

2024 OSCE WARSAW HUMAN DIMENSION CONFERENCE

STATEMENT FOR THE PLENARY SESSION 1: INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN LAW (1 October 2024)

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Statement by Helsinki Foundation for Human Rights (HFHR) on access to justice for victims and survivors of international crimes committed during the war in Ukraine

HFHR is concerned that refugees from Ukraine, who are victims and survivors of violations of international law committed in the context of the ongoing war, are facing obstacles to access comprehensive justice mechanisms, including rehabilitation support to address the consequences of the suffered harm.

Ukraine and other OSCE participating States have launched multiple—and unprecedentedly expansive—efforts to investigate and prosecute these crimes. However, the focus on criminal prosecution of the perpetrators might overlook the immediate needs and perspectives of the victims and survivors. Accountability should go beyond criminal responsibility to encompass a comprehensive approach to justice that is sensitive to the needs and suffering of the survivors. It is encouraging that governments throughout the OSCE region, with the support of the government of Ukraine, are exploring how funds can be raised globally to finance reparation.

In the meantime, it is critical to ensure rapid delivery of medical, psychological and social services to address the suffering of the victims and survivors – irrespectively of whether they reside in Ukraine or are forcibly displaced outside the country.

Based on HFHR's work with victims and survivors in Poland¹, we are concerned that OSCE participating States hosting refugees from Ukraine often lack mechanisms to identify most vulnerable individuals, who were subjected to gross violations of international human rights law and serious violations of international humanitarian law. These violations include torture, sexual violence and enforced disappearances. As a result, victims and survivors struggle to access support services designed to help them restore, as much as it is possible, their physical, mental and social ability, as well as their full inclusion and participation in society.

Recommendation to Poland and other OSCE participating States

- OSCE participating States should continue supporting and further strengthening the capacity of domestic legal systems and international justice mechanisms to investigate international crimes.
- At the same time, OSCE participating States hosting refugees from Ukraine should urgently adopt policies to enable victims and survivors of serious violations of international law, including

¹ For more information about the situation of refugee victims and survivors in Poland, see the report of Helsinki Foundation for Human Rights: [In Search of Justice. The rights of victims and survivors of serious violations of international law committed during the full-scale aggression of the Russian Federation against Ukraine](#) published in June 2024.

torture, to access justice and comprehensive rehabilitation, as defined by the UN Convention against Torture.

Background information of HFHR work in Poland

In Poland, where nearly one million refugees from Ukraine reside, refugees who were subjected to serious violations of international law are often unable to seek justice and redress in Ukraine - because of severe trauma, ongoing hostilities in their home towns and villages and other factors obstructing their safe and voluntary return. In 2022, the Polish prosecutor's office initiated criminal proceedings concerning the Russian Federation's war of aggression against Ukraine and war crimes committed during the war.

By 2024, over 2000 victims and witnesses were interviewed by the Polish prosecutor's office. Furthermore, civil society groups collectively documented accounts of around 3000 people.² These numbers are likely a fraction of the overall number of all victims and survivors based in Poland. It is worth noting that, to ensure effective communication with witnesses and survivors, the prosecutor's office in Poland coordinates outreach activities with civil society organizations engaged in documentation of violations of international law committed in Ukraine.

Meanwhile, Poland's investigation is limited to supporting investigations carried out in Ukraine, at the International Criminal Court, and in European states. The gaps in national policy and legislation limit the scope of the investigation carried out in Poland and prevent victims and survivors from seeking justice before Polish courts. These gaps, among others are related to:

- definitions of international crimes in the Criminal Code, including, among others, the lack of definition of torture as a separate and specific crime as defined in the Statute of the International Criminal Court (ICC) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); inadequate definition of rape, which does not take into account all the violations listed in Article 7 of the Statute of the ICC; and lack of criminalization of enforced disappearances to ensure consistency with the Article 7 of the Statute of the ICC;
- lack of policy and guidance enabling the justice system to exercise universal jurisdiction and other forms of extraterritorial jurisdiction;
- and insufficient capacity and resources of the prosecutor's office and law enforcement agencies, including lack of a dedicated team responsible for investigations of international crimes; development of a strategy on prosecution of international crimes in Poland, supported by allocation of human and financial resources.

Furthermore, Poland has no mechanism to identify most vulnerable persons subjected to gross violations of international human rights law and serious violations of international humanitarian law and set up a common referral mechanism to ensure their protection and rehabilitation, including (but not limited to) victims of torture, survivors of sexual violence and families of the missing

² Helsinki Foundation for Human Rights, [In Search of Justice. The rights of victims and survivors of serious violations of international law committed during the full-scale aggression of the Russian Federation against Ukraine](#), June 2024; [Opora in Poland](#).

persons. Rehabilitation services are crucial for restoring, as far as possible their physical, mental and social ability, as well as their full inclusion and participation in society. It must be noted that the problem affects equally Polish citizens, who were subjected to international crimes, including torture.