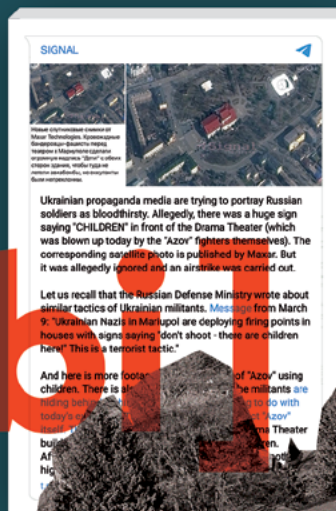
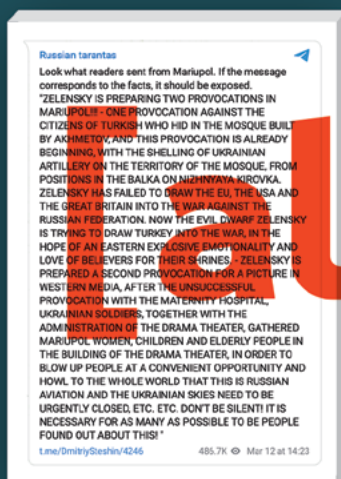


# MANUFACTURING IMPUNITY: RUSSIAN INFORMATION OPERATIONS IN UKRAINE

RUSSIA'S USE OF INFORMATION ALIBIS  
AND HOW THEY MATERIALLY CONTRIBUTE  
TO THE PLANNING, EXECUTION AND  
COVER-UP OF INTERNATIONAL CRIMES



This report, *Manufacturing Impunity: Russian Information Operations in Ukraine — Russia's Use of Information Alibis and How They Materially Contribute to the Planning, Execution and Cover-up of International Crimes*, was prepared by the international human rights foundation Global Rights Compliance, in collaboration with the leading advocacy organisation The Reckoning Project. The report was made possible with the support of the Open Society Foundations.

#### DISCLAIMER:

The contents of this report are the sole responsibility of Global Rights Compliance and The Reckoning Project and do not necessarily reflect the views of the Open Society Foundations.

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# EXECUTIVE SUMMARY

1. This report provides an in-depth examination of “information alibis”, a distinct form of disinformation employed by the Russian Federation (‘Russia’) in armed conflicts. Information alibis involve the preemptive dissemination of false information, carefully crafted to deflect responsibility for crimes committed by the actual perpetrator or perpetrating State. By constructing these deceptive narratives, Russia aims to absolve its leadership of culpability and manipulate the information landscape to its advantage. This tactic represents a cynical weaponisation of rhetoric as part of Russia’s broader military strategy.
2. The report analyses the structure, purpose, and objectives of information alibis within the wider context of Russian information operations. It reveals a coherent strategy rooted in state doctrine, evident in operations within Ukraine, Syria, and other regions. This strategy involves a complex interplay of state actors and carefully orchestrated disinformation campaigns designed to mislead both domestic and international audiences. The report establishes a foundational understanding of how information alibis function as an important tool for a group of persons acting with a common purpose. Future efforts will focus on expanding case-specific investigations, strengthening attribution to individual perpetrators, and translating findings into probative evidence for accountability mechanisms.

## *Part I: **Freedom of Expression and Information Operations During Armed Conflict***

3. This Part describes the legal framework governing information operations under international law, exploring the boundaries between protected speech and speech that may constitute a contribution to a crime that attracts legal responsibility. It examines relevant international legal instruments, including the International Covenant on Civil and Political Rights (ICCPR), principles of international humanitarian law (IHL), and jurisprudence from international criminal tribunals, such as the International Criminal Court (ICC), the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR).



4. The analysis highlights the distinction between protected speech, even if objectionable or inaccurate, and speech that may contribute to the perpetration of international crimes. It underscores the importance of upholding freedom of expression while also recognising the need for legitimate restrictions to prevent its abuse in information warfare. This delicate balance requires careful consideration of the context, intent, and potential consequences of information operations.
5. The right to freedom of expression, as enshrined in Article 19 of the ICCPR, is a cornerstone of democratic societies. However, this right is not absolute and can be subject to limitations, as stipulated in Article 19(3) of the ICCPR. These limitations must be prescribed by law, pursue a legitimate aim, and be necessary and proportionate to the objective sought.
6. In the context of armed conflict, information operations can be a legitimate tool of warfare. However, where such operations involve the dissemination of disinformation, they can cross the line from legal, protected expression into criminal activity, particularly when carried out with the relevant intent to plan, execute, cover up or otherwise facilitate international crimes. Information alibis, by their very nature, aim to deceive and mislead, *potentially* facilitating the commission of international crimes.

## ***Part II: Russian Information Operations in the Context of its Military Operations***

7. Part II provides an in-depth analysis of Russia's information operations, highlighting their structure, evolution, and implementation during armed conflicts. Russian information operations are characterised by a complex framework blending psychological, technical, and strategic methods aimed at influencing domestic and international perceptions. Rooted in Soviet-era propaganda tactics, these operations have evolved to play a critical role in Russia's domestic and foreign policy strategies.
8. A key component of Russia's information strategy is the development of "information alibis" — fabricated narratives intended to obscure the truth, evade accountability, and justify unlawful actions. These tactics were notably employed during Russia's military intervention in Syria, particularly to deny the Syrian Government's use of chemical weapons against its own people and unlawful attacks against the Syrian Civil Defence ("White Helmets"), a Syrian non-governmental organisation.
9. Overall, Russia's information operations represent a deliberate, multi-layered approach to influence narratives, destabilise adversaries, and shape the global perception of its actions. These strategies underscore the necessity for enhanced international efforts to counter disinformation, promote factual accuracy, and strengthen accountability for information-related crimes.

### ***Part III: Selected Information Alibis in Ukraine that Contributed to the Planning, Execution or Cover-up of International Crimes***

10. This Part presents five detailed case studies illustrating the practical application of information alibis in the context of Russia's war of aggression in Ukraine. Each case study analyses a specific incident, such as attacks on civilian buildings, a prisoner of war (POW) camp, and a civilian train station, demonstrating the strategic use of information alibis and their various manifestations.

11. The case studies showcase the diverse tactics employed by Russia in creating and disseminating information alibis. They highlight the use of various media platforms, including Telegram channels, state-controlled media outlets, and social media influencers, to spread false narratives and manipulate public perception. The case studies also demonstrate the devastating consequences of these disinformation campaigns, which often lead to increased civilian casualties, a further escalation of the conflict, and the masking of responsibility.

12. For example, the case study on the Mariupol Maternity Ward No.3 attack reveals how Russia used information alibis to deflect responsibility for the bombing of a hospital, falsely claiming that it was being used as a military base by Ukrainian forces. Similarly, the case study on the Olenivka POW camp attack demonstrates how Russia used disinformation to blame Ukraine for the shelling of a prison holding Ukrainian prisoners of war, despite considerable evidence suggesting Russian involvement.

13. These case studies provide compelling evidence of Russia's regular use of information alibis to justify its actions, discredit its adversaries, and evade accountability for international crimes. In some instances, these disinformation campaigns may constitute justiciable contributions to international crimes, particularly where they aid in the planning, execution, or cover-up of unlawful attacks in violation of international humanitarian law.

### ***Part IV: Legal Analysis of Information Alibis***

14. This section addresses the legal consequences of using information alibis during conflict, examining whether such actions constitute a material contribution to an international crime. It explores three distinct modes of individual criminal liability under the Rome Statute, with particular emphasis on Article 25(3)(d), which addresses contributing to a crime committed by a group of persons acting with a common purpose.

15. The analysis delves into the jurisprudence of international criminal tribunals, examining relevant cases and precedents to determine the legal threshold for holding individuals criminally responsible for disseminating information alibis. It explores the complexities of proving intent and contribution in such cases, highlighting the challenges and opportunities for prosecution.

16. One of the key challenges in prosecuting individuals for disseminating information alibis is establishing a direct link between their actions and the commission of an international crime. This requires demonstrating that the disinformation campaign made a tangible, significant contribution to the perpetration of the crime, either by facilitating its commission or obstructing investigations and accountability efforts.

17. However, the jurisprudence of international criminal tribunals provides some guidance on this issue. For example, in the ICTY case of *Prosecutor v. Mladić*, the Trial Chamber found that Radko Mladić, the former commander of the Bosnian Serb Army, had made a significant contribution to the Srebrenica genocide by disseminating disinformation to conceal the crimes and obstruct justice.

18. This case, along with other precedents, suggests that individuals involved in information alibis can be held criminally responsible if their actions contribute to the commission of international crimes.

## **Part V: *A Blueprint for the Investigation and Prosecution of Information Alibis***

19. This section presents a blueprint for investigating and prosecuting individuals involved in disseminating disinformation employed in the planning and execution of international crimes. Using the Kakhovka dam attack as a case study, it outlines five key investigative steps:

- *Step 1:* Establishing the occurrence of an international crime. This involves gathering evidence to prove that a crime within the jurisdiction of the ICC has been committed, such as a war crime or a crime against humanity.
- *Step 2:* Investigating those responsible for spreading disinformation. This requires identifying the individuals and organisations involved in the disinformation campaign, analysing their roles and responsibilities, and tracing the flow of information.
- *Step 3:* Assessing potential exemptions to freedom of expression protections. This involves evaluating whether the disinformation campaign falls within the legitimate restrictions on freedom of expression recognised by international law.
- *Step 4:* Determining the appropriate mode of liability to prosecute such individuals under international law. This requires analysing the specific circumstances of the case and selecting the most appropriate mode of liability, such as co-perpetration, aiding and abetting, or contributing to a common purpose.<sup>1</sup>

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1 A comprehensive articulation of the modes of individual criminal responsibility before the International Criminal Court (ICC)—including co-perpetration, aiding and abetting, and contribution to a common purpose — is set out in Articles 25 and 28 of the Rome Statute. See [Rome Statute](#), Articles 25 and 28.



20. The report concludes that information alibis, when used to plan, execute or conceal international crimes, can be legitimately restricted under international law. It provides a framework for investigating and prosecuting individuals involved in such disinformation campaigns, emphasising the importance of accountability for these actions. The report also highlights the need for continued research and analysis of Russian information operations to counter their harmful effects and protect international peace and security. Central to this effort is a comprehensive understanding of the coordination mechanisms behind information operations and the way in which these disinformation strategies are integrated into Russian military operations.

21. By shedding light on the deceptive tactics employed by the Russian Federation in information warfare, this report aims to raise awareness and contribute to efforts to counter disinformation and promote accountability for international crimes. It provides valuable insights for policymakers, legal professionals, and civil society organisations working to address the challenges posed by information alibis and other forms of disinformation in armed conflicts.

# INTRODUCTION

22. Information operations during armed conflict encompass a diverse range of processes. This report focuses on the Russian Federation's use of "information alibis" and other forms of disinformation related to the alibi. Information alibis are the preemptive dissemination of false information intended to facilitate crimes, including by deflecting responsibility for crimes committed by the source of the disinformation — in this instance, the Russian state.

23. An examination of the structure, purpose, and objectives underlying information alibis and Russian information operations more generally reveals a coherent strategy rooted in state doctrine, evident in operations within Ukraine and elsewhere. Russia, much like a criminal fabricating an alibi to deny involvement in a crime, constructs "information alibis" — deceptive narratives designed to absolve not only its leadership but also military personnel and other actors involved in the perpetration of international crimes from accountability. These "paper trail alibis", a characteristic of Russian information operations for decades, deflect blame and create a false narrative of non-involvement and ostensibly innocent actions. These range from broad justifications for aggression, like claims of ethnic Russian mistreatment in former Soviet states (e.g., Moldova, Georgia), to specific, fabricated explanations for particular attacks. Russia relies on these alibis extensively.

24. While other forms of information operations exist, including strategic disinformation, misinformation, malinformation, and general propaganda, this report focuses on information alibis as a distinct subcategory of such operations, specifically engineered to be integrated into the overall military strategy. Specifically, it examines their use in committing crimes against the civilian population, including by concealing crimes, and obstructing investigations into criminal acts.

25. As stated above, the report is structured in five parts starting with the Part I examination of the basic legal framework governing information operations under international law, delineating the boundaries between protected speech and speech that may constitute an international crime. Relevant international legal instruments, including the ICCPR, principles of IHL, and other applicable legal measures, are addressed. This foundation supports an exploration of the strategies employed by the Russian leadership in utilising information alibis.

## PART I:

# FREEDOM OF EXPRESSION AND INFORMATION OPERATIONS DURING ARMED CONFLICT

26. Freedom of expression constitutes one of the most fundamental human rights enshrined in international law. This principle is articulated in core international human rights instruments, including the Universal Declaration of Human Rights,<sup>2</sup> the ICCPR,<sup>3</sup> and the European Convention on Human Rights (ECHR).<sup>4</sup> It ought to be upheld and protected in nearly all circumstances, including during an armed conflict, irrespective of whether the expression is objectively objectionable or factually inaccurate.

27. While the right to freedom of expression must be preserved and promoted, it is equally important to prevent its misuse by malicious state actors and others in information operations during armed conflict. This requires a delicate balancing of rights, ensuring full respect for the freedom of expression while carefully titrating it to preclude prohibited speech, including expression that contributes to the perpetration of international crimes.

28. This section examines the right to freedom of expression as understood in international law, specifically through the lens of jurisprudence at international criminal tribunals. It then delineates the circumstances under which state authorities can legitimately restrict such a right.

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2 Universal Declaration of Human Rights, Article 19.

3 ICCPR, Article 19.

4 Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention), Article 10.

# The Right to Freedom of Expression under International Law

29. The right to freedom of expression is recognised as one of the paramount human rights in democratic societies. The right encompasses both personal and societal dimensions. On a personal level, it upholds individual human rights, which are deemed not only inherently valuable but also regarded as an “indispensable condition for the full development of the person”.<sup>5</sup> In the absence of the right to express oneself freely, the enjoyment of other human rights may become unattainable, as this right serves to reinforce and safeguard other human rights.<sup>6</sup> Further, the right to freedom of expression embodies a societal dimension and should be viewed as a “foundation stone for every free and democratic society”.<sup>7</sup>

30. ICCPR Article 19(2) prescribes that the right to freedom of expression is essential for ensuring transparency, accountability, and the promotion of human rights.<sup>8</sup> This provision protects “all forms of expression”, which includes both digital and traditional platforms as well as oral communication.<sup>9</sup> Further, it broadly recognises the journalistic function as applicable to a diverse array of individuals, including “professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere”.<sup>10</sup> Consequently, this right extends to individuals disseminating information via Telegram, YouTube, Facebook and other common platforms where information is publicly shared.

31. The ICCPR’s broad understanding of the right to freedom of expression even extends to the publication of erroneous opinions and incorrect interpretations of past events.<sup>11</sup> The European Court of Human Rights (ECtHR) affirms a similar approach, noting that the right to freedom of expression is not limited to favourably received information but also covers ideas and information that may “shock, offend or disturb”.<sup>12</sup> Publication is generally

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5 UN Human Rights Committee (UNHRC), [General Comment 34](#), para. 2.

6 For example, freedom of expression is closely interrelated with freedom of thought, conscience and religion. In this respect, it is clear that the “[f]reedom of expression plays an indispensable role in combating intolerance and discrimination related to religion or belief, ensuring a space for exposing, challenging and refuting such expressions...” Petersen M.J., [Freedom of religion or belief and freedom of expression](#), 2022, p. 3. See also Council of Europe, [Links between freedom of expression and other human rights](#), 2019.

7 UNHRC, [General comment No. 34, Article 19, freedoms of opinion and expression](#), 12 September 2011, para. 2.

8 Jasper H. et al., [He who dares not offend cannot be honest: United Nations Human Rights Committee jurisprudence and defamation laws under the ICCPR](#), 2023, p. 2.

9 UNHRC, [General comment 34](#), para. 12.

10 *Ibid.*, para. 44.

11 *Ibid.*, para. 49.

