited attacks are those launched deliberately against civilians or civilian objects in the course of an armed conflict and are not justified by military necessity. They must have caused deaths and/or serious bodily injuries within the civilian population or extensive damage to civilian objects. Such attacks are in direct contravention of the prohibitions expressly recognised in international law including the relevant provisions of Additional Protocol I.¹⁶⁸

¹⁶³ *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 688; cited in *Prosecutor v. Rukundo* (Trial Judgment) Case No. ICTR-2001-70-T (27 February 2009) para. 381.

¹⁶⁴ *Prosecutor v. Milutinović et al.* (Trial Judgment) Case No. ICTY-05-87-T (26 February 2009) para. 200; *Prosecutor v. Akayesu* (Trial Judgment) Case No. ICTR-96-4-T (2 September 1998) para. 688.

¹⁶⁵ See *Prosecutor v. Strugar* (Trial Judgment) Case No. ICTY-01-42-T (31 January 2005) para. 223.

¹⁶⁶ Additional Protocol I, Art. 52.

¹⁶⁷ ICC Element of Crimes (2002) 34.

¹⁶⁸ *Prosecutor v. Kordić and Čerkez* (Trial Judgment) Case No. ICTY-95-14/2-T (26 February 2001) para. 328; see also *Prosecutor v. Strugar* (Trial Judgment) Case No. ICTY-01-42-T (31 January 2005) para. 280; *Prosecutor v. Blaškić* (Trial Judgment) Case No. ICTY-95-14 (15 July 1999) para. 180; *Prosecutor v. Kordić and Čerkez* (Appeals Judgment) ICTY-95-14/2-A (17 December 2004) para. 67.

Secondly, the object of the attack must be civilian objects, that is, objects which are not military objects. The ICTY considers that the presence of soldiers in a civilian object, like a tram, does not alter its civilian status.¹⁶⁹

Mental Element

Finally, prosecutors must establish that the perpetrator intended such civilian objects to be the object of the attack.

Non-International Armed Conflict

Murder

The prohibition of 'murder' first appears as a grave breach of the Geneva Conventions, as well as in Common Article 3 (non-international armed conflict). It is widely accepted that there is no difference between the notion of 'wilful killing' and the notion of 'murder'.¹⁷⁰

The discussion above in relation to international armed conflict equally applies to the crime of murder during a non-international armed conflict.¹⁷¹

Torture

The prohibition of torture is contained in Article 12 of the Geneva Convention I (international armed conflict), as well as in Common Article 3 (non-international armed conflict). There is no indication in law or derived from practice that the term 'torture' has a different meaning in international and non-international armed conflict.¹⁷²

The discussion above in relation to international armed conflict equally applies to the crime of torture during a non-international armed conflict.¹⁷³

Cruel treatment

Cruel treatment has been defined as an intentional act or omission causing serious mental or physical suffering or injury or constituting a serious attack on human dignity.¹⁷⁴

International criminal law requires prosecutors to establish the following elements: (1) an act or omission which causes serious mental or physical suffering or injury or constitutes

¹⁶⁹ *Prosecutor v. Milošević, D.* (Trial Judgment) Case No. ICTY-98-29/1-A (12 November 2009) para. 159 (footnotes omitted).

¹⁷⁰ ICRC, 'Commentary of Article 50 of Geneva Convention I' (ICRC, 2016) para. 17 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=21B052420B219A72C1257F7D00587FC3> accessed 20 April 2016. See *Prosecutor v. Naletilić and Martinović* (Trial Judgment) Case No. ICTY-98-34-T (21 March 2003) paras. 248-249; *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) paras. 422-423; *Prosecutor v. Tadić* (Trial Judgment) Case No. ICTY-94-1-T (7 May 1997) paras. 235, 236, 237.

¹⁷¹ See *supra* paras. 1-7.

¹⁷² ICRC, "Commentary of Common Article 3" (ICRC, 2016) para. 274 <www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D004BA0EC> accessed 20 April 2016.

¹⁷³ See *supra* para. 8-14.

