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**To the 27th session of the United Nations Committee on Enforced
Disappearances**

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PUBLIC WRITTEN SUBMISSION REGARDING THE INITIAL REPORT OF UKRAINE TO THE UN COMMITTEE ON ENFORCED DISAPPEARANCES

Since 2014, cases of enforced disappearances have been recorded in Ukraine on the territory of Ukraine occupied by the Russian Federation. Since the start of the Russian Federation's full-scale invasion of Ukraine in February 2024, the number of cases of enforced disappearances has increased rapidly. The Russian Federation deployed a network of infiltration camps on the territory of Ukraine occupied in 2022, and also implements the practice of persecuting the population of the specified territories, including by illegally depriving civilians who helped the Armed Forces of Ukraine, have a clear pro-Ukrainian position or simply refused to cooperate with occupation authorities. There are cases of forced disappearances of volunteers and public activists who helped the population in the occupied territory to survive the humanitarian crisis.

The Russian Federation does not allow international humanitarian missions to the occupied territories, and also refuses to provide them with information about the whereabouts of illegally detained Ukrainian citizens. Ukrainian lawyers and human rights defenders are also restricted in their access to the specified persons. Consequently, citizens of Ukraine remain defenseless, as they are deprived of the right to qualified legal assistance and independent judicial protection. Certain persons are considered missing under special circumstances.

According to information from freed Ukrainians, citizens of Ukraine are kept in terrible conditions, very often they do not have access to medical care, they are subjected to torture and ill-treatment. The Russian Federation also carries out illegal transfer of detained persons within the occupied territory and deportation to the territory of the Russian Federation.

Considering the fact that the authorities of the Russian Federation do not recognize the commission of violations against the civilians of Ukraine, without the involvement of international actors and the determination of the patron state, it will be difficult for our state to influence the aggressor state.

In this submission, we would like to point out the need for measures that the Government of Ukraine should take to ensure the formation of a special mechanism for the search and release of all Ukrainian civilians who have become victims of enforced disappearances, and the fulfillment of obligations under the Convention on the Protection of All Persons from Enforced Disappearances.

1. Harmonization of the concept of "missing person" defined in national legislation with the norms of the International Convention on the Protection of All Persons from Enforced Disappearances.

The provisions of the Law of Ukraine "On the Legal Status of Persons Disappeared Under Special Circumstances" provide the following definition: "a person who has disappeared under special circumstances is a person who has disappeared in connection with an armed conflict, hostilities, or the temporary occupation of a part of the territory of Ukraine, emergency situations of a natural or man-made nature". We believe that this definition is too general and inconsistent with the norms of the International Convention on the Protection of All Persons from Enforced Disappearances.

The specified international document states that enforced disappearance is the arrest, detention, abduction or deprivation of liberty in any other form by representatives of the state or persons or groups of persons acting with the permission, support or consent of the state, with subsequent refusal to recognize the fact of deprivation of freedom or hiding data about the fate or location of a missing person, as a result of which this person is left without the protection of the law.

Therefore, in the specified law, one more reason for disappearance should be added to the definition and detailed - *enforced disappearance*. In the conditions of armed aggression, this is a very important aspect, which is related to the positioning of the special legal status of the victims of enforced disappearances. The

harmonization of terminology will facilitate the protection of the rights of a certain category of Ukrainian citizens in international courts, including the European Court of Human Rights. Also, such harmonization will contribute to increasing the functionality of domestic criminal legislation. In particular, it will be possible to bring those guilty of enforced disappearances to criminal liability due to the preliminary positioning of the status of the victims of this crime as a person who disappeared under special circumstances. It should be added that today there is a need to bring the general terminology of the conflict in public communications of state authorities in line with the norms of international law, this will simplify the process of promoting the idea of creating an international criminal tribunal for war crimes of the Russian Federation in Ukraine.

2. Implementation of the practice of mandatory documentation of testimonies of released civilians and prisoners of war according to the Istanbul Protocol.

