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UKRAINE AND RUSSIA: Amnesty International's Key Recommendations for EU leaders to:

- I. Uphold international justice, provide relief and assistance to civilians
- II. Address the crackdown on human rights in Russia
- III. Support human rights defenders in Ukraine and Russia and
- IV. Ensure protection for refugees fleeing Ukraine.

This document outlines Amnesty International's main concerns and recommendations in view of the 24-25 March European Council discussion on the crisis in Ukraine.

Russia's invasion of Ukraine is a manifest violation of the United Nations Charter and an act of aggression that is a crime under international law.¹ One month since the invasion, Amnesty International has documented an escalating pattern of violations of international humanitarian law and human rights law, with catastrophic consequences for the Ukrainian people and the entire civilian population.

There are now over 6.5 million internally displaced persons and over 3.5 million refugees², the majority of whom are women and children.

Meanwhile, as the war rages on in Ukraine, the Russian authorities have unleashed an unprecedented, nationwide crackdown on independent journalism, anti-war protests and dissenting voices in an attempt to stifle any criticism of its actions at home. This clampdown has decimated Russia's already beleaguered civil society, following nearly a decade of legislative restrictions designed to quell dissenting voices and shrink civic space. Following Russia's exit from the Council of Europe, and its declared intention to denounce the European Convention on Human Rights, some of the last safeguards against human rights abuses will be off limits to those who need them most in Russia.³

Whether in Russia, Ukraine or Belarus, human rights defenders, including independent journalists and activists, play a crucial role in collecting evidence, unravelling the truth, and holding perpetrators of violations to account. These actors should receive adequate support and protection to be able to continue their crucial work.

EU leaders at the European Council should stand firm in denouncing the escalating violations occurring in Ukraine and take all possible steps to ensure those responsible for international crimes are brought to justice. They should step up their efforts to provide relief and assistance to civilians, including all those fleeing the conflict and to support those in Russia, Ukraine or Belarus who continue to deliver the truth and stand up against injustice despite suffering terribly for their cause.

¹ Amnesty International, *Russia/Ukraine: Invasion of Ukraine is an act of aggression and human rights catastrophe*, 1 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/russia-ukraine-invasion-of-ukraine-is-an-act-of-aggression-and-human-rights-catastrophe/>

² UNHCR, *Ukraine Refugee Situation*, <http://data2.unhcr.org/en/situations/ukraine> 22 March 2022.

³ Amnesty International, *Russia's withdrawal from Council of Europe a tragedy for victims of Kremlin's abuses*, 15 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/russias-withdrawal-from-council-of-europe-a-tragedy-for-victims-of-kremlins-abuses/>

I. Uphold international justice, provide relief and assistance to civilians

i. Respect for international humanitarian and international human rights law

The Russian invasion of Ukraine has been marked by indiscriminate attacks on civilian areas and strikes on protected objects such as hospitals, schools and civilian infrastructure.

Amnesty International has documented widespread violations of international humanitarian and human rights law including the use of indiscriminate weapons such as ballistic missiles, the use of banned weapons like cluster bombs and incidents⁴ that may constitute war crimes. This includes a Russian air strike⁵ in which at least eight unguided aerial bombs were used, reportedly killing 47 civilians in the Ukrainian city of Chernihiv.

Dozens of small towns and villages in Ukraine⁶ are under relentless attack, with their inhabitants finding themselves caught in the crossfire or under siege by Russian forces. Facing diminishing food and water supplies many of these towns are on the brink of a humanitarian disaster. Ukraine and Russia first agreed on 3 March⁷ to establish humanitarian corridors for civilian evacuation and humanitarian aid delivery, but implementation to date has been slow and limited. It is urgent that civilians seeking safety from the bombardments, including those whose homes have been destroyed be provided safe passage. They further should not be forced to relocate to Russian-controlled territory.⁸

Recommendations to the EU and its member states:

- **Call on all parties to adhere strictly to international humanitarian law and international human rights law and denounce the targeting of civilians and civilian structures such as schools, homes and hospitals:** Civilian lives, homes and infrastructure must be protected; the use of indiscriminate weapons such as ballistic missiles and the use of banned weapons such as cluster bombs, must not take place. Deliberate attacks on civilians and civilian property, and indiscriminate attacks that kill or injure civilians are prohibited under international law and may constitute war crimes.
- **Call on all parties to allow and facilitate safe passage to civilians fleeing conflict areas and unhindered humanitarian access to all civilians affected by the hostilities, including through the establishment of safe humanitarian corridors:** All parties to the conflict should agree to establish well-planned, safe humanitarian corridors and to respect such agreements in good faith. Civilians should be provided with accessible transportation as well as sufficient time to safely exit and international observers should be granted access to monitor their safe passage. Older people and people with disabilities⁹, as well as other groups who may face particular risks and challenges in fleeing, should be prioritized for evacuation, as is outlined under international humanitarian law. The parties must grant impartial humanitarian relief organizations access to all civilians in need, including those who remain after evacuations. Amnesty International objects to any plan which would require civilians to relocate to areas they consider unsafe, including the occupied Crimea or Donbass regions of Ukraine, or Russia.
- **Lend further humanitarian assistance and emergency response to meet the urgent humanitarian needs of civilians, including the sexual and reproductive health needs** of women, girls and marginalised populations affected by the conflict

⁴ Amnesty International, Russian military commits indiscriminate attacks during the invasion of Ukraine, 25 February 2022, <https://www.amnesty.org/en/latest/news/2022/02/russian-military-commits-indiscriminate-attacks-during-the-invasion-of-ukraine/>

⁵ Amnesty International, Ukraine: Russian 'dumb bomb' air strike killed civilians in Chernihiv – new investigation and testimony, 9 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/ukraine-russian-dumb-bomb-air-strike-kills-civilians-in-chernihiv-new-investigation-and-testimony/>

⁶ Amnesty International, Ukraine: Beleaguered town of Iziium at breaking point after constant attack from Russian forces - new testimony, 16 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/ukraine-beleaguered-town-of-izium-at-breaking-point-after-constant-attack-from-russian-forces-new-testimony/>

⁷ Reuters, Ukraine and Russia agree on humanitarian corridors as U.S. punishes oligarchs, 4 March 2022, <https://www.reuters.com/markets/europe/top-wrap-10-ukraine-seeks-ceasefire-humanitarian-corridors-talks-with-russia-2022-03-03/>

⁸ Amnesty International, Ukraine: Humanitarian corridors for civilians fleeing Russian attacks must provide safety – new testimonies, 10 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/ukraine-humanitarian-corridors-for-civilians-fleeing-russian-attacks-must-provide-safety-new-testimonies/>

⁹ Office of the High Commissioner for Human Rights, Ukraine: Aged and those with disabilities face heightened risks, say UN experts, 4 March 2022, <https://www.ohchr.org/en/press-releases/2022/03/ukraine-aged-and-those-disabilities-face-heightened-risks-say-un-experts>

in Ukraine, and in transit and refugee host countries.¹⁰

- **Ensure all arms export authorizations are subject to strict human rights risk assessments – including assessments of the risks of diversion to unauthorized end-users - as set out in the EU Common Position 2008/944/CFSP¹¹ as well as national and international law.** Authorizations should be periodically reassessed in light of new relevant information, particularly in a fast-evolving situations such as Russia's invasion of Ukraine.

ii. Justice and accountability in Ukraine

Perpetrators of possible war crimes and crimes against humanity in Ukraine, including those in senior positions and most responsible, must be put on notice that they will be held individually accountable. Victims and their families must receive the message that the international community is determined to secure redress for their suffering.

At this early stage, the collection and preservation of evidence is crucial to successful future investigations. To achieve accountability in Ukraine, concerted efforts at UN and ICC-level will also need to be complemented by initiatives at national-level, pursuant to the principle of universal jurisdiction.

Recommendations to the EU and its member states:

- **Cooperate with and provide full political and practical support to the International Criminal Court (ICC) and its ongoing investigation on the situation in Ukraine:** On 2 March 2022, the Prosecutor of the ICC announced that his office had opened an investigation¹² into the situation in Ukraine and began the collection of evidence. The EU and its member states should cooperate with and provide their full support to the Court including by promoting access, protecting the Court against any obstruction and ensuring its independence is guaranteed. This will mean full and timely cooperation with the Court's investigations, including the sharing of information with the Court, facilitating the voluntary appearance of witnesses, the execution of searches and seizures, as well as the protection of victims and witnesses and the preservation of evidence. States should also consider entering into voluntary cooperation agreements with the Court. States parties are also obliged to arrest and surrender persons who are subject to (future) ICC arrest warrants. States should commit to significantly increasing the ICC's resources and its capacity, which is necessary to meet the demands of the recent Ukraine investigation as well as the other situations before the Court. While states have been encouraged to make voluntary contributions to the Court - following the opening of the Ukraine investigation - and to consider the loan of gratis personnel, both of these measures should be considered as short-term solutions, and long-term budget and staff requirements for the ICC's work should be incorporated in the Court's annual budgets.
- **Cooperate with and provide full political and practical support to the UN-established Commission of Inquiry on Russia's invasion of Ukraine:** On 4 March the UN Human Rights Council established¹³ an independent international commission of inquiry mandated to investigate alleged violations of human rights and international humanitarian law in the context of Russia's aggression against Ukraine. The EU and its member states should support the Commission of Inquiry, including by promoting the swift operationalization of its mandate and ensuring the full approval of its budget.
- **Support the exercise of universal jurisdiction to investigate international crimes committed in Ukraine, including by establishing an adequate legal framework for prosecuting international crimes before national courts:** Following the example of prosecutors in Germany¹⁴ and Spain¹⁵, further initiatives should be taken at national level to investigate international crimes committed in Ukraine, and to collect and preserve evidence that can be used in future criminal

¹⁰ Europe: Call to action. The sexual and reproductive health and rights of women and girls and marginalised populations affected by the conflict in Ukraine, 17 March 2022, <https://www.amnesty.org/en/wp-content/uploads/2022/03/EUR0153632022ENGLISH.pdf>

¹¹ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>

¹² International Criminal Court, Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation, 2 March 2022, <https://www.icc-cpi.int/Pages/item.aspx?name=2022-prosecutor-statement-referrals-ukraine>

¹³ UN General Assembly, Resolution adopted by the Human Rights Council on 4 March 2022, Situation of human rights in Ukraine stemming from the Russian aggression, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/277/44/PDF/G2227744.pdf?OpenElement>

¹⁴ Al Jazeera, Germany launches probe into suspected war crimes in Ukraine, 8 March 2022, 8 March 2022, <https://www.aljazeera.com/news/2022/3/8/germany-launches-probe-into-suspected-war-crimes-in-ukraine>

¹⁵ The Local, Spain opens probe into 'serious violations' by Russia in Ukraine, 8 March 2022, <https://www.thelocal.es/20220308/spain-opens-probe-into-serious-violations-by-russia-in-ukraine/>

proceedings. National investigatory and prosecuting bodies collecting information from victims and witnesses in Europe should ensure effective coordination and exchange of information, with the ICC and UN accountability mechanisms.

II. Address the crackdown on human rights in Russia

Following the invasion of Ukraine on 24 February, the Russian authorities have further intensified what was already an unprecedented crackdown on human rights. In recent weeks the authorities have unleashed a nationwide crackdown¹⁶ on independent journalism, anti-war protests and dissenting voices, decimating civil society and forcing at least 150 journalists to flee the country.

The authorities have forcibly dispersed and arbitrarily arrested thousands of individuals at anti-war rallies across Russia, censored reporting on the conflict in Ukraine and deprived people of access to objective information, including by blocking social media platforms and the websites of independent media outlets and human rights organizations. This has included Amnesty International's Russian language website¹⁷ which was blocked on 11 March.

Meanwhile, critics continue to face threats of criminal prosecution under "fake news", "extremism" and other charges. On 4 March the State Duma passed new legislation¹⁸ which widens the scope of Russia's already existing "fake news" laws and severely limits the rights to freedom of expression, association and peaceful assembly. The law further criminalizes the sharing of "false information" about the activities of the Russian Armed Forces or information that "discredits" Russian troops. Anyone accused of committing these "crimes" could face extortionate fines or a prison sentence of up to 15 years.

Recommendations to the EU and its member states:

- **Take urgent action to bring Russia onto the agenda of the UN Human Rights Council, including by establishing a dedicated Special Rapporteur on Russia:** The Human Rights Council should adopt a resolution expressing serious concern about the human rights violations and abuses occurring in Russia, requesting the High Commissioner to monitor and report on the situation, and appointing a dedicated Special Rapporteur¹⁹ to address the human rights situation in Russia. Recent developments illustrate the need to bring this long-neglected country situation onto the agenda of the Human Rights Council. The establishment of a Special Rapporteur would offer a crucial lifeline to Russia's beleaguered civil society and be able to address the full scope and gravity of the human rights situation in Russia, including on topics beyond the scope of the conflict in Ukraine.
- **Call on the Russian authorities to abide by their international human rights obligations to respect, protect and fulfil the rights to freedom of expression, association and peaceful assembly:** The Russian authorities should release all peaceful protesters and drop the charges against them; lift all restrictions on independent media and overturn or amend all laws that overly and arbitrarily restrict the rights to freedom of expression, association and peaceful assembly.