¹⁷⁴ *Prosecutor v. Ntagerura et al.* (Trial Judgment) Case No. ICTR-99-46-T (25 February 2004) para. 765 (footnotes omitted).

a serious attack on human dignity; and (2) the conduct was intentional which, judged objectively, is deliberate and not accidental.¹⁷⁵

Physical Element

First, prosecutors must establish that the perpetrator inflicted severe physical or mental pain or suffering upon one or more persons. The ICTY held that the seriousness of the harm or injury must be assessed on a case-by-case basis, taking into account such factors as the severity of the alleged conduct, the nature of the act or omission, the context in which the conduct occurred, its duration and/or repetition, its physical and mental effects on the victim, and in some instances, the personal circumstances of the victim, including age, gender and health.¹⁷⁶

To assess the severity of the pain or suffering, the ICTY held that it is not required that the suffering caused by the cruel treatment be “lasting”. The following factors, among others, should be taken into consideration: the age and health of the victim and the physical and mental effects of the crime on the victim.¹⁷⁷

The following conduct has been considered as cruel treatment: beatings, inhumane living conditions in a detention centre, attempted murder, use of human shields and trench digging, the failure to provide adequate medicine or medical treatment if it causes serious mental or physical suffering or injury, or constitutes a serious attack on human dignity.¹⁷⁸

Mental Element

The ICTY requires that the perpetrator acted with the direct or indirect intent to commit cruel treatment. A perpetrator acts with the indirect intent to commit cruel treatment when he is aware that cruel treatment would be the probable consequence of his conduct, and he accepted that fact.¹⁷⁹

¹⁷⁵ ICC Elements of Crimes (2011) 32; *Prosecutor v. Mucić et al.* (Trial Judgment) Case No. ICTY-91-21 (16 November 1998) para. 552; *Prosecutor v. Jelisić* (Trial Judgment) Case No. ICTY-95-10-T (14 December 1999) para. 41; *Prosecutor v. Tihomir Blaskić* (Trial Judgment) Case No. ICTY-95-14-T (3 March 2000) para. 186; *Prosecutor v. Krstić* (Trial Judgment) Case No. ICTY-98-33-T (2 August 2001) para. 516; *Prosecutor v. Kvočka* (Trial Judgment) Case No. ICTY-98-30/1-T (02 November 2001) para. 159; confirmed in *Prosecutor v. Aleksovski* (Appeals Judgment) Case No. ICTY-95-14/1 (24 March 2000) para. 26; ICTY, *Prosecutor v. Mucić et al.* (Appeals Judgment) Case No. ICTY-96-21-A (20 February 2001) para. 424, *Prosecutor v. Kordić and Čerkez* (Trial Judgment) ICTY-95-14/2-T (29 February 2001) para. 265. See also, *Prosecutor v. Naletilić and Martinović* (Trial Judgment) Case No. ICTY-98-34-T (21 March 2003) para. 246.

¹⁷⁶ *Prosecutor v. Lukić Milan & Lukić Sredoje* (Trial Judgment) Case No. ICTY-98-32/1 (20 July 2009) para. 957; *Prosecutor v. Orić* (Trial Judgment) Case No. ICTY-03-68 (30 June 2006) para. 352.

¹⁷⁷ *Prosecutor v. Martić* (Trial Judgment) Case No. ICTY-95-11 (12 June 2007) para. 80.

¹⁷⁸ *Prosecutor v. Mrkšić et al.* (Trial Judgment) Case No. ICTY-95-13/1 (27 September 2007) para. 517.

¹⁷⁹ *Prosecutor v. Prlić* (Trial Judgment) Case No. ICTY-04-74-T (19 May 2013) Vol. 1, para. 147 [unofficial translation].

Outrages upon personal dignity

The prohibition of outrages upon personal dignity is contained in Article 75 of Additional Protocol I (international armed conflict), as well as in Common Article 3 (non-international armed conflict). There is no indication in law or derived from practice that the term 'outrages upon personal dignity' has a different meaning in international and non-international armed conflict.

The discussion above in relation to international armed conflict equally applies to the crime of outrages upon personal dignity during a non-international armed conflict.¹⁸⁰

Rape and Sexual Violence

Similarly, the prohibition of rape and sexual violence is contained in Article 75 of Additional Protocol I (international armed conflict), as well as Article 4 of Additional Protocol II (non-international armed conflict). There is no indication that rape or sexual violence has a different meaning in international and non-international armed conflict.

The discussion above in relation to international armed conflict equally applies to the crimes of rape and sexual violence during a non-international armed conflict.¹⁸¹

Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities

Attacks against civilians are grave breaches of Additional Protocol I (Article 85), violations of Article 51 of Additional Protocol I (international armed conflict) and Article 13 of Additional Protocol II (non-international armed conflict). This crime has a similar meaning in international and non-international armed conflict.¹⁸²

The discussion above in relation to international armed conflict equally applies during a non-international armed conflict.¹⁸³

¹⁸⁰ See *supra* paras. 33-41.