12 ECtHR, *Handyside v. the United Kingdom*, Application No. 5493/72, [Judgment](#), 7 December 1976, para. 49.

acceptable irrespective of the truth or falsehood of the content<sup>13</sup> and covers opinions and judgements which may be opposed by the general public.<sup>14</sup>

32. Thus, the high threshold for protecting free expression can include protecting the dissemination of disinformation. For example, the ECtHR has noted that disinformation does not, *per se*, fall outside protected freedoms, as prohibiting the publication of untruthful information would place an “unreasonable restriction on the freedom of expression”.<sup>15</sup> The UN Human Rights Committee (UNHRC) has found similarly, noting that the prosecution of journalists merely on the grounds that the news they published was false would be inconsistent with Article 19.<sup>16</sup>

33. The international criminal tribunals have rigorously addressed the issue of the criminal culpability of journalists on numerous occasions. The International Military Tribunal (IMT) in Nuremberg convicted Julius Streicher, the editor of the antisemitic newspaper *Der Stürmer*, of crimes against humanity for disseminating heinous antisemitic propaganda while being fully aware of the mass exterminations of Jews conducted by the Nazis.<sup>17</sup>

34. In the *Ministries* case, Otto Dietrich, the National Socialist German Workers’ Party Press Chief was charged with, and found guilty of, crimes against humanity in connection with his anti-Semitic hate speech. Specifically, Dietrich was found guilty for having “consciously implemented, and by furnishing the excuses and justifications, participated in, the crimes against humanity regarding Jews”.<sup>18</sup> Conversely, the radio host Hans Fritzsche was acquitted because he functioned as a “mere conduit” of directives received from senior superiors, such as Dietrich. The IMT found that the intent “to incite the German people to commit atrocities on conquered peoples” was never proven.<sup>19</sup> Instead, his intention to “arouse popular sentiment in support of Hitler and the German war effort” was not classified as criminal by the IMT.<sup>20</sup>

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13 ECtHR, *Lingens v. Austria*, Application No.9815/82, [Judgment](#), 8 July 1986, para. 46.

14 ECtHR, *Hertel v. Switzerland*, Application No.59/1997/843/1049, [Judgment](#), 25 August 1998, para. 50.

15 ECtHR, *Salov v. Ukraine*, Application No.65518/01, [Judgment](#), 6 September 2005, para. 113.

16 UNHRC, [Consideration of reports submitted by States Parties under Article 40 of the Covenant: concluding observations of the Human Rights Committee \(Cameroon\)](#), 4 November 1999, para. 24.

The UNHRC is the body of independent experts that monitors implementation of the ICCPR and considers complaints by States parties to the ICCPR. For a more in depth description, see Office of the United Nations High Commissioner for Human Rights (OHCHR), [Civil and political rights: the Human Rights Committee, fact sheet No. 15 \(Rev.1\)](#), p. 9.

17 The Avalon Project, [Judgment: Streicher](#).

18 *US v. von Weizsaecker et al.*, [Judgment](#), reprinted in *Trials of war criminals before the Nuremberg Military Tribunals under Control Council Law No. 10*, Vol. XIV, 1949, p. 576.

19 *The Trial of German Major War Criminals. Proceedings of the International Military Tribunal sitting at Nuremberg, Germany, 22nd August 1946 to 1st October 1946*, [Judgment](#) of 1 October 1946, pp. 150–151.

20 *Ibid.*, p. 151.

35. In *Prosecutor v. Nahimana et al.*, the ICTR examined the interplay between permissible and criminal speech. In this case, the co-accused Ngeze served as the editor of the Kangura newspaper, which was responsible for disseminating anti-Tutsi hate speech. The court underscored the important distinction between freedom of expression and the media, in contrast to the spreading of messages of hatred or incitement to commit serious offences.<sup>21</sup> This relationship was explored in depth within the judgement, which articulated the legal principles related to balancing the right to freedom from discrimination with the right to freedom of expression. The judgement cited relevant jurisprudence from both the ICCPR and ECHR. Ultimately, the tribunal concluded that discriminatory hate speech does not fall under the protection of free expression.<sup>22</sup>

36. In the Hartmann case, the ICTY addressed the delicate equilibrium between the public's right to access information and the imperative to safeguard confidential material essential for the effective administration of international criminal justice. Florence Hartmann, a French journalist and spokesperson for the ICTY Prosecutor, published a book and an article that contained confidential materials from the Slobodan Milošević trial, to which she had access during her time as a spokesperson for the ICTY prosecutor.<sup>23</sup> Both the ICTY Trial and Appeal chambers affirmed that subsequent contempt of court proceedings were proportionate to the alleged harm caused by these publications and did not violate the "letter or spirit" of international instruments related to freedom of expression.<sup>24</sup>



## Legitimate Restrictions on the Right to Freedom of Expression

37. Article 19(3) of the ICCPR clarifies that the exercise of the freedom of expression may be subject to certain restrictions. Such restrictions are "legitimate" if they adhere to a tripartite test of: (i) legality; (ii) legitimacy; and (iii) necessity.<sup>25</sup>

38. Under the "legality" criterion, the law that restricts free expression "must be formulated with sufficient precision to enable an individual to regulate his or her conduct

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21 *Prosecutor v. Nahimana et al.*, [Judgement](#), 3 December 2003, para. 32.

22 *Ibid.*, para. 1101.

23 Swoboda S., [Confidentiality for the protection of national security interests](#), 2010, p. 222.

24 In the Case against Florence Hartmann, [Judgement on allegations of contempt](#), 14 September 2009, paras 69–74; [Appeal Judgement](#), 19 July 2011, paras 149–157.

25 Kaye D., [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#), 2018, para. 8.



accordingly".<sup>26</sup> Such restrictions must be made known to the public.<sup>27</sup> In short, a law should be enacted through legal processes and should be publicly available for anyone to review.

39. The second criterion for assessing limitations on freedom of expression is "legitimacy". This criterion mandates that any restrictions imposed must be justifiable in the pursuit of a respect for the rights or reputations of others, the protection of national security or of public order, and the protection of public health or morals.<sup>28</sup>

40. The ECHR provides a more extensive list of legitimate aims that justify restrictions on free expression; these include safeguarding national security and territorial integrity, or public safety, preventing disorder or crime, protecting health and morals, protecting the reputation or rights of others, preventing the disclosure of confidential information, and maintaining the authority and impartiality of the judiciary.<sup>29</sup>

41. Third, the requirement of necessity implies that the restriction to free expression must be proportional in severity and intensity to the purpose being sought (i.e., the purposes identified in the second criterion), may not become the rule, and must be interpreted narrowly in cases of doubt.<sup>30</sup> Further, the restriction must be the least intrusive instrument to achieve its protective function and be proportionate to the protected interest. The principle of proportionality must also take account of the form of expression at issue as well as the means of its dissemination.<sup>31</sup>

42. A common justification for enacting a legitimate restriction on free expression arises when it incites violence. For example, if an individual calls for violent action against a minority group during a public rally, restricting their freedom of expression may be legitimate.<sup>32</sup>

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26 UNHRC, [General Comment 34](#), para. 25.

27 *Ibid.*

28 ICCPR, Article 19.

29 [Convention for the Protection of Human Rights and Fundamental Freedoms](#), Article 10.

30 Nowak M., [UN Covenant on Civil and Political Rights. CCPR Commentary \(2nd rev. ed.\)](#), 2005, p. 460.

31 UNHRC, [General Comment 34](#), para. 34.

32 In a General Comment regarding this matter, the UN Human Rights Committee provided that "[t]he conduct of specific participants in an assembly may be deemed violent if authorities can present credible evidence that, before or during the event, those participants are inciting others to use violence, and such actions are likely to cause violence; that the participants have violent intentions and plan to act on them; or that violence on their part is imminent", UNHRC, [General Comment No. 37](#), para. 19, *citing* OHCHR, [Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence](#), 5 October 2012, para. 29 (f). Similarly, in *Kudrevičius and others v. Lithuania*, the ECHR noted that "[t]he guarantees of Article 11 [in terms of right to peaceful assembly] therefore apply to all gatherings except those where the organisers and participants have [violent] intentions, incite violence or otherwise reject the foundations of a democratic society". ECHR, *Kudrevičius and others v. Lithuania*, Application no. 37553/05, [Judgment](#), 15 October 2015, para. 92.

## The Freedom of Expression and Information Operations During Armed Conflict

43. Information operations have been an important aspect of power, diplomacy, and armed conflict for a very long period of time.<sup>33</sup> Even Sun Tzu's *Art of War*, a 2,000-year-old text considered one of the most important military strategy books ever written, highlights the crucial role of psychology and information operations in warfare.<sup>34</sup>

44. Information operations executed during armed conflict represent a distinct form of expression. Widely recognised as legitimate, these operations work in conjunction with more conventional warfare. States employ them to shape the perceptions, attitudes, and behaviours of adversaries, their domestic populations, and the international community at large. Their ultimate aim is to contribute to the achievement of political and military objectives.<sup>35</sup> For instance, NATO standards describe information operations as a “staff function to analyze, plan, assess and integrate information activities to create desired effects on the will, understanding and capability of adversaries, potential adversaries and audiences in support of mission objectives”.<sup>36</sup>

45. Information operations during an armed conflict are diverse, employing various methods and tools. For instance, the US Army actively utilised information operations during military operations in Afghanistan.<sup>37</sup> The International Security Assistance Force mission's information campaign was reportedly proactive, incorporating positive communication to win the “hearts and minds” of the Afghan civilian population.<sup>38</sup> Examples include support for local television and radio stations, as well as informational programmes such as the call-in radio show “Ask the PRT Commander”, which directly engaged the local populace.<sup>39</sup>

46. The Allies during World War II also used information warfare during combat operations. The United States established the “Ghost Army” with the objective “to trick the Germans

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33 Cavelty M.D., *Information operations: trends and controversies*, May 2008, p. 1.

34 Mattheis A., Gartenstein-Ross D., Koduvayur V. & Wilson C., *Blind sided: a reconceptualization of the role of emerging technologies in shaping information operations in the gray zone*, February 2023.

35 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, *Disinformation and freedom of opinion and expression during armed conflicts*, 12 August 2022, para. 15.

36 NATO Standard AJP-10.1 AJP-10.1, *Allied Joint Doctrine for information operations*, January 2023, p. 25.

37 Maley W., *Provincial reconstruction teams in Afghanistan — how they arrived and where they are going*, 1 July 2007.

38 Hunton C.T., *The war of ideas and the role of information operations in counterinsurgency*, 28 April 2008, p. 54.

39 Rózsa T., *NATO information operations in theory and in practice: battling for hearts and minds in Afghanistan*, 2013, p. 160.

into thinking the Allies were in the neighborhood in force, so that actual units elsewhere had time to maneuver".<sup>40</sup> During that campaign, soldiers of the Ghost Army frequented bars and gathering spots feigning the roles of senior officers and disseminating false narratives to mislead German spies.<sup>41</sup> The Ghost Army executed over twenty missions, using inflatable tanks and vehicles, sound trucks, and deceptive radio transmissions to provide units with the requisite time to manoeuvre, thereby facilitating the preparations for the D-Day invasion.<sup>42</sup>

47. Concerning propaganda, the British radio stations Gustav Siegfried Eins and Soldatensender Calais spread disinformation to German soldiers with embedded lies about demoralising Allied air raids and fantastical outbreaks of disease within German barracks under the guise of "secret Nazi German media".<sup>43</sup> This experiment is also characterised as the first "deep fake" created to undermine trust in the Nazi regime.<sup>44</sup> For better credibility, this disinformation was based on the personal information received from prisoners of war, communications intercepts and precise street names, the favourite drinking haunts of soldiers in Berlin and even the birth dates of named troops.<sup>45</sup>

## Misuse of Information Operations During an Armed Conflict

48. The misuse of information operations during armed conflict manifests in various forms, frequently constituting disinformation. Disinformation is defined as "information that is false and deliberately created to harm a person, social group, organization or country".<sup>46</sup> Russia's strategy in its war of aggression against Ukraine exemplifies this approach. The Russian government has fabricated statements attributed to various parties, disseminated

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40 The New York Times, [Ghost Army, a World War II master of deception, finally wins recognition](#), 3 February 2022.

41 *Ibid.*

42 Army University Press, [Ghost Army Honored](#).

43 The Times, [How a Cavalier Scot used fake news to fool the Nazis](#), 28 September 2024. "D-Day" refers to the 6 June 1944 operation resulting in the landing of troops from the United States, Canada, the United Kingdom and other countries in Normandy (northern France) during World War II. History.com, [D-Day](#), 27 August 2024.

44 *Ibid.*

45 *Ibid.*

46 Wardle C. & Derakhshan H., [Information disorder: toward an interdisciplinary framework for research and policy making](#), 2017, p. 20.

false allegations of atrocities, made unfounded accusations of genocide to vilify the adversary, and imputed other offences to rationalise its initiation of hostilities.<sup>47</sup>

49. Such instances can lead to erroneous accusations of atrocities, potentially intensifying armed conflict. The key distinction between misinformation and disinformation lies in the intent; for example, photographs shared with malicious intent would be classified as disinformation.<sup>48</sup>

50. Information operations may also involve misinformation, defined as “false information that is unintentionally spread by individuals who believe the information is true or who have not taken the time to verify it”.<sup>49</sup> While lacking deliberate intent to deceive, the unintended consequences of misinformation can still be detrimental, contributing to public confusion and eroding trust in reliable information sources.<sup>50</sup> For example, unintentionally misattributed or out-of-context photographic or video footage in the media can constitute misinformation.<sup>51</sup> Such instances can lead to erroneous accusations of atrocities, potentially intensifying armed conflict. The primary distinction between misinformation and disinformation lies in the intent.<sup>52</sup>

51. Malinformation can be defined as “information that is based on reality, used to inflict harm on a person, organisation or country”.<sup>53</sup> Similar to disinformation and misinformation,

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47 President of Russia, [Address by the President of the Russian Federation](#), 24 February 2022; President of Russia, [Statement by the President of the Russian Federation](#), 21 November 2024; President of Russia, [Signing of treaties on the accession of the DPR, LPR, Zaporizhzhia, and Kherson regions into Russia](#), 30 September 2022; President of Russia, [Concert on the occasion of the anniversary of Crimea's reunification with Russia](#), 18 March 2022; Ministry of Foreign Affairs of the Russian Federation, [Briefing by the official representative of the Russian Ministry of Foreign Affairs, M.V. Zakharova, Moscow, February 25, 2022](#), 25 February 2022; Ministry of Foreign Affairs of the Russian Federation, [Foreign Ministry Spokeswoman Maria Zakharova's comment on the occasion of the second anniversary of the staged Bucha massacre](#), 2 April 2024; TASS, [Lavrov stated that what is happening in eastern Ukraine is an attack on everything Russian](#), 21 February 2022; Federation Council of the Russian Federation, [V. Matvienko: Our servicemen are precisely and accurately carrying out the order for the demilitarization and denazification of Ukraine, treating the civilian population with care](#), 5 April 2022; TASS, [Matviyenko proposed a discussion on Ukraine to the Vice President of the European Parliament](#), 13 October 2023; Ministry of Foreign Affairs of Ukraine, [Statement of the Ministry of Foreign Affairs of Ukraine on Russia's false and offensive allegations of genocide as a pretext for its unlawful military aggression](#), 26 February 2022.

48 European Regulators Group for Audiovisual Media Services, [Notions of disinformation and related concepts](#), 10 September 2020, p. 13; Wardle C. & Derakhshan H., [Information disorder: toward an interdisciplinary framework for research and policy making](#), 2017, p. 20; Chen K. & Alden C., [Understanding and mitigating disinformation: a primer for policymakers and stakeholders](#), p. 2.

49 International Committee of the Red Cross (ICRC), [Harmful information — misinformation, disinformation and hate speech in armed conflict and other situations of violence: ICRC initial findings and perspectives on adapting protection approaches](#), 2021, p. 7.

50 Media Defence, [What is 'false news'?](#).

51 Fazio L., [Out-of-context photos are a powerful low-tech form of misinformation](#), 18 February 2020.

52 The following incident illustrates the use of photographic footage in disinformation campaigns. Following the death of General Qasem Soleimani in 2020, Iran conducted a retaliatory strike against Iraqi military bases housing American troops. The social media posts “used images from unrelated events to perpetuate the narrative that the missile strikes were more successful than reported, along with statements to scare American audiences, warning that America “was on the precipice of another horrible war in the Middle East”. US Department of Defense, [Strategy for operations in the information environment](#), 5 July 2023, p. 5.

53 Wardle C. & Derakhshan H., [Information disorder: toward an interdisciplinary framework for research and policy making](#), 31 October 2017, p. 20.

it can take many forms. Prominent examples of malinformation during armed conflict include the use of hate speech and incitement to genocide. In the “Media case” at the ICTR, the Trial Chamber described an episode where a list of individuals suspected of being members or accomplices of the Rwandan Patriotic Front (RPF)<sup>54</sup> was published in Kangura newspaper and Radio Télévision Libre des Mille Collines.<sup>55</sup> These people were subsequently tracked and murdered.<sup>56</sup> The Trial Chamber concluded that even if the information were partially true — some of these people were indeed RPF members — spreading this information in the media, in the context of the Rwandan genocide, led to further dehumanisation and posed a direct threat for these people, and was therefore considered an instigation to genocide.<sup>57</sup>

## Legitimate Restrictions on Information Operations During Armed Conflict

52. The right to utilise information operations as part of one’s military strategy is not without limits. Similar to any limitation on the right to free expression, when legitimate restrictions satisfy the tripartite test (that such restrictions are provided by law, pursue a legitimate aim, and are necessary and proportionate to the objective sought)<sup>58</sup> can be demonstrated, information operations can be prohibited.

