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## PRIORITY STEPS

### on human rights protection during the full-scale military aggression in 2024

Russian aggression against Ukraine began with the occupation of Crimea in 2014 and has lasted for ten years. The last two years have been marked by widespread destruction and civilian losses throughout Ukraine. There are tens of thousands of dead and wounded, and millions of people forcibly displaced from their homes across Ukraine and abroad. Parts of Kharkiv, Kherson, Zaporizhzhia, Mykolaiv, Donetsk, and Luhansk Regions, the Autonomous Republic of Crimea, and Sevastopol are all under occupation.

We, as a coalition of civil society organizations have been advocating for the rights of victims of this armed conflict for all these years. We have a consolidated position on the priority steps recommended to the Ukrainian State during the full-scale military aggression against Ukraine in 2024. Implementation of these recommendations will create a basis for bringing war criminals to justice, improving the protection of victims (including internally displaced persons [IDPs]), reducing social tensions over the prosecution of crimes committed during temporary occupation, increasing transparency in decision-making on individual criminal responsibility for war crimes, and more.

#### TO THE PARLIAMENT OF UKRAINE:

**1 Ratify the Rome Statute of the International Criminal Court (ICC) and harmonize national criminal legislation with international law.** This action will boost the national system's potential to investigate and prosecute the most serious international crimes. After ratifying the Rome Statute, Ukraine will receive the right to nominate its citizens to participate in electing the ICC Prosecutor, the Head of the Office, and judges, all those who contribute to the developing resolutions aimed at developing and strengthening the work of the ICC; to vote during the Assembly of States Parties to the Rome Statute; and, to work on amendments to the Rome Statute, particularly on the crime of aggression. Ukraine will also receive technical assistance from other countries participating in the ICC Assembly to strengthen its national capacity. Today, Ukraine is still the site of mass war crimes. Yet, until the Rome Statute is ratified, Ukraine will not become a full-fledged member of the ICC, an effective mechanism for prosecuting the most serious international crimes.

1 The Coalition consists of the ZMINA Human Rights Center, NGO «Donbas SOS», NGO «Crimea SOS», CF «Right to Protection», CF «Vostok-SOS», NGO «Public Holding «GROUP OF INFLUENCE», CF «Stabilization Support Services», Crimean Human Rights Group.