¹⁸¹ See *supra* paras. 62-72.

¹⁸² See the elements of the war crime of attacking civilians in both types of armed conflicts: ICC Elements of Crimes (2011) 18 and 34.

¹⁸³ See *supra* para. 42-51.

ANNEX C

Violations of Methods of Warfare Falling under Article 438, Draft Bill 2689, and their International Sources

War Crimes	International Treaties	Rome Statute	Customary International Law	Article 438	Draft Bill 2689
Grave breaches of the Geneva Conventions, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention					
Wilful killing	Geneva Conventions I to IV, Arts. 50, 51, 130, 147 respectively	Art. 8 (2)(a)(i)	X	X	Art. 438(3)
Torture or inhuman treatment, including biological experiments	Geneva Conventions I to IV, Arts. 50, 51, 130, 147 respectively	Art. 8 (2)(a)(ii)	X	X	Art. 438(2)
Wilfully causing great suffering, or serious injury to body or health	Geneva Conventions I to IV, Arts. 50, 51, 130, 147 respectively	Art. 8 (2)(a)(iii)	X	X	Art. 438(2), (3)
Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly	Geneva Conventions I to IV, Arts. 50, 51, 130, 147 respectively	Art. 8 (2)(a)(iv)	X	X	Art. 438-1(2)
Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power	Geneva Convention III, Art. 130 Geneva Convention IV, Art. 147	Art. 8 (2)(a)(v)	X	X	Art. 438(1)
Wilfully depriving a prisoner of war or other protected	Geneva Convention III, Art. 130	Art.8 (2)(a)(vi)	X	X	Art. 438(2)

person of the rights of fair and regular trial	Geneva Convention IV, Art. 147				
Unlawful deportation or transfer or unlawful confinement	Geneva Convention IV, Art. 147	Art. 8 (2)(a) (vii)	X	X	Art. 438(2)
Taking of hostages	Geneva Convention IV, Art. 147	Art. 8 (2)(a) (viii)	X	X	Art. 438(2)
Grave breaches of Additional Protocol I					
Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities	Additional Protocol I, Arts. 85 (3) (a), 51(2)	Art. 8 (2)(b) (i)	X	X	Art. 438-2(2)
Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated	Additional Protocol I, Arts. 85 (3)(b), 35 (3), 55 (1)	Art. 8 (2)(b) (iv)	X	X	Art. 438-2(2)
Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are	Additional Protocol I, Art. 85 (3)(d) 1907 Hague Convention, Art. 25	Art. 8 (2)(b) (v)	X	X	Art. 438-2(2)

undefended and which are not military objectives					
Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion	Additional Protocol I, Art. 85 (3)(e) 1907 Hague Convention, Art. 23 (c)	Art. 8 (2)(b) (vi)	X	X	
Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury	Additional Protocol I, Art. 85 (3)(f) 1907 Hague Convention, Art. 23 (f)	Art. 8 (2)(b) (vii)	X	X	Art. 438-4(3)
The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory	Additional Protocol I, Art. 85 (4)(a)	Art. 8 (2)(b) (viii)	X	X	Art. 438(1)
Intentionally directing attacks against buildings dedicated to	Additional Protocol I, Arts. 85 (4)(d), 53 (a) and (c)	Art. 8 (2)(b) (ix)	X	X	Art. 438-2(2)

<p>religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives</p>	<p>1907 Hague Convention, Arts. 27 (1), 56 Convention for the Protection of Cultural Property in the Event of Armed Conflict, Art. 4 (1) 1999 Optional Protocol to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, Art. 15</p>				
<p>Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons</p>	<p>Additional Protocol I, Arts. 11 (2)(a), 11 (1) and (4)</p>	<p>Art. 8 (2)(b) (x)</p>	<p>X</p>	<p>X</p>	<p>Art. 438(2)</p>
<p>Other serious violations of IHL applicable in international armed conflict contained in the various IHL treaties (i.e., Geneva Conventions, Additional Protocol I or the Hague Regulations)</p>					
<p>Intentionally directing attacks against civilian objects, that is, objects which are not military objectives</p>	<p>Additional Protocol I, Art. 52 (1)</p>	<p>Art. 8 (2)(b) (ii)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-2(2)</p>