53. For example, many groups participating in an armed conflict employ information operations with malicious intent. In this regard, Daesh (Islamic State/IS/ISIS/ISIL) has utilised social media to conduct sophisticated information campaigns to gain support for its ambition to establish a global Islamic caliphate through, *inter alia*, the perpetration of international crimes.<sup>59</sup> Popular social media platforms such as Twitter were key in Daesh’s information dissemination efforts as a recruiting tool, source of fundraising, and platform for disseminating graphic propaganda to a global audience.<sup>60</sup> Some even credit Daesh with

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54 The RPF is a political party in Rwanda rooted in a movement led by exiled Rwandans that launched the country’s civil war in 1990 and ended the Rwanda genocide of 1994. See Britannica, [Rwandan Patriotic Front](#).

55 Prosecutor v. Nahimana *et al.*, [Judgement](#), 3 December 2003, para. 1026.

56 *Ibid.*

57 *Ibid.*, paras 1026–1030.

58 Article 19 of the ICCPR provides that “the restrictions must be ‘provided by law’; they may only be imposed for one of the grounds [for respect of the rights or reputations of others; for the protection of national security or of public order (ordre public), or of public health or morals]; and they must conform to [...] tests of necessity and proportionality”. See UN Human Rights Committee, [General Comment 34](#), para. 22. Regional human rights conventions utilise a similar test. See e.g. Council of Europe, [Convention for the Protection of Human Rights and Fundamental Freedoms](#), Article 10.

59 NATO Strategic Communications Centre of Excellence, [Daesh information campaign and its influence](#), 8 January 2016, p. 12.

60 Courchesne L. & McQuinn B., [After the Islamic State: social media and armed groups](#), 9 April 2021.

pioneering the use of social media in conflict, through the creation of a global brand that drew between 20,000 and 40,000 volunteers from at least 85 countries.<sup>61</sup>

54. Information operations have also been employed to stir ethnic conflict. In its work, the UN Independent Investigative Mechanism for Myanmar demonstrated that the Myanmar military created a clandestine network of pages on social media to spread materials instilling fear and hatred of the Rohingya minority amidst the ongoing genocide.<sup>62</sup> Facebook was a central platform for facilitating the Rohingya genocide in Myanmar, including through the spread of disinformation by the Burmese military, whose specialists were reported to have been trained in Russia.<sup>63</sup> The UN experts concluded that the Myanmar military conducted a coordinated and deliberate social media campaign that excused and promoted violence against the Rohingya minority.<sup>64</sup>

55. On 1 March 2022, the Council of the European Union<sup>65</sup> suspended the broadcasting activities of Russia Today<sup>66</sup> and Sputnik, citing their involvement in a “systematic, international campaign of media manipulation and distortion of facts to enhance [Russia’s] its strategy of destabilisation of its neighbouring countries and of the [European] Union and its Member States”.<sup>67</sup> In April 2022, the EU Court of Justice considered RT France’s appeal against this ban. Firstly, the Court determined that the interference was “prescribed by law”. Secondly, it ruled that the measures were legitimate, aimed at protecting the EU “public order and security”, and serving to “preserve peace, prevent conflicts and strengthen international security”, consistent with the UN Charter and as stipulated in Article 21(2) EU Treaty.<sup>68</sup> Thirdly, the Court agreed that the submitted evidence, including articles and videos, substantiated RT France’s “continuous and concerted propaganda actions” targeting EU civil society, with the intention of “justifying and supporting” Russia’s aggression against

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61 *Ibid.*

62 The Rohingya, one of Myanmar’s numerous ethnic minorities, have experienced systemic discrimination. On 27 August 2017, Myanmar security forces, spearheaded by the Myanmar Army, launched an offensive against Rohingya villages across northern Rakhine State. This campaign of ethnic cleansing against the Rohingya involved widespread and systematic acts, including unlawful mass killings, rape and sexual violence, torture, starvation, the deliberate burning of hundreds of Rohingya villages, and the displacement of over 700,000 civilians. See Amnesty International, [Myanmar: “We will destroy everything”: military responsibility for crimes against humanity in Rakhine State](#), 26 June 2018, p. 8.

63 Fejerskov A.M. & Hansen F.S., [Disinformation goes South](#), 5 July 2019.

64 United Nations Independent Investigative Mechanism for Myanmar, [Anti-Rohingya hate speech on Facebook: content and network analysis](#), 27 March 2024, para. 179.

65 Council of the European Union, [Regulation 2022/350 amending Regulation \(EU\) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine](#), 1 March 2022, pp. 1–2.

66 According to Keir Giles, Russia Today (RT) was launched in 2005 and initially presented itself as an English-language TV station intended to provide a positive view of Russia to foreign audiences. Annex 1: Expert Statement from Keir Giles, pp. 8, 10–11.

67 Alkiviadou N., [Banning Russia Today and Sputnik in Europe is a bad idea](#), 15 April 2022.

68 RT France v Council of the European Union, [Judgment of the General Court \(Grand Chamber\) of 27 July 2022](#), paras 163–167.



Ukraine. The Court concluded that the EU's measures were justified and proportionate in banning programming that endorses violence.<sup>69</sup>

56. In the international criminal tribunal system, there is a wealth of jurisprudence identifying legitimate restrictions on the right to free expression by various persons indicted by the international courts. They are canvassed carefully and extensively below and will not be repeated in this section.<sup>70</sup>

## Modern Information Operations During Armed Conflict

57. While information operations are not a novel concept, the contemporary information landscape has facilitated new methods for their implementation, such as leveraging the viral nature of social media to reach unprecedented audiences. Consequently, this dynamic has perpetuated the phenomenon known as the "firehose of falsehoods", which arises from the swift generation of misleading and easily shareable material.<sup>71</sup> It can be argued that this approach is utilised to "overwhelm and confuse" various audiences.<sup>72</sup>

58. Recent conflicts in Libya, Syria, and Ukraine have also demonstrated that information technology and social media serve as particularly effective tools for preemptively confirming or refuting the realities on the ground, often more rapidly than traditional military or government mechanisms.<sup>73</sup> In this way, modern information technology also dictates the conduct of warfare. For example, military and intelligence actions extend beyond the traditional battlefield, significantly impacting both virtual and cognitive dimensions

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69 Global Freedom of Expression, [RT France v. Council of the European Union](#).

70 See [infra](#).

71 Mattheis A., Gartenstein-Ross D., Koduvayur V., Wilson C., [Blind sided: a reconceptualization of the role of emerging technologies in shaping information operations in the gray zone](#), February 2023. In particular, the "firehose of falsehood" was described by the RAND corporation researchers Christopher Paul and Miriam Matthews, who distinguished two of its distinctive features: first, a "high number of channels and messages" and second, a "shameless willingness to disseminate partial truths or outright fictions". See RAND, [The Russian "firehose of falsehood" propaganda model](#), 11 July 2016. In this way, a propagandist "aims at overwhelming the public by producing a never-ending stream of misinformation and falsehoods which don't have to be believable. If repeated widely and frequently enough, they could be effective in warping public opinion in the propagandist's favor". See Maza C., [Why obvious lies make great propaganda](#), 31 August 2018.

72 Massoletti M., ["Special military operation", "Nazis" and "at war with NATO": Russian state media framing of the Ukraine war](#), 15 March 2024; Kirillova K., [Propaganda and active measures in Russian information operations](#), 13 May 2024; Elswah M. & Howard P.H., ["Anything that causes chaos": the organizational behavior of Russia Today \(RT\)](#), October 2020, pp. 623–645.

73 See Brunetti-Lihach N., [Information warfare past, present, and future](#), 14 November 2018; Patrikarakos D., [War in 140 characters: how social media is reshaping conflict in the twenty-first century](#), 2017; Singer P.W. & Brooking E.T., [LikeWar: the weaponization of social media](#), 2018.

through cyberspace and via social media with the aim of influencing the perceptions of target audiences.<sup>74</sup>

59. Information alibis, a specific type of modern information operation that thrives in the current information landscape, are discussed in detail in the section below.

## Information Alibis: Definition and When They Can Be Legitimately Restricted

60. The Ukraine Center for Countering Disinformation (CCD)<sup>75</sup> defines an “information alibi” as a “preventative accusation by one party of another of actions to be committed by the latter. The purpose of using this mechanism is to conceal or justify war crimes committed by the occupying forces”.<sup>76</sup> CCD representatives have provided a simple example: “[w]hen Russians want to bomb a place, for example, Kremenchuk Railway Station, ...they [will say in advance that] Ukraine was going to do it” and then they do it.<sup>77</sup>

61. The Ukrainian NGO Detector Media defines an information alibi as a strategy that “consists of proactively accusing the other party of actions that will actually be committed by the accusers themselves. This technique is used to cover up or justify one’s criminal actions by creating a preemptive message to confuse the audience and deflect responsibility”.<sup>78</sup>

62. Information alibis closely resemble “accusations in a mirror”. This is a rhetorical practice in which one falsely accuses one’s enemies of conducting, plotting, or desiring to commit precisely the same transgressions that one plans to commit against them.<sup>79</sup> For example, if one plans to kill one’s adversaries by attacking a civilian object like a marketplace, they would accuse the adversaries of plotting precisely the same act.<sup>80</sup>

63. In the lead-up to the full-scale invasion of Ukraine on 24 February 2022, Russian President Vladimir Putin and other officials deployed the “accusation in a mirror” technique.

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74 *Ibid.*

75 The Centre for Countering Disinformation is a working body of the National Security and Defense Council of Ukraine. The main task of the Centre is to counter information threats, in particular focusing on destructive propaganda and disinformation. See National Security and Defence Council of Ukraine, [The work of the Center for Countering Disinformation has been presented to the ambassadors of the G7 countries, Finland and NATO](#), 6 April 2021.

76 The Centre for Countering Disinformation, [Analytical report “The use of information alibis by Russian resources”](#), 23 July 2024.

77 RAND, [Ukrainian resistance to Russian disinformation. Lessons for future conflict](#), 3 September 2024, p. 66.

78 Detector Media, [Exposing how Russian propagandists create and use “information alibis”](#), 23 July 2024.

79 Badar M. & Florijančič P., [The Prosecutor v. Vojislav Šešelj: A symptom of the fragmented international criminalisation of hate and fear propaganda](#), 2020, p. 416.

80 *Ibid.*, Marcus K.L., [Accusation in a mirror](#), 13 March 2012, p. 359; Prosecutor v. Nahimana et al., [Judgement](#), 3 December 2003, para. 111.

They falsely asserted that Ukraine was perpetrating genocide in Russian-backed separatist-controlled territories.<sup>81</sup> The 2023 New Lines Institute for Strategy and Policy and Raoul Wallenberg Centre for Human Rights report highlighted that Russia promoted this form of disinformation (i.e., willfully disseminating false information with the intent to malign) to legitimise the ensuing violence.<sup>82</sup>

## ***Information Alibis Are Not Protected Speech and Can Be Legitimately Restricted***

64. Information alibis should not be afforded protection under international human rights law when they facilitate international crimes. Such dishonest narratives should be restricted under the condition of legality, consistent with a state's positive obligations regarding freedom of expression. For example, the ECtHR made clear that states are permitted and may even have a positive duty to counter all forms of expression that spread, incite, promote, or justify hatred directed to persons or groups belonging to a particular ethnicity or religion.<sup>83</sup> This principle should be extended to include information alibis, which serve a similar harmful function by enabling criminal acts. Hence, states are both required to not engage in information operations aimed at crafting information alibis themselves, and to restrict such expressions emanating from private individuals.

81 New Lines Institute for Strategy and Policy & Raoul Wallenberg Centre for Human Rights, [An independent legal analysis of the Russian Federation's breaches of the Genocide Convention in Ukraine and the duty to prevent](#), May 2022, p. 16. In particular, in his address announcing the launch of the so-called 'special military operation', Putin accused Ukraine of perpetrating genocide against the civilian population of Donetsk and Luhansk regions. In this way, the launch of a full-scale invasion on Ukraine was justified by Russia's purported responsibility to protect civilians in the region. See President of Russia, [Address by the President of the Russian Federation](#), 24 February 2022.

82 New Lines Institute For Strategy and Policy & Raoul Wallenberg Centre for Human Rights, [The Russian Federation's escalating commission of genocide in Ukraine: a legal analysis](#), July 2023, pp. 21–22. In particular, it is noted that "Russia's president, Vladimir Putin, routinely justifies Russia's invasion of Ukraine through baseless claims of Ukraine attacking its own citizens or seeking to wage war against Russia". *Ibid.*, p. 22. For example, in a speech delivered on 21 February 2023, Putin stated that Ukraine was attempting to gain nuclear weapons to attack Russia. See President of Russia, [Presidential Address to Federal Assembly](#), 21 February 2023.

83 For example, in *Atamanchuk v. Russia* the ECtHR noted that "the Contracting States are permitted, or even obliged, by their positive obligations under Article 8 of the Convention, to regulate the exercise of freedom of expression so as to ensure adequate protection by law in such circumstances and/or where fundamental rights of others have been seriously impaired". ECtHR, *Atamanchuk v. Russia*, Application No. 4493/11, [Judgment](#), 11 February 2020, para. 67. See also ECtHR, *Budinova and Chaprazov v. Bulgaria*, Application No. 12567/13, [Judgment](#), 16 February 2021, para. 95; ECtHR, *Aksu v. Turkey*, Application Nos 4149/04 and 41029/04, [Judgment](#), 15 March 2012, paras 61 & 81; ECtHR, *Erbakan v. Turkey*, Application No. 59405/00, [Judgment](#), 6 July 2006, para. 56.

The American Convention on Human Rights (ACHR) protects the right to freedom of expression under Article 13, which under paragraph 5 sets a positive obligation on states to make an "offense punishable by law" the following acts: propaganda for war; any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin. The Inter-American Court has not yet had the opportunity to interpret Article 13(5).

The African Charter on Human and Peoples' Rights guarantees the right to freedom of expression and information under Article 9, without directly prohibiting incitement. However, the African Commission found the Guinean government in violation of Article 2 (freedom from discrimination) for "massive violations of the rights of refugees" following a speech by Guinea's president, Lansana Conte, in which he incited soldiers and civilians to attack Sierra Leonean refugees. See ACHR, [Institute for Human Rights and Development in Africa \(on behalf of Sierra Leonean refugees in Guinea\) v. Republic of Guinea](#), 12 December 2004. See generally Article 19, [Prohibiting incitement to discrimination, hostility or violence](#), December 2012.

65. Second, the “legitimate aim” of restricting information alibis can be justified by the need to “protect national security” and/or “public order”.<sup>84</sup> This is particularly relevant when such expression directly contributes to the planning, executing, and cover-up of international crimes. By preemptively shaping false narratives, information alibis can justify violence, destabilise societies, and undermine security frameworks. Therefore, restricting such types of expression serves a legitimate aim, as it prevents violence and maintains public safety, ensuring that such information does not facilitate or obscure the commission of serious international crimes.

66. Thirdly, restricting information alibis would also be necessary and proportionate in light of their inherently criminal nature and in regard to states’ positive obligations within IHL. In this regard, Common Article 1 of the Geneva Conventions places an obligation to enforce compliance with IHL coupled with a negative duty not to encourage violations through direct advocacy.<sup>85</sup> Hence, states’ obligations under the IHL render the criminalisation of information alibis both necessary and proportionate. Further, limiting information alibis does not lead inexorably to the prohibition on all forms of disinformation. The effort to criminalise one form of disinformation must carefully protect other forms of expression, including other forms of disinformation.

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84 ICCPR, Article 19; [European Convention on Human Rights](#), Article 10. In the case *Leroy v. France*, the ECtHR noted that the authorities needed to remain vigilant about acts capable of increasing additional violence, namely protecting public safety and preventing disorder or crime within the meaning of Article 10 (2), ECtHR, *Leroy v. France*, App. No.36109/03, [Judgement](#), 2 October 2008, para. 36. See also e.g. Article 20 (2) of the ICCPR which prohibits “any advocacy of national, racial, or religious hatred, that constitutes incitement [...] to violence”, ICCPR, Article 20 (2). See also [Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence](#), 5 October 2012. Moreover, incitement to genocide or crime against humanity (persecution) is prohibited. See *Prosecutor v. Nahimana et al.*, [Appeal Judgement](#), 28 November 2007, paras 677–892, 972–996, 1001–1002; *Prosecutor v. Šešelj*, [Appeal Judgement](#), 11 April 2018, paras 156–165.

85 ICRC Database, [Article 1 — Respect for the Convention](#); Katz E., [Information operations in International Humanitarian and Criminal Law: reflections on the Oxford Statement](#), 22 July 2021; Droege C. & Tuck D., [Fighting together and international humanitarian law: Ensuring respect for the law and assessing responsibility for violations \(2/2\)](#), 17 October 2017.

