

**Public version**

**Proposals of the Center for Civil Liberties Concerning Methods  
of Exerting Pressure on the Russian Federation for the Release  
of Ukrainian Civilians Unlawfully Detained by the Russian Side  
in the Context of the Armed Conflict**

**(A Strategy for the Release of Civilians)**

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**Center for Civil Liberties**

## **Contents**

|  |           |
|--|-----------|
| Terms used in this text  | <b>3</b>  |
| Executive summary  | <b>4</b>  |
| Problem description  | <b>7</b>  |
| The legal framework for improving conditions of detention and release of Ukrainian civilians | <b>12</b> |
| How to help them to live to see freedom  | <b>18</b> |
| How to release them  | <b>22</b> |

## **Terms used in this text**

Torture (in the meaning of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Places of forced detention are closed institutions for the detention of people who serve their sentences, are under investigation, wait for deportation or are unlawfully deprived of their freedom due to the Russian aggression against Ukraine that started in 2014 and continues until today. Both official and unofficial institutions are regarded as such places. All of these institutions are located either in the territory of the Russian Federation or in the temporarily occupied Ukrainian territories controlled by Russian authorities.

Enforced disappearance (in the meaning of the International Convention for the Protection of All Persons from Enforced Disappearance) means arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Conflict-related sexual violence means rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced

sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.

Sensory deprivation is a full or partial interruption of external influence on one or more human senses, leading to a reduced flow of nerve impulses into the central nervous system. It emerges when people are kept isolated in closed spaces, for example, when detained in a cell. A prolonged sensory deprivation result in a loss of connection with reality, depression, inability to focus and later can lead to post-traumatic stress.

Universal jurisdiction is a criminal jurisdiction, which is based exclusively on the nature of a crime regardless of the territory where it was committed, the nationality of the suspect or the convicted perpetrator, the victim's nationality or any other link to the state that exercises such jurisdiction. A state may exercise universal jurisdiction with respect to a crime committed by a foreign national against another foreign national beyond the territorial limits of that state.

Civilians unlawfully held by Russia in connection with the armed conflict are non-combatants who had permanently or for a long-time lived-in Ukraine and were detained by the Russian military, special services or Russian proxies in the occupied territories of Ukraine. There are citizens of both Ukraine and other countries, including Belarus and Spain, among the detained civilians.

## **Executive summary**

The Russian Federation unlawfully keeps at least 7,000 civilians in places of detention in the occupied territories and in the territory of Russia (calculation methodology is outlined in the Problem Description section). According to the Russian responses about the situation of some of these people, they were arrested for

their “resistance to the special military operation”, but no charges have been brought against some of them. To justify the detention of these people, Russian authorities, in some cases, refer to Article 5 of the Geneva Convention relative to the Treatment of Prisoners of War, i.e., claiming that these people’s identity as civilians is in doubt. Lawyers may have access to those who face charges, but no one, even lawyers, has access to those who do not face any charges.

Some civilians have been kept in prisons or penal colonies for about two years, and they are subjected to torture and ill-treatment. Russia conceals the places of detention of many civilians.

As of 4 January 2024, only 160 civilians had been released in the course of exchanges of war prisoners. A small portion of civilians was released beyond such exchanges. However, in most cases, Russia just keeps these people in custody, in fact, for an indefinite period. Releases occur at an extremely slow speed, which indicates the need for developing a systematic strategy to secure the release of all civilians unlawfully detained by Russia without any exchanges or conditions.

Proposals are designed to ensure the release of civilians who are unlawfully deprived of their freedom. These people are neither convicts nor suspects, but are held in places of forced detention in the occupied territories and in Russia. Another system of methods is required to release people sentenced to imprisonment.

The Center for Civil Liberties offers a package of correlated actions designed to achieve two objectives: protecting the rights of detained civilians and taking measures to release civilians from places of detention.