<p>Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict</p>	<p>Convention on the Safety of United Nations and Associated Personnel, Arts. 7 (1), 9 Additional Protocol I, Art. 71 (2)</p>	<p>Art. 8 (2)(b) (iii)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-4(1)</p>
<p>Killing or wounding treacherously individuals belonging to the hostile nation or army</p>	<p>Additional Protocol I, Art. 37 (1) 1907 Hague Convention, Art. 23 (b)</p>	<p>Art. 8 (2)(b) (xi)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-2(2), (3)</p>
<p>Declaring that no quarter will be given</p>	<p>Additional Protocol I, Art. 40 1907 Hague Convention, Art. 23 (d)</p>	<p>Art. 8 (2)(b) (xii)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-2(1)</p>
<p>Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war</p>	<p>1907 Hague Convention, Art. 23 (g)</p>	<p>Art. 8 (2)(b) (xiii)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-1</p>
<p>Declaring abolished, suspended or inadmissible in a court of law the rights and actions of</p>	<p>1907 Hague Convention, Art. 23 (1) (h)</p>	<p>Art. 8 (2)(b) (xiv)</p>		<p>X</p>	<p>Art. 438-2(1)</p>

the nationals of the hostile party					
Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war	1907 Hague Convention, Art. 23 (2)	Art. 8 (2)(b) (xv)		X	Art. 438(1)
Pillaging a town or place, even when taken by assault	1907 Hague Convention, Art. 28	Art. 8 (2)(b) (xvi)	X	X	
Committing outrages upon personal dignity, in particular humiliating and degrading treatment	Additional Protocol I, Arts. 75 (2)(b), 85 (4) (c)	Art. 8 (2)(b) (xxi)	X	X	Art. 438(2)
Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7, paragraph 2(f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions	Additional Protocol I, Arts. 75 (2)(b), 76 (1) Geneva Convention IV, Art. 27 (2)	Art. 8 (2)(b) (xxii)	X	X	Art. 438(2)
Utilizing the presence of a civilian or other protected person to render certain points, areas or	Geneva Convention III, Art. 23 (1) Geneva Convention IV, Art. 28 Additional Protocol I, Arts. 51 (7), 58 (a)	Art. 8 (2)(b) (xxiii)	X	X	Art. 438-2(1)

military forces immune from military operations					
Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law	<p>Geneva Convention I, Arts. 19 (1), 20, 24, 35 (1), 36 (1)</p> <p>Geneva Convention II, Arts. 22 (1), 23, 24 (1), 27 (1), 36</p> <p>Geneva Convention IV, Arts. 18 (1) and (3), 20 (1) and (2), 21, 22 (1) and (2)</p> <p>Additional Protocol I, Arts. 12 (1) and (2), 15 (1) and (5), 21, 23 (1), 24</p>	Art. 8 (2)(b) (xxiv)		X	Art. 438-4(1)
Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions	<p>Geneva Convention IV, Arts. 23 (1), 55 (1), 59 (1)</p> <p>Additional Protocol I, Arts. 54 (1), 54 (2)</p>	Art. 8 (2)(b) (xxv)	X	X	Art. 438-2(2)
Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities	<p>Additional Protocol I, Art. 77 (2)</p> <p>Convention on the Rights of the Child, Art. 38 (2) and (3)</p>	Art. 8 (2)(b) (xxvi)	X	X	Art. 438(2)
Violations of Common Article 3 applicable in non-international armed conflict					

Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture	Geneva Conventions, Common Article 3 (1)(a)	Art. 8 (2)(c)(i)	X	X	Art. 438(2), (3)
Committing outrages upon personal dignity, in particular humiliating and degrading treatment	Geneva Conventions, Common Article 3 (1)(c)	Art. 8 (2)(c)(ii)	X	X	Art. 438(2)
Taking of hostages	Geneva Conventions, Common Article 3 (1)(b) Additional Protocol II, Art. 4 (2)(c)	Art. 8 (2)(c)(iii)	X	X	Art. 438(2)
The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable	Geneva Conventions, Common Article 3 (1)(d)	Art. 8 (2)(c)(iv)	X	X	
Other serious violations of IHL applicable in non-international armed conflict contained in the various IHL treaties (i.e., Additional Protocol II)					
Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities	Additional Protocol II, Arts. 13 (2), 4 (2)(d)	Art. 8 (2)(e)(i)	X	X	Art. 438-2(2)