## ■ PART II:

# RUSSIAN INFORMATION OPERATIONS IN THE CONTEXT OF ITS MILITARY OPERATIONS

## The Russian Understanding of Information Operations

67. In Russian discourse, the term “information operations” is primarily employed as a terminological point of reference to NATO and those of its member states.<sup>86</sup> Unlike Western terminology, the Russian information security doctrine does not use any specific concept but instead discusses threats in the information domain.<sup>87</sup>

68. Russian experts utilise a variety of terms to describe these operations, including “information warfare”, “information struggle” and “information confrontation”, as well as related concepts such as “mental warfare” and “wars of consciousness”.<sup>88</sup> The expression

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86 Arold U., [Peculiarities of Russian information operations](#), 2016, p. 17. The legacy of this concept is borrowed from the early US concept of “information warfare” that has been adopted in Russia as “information confrontation”, “information war(fare)” (информационная война) and “information struggle” (информационная борьба). *Ibid.*

87 For example, the term “information operations” is missing from major programme documents, such as the 2014 Military Doctrine, 2016 Information Security Doctrine, 2021 National Security Strategy and 2023 Foreign Policy concept. According to the 2016 Information Security Doctrine, the wider use of the informational technologies gives rise to “new information threats” ([Doctrine of Information Security of the Russian Federation](#), 5 December 2016, para. 10) emanating from “certain states” that are threatening Russian information security by using information and psychological tools for destabilisation’ (para. 12). Moreover, “foreign media” is accused of using a “discriminative approach with biased assessments of State policy of the Russian Federation” (*ibid.*). To combat mentioned threats, any such activity must be suppressed, seemingly nodding to domestic information control and political repression in general (Wilde G. & Sherman J., [No water’s edge: Russia’s information war and regime security](#), 4 January 2023.) The 2021 National Security Strategy places great emphasis on threats in the information and digital spheres, acting as an intensification of aggressive Russian actions towards Western countries in these areas (Dyner A.M., [Russia’s National Security Strategy](#), 9 July 2021). Overall, the Russian official documents all paint a “rather dark picture of the world” where information warfare against Russia is waged by outside enemies. The focus of the official documents is accordingly explicitly defensive, revealing little information about Russia’s information war against other countries, “though a lot can be read between the lines” (Franke U., [War by non-military means: understanding Russian information warfare](#), March 2015, p. 22).

88 Thomas T., [Recasting the Red Star: Russia forges technology through tradition and toughness](#), 2011; Jonsson O., [The Russian understanding of war: blurring the lines between war and peace](#), 2019.

“information confrontation” includes not only the psychological and cyber elements of information operations, but also the full spectrum of offensive and defensive measures associated with such operations.<sup>89</sup>

69. Within Russian academic circles, the term “information operations” is used to describe similar operations by foreign states.<sup>90</sup> For example, Russian military theorists General Sergey Korotov, Colonel Igor Dylebskiy and Colonel Sergey Komov argue that the United States does its “best to actively apply all its [...] arsenal of resources of modern information operations in peacetime”.<sup>91</sup> Similarly, Andrei Manoilo defines such operations as a “practice of counteracting information wars” waged by the Western states.<sup>92</sup> He contends that information operations should be understood as a sequence of information injections, separated by periods of exposure, united by a single concept and coordinated in terms of time, goals, objectives and instruments of information influence.<sup>93</sup>

70. Irrespective of nomenclature, information operations occupy a critical position in the formulation and execution of both domestic and foreign policies within Russia. As Dr Oscar Jonsson argues in “The Russian understanding of war”:

As the information arena is key for domestic and international power, information-psychological warfare is seen to be so effective that it can alter the consciousness of a country, eroding trust in institutions and state policy to the degree that the citizens are prepared to revolt, creating color revolutions. In this way, information warfare is understood to be more effective than military force and able to reach strategic goals by itself. Several Russian theorists and elites see that information should be considered violent and that Russia is in an ongoing information war. Therefore, information warfare is seen to blur the boundaries between war and peace [...] [t]he imminent sense of threat among the Russian leaders has also been an essential part of the Russian conduct of information warfare.<sup>94</sup>

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89 Arold U., [Peculiarities of Russian information operations](#), 2016, p. 17.

90 Manoilo A., [Evolution of information operations in relations between Russia and the USA](#), p. 360 [translated from Russian].

91 Komov S., Korotkov S. & Dylevskiy I., [About the evolution of the modern American “information operations” doctrine](#), 2008. See also Manoilo A., [Evolution of information operations in relations between Russia and the USA](#), p. 360 [translated from Russian].

92 Manoilo A., [Modern practice of information warfare and psychological operations. Viral technologies and cascade-type “Epidemics” on the example of an operation to expose a CIA agent of influence, former Vice President of Venezuela Diosdado Cabello 17-21/08/2019](#), 2019, p. 3 [translated from Russian].

93 *Ibid.*

94 Jonsson O., [The Russian understanding of war: blurring the lines between war and peace](#), 2019, pp. 121–122.



71. Russian information operations frequently entail subversive and destructive actions directed against other states.<sup>95</sup> Manoilo's scholarship underscores the complex nature of these operations, encompassing a synthesis of intelligence measures, operational, operational-technical, and operational-search activities conducted by intelligence agencies.<sup>96</sup>

## Russia Information Operations During Military Operations

72. The origins of information operations can be traced back to Soviet-era traditions of propaganda and intelligence, which were strategically deployed to manipulate global events and shape public narratives.<sup>97</sup> Russian leadership considers information operations a vital tool of state power, utilising them not only to influence global perceptions but also as an integral component of pursuing its military aims.<sup>98</sup> Alexander Bartosh, a Russian expert on information warfare and a member of the Academy of Military Sciences, argues in his writings that:

information warfare is a set of methods, through a coordinated concept and plan, to influence all segments of an enemy's population and government in order to distort their worldview, to weaken and destroy the foundations of their national identity and way of life, with the goal of disrupting their ability to resist aggression.<sup>99</sup>

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- 95 Kirillova K., [Propaganda and 'active measures' in Russian information operations](#), 13 May 2024; Rid T., [Active measures: the secret history of disinformation and political warfare](#), 2020; Kanet R.E., [From Soviet active measures to Russian information warfare](#), 2023; Lucas E., Morris J., & Rebegea C., [Information bedlam: Russian and Chinese information operations during the Covid-19 pandemic](#), 15 March 2021; Courter I. J., [Russian preinvasion influence activities in the war with Ukraine](#), 2022.
- 96 Manoilo A., [Evolution of information operations in relations between Russia and the USA](#), June 2022, p. 430 [translated from Russian]; Manoilo A., [Technologies of modern information wars](#), 2017.
- 97 Mihkelson M., [Disinformation: Russia's old but effective weapon of influence](#), 16 June 2017; Rid T., [Active measures: the secret history of disinformation and political warfare](#), 2020; Murphy B., [Disinformation and national power](#), 2023; Ivan C., Chiru I. & Arcos R., [Hybrid security threats and the information domain: concepts and definitions](#), 2023; Andrew C. & Mitrokhin V., [The Mitrokhin Archive: The KGB in Europe and the West](#), 2018; Ball D., [Protecting falsehoods with a bodyguard of lies: Putin's use of information warfare](#), 2017, p. 9.
- 98 Klingova K., [Information operations](#), 13 January 2023, p. 136; Thomas T., [Russian views on information-based warfare](#), 1996; Ivan C., Chiru I. & Arcos R., [Hybrid security threats and the information domain: concepts and definitions](#), 2023; Allen T.S. & Moore A.J., [Victory without casualties: Russia's information operations](#), 1 March 2018, p. 59; Jonsson O., [The Russian understanding of war: blurring the lines between war and peace](#), 2019, pp. 121–122; Miron M. & Thornton R., [The use of cyber tools by the Russian military: lessons from the war against Ukraine and a warning for NATO?](#), 2024.
- 99 Irregular Warfare Centre (IWC), [Russian information warfare strategy: new IWC translation gives insights into vulnerabilities](#), December 2023, p. 4.

73. Kharis Sayfetdinov describes information warfare as “an across-the-board employment of information in whatever form to enable the user to achieve his goals on and off the battlefield”.<sup>100</sup> Used more broadly, Sayfetdinov notes that:

information warfare (or operations) is [the] conscious employment of information to enable the user to achieve his political, economic, military, or any other goals such as gaining the support of the target population on the battlefield, at home and in the international community. To be effective, information warfare ‘must be conducted constantly, in peacetime, in the period of threats [...] and in wartime’.<sup>101</sup>

74. According to Russian military theorists Alexander Serzhantov, Alexander Smolovy, and Igor Terentyev:

the development of information technologies implemented in virtual space in the forms of behavioural, cognitive, mental and cybernetic wars. In the future, they will acquire primary importance in the interests of creating the most favourable conditions for achieving strategic goals.<sup>102</sup>

75. Accordingly, the information sphere is a “fundamentally independent sphere of warfare” that could have a “significant impact on achieving the war aims”.<sup>103</sup> Serzhantov and Pavlov argue that “modern warfare is, to a greater extent than before, primarily a social phenomenon, and also considering the revolutionary development of means of mental influence on society, it is information warfare [...] that has become an integral part of the content of modern operations”.<sup>104</sup>

76. According to Timothy L. Thomas, Russia employs a comprehensive approach to information warfare, treating media, propaganda, and information technology as weapons. He points out the historical division between informational technical and informational psychological operations is now blurred by social media and cyber activity.<sup>105</sup> Additionally, another commentator observes that Russia perceives cyber capabilities as “tools of

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100 Sayfetdinov K.I., [Information warfare in the military sphere](#), 2014, pp. 38–39 [translated from Russian].

101 *Ibid.*

102 Serzhantov A.V., Smolovy A.V. & Terentyev I.A., [Transformation of the content of war: contours of future military conflicts](#), 2022, p. 21 [translated from Russian].

103 *Ibid.*, p. 26.

104 Serzhantov A.V. & Pavlov D.A., New content and essence of military operations in modern conditions, 2024 [hyperlink not available].

105 United States Senate Armed Services Subcommittee on Emerging Threats and Capabilities, [Statement of Timothy L. Thomas, senior analyst, Foreign Military Studies Office, Fort Leavenworth](#), 15 March 2017, p. 7.


information warfare, which combines intelligence, counterintelligence, maskirovka,<sup>106</sup> disinformation, electronic warfare, debilitation of communications, degradation of navigation support, psychological pressure, and destruction of enemy computer capabilities".<sup>107</sup>

77. Colonel-general Zarudnitsky, head of the General Staff Academy, argues that "relations between states are determined primarily by information superiority in the cognitive environment." He states that the "formation of ideology in military conflicts, as well as promising forms and methods of conducting confrontation is taking place within the framework of information, cognitive and proxy wars".<sup>108</sup>

78. A 2023 NATO Strategic Communications Centre of Excellence report characterised Russia's information warfare approach as "strategy without design".<sup>109</sup> Specifically, the report discovered that while in the aftermath of the 2022 invasion, military bloggers commonly copied the official narratives of the Kremlin, sometimes the opposite was true, as narratives proposed by the bloggers would later be adopted officially as the government's position. The rise of this flexible and adaptive online ecosystem served the Kremlin well in conflict situations.<sup>110</sup>

## Examples of Russian Information Operations during Armed Conflict

### Armed Conflict in Syria

 79. Following the Arab Spring uprisings, Syria was identified as a key nation where significant and enduring reforms were anticipated. Under the al-Assad family's authoritarian rule since 1971, the Syrian populace aspired to secure fundamental human rights and establish a democratic system, echoing the successful revolutions witnessed in Tunisia,

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106 RAND defines "maskirovka" as the "concealment of forces and intentions, as well as the use of decoys and deception to misdirect the adversary". See RAND, [The Russian way of warfare: a primer](#), 2017, p. 7. In Ukraine, Russia utilised maskirovka "to conceal, deceive, and surprise by creating a distorted reality for Ukrainian decision-makers and the population" both in Crimea and Donbas. See more here: Hofirek M., [Messing with their minds: maskirovka's cognitive effects in Crimea and Donbas](#), 28 May 2021, p. 44.

107 Mshvidobadze K., [The battlefield on your laptop](#), 21 March 2011.

108 Zarudnitskiy V.B., [Modern military conflicts related to the emerging geopolitical worldview](#), 2023. English translation available [here](#).

109 Bolt N., Fridman O., Winter C., Michlin-Shapir V., Venclauskienė L., Urbanavičiūtė K., Daukšas V., Kubs J., Michalowska A. & Levin M., [Kremlin communication strategy for Russian audiences before and after the full-scale invasion of Ukraine](#), October 2023, p. 31.

110 IWC, [Russian information warfare strategy: new IWC translation gives insights into vulnerabilities](#), December 2023, p. 3.

Egypt, Libya, Yemen, and other countries. However, instead of progress, Syrian citizens experienced severe oppression, which ultimately escalated into a civil war that ended only with Bashar al-Assad's departure from the country in late 2024.<sup>111</sup> Nevertheless, despite the political transition, violent clashes are still ongoing, resulting in killings of civilians, widespread looting, and ultimately forced relocation.<sup>112</sup>

80. To assist its geopolitical ally, which was perilously close to losing its grip on power, Russian intervened militarily on 30 September 2015.<sup>113</sup> The military assistance rendered to the Assad regime by the Russia Armed Forces encompassed extensive air and artillery operations, in addition to the provision of military equipment to government personnel.<sup>114</sup> According to the Centre for Strategic and International Studies (CSIS) and other groups, Russia's strategy in the Syrian conflict entailed a systematic campaign targeting essential civilian infrastructure in areas held by opposition forces, including hospitals, educational facilities, power plants, and electrical substations.<sup>115</sup> Numerous news reports have documented that these attacks resulted in the deaths of thousands of innocent Syrian civilians.<sup>116</sup>

81. Russia not only executed military strikes against the Syrian people but also engaged in an insidious propaganda campaign utilising both diplomatic channels and disinformation

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111 International Federation for Human Rights, [Fall of the El-Assad regime: A new hope for the Syrian people](#), 9 December 2024.

112 As of 11 March 2025, the UN Human Rights Office "documented the killing of 111 civilians". OHCHR, [The UN Human Rights Office gave an update on the situation in Syria's coastal region as reports continue to emerge of the distressing scale of violence there since 6 March](#), 11 March 2025. It also noted that [other] violations and abuses such as "widespread looting of homes and shops, mainly by unidentified individuals who appear to have taken advantage of the chaotic situation on the ground" had been recorded in the recent days, with "[m]any civilians hav[ing] fled their homes to rural areas". *Ibid.* Moreover, it highlighted that "tensions have also been fueled by mounting hate speech, online and offline, and widespread dissemination of misinformation, including footage taken out of context, which further exacerbated fear among the population". *Ibid.* See also Reuters, [Syria's Sharaa scrambles to contain deadliest violence in years](#), 10 March 2025; BBC, [Worst violence in Syria since Assad fall as dozens killed in clashes](#), 7 March 2025.

113 Syrian Network for Human Rights, [Ninth annual report on the most notable violations by Russian forces since the launch of Russia's military intervention in Syria on September 30, 2015](#), 30 September 2024, p. 1.

114 Wójtowicz T., Barsznica I. & Drąg K., [The influence of Russian military involvement in the war in Syria](#), 2018, p. 86.

115 CSIS, [Moscow's war in Syria](#), 2020, p. 31; Human Rights Watch, [Syria/Russia: strategy targeted civilian infrastructure](#), 15 October 2020; Amnesty International, [Syrian and Russian forces targeting hospitals as a strategy of war](#), 3 March 2016; Dhingra R., [Addressing the effects of civilian targeting: lessons from Syria for Ukraine](#), 3 February 2023; Impunity Watch, [Deadly déjà vu: Russia revisits Syria war tactics in Ukraine](#), April 2023. See generally Human Rights Council, [Report of the Independent International Commission of Inquiry on the Syrian Arab Republic](#), 28 January 2020.

116 According to Syrian Network for Human Rights (SNHR) estimates, there were approximately 231,495 civilian deaths in Syria between 2011 and August 2024. See SNHR, [Civilian death toll](#), 30 August 2024. The exact civilian death toll varies across different groups. For example, the Syrian Observatory for Human Rights has recorded 164,223 deaths of civilians. The Violations Documentation Centre in Syria estimates 147,009 civilians killed. Airwars recorded at least 24,000 civilians reportedly killed by Russian, Turkish, Israeli and US-led coalition airstrikes alone. See De Silva R., [Tallying Syria's war dead](#), 15 January 2025.

aimed at Syria's civilian population.<sup>117</sup> According to CSIS, the tripartite objective of this endeavour was to: i) shift culpability for Russian and Syrian attacks on civilian infrastructure and innocent civilians; ii) subvert international initiatives aimed at holding the Assad regime accountable for its international crimes; and iii) legitimise an increasingly expansive set of civilian targets.<sup>118</sup> Over time, these campaigns became synergistic, and their effects harmonised to fulfil regime military objectives, such as reclaiming territory held by opposition forces.<sup>119</sup>

82. Two well-known types of international crimes that were covered up by information alibis are discussed below. The first related to Russia's attempts to conceal Syria's use of chemical weapons against its own people. The second relates to the routine attacks against the humanitarian organisation White Helmets.

