Opening Statement of the Ukrainian

Parliament Commissioner for Human Rights

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In 2022, the country lived in peace and with the quarantine restrictions caused by COVID-19 pandemic for less than 2 months. The martial law has been in effect in Ukraine since 05:30 on 24 February 2022[1]. The mass missile attack all over Ukraine had already been launched then, and the military machines started moving from the border areas of the Russian Federation and the Republic of Belarus in breach of the state borders of Ukraine. This date marks the beginning of the period when the Ministry of Foreign Affairs of Ukraine informed the UN Secretary-General and foreign officials of the limitation of human and civil rights and freedoms and derogation from the obligations under the International Covenant on Civil and Political Rights.

The full-scale invasion into Ukraine by the Russian Federation continued the military aggression commenced in February 2014 by invading the territory of the Autonomous Republic of Crimea and city of Sevastopol, and the Donetsk and Luhansk Oblasts. The Russian Federation declared the war against the western world, a part of which Ukraine had been striving to become since the Revolution of Dignity.

The Russian Federation perceived 8 years of the democratic world's attempts to pacify the aggressor as weakness and started the broad-scale invasion. The events in Ukraine in February 2022 caused global disturbances and challenges not only for our country, but also for the entire humanity. The shooting heard in Kyiv on the very first day of the attack echoed on all the continents. When it doubted the existence of the Ukrainian state and denied its independence and sovereignty, the Russian Federation violated the fundamental principles of the United Nations Charter[2] and distorted the entire system of international security and international law.

The Security Council as one of the principal bodies in the UN system was not capable to offer efficient mechanisms for response that would be able to stop the unjustified armed aggression against Ukraine as the Russian Federation had veto powers. The United Nations Security Council is responsible for maintaining international peace and security.

The Russian Federation committed the crime of aggression against Ukraine in 2014 when it occupied the Autonomous Republic of Crimea and city of Sevastopol. Almost 9 years later, the armed aggression increased in its scale and caused the most massive displacement of the population since World War II. As they fled the hostilities, millions of Ukrainians became internally displaced persons or refugees forced to leave Ukraine and seek temporary shelter. In total, according to the UNHCR[3], more than 7 million Ukrainian citizens have left abroad since the beginning of the full-scale invasion of Ukraine by the RF. More than 3.3 million have been granted the temporary protection status in the EU countries. Around 8 million people have become internally displaced persons who moved from the combat zone and temporarily occupied territories into safer regions of Ukraine.

Commitment of international crimes in Ukraine by the RF has turned into the practice and deliberate

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tactics of the Russian political and military leaders. The Russian military and units violate the rules of international humanitarian law in all the Ukrainian territories that were and still are controlled by them. Such violations include indiscriminate attacks against civilians, extrajudicial executions, use of prohibited weapons against civilians, cruel treatment of prisoners of war and taking civilians hostage[4]. The cases of execution of prisoners of war and killing of civilian hostages held in the detention facilities have been registered.

The facilities protected by IHL are also attacked: schools and kindergartens, hospitals and maternity houses, evacuation and medical transport as well as emergency service vehicles.

The Russian Federation has restricted the possibility of evacuation of civilians to the territories controlled by the Ukrainian government and has introduced the criminal practice of 'filtration camps'[5]. Humanitarian access and access of victims to the humanitarian assistance in the territories of Ukraine controlled by the Russian military has been fully ceased, which has entailed deaths as a result of diseases, famine and poverty.

International law also provides for respect for the deceased and possibility of families to know circumstances of the death and to bury the deceased. The Russian Federation has violated these duties by destroying the evidence of its war crimes, and has not registered the circumstances and facts of the people dying under the debris of the collapsed buildings and as a result of indiscriminate shelling. The bright example is burning the remains of the ruined buildings together with the fragments of bodies of the deceased at the disposal field in occupied Mariupol[6], anonymous mass graves without any identification, and ban on burial of the deceased by their families and relatives.

As of the end of 2022, the Prosecutor General's Office of Ukraine registered 62,041 crimes of aggression and war crimes[7].

The civilians and critical civilian infrastructural facilities have turned into the principal targets in the war. Thousands of civilians have been killed by the Russian shelling and violence committed by the Russian military. From 24 February 2022 to 5 February 2023, the Office of the UN High Commissioner for Human Rights recorded 18,817 civilian casualties in Ukraine: 7,155 killed and 11,662 injured[8]. More than 1,300 of the victims in Ukraine are children, including those killed and injured to a different extent. Thousands of citizens died in the battles while defending the country in the Armed Forces of Ukraine or other paramilitary units.