*To protect the rights of detained civilians, we offer, in particular, the following package of actions entitled “Helping to live to see freedom”:*

1. Creating a state register for civilians held in places of forced detention in the context of the conflict.
2. Intensification of dialogue with countries where human rights are strongly respected in order to introduce a package of international targeted sanctions against the officials of the Russian Federation guilty of unlawful deprivation of liberty of Ukrainian civilians.
3. Launching communication with the donors of the International Committee of the Red Cross (ICRC) with a view to boosting the ICRC's efforts to exercise its mandate to protect Ukrainian civilians who are unlawfully detained in Russia and in the temporarily occupied territories of Ukraine.
4. Initiating criminal prosecution of Russian officials responsible for the unlawful deprivation of liberty of civilians in countries where human rights are strongly respected under the universal jurisdiction principle.
5. Putting forward proposals to the state's parties to the International Convention for the Protection of All Persons from Enforced Disappearance asking them to fulfil their obligations relating to prosecuting individuals guilty of enforced disappearances of civilian Ukrainians.
6. Instituting criminal proceedings in Ukraine against individuals guilty of torturing civilian Ukrainians, their ill-treatment and unlawful detention (these include both direct perpetrators and senior officials in places of detention, investigators, judges, prosecutors and other representatives of the state responsible for creating a system of keeping civilians in places of detention).

*In order to release civilians from places of detention, we propose, among other things, the following:*

1. Initiating an appeal of the Ukrainian authorities to the Russian Federation, which is a party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment, with a statement regarding violations of this Convention by Russia.

2. Should Russia refuse to accept arbitration, a claim should be filed against it with the International Court of Justice. In the event of civilians' release, Ukraine may refuse to continue with this procedure.
3. Actions outlined in this document should be taken by the Ukrainian state and civil society organizations supported by other countries that respect human rights. Central authorities of Ukraine play a crucial role here as actions to institute criminal proceedings within the national jurisdiction and appeals to international institutions to challenge Russia's actions and hold those who violate international conventions liable fall within the exclusive competence of the state. Ukrainian civil society organisations can, independently and together with the authorities, perform advisory, communication and advocacy functions at the national and international levels as part of implementing the system of proposals put forward by the Center for Civil Liberties.

## **Problem description**

The Russian Federation has made war crimes and crimes against humanity a method of waging war and controlling residents in the occupied territories. According to the Office of the Prosecutor General, by the end of 2023, 120,987 crimes were registered, including 117,607 crimes under Article 438 of the Criminal Code of Ukraine (violation of laws and customs of war).<sup>[1]</sup>

Crimes against citizens of Ukraine and other countries who were arbitrarily detained and unlawfully deprived of their liberty are large-scale and systemic. While describing these crimes, it is not always possible to differentiate crimes committed against each category as the Ukrainian war prisoners and arrested civilians are, as a rule, detained together.

The estimated number of civilians detained by the Russian Federation in the context of the conflict is at least 7,000 individuals. Various sources have confirmed that about 1,600 civilians are kept in places of forced detention. It is highly probable that about 5,400 other civilians from among those listed in the Unified Register of Persons Missing under Special Circumstances can be detained in these places. 14,000 civilians were listed in this Register as of January 2024. It should be kept in mind that some of these people can be found among those killed or released earlier. The number of civilians included in the register is already decreasing due to efforts to identify those killed and released earlier. The fact that the estimate of the number of detained civilians is not precise is due to the refusal of the Russian Federation to provide information about all these people or secure access to them for the International Committee of the Red Cross or other international organizations.

The Russian Federation violates the provisions of the international humanitarian law (IHL), which entitle persons detained during hostilities to send postal messages to their relatives and impose an obligation on Russia to grant the International Committee of the Red Cross access to all detainees. Since the beginning of the armed aggression of Russia against Ukraine in 2014 and until now, no Protective Power has been designated to perform humanitarian functions. The International Committee of the Red Cross has not succeeded in making Russia fulfil its obligations to guarantee detainees the right to correspond with their relatives. As a result, international organizations and Ukraine lack complete information on detained citizens of Ukraine.

In accordance with the IHL provisions, the International Committee of the Red Cross enjoys special powers to protect civilian victims of international conflicts. However, these powers have not been implemented in full. For example, ICRC has not yet been granted access to all places where Ukrainian civilians are forcibly detained; in view of the absence of Protecting Powers,



ICRC did not offer itself as a Substitute to the belligerent countries. Communication of the Ukrainian and Russian human rights defenders with the ICRC on these matters yielded no results.