III. Support human rights defenders (HRDs), civil society and other individuals at heightened risk of persecution in Ukraine and Russia:

- i. **Support and protect Ukrainian HRDs and civil society.** Many Ukrainian HRDs have chosen to remain in Ukraine to document the human rights situation, others have chosen to leave and continue their work from abroad. They have identified the following critical support needs.

¹⁶ Amnesty International, Russia: Kremlin's ruthless crackdown stifles independent journalism and anti-war movement, 10 March, <https://www.amnesty.org/en/latest/news/2022/03/russia-kremlins-ruthless-crackdown-stifles-independent-journalism-and-anti-war-movement/> ; Amnesty International, Russia: End censorship on voices against the war, 14 March, <https://www.amnesty.org/en/documents/eur46/5345/2022/en/>

¹⁷ Amnesty International, Russia: Authorities block Amnesty International's Russian-language website, 11 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/russia-authorities-block-amnesty-internationals-russian-language-website/>

¹⁸ Amnesty International, Russian Federation: End censorship on voices against war, 14 March 2022, <https://www.amnesty.org/en/documents/EUR46/5345/2022/en/>

¹⁹ Amnesty International, Russian Federation: The Human Rights Council should take urgent action to address the dire human rights situation in Russia. Joint letter to Permanent Representatives of Member and Observer States of the UN Human Rights Council, 2 March 2022, <https://www.amnesty.org/en/documents/eur46/5335/2022/en/>

- **Immediate financial support** to NGOs as they require money for petrol (for evacuations), medicines, food and other necessities for the population.
 - **Ensuring sustainable methods for financial transfers** to ensure preparedness in case of the collapse of Ukraine's financial and bank payment systems.
 - **Effective coordination of humanitarian efforts** on larger and more systematic scale, as many flagged concerns with the current operations in Ukraine.
 - **Relocation** of NGO staff and offices, including transport, office and shelter support outside of Ukraine, payment of salaries etc.
 - **Relocation of family members**, many HRDs have chosen to remain in the country and want to ensure their families can leave and are safe.
 - **Psychological help** and support for those in country (by phone, video) and those abroad.
 - **Protective equipment for HRDs documenting violations**; many are working with no or limited protection equipment. There is a need for flak jackets, helmets and other protective items so that HRDs can be protected while doing their work. Many of those items cannot currently be sourced from within Europe (e.g. flak jackets).
 - **Internet access** is critical for HRDs and journalists to continue documenting human rights violations, including war crimes being committed by the Russian military forces and to create support networks for people affected by the war. Satellite based internet-connection kits, such as Starlink, are urgently needed for HRDs and independent journalists.
- ii. **Minimize the repercussions of EU sanctions, such as visa restrictions, on ordinary Russian citizens, including HRDs, civil society and other individuals at heightened risk of persecution:** Although the EU has stated that the decision²⁰ to partially suspend the agreement on the facilitation of visas with Russia would not affect ordinary Russian citizens”, certain EU member states have called for and/or implemented blanket visa bans for all Russian citizens. This, along with the closure of European consulates, overflight bans and other factors restricting citizens’ ability to flee the country or temporarily relocate, puts hundreds of HRDs, activists, journalists and other critics at increased risk of criminal prosecution, seen the escalating crackdown on dissent in Russia. The EU and member states should monitor the implications of measures on the rights of these individuals and seek ways to mitigate their negative impact as much as possible.
- iii. **Support and protect HRDs and civil society in Russia.** While many HRDs and independent journalists have left the country, a significant number have stayed to continue their work adapting to rapidly changing circumstances and new threats. Urgent support is needed including by ;
- **Immediate and tailored financial support for those in country.** The withdrawal of various companies from Russia, including those operating payment methods like Visa, MasterCard, Paypal and Western Union, risk to undermine Russian HRDs’ access to their and their organizations’ bank accounts both in country and/or if they leave. Existing funding support should be strengthened and greater flexibility provided for example, in forwarding funding to organisation or operations based abroad.
 - **Internet and IT support.** Barriers preventing access to and dissemination of accurate information and is leading to further isolation of the Russian civil society both within and outside of Russia. The departure of key IT companies and providers from Russia has led to several NGOs have lost their website hosting, meanwhile Russian authorities have blocked websites. Several HRDs highlighted the need to provide access to good VPN services which would work in Russia and suggested that access to satellite-based internet-connection kits, such as Starlink, would be useful to maintain connectivity.
 - **Financial and logistical support to enable persecuted HRDs, lawyers, independent journalists and civil society activists flee Russia.** The escalating crackdown on dissent has increased the risk of persecution. Limited flights