### ***Information Alibis Regarding Chemical Weapons***

83. As is well-known, the Syrian government regime systemically utilised chemical weapons against the civilian population as a means of warfare throughout the conflict, primarily targeting its own civilian population. According to Human Rights Watch (HRW), the use of chemical weapons intensified and became "widespread and systematic" after Russia entered the conflict in 2016.<sup>120</sup>

84. For example, throughout 2018 Russia repeatedly warned of imminent false flag attacks allegedly orchestrated by Syrian opposition factions, which would subsequently be blamed on Syrian Government forces. Although the details of these alleged provocations varied, Russia regularly asserted that opposition groups were preparing a chemical attack using chlorine against the Syrian people. Following such an attack, the Russian disinformation machine would then claim that the Syrian opposition would falsely accuse the Syrian government of carrying it out.<sup>121</sup>

85. In early 2018, sources from the Russian government began claiming that rebel factions and the White Helmets, supported by Western powers, were strategising "false flag"

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117 CSIS, [Moscow's war in Syria](#), 2020, p. 50.

See also Eisentraut S., [Russia's propaganda war about Syria: how Pro-Kremlin Twitter accounts manipulate the West](#), March 2018; Daniel J. & Presl D., [Russian civilian outreach and information operations in Syria](#), 13 January 2022; Nocetti J., [Dazed and confused: Russian "information warfare" and the Middle East — the Syria lessons](#), 27 February 2019.

118 CSIS, [Moscow's war in Syria](#), 2020, p. 50.

119 *Ibid.*

120 Human Rights Watch, [Death by chemicals: the Syrian government's widespread and systematic use of chemical weapons](#), 2017.

121 There is no evidence that opposition actors ever planned to use (or even had access to) chemical weapons.

chemical attacks intended to harm civilians and attribute blame to the Syrian government.<sup>122</sup> This contention was provoked by US tomahawk strikes on a Syrian airbase, which occurred in the aftermath of the chemical attack in Khan Shaykhun on 7 April 2017, attributed by the Organisation for the Prohibition of Chemical Weapons (OPCW) to the Syrian government's Armed Forces.<sup>123</sup> The Atlantic Council explained that such claims introduced the notion of American complicity in any future attacks, implying that these incidents would serve as false flag operations to justify a predetermined US military engagement rather than resulting from decisions made by the Assad regime or the Russian government regarding the use of chemical weapons.<sup>124</sup>

86. On 4 April 2018, Vassily Nebenzia, the Russian representative to the United Nations, denied the allegations concerning the Syrian government's deployment of chemical weapons, deeming them "absurd and unfounded", and further asserted that:

The authorities in Damascus have repeatedly reported on staged provocations being prepared using professional film equipment and extras selected by the White Helmets. However, such information has been deliberately ignored or treated as an afterthought.<sup>125</sup>

87. On 7 April 2018, a chemical attack in Douma (near Damascus), which reportedly killed at least 70 people, was attributed to the Syrian Army.<sup>126</sup> These attacks also led to a full-scale Russian information operation aimed at covering up the crime by confusing Western public

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122 For example, Valery Gerasimov, head of Russia's General Staff, said that Moscow had information that rebels in the enclave of eastern Ghouta were planning to fake a chemical weapons attack against civilians and blame it on the Syrian army. Following that, the United States allegedly intended to use the fake attack as a pretext to bomb the government quarter in nearby Damascus where he said Russian military advisers, Russian military police and Russian ceasefire monitors were based. See Reuters, [Russia says U.S. plans to strike Damascus, pledges military response](#), 13 March 2018. Similar accusations were made by Colonel General Sergei Rudskoi, Chief of the Main Operations Directorate of the General Staff of the Russian Armed Forces. [Gazeta.ru, We are noticing signs of preparation for strikes](#), 17 March 2018; see also Foreign Minister Sergey Lavrov: Ministry of foreign Affairs, [Foreign Minister Sergey Lavrov's remarks and answers to media questions at a joint news conference with Minister of Foreign Affairs of Turkey Mevlut Çavusoglu following the 6th meeting of the Russian-Turkish Joint Strategic Planning Group](#), 14 March 2018.

123 In particular, the OPCW Joint Investigation Team concluded that Assad forces are responsible for the Khan Shaykhun chemical attack. OPCW, [Seventh report of the Organisation for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism](#), 26 October 2017, p. 10.

See also Forensic Architecture, [Chemical attack in Khan Sheikhoun](#); Al Jazeera, [Syria forces behind Khan Sheikhoun gas attack: UN probe](#), 6 September 2017.

124 Atlantic Council, [Breaking Ghouta](#), 7 September 2018, p. 60.

125 Permanent Mission of Russia to the United Nations, [Speech by the Permanent Representative of Russia to the UN V.A. Nebenzia at the UN Security Council Meeting on the "Chemical dossier" of Syria](#), 4 April 2018 [translated from Russian].

126 Global Public Policy Institute, [Nowhere to hide: the logic of chemical weapons use in Syria](#), February 2019, p. 11. In January 2023, the OPCW Investigation and Identification Team concluded that there were reasonable grounds to believe that the Syrian Arab Air Forces were the perpetrators of the chemical weapons attack on 7 April 2018 in Douma. See OPCW, [Note by the Technical Secretariat: third report by the OPCW investigation and identification team pursuant to paragraph 10 of Decision C-SS-4/DEC.3 "Addressing the threat from chemical weapons use" Douma \(Syrian Arab Republic\) — 7 April 2018 \(S/2125/202\)](#), 27 January 2023.



opinion and dividing their leaders in an effort to sow doubt on what actually happened.<sup>127</sup> The stories broadcast on TV and disseminated through social media ranged from:

- outright denial (claims that there were no chemical attacks, no patients in hospitals, and that photos and testimonies were fake);<sup>128</sup>
- conspiracy theories (that this was a scheme by the White Helmets or Westerners to divert attention from the Skripal<sup>129</sup> affair);<sup>130</sup>
- to defending the regime (by arguing that “everyone knows” that Syria does not have chemical weapons);<sup>131</sup> and
- comparisons with Nazi propaganda methods.<sup>132</sup>

88. The Douma attack is one of the most contested events in the Syrian war, with both the Syrian government and their Russian allies claiming it was a “false flag” attack, perpetrated by the rebels against their own side, so that the Assad government would be blamed.<sup>133</sup>

89. The Russian Foreign Ministry even issued a statement, claiming that they had previously warned that such an attack might happen as a “provocation” for justifying Western military interference against the Assad regime.<sup>134</sup> Russian Foreign Minister Sergey Lavrov later accused Britain of staging the Douma chemical attack to manufacture a pretext for Western military action in Syria.<sup>135</sup> According to Nebenzia, the Douma “provocation” was organised by the UK in an attempt to discredit Russia<sup>136</sup> and launch attacks on government

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127 Nocetti N., [Dazed and confused: Russian “information warfare” and the Middle East — the Syria lessons](#), 27 February 2019, p. 1.

128 BBC, [Syria conflict: Russia says no evidence of Douma chemical attack](#), 9 April 2018.

129 In March 2018, Sergei Skripal, a British citizen who used to work as a Russian intelligence officer, and his daughter, Yulia, nearly died after coming into contact with Novichok, a military-grade nerve agent originally developed by the former Soviet Union. The attack took place in Salisbury, UK and was later attributed by investigative journalism group Bellingcat to Russian Main Intelligence Directorate (GRU) operatives. See also US Embassy in Italy, [Putin's poisons: 2018 attack on Sergei Skripal](#), 11 April 2022; Bellingcat, [Skripal suspects confirmed as GRU operatives: prior European operations disclosed](#), 20 September 2018.

130 BBC, [Syria war: the online activists pushing conspiracy theories](#), 19 April 2018.

131 EUvsDiSiNFO, [DISINFO: everyone knows that Syria has no chemical weapons](#), 15 April 2018.

132 EUvsDiSiNFO, [DISINFO: Western methods in Syria now like Nazi propaganda in 1939](#), 22 April 2018; Nocetti N., [Dazed and confused: Russian “information warfare” and the Middle East — the Syria lessons](#), 27 February 2019, p. 1.

133 According to EUvsDisinfo, these false claims are designed to whitewash Assad’s abundant record of chemical warfare waged against Syrian civilians. The overarching narrative labels any perceived adversary of the Assad regime as a terrorist proxy tasked with staging a “false-flag” chemical attack, which could then be used as a pretext for Western military intervention. See EUvsDisinfo, [The least accurate oracle in the world](#), 16 April 2021.

134 Ministry of Foreign Affairs of the Russian Federation, [Press release on the situation in Syria](#), 8 April 2018.

135 Sengupta K., [Russia accuses Britain of staging suspected Syria chemical weapons attack](#), 13 April 2018.

136 Permanent Mission of Russia to the United Nations, [Statement by Ambassador Vassily Nebenzia, Permanent Representative of the Russian Federation to the United Nations, at the UN Security Council meeting convened on 13 March 2018 by request of Great Britain](#), 20 April 2018.

forces,<sup>137</sup> and was beneficial only to Syrian rebels who were behind the “provocation”.<sup>138</sup> Nebenzia criticised the allied bombing of Syrian government airbases on 14 April 2018, again substantiating the “provocation” narrative with the following scheme: “provocation — false accusation — false sentence — punishment.”<sup>139</sup>

90. Similar accusations emanated from Igor Konashenkov, the Head of the Department of Information and Mass Communication for the Russian Ministry of Defence (MoD). In August 2018, he accused the British special services of being “actively involved” in the false flag provocation which will “serve as another reason for the US, the UK and France to hit Syrian government targets with air strikes”.<sup>140</sup>

91. Other examples of information alibis in Syria emanate from Assad’s regime, which announced its intention to launch a military assault on the rebel-held Idlib province. As then-US President D. Trump warned Syria against an anticipated chemical weapons attack, Twitter saw a surge in fake Russian account creation, ostensibly preparing to spread disinformation around a future attack.<sup>141</sup>

## **Information Alibis Regarding White Helmets**

92. White Helmets are a volunteer humanitarian organisation dedicated to helping communities in Syria.<sup>142</sup> The White Helmets have been the target of a massive, systematic and coordinated information operation spreading two harmful messages.<sup>143</sup> First, the Russian and Syrian governments consider the White Helmets a terrorist organisation due to unproven accusations of cooperating with the Syrian branch of al-Qaeda (al-Nusra and

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137 *Ibid.*

138 *Ibid.*

139 *Ibid.*

140 CBS News, [Russia accuses U.K. of staging fake chemical attack in Syria](#), 13 April 2018. See also “GRAYZONE”, a US outlet that compared chemical attacks in Syria (including the Khan Sheikhoun attack) to an incident described in this report below. Namely, the bombing of the Donetsk Academic Regional Drama Theatre in Mariupol was characterised “a false flag attack executed by Azov extremists to trigger NATO intervention” compared to the US military response to chemical attacks in Syria also described as “false-flag operations”. GRAYZONE, [Was bombing of Mariupol theater staged by Ukrainian Azov extremists to trigger NATO intervention?](#), 18 March 2022. According to GRAYZONE, Ukraine’s government staged the theatre shelling to trigger the “no fly zone” by NATO forces, similarly to Syrian rebels, who allegedly staged the chemical attacks to draw the US military in on the rebels’ side and strike Syrian government forces. *Ibid.*

GRAYZONE was established by journalist Max Blumenthal, who is a frequent contributor to Russia Today. See The Insider, [US media outlet with ties to RT uses AI-generated sources in article on Navalny’s “fake poisoning”](#), 14 March 2023; The Washington Post, [News site editor’s ties to Iran, Russia show misinformation’s complexity](#), 2 June 2024.

141 Nemr C. & Gangware W., [Weapons of mass distraction: foreign state-sponsored disinformation in the digital age](#), 2019. On Russian information alibis in Syria, see Annex 1: Expert Statement from Keir Giles, p. 31–32.

142 The White Helmets, [Our history](#).

143 Wilson K., Starbird K., [Cross-platform disinformation campaigns: Lessons learned and next steps](#), 14 January 2020; Solon O., [How Syria’s White Helmets became victims of an online propaganda machine](#), 18 December 2017; DRFLab, [#SyriaHoax, part two: Kremlin targets White Helmets](#), 20 February 2018.

affiliates).<sup>144</sup> No evidence exists of such cooperation, but the label does serve to justify the regular attacks against these volunteers.<sup>145</sup> According to White Helmets, at least 308 of their volunteers have been killed since 2013.<sup>146</sup>

93. Second, it is alleged that they are responsible for multiple “false flag” operations aimed at implicating Damascus, inciting Western military intervention, and creating ambiguity regarding the accountability of the Syrian regime for chemical attacks.<sup>147</sup> None of these accusations have been substantiated. In fact, the White Helmets displayed remarkable courage and integrity in their efforts to assist the Syrian people, which resulted in their nomination for the Nobel Peace Prize in 2016.<sup>148</sup> There is no evidence to suggest that they participated in any chemical incidents in Syria beyond their role as first responders.

94. The information operation initiated against the White Helmets involves an information alibi campaign. Bellingcat, an organisation that conducts open-source investigations in conflict-affected areas, has identified 22 separate accusations in 2018 that related to the White Helmets’ use or transportation of chemical weapons in Idlib and the surrounding area.<sup>149</sup> Some of these false stories even emanated from the Russian Foreign Ministry.<sup>150</sup> Russian Foreign Minister Sergey Lavrov accused the group of planning provocations with chemical weapons.<sup>151</sup>

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144 von Kumberg K., [Spinning the Syrian conflict: the battle to brand the White Helmets and the future of information warfare](#), 15 April 2019; Chulov M., [How Syria's disinformation wars destroyed the co-founder of the White Helmets](#), 27 October 2020.

145 di Giovanni J., [Why Assad and Russia target the White Helmets](#), 20 October 2018.

146 The White Helmets, [Fallen heroes](#), 2024.

147 Nocetti J., [Dazed and confused: Russian “information warfare” and the Middle East — the Syria lessons](#), 27 February 2019, p. 6. For example, the OPCW have concluded that there are reasonable grounds to believe that the Assad government is responsible for the chemical attack in Douma on 7 April 2018. See UNSC, [‘Reasonable grounds to believe’ Syrian government used chlorine gas on Douma residents in 2018, head of chemical weapons monitoring organization tells Security Council](#), 7 February 2023.

148 Stenhouse A., [Who are the White Helmets? Heroes of Syria's brutal war who risk death every day to save innocent lives](#), 16 October 2016; BBC, [Syria's White Helmets win 'alternative Nobel Prize'](#), 22 September 2015. In 2016, White Helmets won the Right Livelihood Award for “outstanding bravery, compassion and humanitarian engagement in rescuing civilians”. See BBC, [Syria's White Helmets win 'alternative Nobel Prize'](#), 22 September 2016. In 2024, the White Helmets International Government Donors (UK, Canada, Denmark, France, Germany, Qatar and the United States) noted that the work of 3,000 dedicated volunteers from White Helmets “has been crucial in providing relief, assistance and hope to vulnerable populations in Syria, since the organisation’s official foundation in 2014”. See Foreign, Commonwealth & Development Office, [White Helmets International Donor Group statement on 10 year anniversary of humanitarian efforts in Syria](#), 25 October 2024.

149 According to Bellingcat, eight accusations came from the Russian Centre for Reconciliation of Opposing Sides in Syria, set up by the Russian Ministry of Defence. 11 of the remaining accusations originate from Russian government controlled sources, such as Sputnik, the Russian Ministry of Defence, or representatives of the Russian government. Of the 22 claims, all except four explicitly state that future chemical attacks will be some form of “false flag” designed to provoke the West into attacking the Syrian government, targeting civilians in rebel-held areas. See Bellingcat, [Chemical weapons and absurdity: the disinformation campaign against the White Helmets](#), 18 December 2018.

150 Ministry of Foreign Affairs of the Russian Federation, [Press release on the situation in Syria](#), 8 April 2018.

151 Russian-German forum, [Speech and answers to questions by the Minister of Foreign Affairs of the Russian Federation S.V. Lavrov at the German-Russian Forum](#), 14 September 2018.

