



EUROPEAN UNION

OSCE Permanent Council No. 1470 Vienna, 25 April 2024

EU statement on the OSCE Moscow Mechanism report regarding the arbitrary deprivation of liberty of Ukrainian civilians by the Russian Federation as part of Russia's war of aggression against Ukraine

1. The European Union welcomes Prof. Dr. Veronika Bílková, Dr. Cecilie Hellestveit and Dr. Elina Šteinerte and thanks them for their comprehensive report in accordance with the OSCE Moscow Mechanism. The Mechanism was invoked by 45 participating States, including all EU Member States, in light of our continued grave concerns over violations and abuses of human rights and violations of international humanitarian law (IHL), international human rights law (IHRL) and relevant OSCE commitments, including war crimes, as well as alleged crimes against humanity. All this applies in particular to the arbitrary detention of civilians as part of Russia's illegal, unprovoked and unjustifiable war of aggression against Ukraine, supported by Belarus, which we condemn in the strongest terms.
2. We thank the experts for their impartial assessment and Ukraine for its invitation and facilitation of this immense task for the fourth time since February 2022. We also appreciate ODIHR's technical assistance to the Mission.
3. The Mission established that since 2014, a large number of Ukrainian civilians have been arbitrarily deprived of liberty by the Russian Federation – acting directly through its organs or through its proxies in the occupied areas of Donetsk and Luhansk oblasts, and that this number can be measured in the thousands.
4. According to the report, since 24 February 2022, arbitrary detentions have become a pervasive practice in all the Ukrainian territories temporarily occupied by the Russian Federation. The overall scheme of detaining large numbers of Ukrainian civilians both in the initial and prolonged stages of the temporary occupation remains constant and

appears to be a defining feature of the Russian Federation's policy in Ukraine's temporarily and illegally occupied territories.

5. The Mission concluded that the vast majority of detained civilians were never informed about the grounds for their detention, nor did they have the possibility to challenge its lawfulness. International fair trial guarantees have not been upheld in criminal prosecutions. The Russian authorities consistently fail to fulfil the information obligations stemming from the Geneva Convention IV and the Additional Protocol I (API). There are no special guarantees to persons in vulnerable situations, such as children or persons with disabilities, or for persons enjoying privileges and immunities under international law. Russia continues to blatantly disrespect the special status of the three SMM staff members, who have been arbitrarily detained for two years now.
6. The Mission has further established that arbitrary detention has been conducive to other serious violations, including torture and other cruel, inhuman or degrading treatment or punishment, sexual violence and other forms of ill-treatment. The Mission has also recorded cases of extrajudicial killings.
7. The Mission concluded that the vast majority of the instances of detentions either do not meet the lawful grounds for detention foreseen by IHL and IHRL, or do not meet the procedural guarantees imposed by the two bodies of law, or both. As such, they amount to arbitrary deprivation of liberty under both IHL and IHRL.
8. The Mission also concluded that there are reasonable grounds to believe that both the war crime of "unlawful confinement" and the crime against humanity consisting of "imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law" have been committed by individuals involved in the arbitrary deprivation of liberty of Ukrainian civilians, including members of the Russian Armed Forces or occupying de facto authorities.
9. The perpetrators must and will be held accountable according to international law. The OSCE Moscow Mechanism reports are an essential contribution to an initial collection and analysis of facts with a view to present them to accountability mechanisms that have, or may have in the future, jurisdiction. It rests upon participating States and the wider international community to ensure the necessary follow-up, including through the further use of OSCE tools and mechanisms.

10. We call on Russia to uphold international law and to comply with its international commitments, including to implement without delay the recommendations of the report, first and foremost by immediately and unconditionally releasing all arbitrarily detained civilians, including the three SMM staff members. Russia must also ensure immediate access for the ICRC to all detention facilities where civilians are being held.

11. We once again demand that Russia immediately stop its war of aggression against Ukraine and immediately, completely and unconditionally withdraw its military forces and equipment from the entire territory of Ukraine. We insist that the Belarusian authorities stop enabling Russia's war of aggression against Ukraine, cease providing support to Russia, and abide by their international obligations.

The Candidate Countries NORTH MACEDONIA*, MONTENEGRO*, ALBANIA*, UKRAINE, the REPUBLIC OF MOLDOVA, BOSNIA and HERZEGOVINA*, and GEORGIA, the EFTA countries ICELAND and LIECHTENSTEIN, members of the European Economic Area, as well as ANDORRA, MONACO and SAN MARINO align themselves with this statement.

* North Macedonia, Montenegro, Albania, and Bosnia and Herzegovina continue to be part of the Stabilisation and Association Process.