Many civilians who are now deprived of liberty in Russia and in the occupied territories were arrested by occupants back in February – March 2022, in particular, in Kyiv, Sumy, Chernihiv, Kharkiv and Kherson regions. These areas have been liberated from the Russian occupiers long ago.

Non-combatant citizens of Ukraine are held in Russia and in the occupied territories in the detention facilities of three federal agencies: the Federal Penitentiary Service (prisons, correctional colonies, penal settlements, pre-trial detention centres, correctional centres), which is part of the system of agencies under the Ministry of Justice of the Russian Federation; the Ministry of Internal Affairs (temporary detention centres for foreign nationals); and the Ministry of Defence (guardhouses of military garrison headquarters). Also, civilians are unlawfully held in unofficial places of forced detention: basements, warehouses and others.

In most cases (except for those civilians against whom criminal cases have been instituted), Ukrainian non-combatants are held in places of forced detention without court decisions. The only reason for depriving these citizens of liberty is orders issued by the heads of departments of the Federal Security Service in the Russian Federation's entities (republics, krais, and oblasts). From time to time, once in several months, these department heads make orders to prolong the terms for keeping those people in custody. It is not possible either to appeal against such decisions or understand the legal grounds for detention. Many heads of institutions under the Federal Penitentiary Service (pre-trial detention centres, penal colonies and others) are aware that they unlawfully and without any court sanction detain Ukrainian civilians and in doing so they violate both the international law and the law of the Russian Federation.

According to the information that the Coordination Headquarters for the Treatment of Prisoners of War provided at the CCL's request, 57 places of forced detention are known to hold Ukrainian civilians.

Most Ukrainian civilians, who have been released, were subjected to torture and ill-treatment. This fact was recorded by the Office of the United Nations High Commissioner for Human Rights: over 91% of civilians interviewed after their return from the Russian places of detention claimed that they had been subjected to torture, ill-treatment and sexualised violence.<sup>[2]</sup>

Many Ukrainian civilians, after their release, reported inadequate nutrition and difficulties in receiving medical care. Furthermore, keeping people in detention inflicts severe moral suffering on them.

In violation of international humanitarian law, Ukrainian civilians are being kept in prison conditions, i.e. in closed cells. These people are granted up to one hour of yard time in the air at best. Such detention conditions result in oxygen starvation and sensory deprivation and contribute to the deterioration of physical and mental health.

The Ukrainian civilians have been deprived of liberty for a long time and unlawfully, and Ukraine can succeed in releasing them without exchanges or conditions imposed by Russia.

In the occupied territories, there is a practice when employees of the Russian police and other so-called law-enforcement bodies arrest people unlawfully and unofficially and do not make any registration of such arrests. According to the residents of Enerhodar, Zaporizhzhia Region, several employees of the Zaporizhzhia Nuclear Power Plant have been held in basements below the police department for over six months. The detention of these people is not a lawful custody in a police cell as

it is illegal to keep an individual in a police cell for such a long period.

In the occupied territories, there is a widespread illegal practice of imposing obligations on civilians released from places of forced detention because of complaints from lawyers or for other reasons of not leaving the settlement/region where they reside. Such practice restricts people's freedom of movement and makes it impossible to consider these people as free. Such obligations are unlawful. It is not a restriction of travel order because only suspects and defendants may officially be subject to such restrictions.

Some unresolved administrative issues in Ukraine hinder the protection of rights of civilians unlawfully deprived of their liberty. In particular:

- there is no unified state register of citizens unlawfully deprived of liberty;
- there is no unified methodology for estimating the number of civilians that may stay in places of forced detention;
- people who return from places of forced detention are not interviewed as required by the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment);
- criminal proceedings are not registered on all cases of unlawful detention, custody, torture or ill-treatment and the opened ones are not investigated;
- no third country represents Ukraine in the Russian Federation in consular affairs.