## ■ PART III:

# INFORMATION ALIBIS USED BY RUSSIA IN ITS WAR OF AGGRESSION AGAINST UKRAINE

95. Since the onset of the full-scale invasion of Ukraine, Russia has employed a variety of information operations to support its war of aggression, including the strategic deployment of information alibis to justify its actions and obscure accountability for international crimes. Early in the conflict, Russian Foreign Minister Sergey Lavrov audaciously reflected on Russia's use of establishing fake pretexts to perpetrate international crimes when he claimed that the Ukrainian government, along with its Western allies, were orchestrating 'staged incidents and fakes' to demonise Russia in the eyes of the international community. Lavrov specifically cited incidents in Bucha, Mariupol, Kramatorsk and Kremenchuk, dismissing well-documented atrocities as fabricated.<sup>152</sup>

96. The following section examines five planned attacks carried out by the Russian Army against Ukrainian civilians or prisoners of war (POWs), each executed in coordination with strategic information operations — specifically, the deployment of *information alibis*. These incidents include the attacks on Mariupol Maternity Ward No.3, the Mariupol Drama Theatre, Kramatorsk train station, the Olenivka POW camp, and the Kakhovka Dam. Collectively, these cases illustrate how Russia systematically integrates disinformation strategies to obscure responsibility, shift blame, and manipulate public and international perceptions before, during, and after the commission of unlawful attacks.

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<sup>152</sup> Izvestiya, Russian Foreign Minister Sergey Lavrov's article "Staged incidents as the Western approach to doing politics", 18 July 2022. This publication is available in English on the Ministry of Foreign Affairs [website](#).

# Information Alibi No. 1: Mariupol Maternity Ward No. 3

97. On 2 March 2022, the Russian Army, alongside the Donetsk People's Republic Army,<sup>153</sup> began a siege of the port city of Mariupol, leading to a three-month blockade.<sup>154</sup> This left 400,000 civilians trapped in the besieged city, unable to evacuate safely.<sup>155</sup> Throughout this period, the Russian Armed Forces conducted numerous airstrikes, including an attack on the Mariupol Territorial Medical Association for Children's and Women's Health ("Maternity Ward No. 3").

98. The strike against Maternity Ward No. 3 took place on 9 March 2022, causing significant destruction and civilian casualties.<sup>156</sup> The attack was part of a broader pattern of attacks by the Russian Army in Mariupol and has led to a situation where approximately 80 percent of the city's healthcare facilities have been critically damaged or destroyed.<sup>157</sup>

99. Russia claimed that the Maternity Ward No. 3 had lost its protective status due to the alleged military presence of the Ukrainian army in the facility.<sup>158</sup> However, there is substantial evidence refuting this claim.<sup>159</sup> This includes conclusions drawn by the UN Independent International Commission of Inquiry on Ukraine, which established that the civilian hospital was functioning at the time of the attack and did not identify any military

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153 A part of Donetsk region controlled by pro-Russian separatist forces since 2014. The Russian President Vladimir Putin recognised the DPR and Luhansk People's Republic as "sovereign" states in February 2022, providing him with a pretext to launch the full-scale invasion of Ukraine. See The Week, [How the Donetsk and Luhansk People's Republics were established](#), 16 June 2022.

154 Human Rights Watch, [Beneath the rubble: documenting devastation and loss in Mariupol](#), 8 February 2024.

155 See for example EAST SOS, [Russian troops carried out an airstrike on the maternity hospital: children who were not even a day old died](#), 9 March 2022. Vadym Boychenko, the mayor of Mariupol, stated that 400,000 residents were present in Mariupol on 4 March 2022. See Reuters, [Besieged Ukrainian city of Mariupol appeals for help](#), 4 March 2022.

156 According to an HRW interview with a volunteer at the hospital who helped injured patients, between 12 and 15 people were injured immediately following the attack. See Human Rights Watch, [Beneath the rubble: documenting devastation and loss in Mariupol](#), 8 February 2024. According to Ukrainian President Volodymyr Zelensky, two adults and a child were killed and 17 staff were wounded in the attack. France24, [As it happened: Russian tanks advance northeast of Kyiv, EU leaders hold crisis talks at Versailles](#), 10 March 2022. The casualties included a pregnant woman and her unborn child, who died shortly after the attack. See AP, [Pregnant woman, baby die after Russian bombing in Mariupol](#), 15 March 2022.

See also BBC, [War in Ukraine: Ukraine maternity and children's ward in ruins after Russia strike](#), 9 March 2022.

157 Ukrainian Healthcare Centre, [How Russia destroyed healthcare In Mariupol: February 24-May 20, 2022, January 2022](#), p. 16. According to the Ukrainian Healthcare Centre at least 82 out of 106 Public Health Service Points in Mariupol have been impacted by Russian attacks. *Ibid*.

158 See for example Ministry of Defence of the Russian Federation, [Briefing](#), 10 March 2022 [translated from Russian].

159 Truth Hounds, [The labour of truth. Myths and reality: Russia's attack on a maternity hospital in Mariupol as a war crime](#), 2022.

target in its vicinity.<sup>160</sup> In fact, it concluded that Russian Armed Forces conducted an indiscriminate attack, thus violating IHL.<sup>161</sup>

100. This attack, as detailed below, was accompanied by a carefully orchestrated information campaign before, during, and after the event, seemingly designed to provide a cover — or an information alibi — for the illegal actions undertaken.

## Information Landscape Relating to the Attack

### ***Before the Attack (Prior to 9 March 2022)***

101. In the days before the shelling, signs emerged that Russian information operations may be cooperating with military actors in planning the attack against the Mariupol Maternity Ward No.3. On 24 February 2022, Russian Telegram channels accused Ukraine of en masse usage of civilians as human shields, aiming to blame Russia for any harm.<sup>162</sup> On 25 February 2022, at a meeting of the UN Security Council, Russian Permanent Representative Vassily Nebenzia articulated Russia's position that no attacks on civilian targets would take place during the so-called special military operation. Simultaneously, he accused the Ukrainian army of using civilians as human shields by deploying military equipment in residential areas.<sup>163</sup>

102. On 24 February, the so-called Donetsk People's Republic (DPR) People's Militia supported Nebenzia's statement in announcing that Ukrainian army checkpoints had been recently created to sabotage evacuations and to use civilians as human shields in Ukrainian cities.<sup>164</sup> The next day, the DPR People's Militia claimed that the Ukrainian army had blocked passage from Mariupol so civilians could be used as human shields and had started equipping firing positions in civilian areas.<sup>165</sup>

103. This narrative persisted in the subsequent days. For example, on 1 March 2022, Russian Defence Minister Sergey Shoigu echoed these accusations, stating that the Ukrainian army strategically positioned firing positions near civilian objects, effectively

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160 Human Rights Council, [Conference room paper of the Independent International Commission of Inquiry on Ukraine](#), 29 August 2023, para. 139.

161 *Ibid.*, para. 200.

162 MIG Russia, Telegram, [24 February 2022](#) [translated from Russian].

163 Permanent Mission of the Russian Federation to the UN, [Speech and response by the Permanent Representative V.A. Nebenzia on the reasons for voting on the draft UN Security Council resolution on Ukraine](#), 25 February 2022 [translated from Russian].

164 DPR People's Militia, Telegram, [24 February 2022](#) [translated from Russian].

165 DPR People's Militia, Telegram, [25 February 2022](#) [translated from Russian].



using non-combatants as human shields all over Ukraine.<sup>166</sup> On 2 March 2022, the DPR People's Militia claimed that maternity wards in Mariupol were being utilised as firing locations, with civilians allegedly acting as human shields.<sup>167</sup> This claim was further spread by pro-war Telegram channels.<sup>168</sup>

104. On 3 March 2022, the DPR representative Eduard Basurin alleged that the Ukrainian army was using Mariupol residents as human shields by establishing firing positions near educational facilities.<sup>169</sup> Subsequently, Foreign Minister Lavrov issued a warning regarding purported "provocations" being planned in Mariupol and other locations where civilians "are held as human shields".<sup>170</sup> On the same day, the Investigative Committee of the Russian Federation initiated criminal proceedings concerning the claims that residents of Ukrainian cities, including Mariupol, were being held hostage by the Ukrainian army as human shields.<sup>171</sup>

105. On 5 March 2022, Igor Konashenkov accused the Ukrainian army of transforming hospitals, maternity wards, and other civilian facilities into firing positions.<sup>172</sup> Likewise, on 6 March 2022, the Russian news agency ANNA-NEWS<sup>173</sup> stated that members of the Azov brigade had established positions in Mariupol Maternity Ward No.1.<sup>174</sup>

106. On 7 March 2022, Vassily Nebenizia again asserted during a meeting of the UN Security Council that "Nazis from Azov" had established firing positions within Mariupol

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166 Reports of the Novorossiia militia Z.O.V. (DPR, LPR, Ukraine War), Telegram, [1 March 2022](#) [translated from Russian]; Voyenny obozrevatel, Telegram, [1 March 2022](#) [translated from Russian]; Soloviev, Telegram, [1 March 2022](#) [translated from Russian].

167 DPR People's Militia, Telegram, [2 March 2022](#) [translated from Russian].

168 Operation Z: Voenkory of the Russian Spring, Telegram, [2 March 2022](#) [translated from Russian]; see also Vasiliev A., [The residents of Mariupol have been taken hostage: Ukrainian nationalists have set up firing positions in schools, kindergartens, hospitals, and maternity wards](#), Kp.ru, 2 March 2022.

169 Donbass reshaet, Telegram, [3 March 2022](#) [translated from Russian]; DPR People's Militia, Telegram, [3 March 2022](#) [translated from Russian].

170 Ministry of Foreign Affairs of the Russian Federation, [Foreign Minister Sergey Lavrov's interview with TV channels RT, NBC News, ABC News, ITN, France 24 and the PRC media corporation](#), 3 March 2022.

171 Investigative Committee of the Russian Federation, [The chairman of the Russian Investigative Committee ordered a legal assessment of the actions of nationalists who are preventing the evacuation of civilians](#), 3 March 2022 [translated from Russian].

172 Ministry of Defence of the Russian Federation, [Briefing by the official representative of the Russian Ministry of Defence](#), 5 March 2022.

173 According to Alexey Kovalev, ANNA-NEWS was originally founded "in the quasi-independent Abkhazia", but later was moved to Moscow, where it obtained a broadcasting licence from Roskomnadzor. The media's editor-in-chief is Anatoly Matviychuk, a retired special forces colonel, who served in Syria from 1998 to 2002. Before the full-scale invasion of Ukraine, the media was primarily focused on the coverage of the Syrian armed conflict. The source of funding for ANNA-NEWS is unknown. ANNA-NEWS belongs to a network of Russian propaganda and disinformation sites, and has ties with Russian security services. See Annex 2: Expert Statement from Alexey Kovalev, p. 17; ANNA-NEWS, [About](#); Pravda.ru, [Anatoly Matviychuk](#), 9 February 2023; Karan K., Osadchuk R., Gigitashvili G., Ponce de León E. & Le Roux J., [Facebook removes Russian propaganda outlet in Ukraine](#), DRFLab, Medium, 5 May 2022; US Department of the Treasury, [Treasury escalates sanctions against the Russian government's attempts to influence U.S. elections](#), 15 April 2021.

174 ANNA-NEWS, Telegram, [6 March 2022](#) [translated from Russian].



Maternity Ward No.1.<sup>175</sup> Similar accusations were made by Vladimir Medynski, Advisor to the Russian President, who attributed the lack of success of the evacuation from Mariupol to the Ukrainian army's purported intention to utilise civilians as human shields.<sup>176</sup>

107. On 8 March 2022, DPR People's Militia correspondent Pavel Fomenko accused the Ukrainian army of holding civilians as human shields in the besieged city and consequently not allowing local residents to evacuate to Russian-controlled parts of the Donetsk region safely. He also accused the Ukrainian army of murdering civilians attempting to evacuate the city two days before.<sup>177</sup> Similar information was disseminated by the Russian Defence Ministry before the attack took place, accusing the Ukrainian army of taking 60 Mariupol residents hostage for their attempt to leave the city.<sup>178</sup>

108. On 8 March 2022 at 23:01 EET (11:01 pm), shortly following a meeting of the UN Security Council, a news article entitled "[t]hey will not last more than a week — Mariupol residents on the humanitarian catastrophe that is unfolding before their eyes" was published on the Russian news website Lenta.ru.<sup>179</sup> This article featured an interview with an individual identified as Igor, a purported local resident, who recounted that in late February 2022, people in Ukrainian military uniform came to the maternity hospital where his mother was employed. The specific maternity hospital among the three located in Mariupol where his mother worked was not disclosed. According to Igor's mother, the Ukrainian military subsequently dispersed the hospital staff and set up firing points within the facility.<sup>180</sup>

## ***The Day of the Attack (9 March 2022)***

109. Four hours before the airstrike, at approximately 12:05 EET (12:05 pm), Russian foreign ministry spokeswoman Maria Zakharova stated that some representatives of the Ukrainian battalions had established firing positions within the maternity hospital in Mariupol, without giving further details.<sup>181</sup> At around 15:50 PM EET (3:50 pm), residents near hospital No.3

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175 Permanent Mission of the Russian Federation to the UN, [Statement and response by Permanent Representative V.A. Nebenzia at the UN Security Council meeting on the humanitarian situation in Ukraine](#), 7 March 2022.

176 TASS, [Medinsky said that Russia will try to discuss humanitarian corridors with Ukraine again](#), 7 March 2022 [translated from Russian].

177 DPR People's Militia, Telegram, [8 March 2022](#) [translated from Russian].

178 Ministry of Defence of the Russian Federation, [Emergency meeting of the Interdepartmental Coordination Headquarters for humanitarian response in Ukraine](#), 3 March 2022.

179 Truth Hounds, [The labour of truth: Russia's attack on a maternity hospital in Mariupol as a war crime](#), 22 March 2022; Bodner M., [Lenta.ru editor replaced after 'Extremism' warning](#), 12 March 2014.

180 Lenta.Ru, ["They won't last more than a week": residents of Mariupol talk about the humanitarian catastrophe that is unfolding before their eyes](#) [translated from Russian], 8 March 2022. The original publication is not available online, but a digital copy is available in the web archive.

181 Ministry of Foreign Affairs of the Russian Federation, [Briefing by Foreign Ministry spokeswoman Maria Zakharova](#), 9 March 2022 [translated from Russian].

heard an aircraft overhead followed by a massive explosion.<sup>182</sup> At approximately 16:00 EET (4:00 pm), Hospital No.3 was targeted.<sup>183</sup> At 16:35 EET (4:35 pm), the first reports that the hospital was bombed emerged on social media.<sup>184</sup> The attack appeared to target the hospital complex, damaging the maternity and children's diagnostic units, and leaving a deep crater in one of the hospital's courtyards.<sup>185</sup> According to the city officials, at least 17 people were injured in the attack, including children, women, and doctors, resulting in at least five deaths.<sup>186</sup>

110. At 16:55 EET (4:55 pm), Yuliya Vityazeva,<sup>187</sup> a Russian pro-war blogger and television presenter, noted that two days before the incident, local residents had made unsuccessful attempts to expel the Ukrainian military from the vicinity of the targeted hospital and maternity ward.<sup>188</sup> This information was quickly spread by other individuals, including Russian propagandist Vladimir Solovyov, who has an audience of 1.3 million on Telegram.<sup>189</sup>

111. Later that day, the War on Fakes Telegram channel joined the information campaign, compiling all previous allegations made. This included that Azov forces were stationed at the hospital, individuals were attempting to leave the hospital premises, and the statements made by Nebenzia. It presented them as findings from an ostensibly reputable fact-checking organisation.<sup>190</sup>

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182 Human Rights Watch, [Beneath the rubble: documenting devastation and loss in Mariupol](#), 8 February 2024.

183 International Partnership for Human Rights (IPHR), [The labour of truth: Russia's attack on a maternity hospital in Mariupol as a war crime](#), 22 March 2022.

184 Mariupol City Council, Telegram, [9 March 2022](#) [translated from Ukrainian].

185 Human Rights Watch, [Beneath the rubble: documenting devastation and loss in Mariupol](#), 8 February 2024.

186 CNN, [Anatomy of the Mariupol hospital attack](#), 17 March 2022.

187 According to Alexey Kovalev, Yuliya Vityazeva (also known as Yuliya Lozanova) was born in Odesa and has lived in Russia since 2015 (naturalised in 2020). She has been an important figure in Russian government-affiliated outlets, especially on Vladimir Soloviev's media empire in various media, including radio, TV, online streams and Telegram channels. She is a prolific spreader of the Kremlin's disinformation narratives — such as claims that the massacre in Bucha was perpetrated by Ukrainian territorial defense members. See Annex 2: Expert Statement from Alexey Kovalev, p. 16. To learn more about Vityazeva, see Hybrid Warfare Analytical Group, [Female Russian Propagandists: Vityazeva gets the boot](#), 5 November 2024.