The vast majority of victims of enforced disappearances are subjected to torture in the occupied territory or the territory of the Russian Federation, which is a gross violation of international law. The 2004 Istanbul Protocol (Guidelines for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) is a tool that can improve the documentation of torture in two ways. First, it describes the types of torture quite thoroughly, which makes it possible to determine the degree of moral damage and damage to human health as clearly as possible. The Protocol also enshrines very important principles of documenting cases of torture and inhumane treatment, the observance of which is designed to minimize the retraumatization of victims in the process of documentation, in particular: 1) the principle of determining individual responsibility and state responsibility for the use of unlawful violence; 2) the principle of generalization of measures necessary to prevent recurrence of violence; 3) the principle of facilitating the prosecution and punishment of guilty persons; 4) the principle of full compensation for the damage caused by violence, including the costs of rehabilitation of victims.

Therefore, mandatory application of the Istanbul Protocol when documenting torture will allow systematization of information for the future international tribunal on war crimes in Ukraine. For victims of enforced disappearances, such documentation will provide an opportunity to form an evidence base for further recovery of compensation for moral and health damage from the aggressor state. For the effective application of the Istanbul Protocol, it is necessary to train Ukrainian experts, investigators and psychologists in its main provisions, which will enable them to work correctly with victims of enforced disappearances. In addition, it is necessary to provide for the documentation of released civilians who are abroad.

3. Completion of the procedure for signing the Agreement on Cooperation between Ukraine and the International Commission on Missing

Persons (ICMP) with its subsequent ratification by the Verkhovna Rada of Ukraine.

Ukraine's cooperation with the International Commission on Missing Persons is a high priority, as the mandate of the commission allows for the consolidation of efforts of the governments of different countries in the search for persons missing as a result of the conflict, and to help them in this. Due to the fact that this organization is the only one in the world that specializes in the issue of missing persons, its unique experience and working methods will enable Ukraine to develop its own mechanism for searching for missing persons, including victims of enforced disappearances. The international organization can also become the platform on the basis of which the countries of the world will unite for the purpose of ending the practice of enforced disappearances in the occupied territory of Ukraine. Thus, cooperation with this organization is a significant expansion of resource potential. Also, the authority of the organization can help create a certain coalition between various international governmental and non-governmental organizations. In the future, on the basis of the ratified agreement, Ukraine will have the opportunity to conclude bilateral international agreements at the level of the governments of the countries of the world regarding cooperation and coordination in matters of documenting war crimes, identifying and searching for persons guilty of enforced disappearances.

4. Establishment of data exchange between the Cabinet of Ministers of Ukraine and the governments of other countries regarding persons who are considered missing in Ukraine.

In the conditions of the modern digital world, information exchange takes on a decisive role, because the nature of the authorities' actions in the field of releasing victims of enforced disappearances in the occupied territories and the territory of the aggressor state depends on the reliability and completeness of the information.

Ukraine, together with other states, should intensify the exchange of information about persons who are considered missing. Similar cooperation should take place at the level of the governments of the countries of the world, since these issues are very important in terms of protection of human rights and freedoms. Examples of such cooperation already exist. In particular, in November 2023, the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Kingdom of Sweden on the exchange and mutual protection of information with limited access was ratified. However, this is not enough, because it is important for Ukraine to receive information from as many countries as possible. This especially applies to countries that share a common border with the Russian Federation, Belarus and other CIS countries. The probability that the citizens of Ukraine will try to get to the European Union and Ukraine in the future through the CIS countries is very high. Therefore, in this aspect, similar agreements with Poland, Lithuania, Estonia, Latvia and other countries are a priority for us. Systematization of information about victims of enforced disappearances who move across the state

border of the specified countries will make it possible to form the most complete and accurate list of citizens of Ukraine who suffered from war crimes of the aggressor state. On the basis of systematized information, it is possible to develop mechanisms for combating enforced disappearances both in the context of the armed conflict in Ukraine and in the context of other armed conflicts in the countries of the world.

The non-governmental organization "Human Rights Protection Group "SICH" is ready for any cooperation in order for all citizens of Ukraine detained by the Russian Federation to return home.

Sincerely,
acting director
NGO "Human Rights Protection Group "SICH"
Nataliya Kozhina