²⁰ Council of the European Union, Russia’s military aggression against Ukraine: EU imposes sanctions against President Putin and Foreign Minister Lavrov and adopts wide ranging individual and economic sanctions, 25 February 2022

from Russia and significant barriers for individuals to make bookings due to banking and financial restrictions have created a particular set of challenges for HRDs and NGOs. There is a need to provide emergency evacuations, which may include covering of travel and relocation expenses due to abovementioned restrictions.

- **Provision of emergency visas and flexible residence status beyond the standard asylum procedure.** To facilitate their continued work from abroad, specific support is needed for individuals and their families, including upfront financing of relocation, provision of shelter programmes, legal assistance, insurance and medical assistance, training, work permits and assistance in setting up an office. Solutions should also be found for colleagues from the same organisation who have been issued visas from different Schengen countries and are therefore unable to work together in the same location. A tailor-made reception programme for human rights defenders from Russia and Belarus should be developed.

IV. Ensure International Protection for People Fleeing Ukraine

With the war in Ukraine escalating, all EU member states must take measures to enable exit from Ukraine, offer international protection both to people fleeing Ukraine and to those Ukrainians who are already on their territories and support neighbouring countries and other host countries.

i. Enable exit from Ukraine:

- Continue keeping borders with Ukraine open and allowing swift access to their territory to Ukrainian and non-Ukrainian nationals fleeing Ukraine, including those without valid travel documents.
- Respect the principle of *non-refoulement* and refrain from unlawful practices such as pushbacks at borders.

ii. Welcome all people fleeing Ukraine:

- Ensure prompt registration of all people arriving, their reception in adequate facilities and effective provision of information as to how to access protection, legal and other services, such as medical care and psychological support, and the possibility of onward travel, including the free travel options offered by European transport companies. Assistance, information and other services should be provided without discrimination against any person or group.
- Ensure systematic identification of people in need of specific protection measures, including unaccompanied or separated children and people at risk of being trafficked, and provide referral to adequate support services and/or care arrangements.

iii. Grant international protection to those who need it:

In response to the arrivals from Ukraine, the European Union has activated for the first time the Temporary Protection Directive (TPD) aimed at providing immediate protection to those fleeing the conflict.

While welcoming that decision, Amnesty International has identified several shortcomings and concerns and maintains the following calls:

- EU member states should apply the temporary protection status provided for under the TPD as swiftly and as broadly as possible, including to non-Ukrainians.
- Member states should give prompt access to asylum or to other temporary status to those who will not be covered by temporary protection status. People fleeing Ukraine should be granted a secure status that ensures access to rights and services in a similar manner to Ukrainian nationals and other people who will enjoy temporary protection status.
- Member states should facilitate travel and provide financial support, if needed, to people who can return safely to their home countries.

iv. Share the responsibility for the protection and assistance of people fleeing Ukraine

No country alone can take the responsibility for such large numbers of people in need of protection. While neighbouring countries have the obligation to guarantee prompt access to their territory and provide for immediate humanitarian needs, meeting longer-term protection needs and providing for durable solutions relies on the support and solidarity of other States in the region and beyond.

- EU member states should effectively cooperate within EU mechanisms (e.g. the Solidarity platform set up by the European Commission) to facilitate the sharing of responsibility for people displaced by the war in Ukraine and make available reception capacity in proportion to the size of their population and economy.
- Any transfer of people between EU states to support responsibility sharing must take into consideration the individual's consent and their family and wider links with communities in the country of destination. Transfers decisions must also take adequately into account the availability of support services for unaccompanied minors or separated children, disabled people, survivors of trafficking, and other marginalized groups.