Vladimir Soloviev is a famous Russian TV host who since April 2022 runs his own TV channel named Soloviev Live. See U.S. Department of State, [Faces of Kremlin Propaganda: Vladimir Soloviev](#), 31 March 2022. Vityazeva is one of the co-hosts for the channel's programmes. In February 2022, Soloviev's propaganda machine on Telegram began increasing exponentially. According to Ilya Davlyatchin of TOCHKA, at some point Soloviev's Telegram network included more than 1,500 channels, some of which were later deactivated. Soloviev's posts are most often reposted by employees of his own TV channel, including Yuliya Vityazyeva and Mikhail Zvinchuk who runs Rybar Telegram channel. See Davlyatchin I., [Round-the-clock M](#), 11 September 2024 [translated from Russian].

188 Yuliya Vityazeva, Telegram, [9 March 2022](#) [translated from Russian].

189 Vladimir Solovyov, Telegram, [9 March 2022](#) [translated from Russian].

190 War on Fakes, Telegram, [9 March 2022](#) [translated from Russian].

112. At 18:38 EET (6:38 pm), the Russian news outlet Komsomolskaya Pravda (KP, literally Komsomol truth)<sup>191</sup> published an article that rebutted any allegations of Russia's involvement in the attack. This was supported by statements made by Nebenzia and Konashenkov, as well as a previously referenced article from Lenta.ru.<sup>192</sup>

113. Daniil Bezsonov,<sup>193</sup> former Deputy Minister of Information of the DPR, stated that the hospital targeted was occupied by the 36th Marine Brigade of the Ukrainian army.<sup>194</sup> This accusation framed the bombing as a legitimate military operation. Echoing this sentiment, Telegram commentator Colonelcassad also remarked that the bombing of the hospital served as evidence that the Ukrainian army was using civilians in Mariupol as human shields.<sup>195</sup> Some have even suggested that Ukraine orchestrated the bombing to pressure NATO into providing more advanced air defence systems.<sup>196</sup>

114. Dmitry Polyanskiy, Russia's First Deputy Permanent Representative to the UN, posted on X that Russia had previously issued warnings regarding the transformation of a specific hospital into a military installation by "radicals" — a reference to the Ukrainian army. He also referenced statements made by both Nebenzia and Konashenkov.<sup>197</sup> On 9 March 2022, Russian diplomat Konstantin Gavrilov, representing Russia at the OSCE Forum in Vienna,

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191 According to Alexey Kovalev, KP is nominally considered a privately-owned tabloid, and is one of the most popular newspapers both in Russia and in Russian-speaking communities abroad. Kovalev describes Komsomolskaya pravda as "staunchly pro-Kremlin and nationalistic", and one of the pillars of the Kremlin's "massive, multifaceted, responsive, and coherent operation that can be considered a proxy war" against Ukraine. Among the media outlet's reporters are Dmitriy Steshin, a reporter with links with Russian far-right movements. See Annex 2: Expert Statement from Alexey Kovalev, pp. 15, 19; NATO Strategic Communications Centre of Excellence, [Russian information campaign against Ukrainian state and defence forces: executive summary](#), 9 June 2016; Fedorov V., "Guru" Kashin on "Komsomolka": Putin's favourite newspaper, the main newspaper of Russia, 28 May 2015 [translated from Russian].

192 Molfar, [Factchecking. Bombing of the children's hospital and maternity hospital in Mariupol](#), 9 March 2022. This article is also available only in an internet archive. Alfimov V., [Who really bombed the children's hospital in Mariupol](#), 9 March 2022.

193 Daniil Bezsonov (also known as Ruslan Baklan) was born in Boryspil (Ukraine). In 2014, he joined the DPR People's Militia and took part in the seizure of Slovyansk with Igor Strelkov (Girkin). He later headed the press service of the DPR People's Militia Directorate and was subsequently appointed as Deputy Minister of Information of the DPR. See Business, [Daniil Bezsonov: "The turning point in our favour will happen very suddenly"](#), 6 August 2022 [translated from Russian]. According to Medialogia analytics, Bezsonov's Telegram channel Unofficial Bezsonov was the 26th most popular in the Russian segment for 2023. Medialogia, [Telegram channels — 2023](#). According to an investigation by Meduza, The Bell and Vazhnye Istorii, Bezsonov is linked to ANO Dialog. See Currenttime, [Journalists have uncovered a Kremlin-linked non-profit organization called Dialogue that is spreading fakes about the war in Ukraine: it received 8.3 billion rubles from the budget](#), 18 September 2023 [translated from Russian]. Bezsonov was appointed as a "first deputy minister of information" of the "Donetsk People's Republic", and is allegedly still fulfilling the role today, actively supporting Russian disinformation and propaganda. See Annex 2: Expert Statement from Alexey Kovalev, pp. 15–16.

194 Unofficial Bezsonov, Telegram, [9 March 2022](#) [translated from Russian].

195 Colonelcassad, Telegram, [9 March 2022](#) [translated from Russian].

196 MIG Rossii, Telegram, [9 March 2022](#) [translated from Russian].


197 Dmitry Polyanskiy, X, [9 March 2022](#) [translated from Russian].

reiterated Konashenkov's prior statement that the Ukrainian army had turned Mariupol hospitals into firing points.<sup>198</sup>

## ***After the Incident (10 March 2022 Onwards)***

115. On 10 March 2022, the MoD released a statement explaining the inconsistency between Maternity Wards No.1 (referenced in statements before the shelling as a hospital being used as a military object) and No.3 (targeted on 9 March 2022). The statement indicated that numerous medical institutions in Mariupol, including Hospital No.3, ceased their regular operations at the end of February, with all personnel and patients evacuated by the Ukrainian army. Further, it asserted that the structure of Maternity Ward No.3, due to its strategically advantageous location near the city centre, was repurposed as a stronghold for the Azov battalion.<sup>199</sup>

116. The Russian military blogger Fighterbomber stated that if "Nazis" (in this case referring to the Ukrainian army, not specifically the Azov brigade) were hiding in hospitals, kindergartens, or UNESCO objects, Russian intelligence capabilities observed such activity and planned their attacks accordingly.<sup>200</sup> Another Telegram channel reiterated earlier reports of civilians in Mariupol being used as human shields by the Ukrainian army, referencing comments from local residents of Mariupol.<sup>201</sup>

 117. In an attempt to undermine the credibility of Ukrainian and Western reports of the attack on the maternity ward, Russian media sources targeted Marianna Vyshemirskaya, a pregnant woman photographed at the scene by Associated Press reporters Yevgeniy Maloletka and Mstyslav Chernov. The photograph, depicting Vyshemirskaya with blood on her face, was widely circulated in the global media, provoking international condemnation.<sup>202</sup> The Russian media outlet SIGNAL claimed that Vyshemirskaya was a situation actress<sup>203</sup> who willingly took part in the fake shelling staged by Ukraine.<sup>204</sup> The pro-Kremlin news

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198 Ministry of Foreign Affairs of the Russian Federation, [Speech by the Head of the Delegation of the Russian Federation at the Vienna talks on military security and arms control K. Gavrillov at the 1003rd plenary session of the Forum for Security Cooperation](#), 7 March 2022 [translated from Russian].

199 Ministry of Defence of the Russian Federation, [Briefing](#), 10 March 2022 [translated from Russian].

200 Fighterbomber, Telegram, [10 March 2022](#) [translated from Russian].

201 Svarshchiki, Telegram, [10 March 2022](#) [translated from Russian].

202 BBC, [Mariupol: Key moments in the siege of the city](#), 17 May 2022.

203 SIGNAL, Telegram, [10 March 2022](#) [translated from Russian].

204 IPHR, [The labour of truth: Russia's attack on a maternity hospital in Mariupol as a war crime](#), 22 March 2022.

outlets KP.ru and REN TV<sup>205</sup> falsely claimed that Vyshemirskaya had changed outfits and put on make-up to play two different victims.<sup>206</sup> This narrative was further disseminated by the War on Fakes channel, which additionally attempted to smear the credibility of Ukrainian journalists who documented the event.<sup>207</sup>

118. On the same day, Andrei Rudenko,<sup>208</sup> a reporter for the All-Russia State Television and Radio Broadcasting Company (VGTRK),<sup>209</sup> published a video featuring a Ukrainian POW who revealed that his superiors instructed his unit to station at a maternity ward; however, they were apprehended before arriving at the location.<sup>210</sup> The recording does not provide adequate information to ascertain which of the three maternity wards located in Mariupol is referenced in the video footage.

119. On 11 March 2022, Nebenzia asserted during a UN Security Council meeting that he had previously alerted attendees regarding Maternity Ward No.1 in Mariupol being repurposed as a firing position by members of the Ukrainian army.<sup>211</sup> Andrei Rudenko posted a video featuring an unidentified local resident confirming that the Azov Brigade was stationed at this maternity ward.<sup>212</sup>

120. On 12 March 2022, Mikhail Mizintsev, the Head of the National Defence Control Centre of the Russian Federation, accused Ukraine of executing false flag operations involving the mining of civilian objects (including hospitals) and establishing firing positions within

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205 REN TV is a "national TV network owned by the National Media Group" that radically changed its editorial policies in 2008 and became "the leading purveyor of conspiracy theories and pseudo-scientific content, to such an extent that it was condemned for these activities by the Russian Ministry of Education and Science". It is considered a pro-Kremlin media outlet, supporting the "special military operation". REN TV is under sanctions "in several countries including Canada", and "was barred from broadcasting in the EU". See Annex 2: Expert Statement from Alexey Kovalev, p. 18; Gazeta.ru, [The TV channel REN-TV received a parody award for pseudoscience](#), 10 February 2015; Council of the European Union, [Russia's war of aggression against Ukraine: EU adopts 9th package of economic and individual sanctions](#), 16 December 2022.

206 Digital Forensic Research Lab, [Russian war report: Putin endorses plan to bring 16,000 "volunteers" from the Middle East to fight in Ukraine](#), 11 March 2022.

207 War on Fakes, Telegram, [10 March 2022](#) [translated from Russian].

208 According to Ukrainian intelligence, Andrei Rudenko is a Russian military journalist and host of the author's Telegram channel Reporter Rudenko V with over 200,000 observers. Since 2023, he has been the head of the Donetsk editorial office of VGTRK, covering the so-called "special military operation" and preparing commissioned and staged stories. See War Sanctions, [Rudenko Andrei Vladimirovich](#).

209 According to Alexey Kovalev, VGTRK (All-Russian State Television and Radio Company) is "a federal state unitary enterprise", fully owned, funded, and, correspondingly, controlled by the Russian government, with top executives appointed by the President of the Russian Federation. Among the media operated by VGTRK are TV channels, in particular, Rossiya-1, and Rossiya-24, radio stations, and online media, such as smotrim.ru. In 2025, VGTRK will receive 22.4 billion rubles from the State budget. See Annex 2: Expert Statement from Alexey Kovalev, p. 19; Mozur P., Satariano A., Krolik A., [An alternate reality: how Russia's state TV spins the Ukraine war](#), 15 December 2022; Kommersant.ru, [The budget broadcasts money](#), 10 December 2024.

210 Reporter Rudenko V, Telegram, [10 March 2022](#) [translated from Russian].

211 Permanent Mission of the Russian Federation to the UN, [Speech and response by the Permanent Representative V.A. Nebenzia at the UN Security Council meeting on the issue of biological laboratories in Ukraine](#), 11 March 2022 [translated from Russian].

212 Reporter Rudenko V, Telegram, [11 March 2022](#) [translated from Russian].

hospitals to attribute blame to the Russian army after the facility was attacked. Mizintsev also claimed that civilians in Mariupol are being used as human shields, with any efforts to evacuate the city being met with lethal consequences imposed by the Ukrainian army.<sup>213</sup> On 15 March 2022, Mizintsev further asserted that medical facilities and other civilian facilities had been transformed into strongholds, ammunition depots, and firing points, with the residents of Mariupol themselves being used as “human shields”.<sup>214</sup>

121. On 17 March 2022, Nebenzia once again denied any accusations regarding the shelling of the maternity ward during the UN Security Council meeting.<sup>215</sup> On the same day, Russian Ambassador to the Organisation for Security and Co-operation in Europe (OSCE) Aleksandr Lukashevich accused the Ukrainian army of locating their firing positions within Mariupol hospitals and employing civilians as human shields.<sup>216</sup> Subsequently, on 20 March 2022, Mizintsev attributed responsibility for the bombings of both the maternity ward and the drama theatre to the Ukrainian army, alleging that these actions were presumably designed to terrorise the civilian population. He further indicated that local residents who managed to evacuate the besieged city to Russia were actively providing testimonies regarding war crimes perpetrated by the Ukrainian army in Mariupol.<sup>217</sup>

122. On 22 March 2022, the Embassy of Russia in the USA stated that residents of Mariupol were being used as “human shields” by members of the Ukrainian army who were deploying heavy weaponry in residential areas and not allowing civilians to evacuate the city.<sup>218</sup> A similar statement was made by Dmitriy Peskov, the Russian President’s spokesperson, during a broadcast on CNN.<sup>219</sup>

123. On 23 March 2024, the Russian state-owned news agency RIA Novosti,<sup>220</sup> along with other state-controlled media outlets such as RT, NTV, and Zvezda, published a video

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213 Ministry of Defence of the Russian Federation, [Meeting of the Interdepartmental Coordination headquarters for humanitarian response in Ukraine](#), 12 March 2022 [translated from Russian].

214 Ministry of Defence of the Russian Federation, [Meeting of the Interdepartmental Coordination headquarters for humanitarian response in Ukraine](#), 15 March 2022 [translated from Russian].

215 Permanent Mission of the Russian Federation to the UN, [Speech by the Permanent Representative V.A. Nebenzia at the UN Security Council meeting on the humanitarian situation in Ukraine](#), 17 March 2022 [translated from Russian].

216 Ministry of Foreign Affairs, [Statement by the Permanent Representative of the Russian Federation to the OSCE A. Lukashevich at a meeting of the OSCE Permanent Council ‘On the ongoing crimes of Ukraine’ with the support of several OSCE participating States](#), 17 March 2022 [translated from Russian].

217 Ministry of Defence of the Russian Federation, [Meeting of the Interdepartmental Coordination Headquarters for humanitarian response in Ukraine](#), 20 March 2022 [translated from Russian].

218 Embassy of Russia in the USA, Telegram, [20 March 2022](#).

219 TASS, [Russian troops’ goal in Mariupol is to clear it of nationalist Units, says Kremlin](#), 22 March 2022.

220 According to Alexey Kovalev, RIA Novosti “is a part of the Russian government-owned and operated ‘Rossiya Segodnya media conglomerate’”. It was the largest news agency till December 2013, when it was dissolved by Putin’s executive decree and “merged several standalone government media assets into one umbrella organization”. Editor-in-chief of RIA Novosti Anna Gavrilova reports to Rossiya Segodnya’s director Dmitry Kiselev and Margarita Simonyan, the agency’s editor-in-chief. RIA Novosti is considered “an integral part of the Kremlin’s propaganda and disinformation machine”. See Annex 2: Expert Statement from Alexey Kovalev, p. 16.



interview featuring Lyubov Ustinova, a resident of Mariupol. In the recorded interview, Ustinova accused the Ukrainian army of irregular conduct, including the shelling of a maternity ward where surgeries were taking place.<sup>221</sup>

124. On 29 March 2022, an interview with the alleged head of the department at the Maternity Hospital No.1 in Mariupol was published. A woman named Anna stated on video that Azov regiment members deliberately placed military equipment and weapons in hospitals.<sup>222</sup> On 30 March 2022, messages emerged about Maternity Ward No.2 being shelled by the Ukrainian army.<sup>223</sup> At the same time, the Russian Telegram channel Military Informant posted pictures that allegedly depicted Ukrainian military equipment next to the maternity ward. The building in the photo looks burnt out.<sup>224</sup>

125. On 1 April 2022, ChVK Media, then owned by Yevgeny Prigozhin,<sup>225</sup> published an interview with Vyshemirskaya<sup>226</sup> in which she asserted that no air assault had occurred.<sup>227</sup> Vyshemirskaya further indicated that at least part of Hospital No.3 had been utilised by the Ukrainian army as a military base.<sup>228</sup> She later became an active media persona in Russia who repeatedly smeared the veracity of the events depicted by journalists Chernov and Maloletka, including in the Oscar-winning “20 Days in Mariupol” documentary.<sup>229</sup>

126. On 2 April 2024, Andrei Rudenko released video footage purporting to provide evidence that the Ukrainian army was stationed next to Maternity Ward No.1.<sup>230</sup> It is important to note that the building depicted in Rudenko's footage appears to differ from the structure presented by Military Informant three days earlier.

