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**Joint Statement on the report under the OSCE Moscow Mechanism invoked by 45 participating States, following consultations with Ukraine, to address the arbitrary deprivation of liberty of Ukrainian civilians by the Russian Federation as part of Russia's war of aggression against Ukraine**

*Delivered by Ambassador Stelian Stoian, Permanent Representative of Romania to the International Organizations in Vienna*

*1470<sup>th</sup> Permanent Council meeting,*

*Vienna, 25 April 2024*

Madame Chair,

I am delivering this statement on behalf of 45 participating States: Albania, Andorra, Bosnia and Herzegovina, Canada, Georgia, Iceland, Liechtenstein, Republic of Moldova, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland, Türkiye, the United Kingdom, the United States of America, and the European Union Member States.

Being gravely concerned regarding violations of international humanitarian law and international human rights law amidst Russia's full-scale war of aggression against Ukraine, particularly with regard to the arbitrary detention of Ukrainian civilians by the Russian Federation, our delegations invoked the Moscow Mechanism on 29 February 2024.

We requested that ODIHR inquire of Ukraine whether it would invite a mission of experts to establish the facts and circumstances surrounding:

- possible contraventions of relevant OSCE commitments,
- violations and abuses of human rights, and violations of international humanitarian law and international human rights law,
- as well as possible cases of war crimes and crimes against humanity, associated with or resulting from the arbitrary deprivation of liberty of Ukrainian civilians by the Russian Federation.

We also requested that the mission of experts would:

- collect, consolidate, and analyse this information with a view to offer recommendations, as well as provide the information to relevant accountability mechanisms, as well as national, regional, or international courts or tribunals that have, or may in future have, jurisdiction,

and requested ODIHR to

- provide any relevant information or documentation derived from any new expert mission to other appropriate accountability mechanisms, as well as national, regional, or international courts or tribunals that have, or may in future have, jurisdiction.

We are very grateful to the Moscow Mechanism rapporteurs, Prof. Bílková, Dr. Hellestveit and Dr. Šteinerte, for producing such a thorough and professional report. While we are still reviewing the report in detail, it is clear that the mission's findings confirmed our serious cause for concern.

The report states that: *“Arbitrary deprivation of liberty of Ukrainian civilians started in the unlawfully annexed Crimea in spring 2014, and quickly spread to the areas of the Donetsk and Luhansk regions controlled by the so-called People's Republics. Since the outbreak of the full-scale invasion on 24 February*

2022, this practice has become pervasive in all the areas that have got under the temporary occupation of the Russian Federation.”

Further, the report states that: *“Although the context of ongoing international armed conflict between Ukraine and the Russian Federation makes establishing the exact number of such civilians impossible, the Mission has concluded that this number is large and can be measured in the thousands.”*

The Mission established that the Russian Federation *“has disrespected and continues to disrespect the special status of three staff members of the OSCE Special Monitoring Mission (SMM), arbitrarily detaining for almost two years now and subjecting them to trial for activities carried out while working for the SMM”,* and that *“the continued detention of staff members of the OSCE SMM is incompatible with OSCE commitments arising in respect to Russia.”*

The Mission has further established that Ukrainian civilians arbitrarily detained by the Russian Federation: *“have been subjected to torture and other cruel, inhuman or degrading treatment or punishment, sexual violence and other forms of serious mistreatment”;* and that *“the information gathered as well as testimonies received by the Mission clearly indicate widespread and systematic use of torture by the Russian authorities against detained Ukrainian civilians.”*

The Mission’s experts also concluded that Ukrainian civilian detainees: *“have endured harsh conditions of detention and have been denied contact with the outside world, turning their deprivation of liberty into incommunicado detention and enforced disappearances.”* Ukrainian civilian detainees *“have been denied fundamental fair trial guarantees in criminal prosecutions.”*

The Mission concluded that Ukrainian civilian detainees: *“have died due to the injuries suffered as a result of torture and other cruel, inhuman degrading treatment or punishment. ... there are also reports of detainees dying due to ignoring health problems in the penitentiary facilities as well as Crimean political prisoners being sent for forced psychiatric examinations”.*

Moreover, the Mission found that: *“The information gathered and testimonies received by the Mission also indicate consistent denial of medical assistance to the Ukrainian civilians detained by the Russian authorities”.*

Ukrainian civilian detainees: *“reported harsh punishments for speaking Ukrainian, singing Ukrainian songs as well as being forced to sing the Russian anthem and swear allegiance to the Russian flag.”*

Finally, *“The Mission concludes that extrajudicial killings of Ukrainian civilian detainees by the Russian authorities, as well as the failure to investigate properly allegations of such killings, constitute a serious violation of IHRL and IHL and may amount to a war crime and a crime against humanity.”*

Madame Chair,

OSCE participating States have collectively committed to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and to uphold freedom from arbitrary arrest or detention as well as the right to a fair trial. They have also repeatedly agreed commitments on treatment of persons in detention or prison, including in Vienna in 1989, Copenhagen in 1990, Moscow in 1991, Brussels in 2006, Helsinki in 2008, Belgrade in 2015 and Tirana in 2020.

It is clear from the report that Ukrainian detainees held by Russia have not received the protection which these commitments, freely entered into by Russia throughout recent decades, should have afforded them.

To the Russian Federation, we highlight, in particular, the following recommendations from the report to:

- *“Immediately cease the practice of arbitrary deprivation of liberty of Ukrainian civilians and unconditionally release all those thus detained.”*
- *“Immediately apply to Ukrainian civilians detained by the Russian Federation the legal regime of the GCIV and the API, cease the unlawful practice of subjecting civilians to POW-internment, and*

*immediately establish appropriate review-mechanisms to ensure that civilians are not arbitrarily detained under either the GCIV or the GCIII.”*

- *“Immediately establish a National Information Bureau (NIB) in full compliance with Article 136 of the GCIV.”*
- *“Without delay, compile, provide and promptly update comprehensive lists of the names and whereabouts of all Ukrainian civilians deprived of their liberty by the Russian authorities [..]and to share such lists [..] with utmost urgency.”*
- *“Ensure immediate, safe and unfettered access for the ICRC to all facilities where Ukrainian civilians are being detained.”*
- *“Ensure the right of victims of arbitrary deprivation of liberty, and their relatives, to an effective remedy.”*

We, the invoking States, take into consideration the Mission’s recommendations to other States and international organizations and encourage all other participating States to do the same.

Madam Chair,

This report is clear: *“the practice of arbitrary deprivation of liberty of Ukrainian civilians has occurred on a massive scale and has revealed signs of a systematic, consistent, deliberate pattern of conduct targeting specifically Ukrainian civilians. This makes the Mission conclude 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 authorities.”*

We call on the Russian Federation to immediately cease the practice of arbitrary deprivation of liberty of Ukrainian civilians and unconditionally release all those thus detained, as recommended by the Mission.

Thank you.