Millions of people have been affected by the armed aggression against Ukraine. The war has left hundreds of thousands families homeless and ruined entire cities. The bombarding and shelling by the armed forces of the RF have damaged 3,126 education institutions, including 337 that were completely ruined[9]. More than 1,159 cultural heritage facilities in Ukraine have been severely damaged or destroyed by the military of the Russian Federation[10], including 305 religious facilities. Around 350 sports facilities have been destroyed or ruined, and around 140,000 athletes are unable to train.

Since the onset of the full-scale military aggression of the Russian Federation, the prosecutors have registered 171 facts of conflict-related sexual violence, including such types of violence as rape, genital injuries or violence, forced stripping, threats and attempts of rape, coercion to see sexual violence against close persons etc. The youngest victim of conflict-related sexual violence was 4.

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The Russian Federation commits terrible crimes, including the ones that have attributes of genocide[11]. Deportation of the Ukrainian children and their forced transfer to another national group is one of these attributes; according to the National Information Bureau[12], 13,867 cases of children's deportation were registered as of 31 December 2022. These numbers are not final since the work is under way to establish them in the combat zone, temporarily occupied and deoccupied territories.

In 2022, the matter of illegally detained civilians (civilian hostages) as well as the persons missing due to special circumstances and their family members in the context of the armed aggression against Ukraine gained critical importance. It is one of the civilian categories that is most difficult to protect because restoration of their rights directly depends on respect of the rules of international law of the Russian Federation: it is expressly and unconditionally prohibited to imprison civilians, who shall be immediately released. The Russian Federation intimidates the civilian population in occupation and instils the atmosphere of fear in the occupied territories by making the civil opposition movement impossible. Civilian hostages[13] are representatives of the local self-government bodies, civil activists and volunteers, businessmen and journalists, veterans and participants of hostilities as well as proactive residents of communities.

On 16 September 2022, the Russian Federation ultimately withdraw from the European Convention for the Protection of Human Rights and Fundamental Freedoms. It resulted in Russia being expelled from the Council of Europe[14]. The European Court of Human Rights (ECHR) has retained its competence to consider applications against the Russian Federation regarding its actions or omission in possible violation of the Convention provided that it occurred before 16 September 2022. However, the Parliament of the RF ruled in June that Russia would not enforce those judgements of the ECHR[15].

According to the official website, more than 16 thousand cases against Russia are pending in the ECHR[16], including almost 3,700 individual actions associated with the events in Crimea and hostilities in the east of Ukraine as well as large-scale inter-state actions from Ukraine against Russia[17].

Despite the difficulties associated with enforcement of the judgements of the ECHR and lack of the enforcement mechanism, the positive judgements of the ECHR against the Russian Federation can be used as evidence in other international and national courts and authorities. It will materially impact hearing of cases in the UN court, international arbitration tribunals and investigation of international crimes.

The International Criminal Court is investigating 3 types of crimes in Ukraine, which do not require ratification of the Rome Statute of the ICC by the Russian Federation or resolutions of the UN Security Council: they are war crimes, crimes against humanity and crime of genocide. The Ukrainian Parliament Commissioner for Human Rights provides all the necessary information requested by the international experts and proactively informs the Prosecutor General's Office of Ukraine of such crimes as soon as they become known.

The International Criminal Court cannot hear the case to hold the Russian Federation liable for the crime of aggression, which is a root cause of all the other crimes, because it is restricted by so called Kampala Amendments to the Rome Statute[18]. For the court to exercise jurisdiction over the crime of aggression, the attacking state must ratify the Russian Federation, or this situation must be submitted for hearing by

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the UN Security Council, which cannot be done without a reform inside the UN that would deprive the Russian Federation of the veto powers.

For this very reason, the Office of the Ukrainian Parliament Commissioner for Human Rights has joined the promotion of the idea of establishing the special tribunal for the crime of aggression of the Russian Federation against Ukraine and imposing liability upon its political and military leaders via interaction with national human rights institutions from all over the world. This idea has already been supported by the PACE, the European parliament and individual democratic countries, including Lithuania and Poland, Estonia, Greece, the Netherlands, the Czech Republic, Latvia, Canada, the United Kingdom and others.