<p>Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law</p>	<p>Additional Protocol II, Arts. 9 (1), 11 (1)</p>	<p>Art. 8 (2)(e)(ii)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-4(1)</p>
<p>Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict</p>	<p>Convention on the Safety of United Nations and Associated Personnel, Arts. 7 (1), 9 Additional Protocol II, Arts. 9, 11 (1)</p>	<p>Art. 8 (2)(e)(iii)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-4(1)</p>
<p>Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are</p>	<p>Additional Protocol II, Art. 16 1999 Optional Protocol to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, Art. 15</p>	<p>Art. 8 (2)(e)(iv)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-2(2)</p>

not military objectives					
Pillaging a town or place, even when taken by assault	Additional Protocol II, Art. 4 (2)(g)	Art. 8 (2)(e)(v)	X	X	
Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of Article 3 common to the four Geneva Conventions	Additional Protocol II, Arts. 4 (2)(e) and (f)	Art. 8 (2)(e)(vi)	X	X	Art. 438(2)
Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities	Additional Protocol II, Art. 4 (2)(c) Convention on the Rights of the Child, Art. 38 (2) and (3)	Art. 8 (2)(e)(vi i)	X	X	Art. 438(2)
Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand	Additional Protocol II, Art. 17 (1), first sentence	Art. 8 (2)(e)(vi ii)	X	X	
Declaring that no quarter will be given	Additional Protocol II, Art. 4 (1), first sentence	Art. 8 (2)(e)(x)	X	X	Art. 438-2(1)

<p>Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons</p>	<p>Additional Protocol II, Art. 5 (2)(e)</p>	<p>Art. 8 (2)(e)(xi)</p>	<p>X</p>	<p>X</p>	<p>Art. 438(2)</p>
<p>Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies</p>	<p>Additional Protocol II, Arts 14, 18</p>	<p>Art. 8 (2)(e)(xi)</p>	<p>X</p>	<p>X</p>	<p>Art. 438-2(2)</p>
<p>Other serious violations of customs applicable in non-international armed conflict derived from customary international law</p>					
<p>Killing or wounding treacherously a combatant adversary</p>		<p>Art. 8 (2)(e)(ix)</p>	<p>X</p>		<p>Art. 438-2(2), (3)</p>
<p>Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively</p>		<p>Art. 8 (2)(e)(xi)</p>	<p>X</p>		<p>Art. 438-1</p>

demanded by the necessities of the conflict					
Other serious violations of international humanitarian law contained in IHL treaties and not contained in the Rome Statute					
<i>Grave Breaches of Additional Protocol I</i>					
Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a) (iii) [of API]	Additional Protocol I, Art. 85 (3)(c)		X	X	Art. 438-2(2)
Unjustifiable delay in the repatriation of prisoners of war or civilians	Additional Protocol I, Art. 85 (4)(b)		X	X	Art. 438(1)
Practices of 'apartheid' and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination	Additional Protocol I, Art. 85 (4)(c)		X	X	
Making demilitarised zones the object of attack	Additional Protocol I, Art. 85 (4)(d)		X	X	
<i>Other serious violations of IHL committed during an international armed conflict</i>					
Collective punishments	Geneva Convention III, Art. 46 Geneva Convention IV, Art. 33		X	X	

	Additional Protocol I, Art. 75(2)(d) 1907 Hague Convention, Art. 50				
Despoliation of the wounded, sick, shipwrecked or dead	1906 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, Art. 28.		X	X	
Attacking or ill-treating a parlementaire or bearer of a flag of truce	1907 Hague Convention, Art. 32		X	X	
<i>Other serious violations of IHL committed during a non-international armed conflict</i>					
Slavery	Additional Protocol II, Art. 4		X	X	
Collective punishments	Additional Protocol II, Art. 4(2)(b)		X	X	
Other serious violations of international humanitarian law under customary internal law only not contained in the Rome Statute or any other international treaties					
<i>Other serious violations of IHL committed during an international armed conflict</i>					
Slavery and deportation to slave labour			X		
<i>Other serious violations of IHL committed during a non-international armed conflict</i>					
Launching an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause excessive incidental civilian loss, injury or damage			X		Art. 438-3
Making non-defended localities			X		

and demilitarized zones the object of attack					
Using human shields			X		