## **The legal framework for improving conditions of detention and release of Ukrainian civilians**

In our opinion, it is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that stipulates that prolonged and unlimited deprivation of liberty of civilians is unlawful. Both Ukraine and the Russian Federation have signed and ratified this Convention and are obliged to respect it.

Article 1 (Paragraph 1 of Article 1) of the Convention is the key article serving as the basis for the release of the civilian citizens of Ukraine: “For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.

If people who are not prisoners of war and are not charged with any crimes are long deprived of liberty for an indefinite period of time, it can be justifiably considered a form of torture for the following reasons.

Deprivation of liberty inflicts moral sufferings of various kinds. The Convention against Torture does not define what severe moral suffering is. However, the international practice gives grounds to conclude that deprivation of liberty inflicts severe moral suffering.

For prisoners of war, convicts and persons under investigation these sufferings are inherent to legal sanctions against these groups of people. However, the concept of legal

sanctions cannot be applied to Ukrainian civilians who are not prisoners of war, convicts or persons under investigation.

The Convention Relative to the Protection of Civilian Persons in Time of War (GCIV) of 12 August 1949 allows for the internment of civilians under certain circumstances. However, the Ukrainian citizens have not been officially interned to Russia. No internment orders as provided for in Article 42 of the Convention have been made, and citizens who had been abducted in Ukraine were not given the right to appeal against internment decisions under Article 43.

Article 78 of the Convention stipulates that decisions regarding internment must be made according to a regular procedure to be prescribed by the Occupying Power in accordance with this Convention. The Russian Federation has not complied with this provision. The authorities of the Russian Federation did not conduct any official internment. However, it can be presumed that the Russian authorities will insist that the Ukrainian civilians were interned. It does not relieve Russia of its obligation to release the civilians. Paragraph B of Rule 128 of Customary International Humanitarian Law establishes that, “civilian internees must be released as soon as the reasons which necessitated internment no longer exist, but at the latest as soon as possible after the close of active hostilities”.<sup>[3]</sup> Over such a long period of time, for which most civilians have been deprived of their liberty, any reasons for their internment have ceased to exist. In particular, many civilians were arrested in the communities of their residence, which have been de-occupied. There are no hostilities in the territories of these communities, so that there can be no grounds for their further detention.

In some instances, when the Russian authorities gave responses to requests about the status of unlawfully imprisoned Ukrainian civilians in 2022, they indicated “resistance to the special military operation” as a reason for their detention. The same

reason, or “resistance to the special military operation” is officially mentioned by Russian officials when they give responses on the situation of Ukrainian prisoners of war. Sometimes, Russian officials state in their responses about Ukrainian civilians that the detainees are being held in compliance with the requirements of the Geneva Convention relative to the Treatment of Prisoners of War. It is obvious that the Russian authorities make no difference between the legal statuses of the Ukrainian civilians and prisoners of war, which is a violation of international law.

In some instances, the Russian authorities indicated in their responses about the situation of Ukrainian civilians that “application of the Third Geneva Convention to the detainees is based on the content of Article 5 of this Convention”. Article 5 of the Third Geneva Convention stipulates that “The present Convention shall apply to the persons referred to in [Article 4](#) from the time they fall into the power of the enemy and until their final release and repatriation. Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in [Article 4](#), such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal”. Article 4 lists various groups of prisoners of war. Therefore, the Russian authorities claim with respect to certain civilians that they suspect these people of being associated with combatants and undertake to define their status in a court decision (a decision of a competent tribunal). We lack written responses from Russian authorities regarding all civil detainees and the legal status of these people. It can be assumed, however, that the above reason for keeping people in captivity is applied to a significant number of Ukrainian civilians. However, we have no knowledge of any court decisions in Russia that would recognise Ukrainian civilians as prisoners of war.

The following provision of Article 75(3) of Protocol I to the Geneva Conventions should be applied to civilians against whom

no court sentences exist and no criminal cases are instituted: “Any person arrested, detained or interned for actions related to the armed conflict shall be informed promptly, in a language he understands, of the reasons why these measures have been taken. Except in cases of arrest or detention for penal offences, such persons shall be released with the minimum delay possible and in any event, as soon as the circumstances justifying the arrest, detention or internment have ceased to exist”, as well as the provision of Article 50(1) of Protocol I “In case of doubt whether a person is a civilian, that person shall be considered to be a civilian”.