Establishment of new mechanisms is of paramount importance against the background of the absolute inability to enforce the ones prescribed by international humanitarian law, in the first place, the Geneva Conventions[19]. These documents regulate the rules of international law on humane treatment in time of war, which are deliberately ignored and violated by the Russian Federation.

It results in blocking activities of the International Committee of the Red Cross in matters of protection of rights of prisoners of war and civilians who stay in the combat zone or have fallen victim to war crimes, for instance, deportation. Lack of guarantees of safety and initiative by the ICRC in obtaining humanitarian access to victims, including prisoners of war and civilians who are illegally detained, refers to the crisis of the institution. In 2022, violations the principles of the International Red Cross and Red Crescent Movement were registered in the activity of the Russian Red Cross Society, which supported the mobilisation campaign[20].

Following the Commissioner's statement, the Prosecutor General's Office of Ukraine instituted the criminal proceedings regarding seizure and misappropriation of the movable property and real estate of the Ukrainian Red Cross Society by the Russian Red Cross Society. A separate meeting on that fact was held with the managers of the International Federation of Red Cross and Red Crescent Societies, where the Commissioner emphasised the need to expel the Russian Red Cross Society from the International Federation in connection of violation of the principles of operation and the Statutes of the Federation.

The military aggression against Ukraine has one more side, the financial one. The Kyiv School of Economics (KSE) estimates the total economic losses since the beginning of the war to be at least 564 to 600 billion US dollars. As of December 2022, the total amount of the direct documented losses inflicted upon the Ukrainian infrastructure as a result of the full-scale invasion launched by the Russian Federation is estimated to be 137.8 billion US dollars (based on the replacement value)[21]. According to the New Lines Institute, an American nonpartisan think tank, from the onset of Russian President Vladimir Putin's invasion of Ukraine, Russia has engaged in a sustained and systematic campaign of urbicide[22] and ecocide. Both targeted and indiscriminate attacks by air, land, and sea continue to destroy vital civilian infrastructure, systematically denying Ukrainians access to basic needs and essential services. In the city of Mariupol, previously home to more than 400,000 people, Russia's urbicidal tactics have been taken to the furthest extent yet seen in Ukraine: up to 90% of the city's infrastructure has been damaged or destroyed[23].

The Ukrainian Parliament Commissioner for Human Rights continues his work to protect civil rights during the regime of martial law. The Annual Report describes the principal challenges and tendencies in human rights protection that are faced by the Commissioner's institute during the regime of martial law.

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In addition to the special reports by the Commissioner, it shapes the general perspective of the state in the field of the problematic issues associated with violation of human rights and efforts to protect them.

More detailed information on the observation and protection of human and civil rights and freedoms in 2022 by the fields can be found in 9 themed chapters of the Report, which is the summarising document that describes violations of human and civil rights and freedoms in 2022 in the context of the full-scale armed aggression against Ukraine. The Report also describes examples of the resorts from citizens and organisations regarding which the Ukrainian Parliament Commissioner for Human Rights has taken measures of response, and also contains the conclusions and recommendations aimed at improving the observance of human and civil rights and freedoms.

1 Decree of the President of Ukraine No. 64/2022 “On the Imposition of Martial Law in Ukraine”. Available at: https://www.president.gov.ua/documents/642022-41397

2 United Nations Charter. Available at: https://unic.un.org/aroundworld/unics/common/documents/publications/uncharter/UN%20Charter_Ukrainian.pdf

3 Refugees from Ukraine. Available at: https://data.unhcr.org/en/situations/ukraine

4 Report of the Office of the United Nations High Commissioner for Human Rights “Killings of civilians: summary executions and attacks on individual civilians in Kyiv, Chernihiv and Sumy Oblasts in the context of the Russian Federation’s armed attack against Ukraine”, 22 December 2022. Available at: https://www.ohchr.org/sites/default/files/2022-12/2022-12-07-OHCHR-Thematic-Report-Killings-UKR.pdf

5 More detailed information on ‘filtration camps’ can be found in Chapter 1 “Rights of citizens affected by the armed aggression against Ukraine” in the paragraph “Filtration activities, deportation and forced displacement of Ukrainian citizens”.

