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Submission to the 27th session of the Committee on Enforced Disappearances

In connection with the 27th session of the Committee on Enforced Disappearances, which will take place between September 27 and October 4, during which the initial reports of the following countries will be considered: Kingdom of Morocco, Kingdom of Norway and Ukraine.

The National Union of Journalists of Ukraine, as a national all-Ukrainian creative union and civil society organization that unites journalists and other media workers professionally engaged in journalistic and publicity activities, and which deals with the issue of disappeared journalists, including those who have been enforced disappearances, hereby expresses its desire to contribute to the session of the Committee on Enforced Disappearances in relation to the following.

Due to the full-scale invasion of the territory of Ukraine by the Russian Federation, a large number of Ukrainian citizens are reported missing, including dozens of journalists. The National Union of Journalists of Ukraine has information on at least 30 Ukrainian journalists who have been subjected to enforced disappearances or arbitrary detention.

In times of war and widespread disappearances, the state's involvement in the process of searching for and releasing captives is essential. To accomplish this task, the Ukrainian government is taking a number of measures to speed up the return of Ukrainian journalists home. However, these efforts are currently not enough. That is why the National Union of Journalists of Ukraine would like to highlight a number of problems faced by relatives of forcibly disappeared journalists and other members of civil society in practice and suggest ways to solve them, which should also contribute to a more effective and faster process of searching for disappeared persons.

Unfortunately, despite the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention), which entered into force for Ukraine on September 13, 2015, we are forced to report on the disappointing results of the practical implementation of the provisions of the Convention and the state of affairs in general in situations involving disappeared persons.

1. Despite the ratification of the Convention, dozens of cases of enforced disappearances that have been considered by the authorized bodies since 2014 have not had any actual results or progress in the case process. Despite numerous appeals from relatives and close friends of the disappeared, the state authorities do not take active steps to investigate the circumstances of their disappearance, establish the circumstances of the case, the whereabouts of such disappeared persons, etc.
2. We also consider the lack of information available to the relatives of the disappeared persons, which is in the possession of the investigating authorities, to be an equally serious problem. Thus, in many cases, officials refuse to disclose information they know about the whereabouts, conditions of stay and other important information to relatives of the disappeared journalists, which leaves them in confusion and uncertainty about extremely important information about their loved ones.

In many cases, officials do not provide any assistance to relatives of missing journalists, in particular, in the preparation of documents, applications, petitions, etc., which, according to the procedures provided for by law, may be the basis for disclosure of information on cases of disappeared persons and other things.

3. It is also necessary to emphasize the problem that Ukrainian legislation uses different terms to refer to missing persons. Ukrainian legislation contains such different terms as "missing person" and "missing without a trace". Such discrepancies cause a discussion about the meaning of these terms and the differences in the legal status of persons designated by one or the other term, resulting in a legislative conflict. This also often affects the procedural aspects of cases of missing persons and the scope of rights and guarantees provided by law for such persons.

We believe that in order to solve this problem, the Ukrainian government and parliament should harmonize and unify the terminology used in the legislation. The best way to do this would be to implement the term used in the International Convention for the Protection of All Persons from Enforced Disappearance, namely, a disappeared person.

4. In addition, the Ukrainian government should pay attention to the existence of discriminatory provisions in Ukrainian legislation. This primarily concerns social guarantees. For example, more social guarantees are provided for disappeared military personnel than for civilians (including journalists) who were also forcibly deprived of their liberty.

We would like to remind you that according to Article 7 of the Universal Declaration of Human Rights:

"All are equal before the law and are entitled without distinction of any kind to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."

Relatives of forcibly disappeared journalists are often unable to exercise their right to social guarantees due to the lack of documents and the inability to obtain copies of them (e.g., a copy of the missing person's passport, kinship documents, etc.).

5. There is also the problem of a large number of bodies dealing with the issues of persons missing under special circumstances. In Ukraine, a large number of state bodies are currently collecting and processing information about disappeared persons and entering information about them into the Unified Register of Persons Missing under Special Circumstances (the Register), including the National Police, the National Guard, and the Commissioner for Missing Persons under Special Circumstances: The National Police of Ukraine, the Security Service of Ukraine, the National Guard of Ukraine, the Commissioner for Persons Missing in Special Circumstances, the Ministry of Defense of Ukraine, the Ministry of Health of Ukraine, the Office of the Prosecutor General, the State Migration Service of Ukraine, the Department for the Execution of Criminal Sentences, interregional departments for the execution of criminal sentences of the Ministry of Justice, authorized probation bodies, the State Judicial Administration of Ukraine, the State Emergency Service of Ukraine, the State

The extension of the functions of entering information into the Register to such a large number of bodies that collect and record information about missing persons is intended to ensure effective work on the search for missing persons, but due to the large number of entities entering information, there are certain problems with filling and further maintenance and updating of information in the Register.

We propose to create a single state body or to vest such relevant powers in one designated body that would collect, process and systematize all information about captured persons. It is this state body that should be responsible for maintaining the Register. It is this body that should search for information, verify it and interact with other state bodies. For this purpose, it should be granted full access to public and closed registers, databases, information which can be useful for the effective search for missing persons and, in particular, establishing their location.

6. We are also convinced that in order to collect reliable and objective information, document the testimonies of civilians and soldiers released from captivity, the consequences of torture for the purpose of investigating the most serious international crimes committed in armed conflict, the Istanbul Protocol of 1999, as the basic set of international guidelines for documenting torture and its consequences, which also outlines international legal standards and sets out specific guidelines on how to document and conduct effective

Moreover, the Istanbul Protocol carefully sets out ethical standards for professionals involved in documenting, investigating, and conducting examinations in cases of victims of torture and ill-treatment. The Protocol contains sections for lawyers and medical professionals, including therapists, mental health professionals, forensic experts, etc. Particular attention is paid to the ethical principles of clinical examination, given that this procedure can be painful and retraumatizing for the victim.

7. In addition, it is worth noting that although an agreement between Ukraine and the International Committee for the Protection of All Persons from Enforced Disappearances has been signed, it has not yet been ratified. We believe that this should be one of the priorities of the Ukrainian parliament in the issue of disappeared persons, including journalists.
8. For effective cooperation, investigations and search for missing persons, we believe that it is necessary to introduce procedures and standards for the exchange of information between state bodies and civil society organizations in Ukraine and other countries regarding persons reported missing in Ukraine. Proper exchange of information between several countries concerned will facilitate effective investigations, fact-finding and the collection of all relevant information.
9. In conclusion, we note the need for the practical application of Article 5 of the International Convention for the Protection of All Persons from Enforced Disappearance, according to which widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and entails the consequences provided for in such applicable international law.

Thus, a full-scale armed conflict caused by the military aggression of another country has been going on in Ukraine for more than 900 days. To this day, dozens of people continue to disappear every day, including civilians, children, and representatives of other vulnerable groups.

The forcible abduction of such persons, deprivation of their liberty and freedom of movement is carried out to achieve the criminal intentions of the aggressor country,

and no norms and rules of international agreements, conventions, etc. are observed during the captivity of such persons.

These disappearances have all the signs of systematic nature, and given the number of forcibly abducted and disappeared persons, they also have signs of widespread occurrence. In this regard, we believe that such actions should not go unpunished, and the perpetrators should be brought to justice, including through the procedures and provisions provided for by international law.

Best regards,

NUJU President,

Member of the Steering Committee

of the European Federation of Journalists



Sergiy Tomilenko