- 2 Establish an administrative (i.e., out-of-court) procedure for recognizing civil status acts committed in the temporarily occupied territories of Ukraine (TOT).** These procedures include birth, death, marriage, and divorce certificates. A simplified judicial procedure has now been introduced for considering cases of births and deaths that occurred in occupied territories. However, this action is not enough to ensure the registration of civil status acts that have occurred in the TOT, especially after the commencement of full-scale military aggression.<sup>2</sup> The Verkhovna Rada of Ukraine has registered draft law № [9069](#) establishing an administrative procedure for recognizing civil status acts in the TOT. However, the draft still needs to be reviewed by the relevant parliamentary committee. Adopting this draft law will empower those under occupation to receive state-issued documents and gain access to their rights.
- 3 Identify categories of people affected by the military aggression against Ukraine in order to support and protect them fully.** The international armed conflict that has been ongoing since 2014 has resulted in a significant number of civilian victims: killed or wounded persons, missing persons, prisoners of war, internally and externally displaced persons, and deportees. Since the beginning of the full-scale military aggression, the number of victims has increased significantly. The number of people affected by international crimes and gross violations of human rights is difficult to estimate. Despite the prolonged armed conflict and hundreds of thousands of victims, Ukrainian legislation does not define victims of armed conflict. The lack of a strategic state vision has prevented the introduction of a comprehensive system of registration, support, and assistance to victims. This system should be based on assessing the damage caused to each victim and a flexible approach to compensation. In 2022-2023, at the international level, important documents on the future compensation of damages caused by the armed aggression against Ukraine were adopted. The International Register of Damages Caused by the Russian Aggression Against Ukraine was also created under the auspices of the Council of Europe. At the national level, however, it is crucial to define the categories of war victims and establish a system for recording the damage caused to the lives and health of victims.
- 4 Expand the mechanism of compensation for property destroyed or damaged as a result of military aggression against Ukraine.** In February 2023, Ukraine adopted Law [2923-IX](#) «On Compensation for Damage and Destruction of Certain Categories of Property as a Result of Russian Military Aggression Against Ukraine». The Law compensates for the destruction (or damage) of certain categories of property due to military aggression since February 24, 2022. Therefore, owners whose property was destroyed (or damaged) before that date cannot claim compensation under this law. However, according to the procedure established before the full-scale invasion, not all owners could receive compensation from the government. In addition, the Law excludes compensation for properties in the TOT, as of February 24, 2022. The discriminatory nature of this approach prevents many people from receiving fair compensation for the destruction (or damage) of their housing as a result of military aggression. Thus, the provisions of the Law should be amended to extend the scope of the new compensation mechanism to those whose residential property was destroyed or damaged as a result of the Russian military aggression since 2014 or was located in the TOT as of February 24, 2022.
- 5 Move from point solutions to comprehensive, long-term, and coordinated solutions at the level of the executive branch to ensure the rights of IDPs.** The Law of Ukraine «On Ensuring the Rights and Freedoms of Internally Displaced Persons» was adopted in October 2014. This Law has been amended and supplemented several times. Since February 24, 2022, at least nine draft laws amending this Law have been registered in the Parliament. Some of these drafts are not in line with the already implemented state policy on internal displacement, lack financial justification, and may lead to an artificial increase in the number of IDPs and exacerbate the difficult living conditions of vulnerable groups. Some of the draft laws propose targeted changes in response to urgent problems, including the provision of housing

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2 For example, by the end of September 2023, at least five thousand children from TOT obtained state-issued birth certificates through a court procedure.

assistance. Such initiatives are valuable, but these drafts do not comprehensively respond to the challenges that have arisen since the start of the full-scale Russian invasion and have been influencing the state policy on internal displacement. Therefore, the registration and consideration of a new version of the Law of Ukraine «On Ensuring the Rights and Freedoms of Internally Displaced Persons» is crucial.

- 6 Amend the Criminal Code of Ukraine to ensure compliance with the principle of legal certainty in the prosecution of collaborators.** In spring 2022, the Criminal Code of Ukraine was supplemented with new crimes: «collaboration» (Article 111<sup>1</sup>), and «aiding and abetting the aggressor state» (Article 111<sup>2</sup>). However, the introduction of these norms has led to difficulties in distinguishing them from other crimes, including high treason (Article 111), justification, recognition as lawful, and/or denial of the Russian military aggression against Ukraine and glorification of its participants (Article 436<sup>2</sup>). Analysis of the investigative and judicial practice of applying these articles also [shows](#) that there is a need for clear criteria for distinguishing between the elements of these acts, which creates problems of double qualification and violates the principle of legal certainty. The current wording creates the basis for law enforcement officials to use excessive discretion in qualifying acts and for citizens to perpetuate misunderstandings about the limits of permissible activities in the occupied territory. Since March 2022, twelve draft laws on amendments to Article 111<sup>1</sup> of the Criminal Code of Ukraine have been submitted to Parliament, which is proof of the imperfection and the need to revise the law. Despite the importance of the amendments, there has not yet been a thorough discussion of this issue in Parliament.