The notion of the “minimum delay possible” is not defined in international humanitarian law in terms of months or days. It is obvious, however, that a period of almost two years is not a minimum delay possible. Many civilians were detained back in February – March 2022, and they have not been released yet. When hostilities have long ago ceased in the territory where the civilian lived, and this person is not released, it is a manifest violation of the provision prescribing that they be released “in any event, as soon as the circumstances justifying the arrest, detention or internment have ceased to exist”. Moreover, as indicated above, Protocol I establish an obligation to interpret any doubts as to the civilian’s status to mean that this person is a civilian.

There is another aspect to be considered. According to GCIV and commentaries thereto, as internment cannot be a form of punishment and interned individuals cannot be held incommunicado. There is a general presumption that family contacts should be facilitated/allowed within reasonable terms (this principle is outlined in Articles 106, 107 and 116 of GCIV).

Therefore, the actions of the Russian Federation aimed at prolonged unlawful deprivation of liberty of Ukrainian civilians for an indefinite period of time can be regarded as compliant with the concept of ill-treatment and constitute sufficient reasons for an appeal against the Russian Federation for violation of the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Torture or inhuman treatment; unlawful deportation or transfer (also provided by Art. 85(4a) of GCII); unlawful confinement of a protected person, i.e. typical violations by Russia of the rights of the civilian population of Ukraine, are classified by Art. 147 of GCIV as “grave breaches” and are equal to war crimes under Article 85(5) of API.

Ukrainians are detained in the Russian Federation and in occupied territories in extremely harsh conditions.

Both civilians and war prisoners are detained in prison-like conditions, in closed cells, with one-hour yard time each day at best. All the civilians who returned to Ukraine, without any exception, confirm being detained in such conditions. Oxygen and sensory deprivation, as well as deteriorating health and mental health, inflict additional suffering. Furthermore, health care is virtually non-existent and nutrition is inappropriate during detention, which results in significant loss of weight.

The general rules of international humanitarian law (IHL) also prescribe that civilians deprived of liberty be held in premises located far from areas of hostilities and securing health care and hygiene (Art. 83 of GCIV). In each case, whether it be internment/appointment of a place of residence for security reasons or detention/imprisonment due to criminal proceedings, such persons must be treated humanely: they must be provided with enough food, water, clothes and medicines (Articles 76, 85, 87, 89-92 and 147 of GCIV).

Those Russian citizens who commit crimes against Ukrainians deprived of liberty are beyond the reach of the Ukrainian legal system and the legal systems of other countries. These people will not be detained and put on trial in the near future. However, criminal cases instituted against them will play the role of deterrent, i.e. discourage these people and their



colleagues from committing new crimes. The aggression of Russia against Ukraine, international condemnation of this aggression and sanctions against Russia have significantly reduced certainty and stability for the Russians and their confidence in the future. The Russian war criminals can be held liable both if the political regime changes in Russia and, before that, if these criminals are caught up outside Russia. These international crimes have no statute of limitations and therefore, their prosecution will continue for the rest of their lives.

The International Convention for the Protection of All Persons from Enforced Disappearance gives additional legal reasons for the release of civilians. Ukraine ratified this Convention in 2015, but in fact, did not apply it. The absolute majority of civilians whom Russia holds in places of forced detention should be considered victims of enforced disappearances: “For the purposes of this Convention, “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” (Art. 2). Russia does not report all instances of detention of civilians and refuses to provide information on whereabouts of civilians even to their close relatives whenever they become aware of the fact that an individual is detained in the occupied territories or in Russia. Concealing the whereabouts or absence of communication will be sufficient for recognizing a person as a victim of enforced disappearance.

Countries, which signed and ratified the Convention, must comply with its provisions. There are 72 such countries around the world. The Russian Federation is not a party to the Convention, nor it intends to comply with its provisions. However, countries that are parties to the Convention may prosecute the Russian citizens who

violate the Convention (the military, employees of the Federal Penitentiary Service and other officials). An important condition for such prosecution is the institution of criminal proceedings against the guilty individuals by the Ukrainian law enforcement agencies.