6 Mariupol City Council. Available at: https://t.me/mariupolrada/9212

7 Information from the Telegram channel of the Prosecutor General’s Office of Ukraine https://t.me/pgo_gov_ua/8506

8 Ukraine: civilian casualty update 6 February 2023. Available at: https://www.ohchr.org/en/news/2023/02/ukraine-civilian-casualty-update-6-february-2023

9 Prosecutor General’s Office of Ukraine. Available at: https://t.me/pgo_gov_ua/8508

10 Save Ukrainian Culture Project by the Ministry of Culture and Information Policy. Available at: https://restore.mkip.gov.ua/

11 Ethan Walton | Genocide Watch, Sep 4, 2022, Genocide Emergency: Ukraine. Available at: https://www.genocidewatch.com/single-post/country-report-ukraine-1

12 The National Information Bureau operates in accordance with the Geneva Conventions relative to the

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Treatment of Prisoners of War and relative to the Protection of Civilian Persons in Time of War of 12 August 1949. Available at: https://nib.gov.ua/

13 The problem of civilian hostages is described in more detail in the Chapter “Human rights in the security and defence sector”.

14 Opinion of the PACE 300 (2022) “Consequences of the Russian Federation’s aggression against Ukraine” of 15 March 2022

15 Federal Law No. 183-ФЗ of 11.06.2022 “On Amending Certain Legislative Acts of the Russian Federation and Declaring Certain Clauses of the Legislative Acts of the Russian Federation Null and Void”. Available at: http://kremlin.ru/acts/news/68648

16 PENDING APPLICATIONS ALLOCATED TO A JUDICIAL FORMATION. Available at: https://www.echr.coe.int/Documents/Stats_pending_2023_BIL.pdf

17 Case connected with occupation of the Crimean Peninsula by Russia in 2014.

Case regarding violation of human rights in the temporarily occupied territories of Donetsk and Luhansk Oblasts, which includes the complaint about shooting down the Malaysian plane of MH17 flight, which was filed by Ukraine and the Netherlands.

Case regarding violation of rights of the Ukrainian political prisoners.

Case regarding seizure of the Ukrainian sailors in the Kerch Strait in 2018.

Case regarding the crimes committed by the Russian military in Ukraine during the full-scale invasion.

18 ICC, Review Conference of the Rome Statute (Kampala, 31 May to 11 June 2010) Official Records, RC/9/11, Annex III, p. 45 and further (“Review Conference, Official Records, RC/9/11”)

19 Geneva Conventions of 1949 on the Protection of Victims of War:

- The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Convention I).
- The Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Convention II).
- The Geneva Convention Related to the Treatment of Prisoners of War (Convention III).
- The Geneva Convention Related to the Protection of Civilian Persons in Time of War (Convention IV).

Protocols:

- Protocol I Relating to the Protection of Victims of International Armed Conflicts.

- Protocol II Relating to the Protection of Victims of Non-International Armed Conflicts.
- Protocol III Relating to the Adoption of an Additional Distinctive Emblem (of Red Cross or Red

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Crescent).

20 The Commissioner demands to expel the Russian Red Cross Society from the International Red Cross and Red Crescent Movement and to prohibit it to use the emblem. Available at: https://www.ombudsman.gov.ua/news_details/upovnovazhenij-vimagaye-viklyuchiti-rosijskij-chervonij-hrest-z-mizhnarodnogo-ruhu-chervonogo-hresta-i-chervonogo-pivmisyacya-ta-zaboroniti-vikoristovuvati-emblemu

21 The total amount of direct losses inflicted upon the Ukrainian infrastructure by the war has reached almost 138 billion US dollars. Available at: https://kse.ua/ua/about-the-school/news/zagalna-suma-pryamih-zbitkiv-zavdana-infrastrukturi-ukrayini-cherez-viynu-zrosla-do-mayzhe-138-mlrd/

22 Urbicide is a distinct form of mass violence characterized by the deliberate destruction of vital civilian infrastructure. In total disregard for international humanitarian law, urbicide is undergirded by a logic of collective punishment, targeting civilian populations and the built infrastructure on which their lives depend. Taken to their furthest extent, such campaigns of systematic bombardment and destruction can leave entire cities in ruins, hence the term urbicide – the “killing” of a city.

23 Russia’s Campaign of Urbicide in Ukraine. Available at: https://newlinesinstitute.org/russia/russias-campaign-of-urbicide-in-ukraine/

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