## TO THE CABINET OF MINISTERS OF UKRAINE:

- 7 Create conditions for effective implementation of the mechanism for recognizing learning outcomes for TOT residents.** On March 24, 2024, Law [№ 3482-IX](#) will be adopted, and will introduce a procedure for recognizing the learning achievements of TOT residents. Under the Law, young people from the TOT will be able to undergo an assessment and confirm their knowledge and skills, or enter Ukrainian educational institutions for a shorter period of study. For the full implementation of the procedure, it is necessary to quickly adopt the bylaws required by this law, e.g., to determine the procedure for recognition of learning outcomes. If there is no additional regulation or communication on the procedure, those who want to confirm their knowledge and skills, including in specialties that are currently in demand in government-controlled areas (namely, medical and veterinary), will not be able to use the procedure for recognizing learning outcomes.
- 8 Ensure full implementation of the Law of Ukraine «On Social and Legal Protection of Persons Deprived of Personal Freedom as a Result of Armed Aggression against Ukraine and Members of Their Families».** Based on information from human rights organizations, as of January 2024, Russia has illegally detained at least 200 Ukrainian citizens in occupied Crimea and on Russian territory for political reasons. Furthermore, after the start of the full-scale invasion, Crimea became a place of detention for people abducted from territories occupied after February 24, 2022 (particularly, the Kherson and Zaporizhzhia Regions). In the Russian-occupied territories of Donetsk and Luhansk Regions, thousands of civilians have been deprived of their liberty for pro-Ukrainian positions. On November 19, 2022, the Law of Ukraine «On Social and Legal Protection of Persons Deprived of Personal Freedom as a Result of Armed Aggression against Ukraine and Members of Their Families», adopted in January 2022, came into force. The Law defines the legal status of civilians and military personnel whose detention is a result of armed aggression, and is intended to provide them and their families with legal protection and assistance. However, [analysis](#) of the Law's implementation shows that former prisoners of war currently have limited access to adequate medical and rehabilitation care, as well as temporary housing, which is crucial for those released from captivity.

- 9 Ensure the payment of pensions to IDPs on a general basis and social assistance to the most vulnerable groups.** Since 2014, the Government of Ukraine has begun to differentiate its approach to pension payments to IDPs and other Ukrainian citizens residing in government-controlled territory. Additional restrictive requirements were introduced for IDPs (e.g., periodic identification, limiting bank choice to JSC Oschadbank, and other forms of termination of pension payments not defined by law). Instead, access to pensions was simplified for persons displaced after February 24, 2022. In light of the Government of Ukraine's approach, it is also essential to continue to lift restrictive legal provisions on the payment of pensions to IDPs before the full-scale invasion and to ensure that their pension debts are paid in full. In addition, efforts need to be intensified to ensure that IDPs receive adequate housing allowances. The assistance should be terminated only after programs to improve IDPs' economic independence and housing conditions have been implemented. Attention should also be paid to accessible and timely communication of government decisions on the criteria for granting assistance.
- 10 Provide accommodations for evacuees with limited mobility (specifically, people with disabilities and older adults).** During the full-scale military aggression against Ukraine, there has been an urgent need to create conditions for the evacuation of civilians from areas near the combat zone and the TOT. Charitable foundations and civil society organizations are currently working to find and prepare premises for the evacuation of people with disabilities and older adults. Regional military administrations report a shortage or lack of facilities. Therefore, it is critical to prepare facilities and staff for the ongoing care of older adults and persons with disabilities who have been evacuated from the war zone, and ensure access to these facilities for those evacuees from areas of hostilities.
- 11 Identify a state strategy for restoring state authority and reintegrating the population of de-occupied territories of Ukraine.** The occupation of some parts of Ukraine has lasted for more than a decade. Yet, no national policy has been developed to ensure the effective restoration of state institutions in territories under prolonged occupation, or the reintegration of the population of de-occupied territories; i.e., a system of governmental actions aimed at creating a regulatory framework before de-occupation, so that inhabitants of the TOT and other parts of Ukraine clearly understand their future after the liberation of territories under Russian occupation. The state must determine its policy on documents (e.g., court decisions, property documents, etc.) issued in the TOT after the liberation of the TOT; whether lustration measures will be introduced; and, how the social, educational, and medical systems will function in liberated territories. There is a current need for coordinated state action on the activities of public authorities and reintegration measures in Ukraine's de-occupied territories. Such actions should consider the consequences from the prolonged occupation of a part of Ukraine's territory (the Autonomous Republic of Crimea, the city of Sevastopol, and certain districts in the Donetsk and Luhansk Regions).