In addition to all mentioned above, the states that respect human rights can use the universal jurisdiction principle to prosecute the Russian officials who are guilty of unlawful deprivation of liberty of civilians.

### **How to help them to live to see freedom**

In this area, the Ukrainian state and civil society, as well as foreign states with the high observance of human rights should pursue the goal of ending torture and ill-treatment and securing enough food and necessary medical care for the Ukrainian civilians held by the Russian Federation.

This goal can be achieved by establishing several groups of negative incentives—legal, diplomatic, economic, and humanitarian ones—to create the environment for releasing civilians without any conditions or exchanges.

What should be done?

Actions of legal pressure.

People under whose supervision or with whose direct participation torture of prisoners of war and civilians occur (occurred) should be identified and criminal proceedings against such people should be subsequently registered. Senior officials of pre-trial detention centres and other places of enforced detention in Russia and in temporarily occupied territories who are responsible for unlawful custody of civilians should also be identified.

Criminal prosecution of these individuals should be instituted in the countries who will agree to do so under the principle of universal jurisdiction.

Criminal prosecution of Russian officials responsible for the unlawful detention of civilians should be instituted under the International Convention for the Protection of All Persons from Enforced Disappearance.

Conditions should be created enabling the International Criminal Court to issue warrants against one or several Russian officials for unlawful deprivation of liberty of civilians.

A comprehensive package of additional actions should be developed to create a deterrent effect, i.e. awareness among the Russian officials of the fact that they can be punished for their actions in future, for example, when the political situation in Russia changes.

#### Diplomatic actions

An appeal should be drafted and submitted to the competent UN bodies requesting to intensify the activities of the UN Special Rapporteur on enforced disappearances, their active cooperation with the UN Special Rapporteurs on torture, and Special Rapporteurs on the situation of human rights in the Russian Federation and Belarus. The release of the Ukrainian civilians who are victims of enforced disappearances should also be put on the agenda of the annual meeting of the Special Rapporteurs in Geneva.

Support should be provided to promote the submission of numerous well-founded appeals to the UN Committee against Torture and the UN Committee on Enforced Disappearances, as well as other UN bodies, against violations by Russia of the respective international conventions.

Communication should be launched with the donors (states, international organizations and private entities) of the International Committee of the Red Cross to encourage ICRC to fulfil its mandate and protect the Ukrainian civilians, their lives and health in Russia and in the occupied territories. The following areas can be the subject of discussions with the ICRC donors.

- Wider ICRC's interaction with other humanitarian missions and international organizations to secure the rights of Ukrainian citizens protected by Geneva Convention (IV) and Additional Protocol (I).
- Mobilisation of institutional resources to make ICRC more active in visiting all places of forced detention in Russia and the occupied territories in order to find all the detained Ukrainian civilians and ensure that these people can communicate with their relatives.
- Wider use of OSINT techniques by the ICRC experts to search for, verify and establish the whereabouts of the civilian citizens of Ukraine who are unlawfully detained by the aggressor state in the temporarily occupied territories and in the territory of Russia.
- Opportunities for restructuring the ICRC budget to take more vigorous steps in order to solve the problems of the detained citizens of Ukraine as victims of one of the most large-scale modern armed conflicts.

As a first step, a statement can be forwarded to ICRC donors, which would outline the facts of ICRC's failure to fulfil its obligations towards Ukrainian civilians and war prisoners, as well as the relatives of these people and request them to launch communication with the ICRC to encourage the International Committee of the Red Cross to intensify its search for and identification of Ukrainians who stay in the Russian Federation and are deprived of liberty.

## Actions of economic pressure

Intensifying dialogue with countries where human rights are strongly respected in order to introduce a special package of international sanctions against the officials of the Russian Federation guilty of unlawful deprivation of liberty of Ukrainian civilians. These sanctions should be incentivising by their nature so that they could be lifted if civilians are released. Ukraine also should introduce this package of sanctions. These sanctions should target, in particular, the Russian officials responsible for the unlawful deprivation of liberty of civilians (heads of detention facilities and senior management of the Federal Penitentiary Service and the Military Police of the Ministry of Defence of the Russian Federation) and falsification of criminal cases against Ukrainian civilians (investigators, prosecutors and judges).

Use of the Global Magnitsky Sanctions framework to impose sanctions on the Russian officials responsible for the unlawful deprivation of liberty of citizens. This framework makes it possible to apply such sanctions pretty quickly, should there be sufficient evidence for that.

## Actions of humanitarian pressure

The widest possible spectrum of groups capable of exerting influence on the Russian leadership should be involved in the process of releasing all the unlawfully detained civilian citizens of Ukraine. These include, in particular, transnational corporations, World Bank Group, religious associations (the Russian Islamic Ummah, the Autonomous Monastic State of the Holy Mountain and others) and international culture foundations.

Civil society organizations should be approached with a proposal to bring the problems that the Ukrainian citizens face into the focus of global attention through an international awareness campaign. Possible ways include collecting signatures and drafting a petition to the UN General Assembly, empowered to review petitions from non-governmental organizations.

Media and social media coverage of instances where criminal proceeding is instituted against officials of detention places in the Russian Federation, primarily targeting the Russian audiences and countries that share borders with Russia.

### **How to release them**

In this area, the Ukrainian state and civil society and countries where human rights are strongly respected should pursue the goal of releasing all the civilians detained by the Russian Federation without any conditions and exchanges and in compliance with the rules of the international humanitarian law.

The implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should become the primary method of releasing civilians.

Activities in this area directly imply the proper release of the Ukrainian civilians either as result of diplomatic pressure on the Russian Federation or based on a decision of an international tribunal.

What should be done?

Diplomatic actions:

1. A competent state authority of Ukraine should present a notice to the Russian Federation stating that it fails to comply with the provisions of the Convention against Torture.
2. Should the Russian Federation refuse to comply with the Convention's requirements within three months after Ukraine submitted its statement on non-compliance with the Convention against Torture, Ukraine will submit the matter to arbitration under Article 30(1) of the Convention.
3. Should there be no possibility to agree with Russia on arbitration procedure, Ukraine will file a claim against the Russian Federation to the International Court of Justice.

Ukraine should require that the ICJ approve a decision that all the civilians be released as an interim measure until the court finally decides on the matter.

Judgments rendered or rulings approved by the Court in any case are binding on the states that are parties to the dispute (Chapter XIV, Art. 94.1 of the UN Charter) and they are final and without appeal (Article 60 of the ICJ Statute).

Nobody can guarantee that the International Court of Justice will render a decision to release the civilians. However, Ukraine's recourse to this Court is an important element of pressure on Russia aimed at releasing these people.

#### Actions of legal pressure:

Appealing against the unlawful practice of Russia to impose obligations of not leaving the settlement/region of residence on those civilians who have been released from places of forced detention in the occupied territories because of complaints from lawyers or for other reasons.

#### Organizational measures:

Arranging for the monitoring by the state and civil society of instances of detention and deprivation of liberty, which are unlawful even according to the Russian legislation (for example, prolonged detention in the basements of police departments) and immediate reaction to each such case depending on its specifics.

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<sup>[1]</sup> Crimes committed in the period of the full-scale invasion of the Russian Federation (as of 29 December 2023). Office of the Prosecutor General <https://www.gp.gov.ua/>

<sup>[2]</sup> Detention of civilians in the context of the armed attack by the Russian Federation against Ukraine. 24 February 2022 – 23 May 2023. 27 June 2023// OHCHR. <https://www.ohchr.org/sites/default/files/2023-06/2023-06-27-Ukraine-thematic-report-detention-ENG.pdf> P. 8.

<sup>[3]</sup> Customary International Humanitarian Law. Rules. International Committee of the Red Cross. [https://www.icrc.org/en/doc/assets/files/other/ukr-irrc\\_857\\_henckaerts.pdf](https://www.icrc.org/en/doc/assets/files/other/ukr-irrc_857_henckaerts.pdf)