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221 NTV, [Mariupol refugee tells about Ukrainian nationalist battalions' outrages](#), 24 March 2022; Izvestiya, [Mariupol resident tells about nationalist battalions abusing people](#), 24 March 2022 [translated from Russian].

222 Z Pravda Shuravi, Telegram, [29 March 2022](#) [translated from Russian].

223 DPR People's Militia, Telegram, [30 March 2022](#) [translated from Russian].

224 Military informant, Telegram, [30 March 2022](#) [translated from Russian].

225 Yevgeny Prigozhin founded the Wagner group, a private military company stationed in Mali, Libya, Sudan, Madagascar, Mozambique, and the Central African Republic. The Wagner group took part in the Russian war against Ukraine. See DW, [Russia's Wagner Group: Where is it active?](#), 25 June 2023. Prigozhin also founded Patriot Media which included the Internet Research Agency with the troll farm linked to attempts by Moscow to interfere in the 2016 U.S. elections. See Politico, [Wagner Group boss shutters media empire](#), 2 July 2023; Federal Bureau of Investigations, [Yevgeniy Viktorovich Prigozhin](#). Both Prigozhin's media empire and Wagner were conceived as contractor agencies that would perform functions for the state while remaining under external management. See Chikishev N., [Prigozhin's Mutiny Shatters Illusion of Powerful Media Empire](#), 14 August 2023). In August 2023, Prigozhin was killed in a plane crash in Russia after having orchestrated a failed military coup in June 2023. See DW, [Yevgeny Prigozhin](#).

226 See *supra*.

227 Chvkmedia, Telegram, [1 April 2022](#) [translated from Russian].

228 *Ibid.*

229 BezFormata, [RT spoke to the heroine of a staged photo from Mariupol that the West uses in its propaganda](#), 12 March 2024; Shershneva A., ["Oscar" for neo-Bandera documentary fake](#), 20 March 2024 [translated from Russian].

230 Reporter Rudenko V, Telegram, [2 April 2022](#) [translated from Russian].



127. On 4 April 2022, the Russian Deputy Minister of Defence Alexander Fomin accused Ukrainian authorities of fabricating incidents with the intent of discrediting the Russian army. He referenced the airstrike on a maternity hospital in Mariupol as one such example. Fomin stated that “nationalists from the Azov units” used several women in labour to produce a report in a hospital that had been destroyed according to a pre-prepared scenario. This “false information”, which assigned blame to the Russian army, was disseminated by Western media outlets. Fomin explained the rationale behind such actions as stemming from the Ukrainian government’s desire to undermine Russia’s reputation before the international community.<sup>231</sup>

128. On 10 April 2022, the Russian newspaper KP published an article corroborating Vyshemirskaya’s statements regarding the Azov regiment being stationed in the oncology building of Hospital No.3. The article was authored by KP correspondent Dmitriy Steshin, who operates a Telegram channel titled Russkiy tarantas and alleged that the Ukrainian army had staged the shelling by detonating a heavy landmine.<sup>232</sup>

129. In June 2022, correspondents from the Russian news outlet ANNA-NEWS reported having visited the site of the maternity ward shelling and presented evidence of military equipment stationed nearby. Nevertheless, it is apparent that the structure depicted in the photographs does not resemble Maternity Ward No.3.<sup>233</sup>

130. On 9 August 2022, Vyshemirskaya explained through her personal Telegram channel that the Ukrainian army used Maternity Ward No.1 as a military base, while Maternity Ward No.3 housed military personnel in the oncology department next to the maternity ward.<sup>234</sup> On 27 October 2022, she documented the destruction of Maternity Ward No.1, which was reportedly occupied by the Ukrainian army, and provided clarification regarding the confusion surrounding Maternity Wards No.1 and No.3.<sup>235</sup>

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231 Ministry of Defence of the Russian Federation, [A meeting was held in Moscow between Russian Deputy Defence Minister Colonel General Alexander Fomin and UN Under-Secretary-General for humanitarian affairs Martin Griffiths](#), 4 April 2022 [translated from Russian].

232 KP, [“They planted a landmine and broke women in labour”: who really blew up the maternity hospital in Mariupol — the “KP” war correspondent unravelled this mystery](#), 10 April 2022 [translated from Russian]. Dmitriy Steshin is the war reporter for KP, and according to Alexey Kovalev “closely follows all the Kremlin’s narratives and employs the same denials to obfuscate the Russian army’s responsibility”. See Annex 2: Expert Statement from Alexey Kovalev, p. 15. Steshin also participated in the meeting between Vladimir Putin and “war correspondents” on 13 June 2023. See President of Russia, [Meeting with war correspondents](#), 13 June 2023.

233 ANNA-NEWS, Telegram, [3 June 2022](#) [translated from Russian].

234 Marianna Vyshemirskaya, Telegram, [9 August 2022](#) [translated from Russian].

235 Marianna Vyshemirskaya, Telegram, [27 October 2022](#) [translated from Russian].

## Independent, Objective Findings Disproving Russia's Information Alibi

131. According to the UN Human Rights Monitoring Mission to Ukraine (UN HRMMU), the hospital was clearly identifiable and operational at the time of the attack.<sup>236</sup> A similar conclusion was reached by the UN Commission of Inquiry on Ukraine.<sup>237</sup> Additionally, CNN found no evidence to support Russia's allegations that there were military positions set up at Hospital No.3 on the afternoon of 9 March.<sup>238</sup>

132. Moreover, the aerial nature of the attack was confirmed by both UN HRMMU<sup>239</sup> and an OSINT investigation conducted by Ukrainian NGO Truth Hounds,<sup>240</sup> thus refuting Steshin's version regarding the landmine explosion. The OSCE Mission investigation also concluded that the hospital was destroyed by a deliberate Russian attack, with no effective warning given.<sup>241</sup> Accordingly, the OSCE characterised the attack as a "clear violation of IHL" and a "war crime".<sup>242</sup>

## Information Alibi No. 2: Mariupol Drama Theatre

133. The Donetsk Regional Academic Drama Theatre in Mariupol, commonly referred to as the Drama Theatre, was a premier cultural landmark in Mariupol.<sup>243</sup> On 25 February 2022, the Drama Theatre was designated by the Mariupol City Council as an additional shelter operational during air raids.<sup>244</sup> While individuals seeking refuge could spend the night at the theatre, this occurred primarily due to the initiative of its staff, as neither the

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236 OHCHR, [Update on the human rights situation in Ukraine: 24 February–26 March 2022](#), 28 March 2022, para. 18.

237 Human Rights Council, [Conference room paper of the Independent International Commission of Inquiry on Ukraine](#), 29 August 2023, para. 200.

238 CNN, [Anatomy of Mariupol hospital attack](#), 17 March 2022.

239 OHCHR, [The situation of human rights in Ukraine in the context of the armed attack by the Russian Federation, 24 February to 15 May 2022](#), 29 June 2022, para. 42.

240 Truth Hounds, [Myths and reality: Russia's attack on a maternity hospital in Mariupol as a war crime](#), 2022.

241 OSCE, [Report of the OSCE Moscow Mechanism's mission of experts entitled 'Report on violations of international humanitarian and human rights law, war crimes and crimes against humanity committed in Ukraine since 24 February 2022'](#), 13 April 2022, pp. 46–47.

242 *Ibid.*

243 The GPS coordinates of the Donetsk Regional Academic Drama Theatre can be found [here](#). For a perspective on the attacks before and after the bombing, see Bachega H. & Khimiak O., [Mariupol Theatre: 'we knew something terrible would happen'](#), 17 March 2022.

244 Rybak K., [A city within a building](#), 2024.

city administration nor law enforcement were aware of this arrangement.<sup>245</sup> Later, the theatre also served as a shelter for some local residents who lost their homes amid the bombardments, as reported one day before the attack.<sup>246</sup>

134. As the bombings intensified, the State Emergency Service of Ukraine directed people from destroyed houses to the theatre.<sup>247</sup> Additionally, the theatre functioned as a hub for the distribution of food, water, and critical information regarding evacuation corridors and a designated gathering point for anticipated civilian evacuations.<sup>248</sup> There is no evidence to suggest that military personnel were present at the site, likely due to its recognised use as a civilian shelter. It was used neither as a military assembly point nor a command centre, nor for any other purposes that would have warranted identification as a legitimate military objective by Russian forces.<sup>249</sup>

135. Most of the witnesses interviewed by Zaborona<sup>250</sup> journalists and researchers from the Centre for Spatial Technologies claim that they did not see people in military or police uniforms hiding in the drama theatre. Some claim that the military or police only came to bring food, warm clothes, and medicine every few days, but did not stay in the theatre. At the time of the tragedy, there were neither military nor police either inside or on the square in front of the Drama Theatre.<sup>251</sup>

136. Hence, there was no significant military presence even in proximity to the theatre during the period leading up to the attack. Accordingly, the nature, location, purpose,

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245 Rybak K., *A city within a building*, 2024; Hinnant L., Chernov M. & Stepanenko V., *AP evidence points to 600 dead in Mariupol theater airstrike*, 4 May 2022.

246 Radio France Internationale, *"Many dead on the streets, many buried in mass graves": Mariupol native on the besieged city*, 15 March 2022; Hinnant L., Chernov M. & Stepanenko V., *AP evidence points to 600 dead in Mariupol theater airstrike*, 4 May 2022; Babel, *In the Mariupol drama theater, people slept on the act curtain, burned the scenery and organized a census so that people could find each other. Monologue of the lightning designer — the commandant of the shelter*, 13 September 2022; Zaborona, *Theater-shelter. Did those who hid in the Mariupol Drama Theater have a chance to survive?*, 7 October 2022.

247 Rybak K., *A city within a building*, 2024.

248 Slovo i dilo, *There will be another attempt to evacuate civilians from Mariupol again*, 6 March 2022 [translated from Russian]; Babel, *In the Mariupol drama theater, people slept on the act curtain, burned the scenery and organized a census so that people could find each other. Monologue of the lightning designer — the commandant of the shelter*, 13 September 2022.

249 Amnesty International, *"Children": the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine*, 30 June 2022. None of the 28 survivors of the attack interviewed by Amnesty International, or any of the other witnesses present at or around the theatre on the day of the attack, provided any information indicating that the Ukrainian military was using the theatre as a base of operations, a place to store weapons, or a place from which to launch attacks. The same conclusion was reached by an Associated Press investigation. See Hinnant L., Chernov M. & Stepanenko V., *AP evidence points to 600 dead in Mariupol theater airstrike*, 4 May 2022.

250 Zaborona is an independent Ukrainian online media group that covers topics related to Russia's war against Ukraine, crimes against journalists, freedom of speech, abuse of power, the environment, social issues, and security-related matters. See Zaborona, *About us*. It is a winner of the Free Media Award (2022) and Siebenpfeiffer Award (2022). See Project Oasis, *Zaborona*, September 2023.

251 Zaborona, *Theater-shelter. Did those who hid in the Mariupol Drama Theater have a chance to survive?*, 7 October 2022.

or use of the building did not substantiate any conclusion that it constituted a legitimate military objective.<sup>252</sup>

137. Moreover, on 10 March 2022, a video was distributed by the Azov Brigade, illustrating life within the theatre. In addition to the few soldiers capturing the video, no other military presence was evident. On the contrary, the video demonstrated that the theatre was utilised as a shelter for civilians in Mariupol.<sup>253</sup>

138. It is reported that the facility had accommodated between 1,000 and 2,000 civilians from the start of the conflict until the moment it was targeted.<sup>254</sup> At the time of the strike, the exact number of civilians within the structure was indeterminate,<sup>255</sup> with reports varying from “several hundreds”<sup>256</sup> to as many as 1,500.<sup>257</sup> To emphasise the non-military use of the facility, the word “ДІТИ” [translated as “children”] had been inscribed in large letters on the ground outside the theatre building.<sup>258</sup>

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252 Amnesty International, [“Children”: the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine](#), 30 June 2022, pp. 5, 17.

253 Azov, [Mariupol. Drama Theatre](#), 10 March 2022.

254 Amnesty International, [“Children”: the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine](#), 30 June 2022, p. 2; Mariupol Drama Theatre Spatial Archive, [Russian airstrike](#), 2024. On 16 March 2022, just hours before the attack, Human Rights Watch interviewed over a dozen Mariupol residents who had escaped the city the day before to Zaporizhzhia. Two people interviewed separately mentioned civilians sheltering in the basement of Mariupol’s theatre. One of them, a doctor, said she had visited the theatre in the days before she left and that between 500 and 800 civilians were staying there. The other person, who had spent the past two weeks delivering food, water, and medicine to shelters across the city, said that he had delivered aid to the theatre multiple times and that it was housing between 500 and 700 civilians. See Human Rights Watch, [Ukraine: Mariupol theater hit by Russian attack sheltered hundreds](#), 16 March 2022.

255 The lists kept by the residents of the theatre-shelter have not been preserved and therefore, it is impossible to establish the names of the people who were in the theatre before and during the attack, and at the same time to draw conclusions about the exact number of residents. See Zaborona, [Theater-shelter. Did those who hid in the Mariupol Drama Theater have a chance to survive?](#), 7 October 2022. Kariakina A., [“The sound of an airplane. A whistle rings out. A man next to me shields me with his body” — stories of witnesses to the bombing of the Mariupol Drama Theater](#), 16 March 2023 [translated from Ukrainian]; Zhelezniak H., [In Mariupol, Russian occupiers are demolishing the Drama Theatre building — Mayor’s advisor](#), 23 December 2022 [translated from Ukrainian].

256 UN High Commissioner for Human Rights, [High Commissioner updates the Human Rights Council on Mariupol, Ukraine](#), 16 June 2022.

257 OSCE, [Report of the OSCE Moscow Mechanism’s mission of experts entitled ‘Report on violations of international humanitarian and human rights law, war crimes and crimes against humanity committed in Ukraine since 24 February 2022](#), 13 April 2022, pp. 47–48.

258 Human Right Watch referred to the satellite imagery published by the Maxar company, from the days before the attack “the word “children” in Russian [was] written twice in large Cyrillic script in front and behind Donetsk Regional Theater of Drama in Mariupol”, and a private photo made on 15 March 2022, where the sign “children” could be observed. Human Rights Watch, [Ukraine: Mariupol Theater hit by Russian attack sheltered hundreds](#), 16 March 2022. Further, the existence of the sign was also confirmed by witnesses. Amnesty International, [Ukraine: “Children”: the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine](#), 30 June 2022, pp. 17, 32; see also BBC, [Mariupol Theatre: ‘we knew something terrible would happen’](#), 17 March 2022; BBC, [A bomb hit this theatre hiding hundreds — here’s how one woman survived](#), 22 March 2022; Radio Liberty, [Mariupol officials say about 300 civilians dead in Russian strike on Theater](#), 25 March 2022.

## Information Landscape Relating to the Attack

### *Before the Incident (Prior to 16 March 2022)*

139. On 11 March 2022, Russian military blogger Kirill Fedorov<sup>259</sup> indicated that Ukraine was planning a new “provocation” in the aftermath of the maternity ward incident, which was anticipated to occur in the subsequent days and to involve a significant number of casualties.<sup>260</sup> On 12 March 2022, the Russian military blogger and Komsomolskaya Pravda (KP) correspondent Dmitriy Steshin reported on his Telegram channel that Ukraine was preparing a “provocation” in the Mariupol drama theatre where it had gathered civilians in order to imitate an air strike on the theatre. The alleged provocation would be used as a means of pressure to convince Western allies to provide advanced air defence to Ukraine. Steshin cited some unnamed “local residents” as the source of such information.<sup>261</sup> On 13 March, a now-suspended account on X named Elena Evdokimova posted that Ukraine was planning to stage shelling of the Drama Theatre where civilians were being held as hostages by the Ukrainian army.<sup>262</sup>

### *The Day of the Attack (16 March 2022)*

140. At approximately 10:00 EET (10:00 am), the Drama Theatre experienced an attack.<sup>263</sup> As reported by Amnesty International, the assault was likely executed by Russian fighter aircraft employing two 500-kilogram bombs that detonated in close proximity to each other at the same time.<sup>264</sup>

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259 Prior to the full-scale invasion, Kirill Fedorov lived in Latvia, where he reportedly “created a civilian-military alternative to the Kremlin army’s Zvezda channel and became a particularly useful propaganda tool in the context of Russia’s invasion of Ukraine”. In March 2022 he was expelled to Russia. See Viksne I., [Detained Latvian “blogger” is a Kremlin-backed military media outlet](#), 24 March 2022.

260 Kirill Fedorov/War History Weapons, Telegram, [11 March 2022](#) [translated from Russian].

261 Russkiy tarantas, Telegram, [12 March 2022](#) [translated from Russian].

262 Elena Evdokimova, X, [13 March 2022](#) [archived, translated from Russian]. The original message was removed, but a digital copy is available in the web archive. According to Amnesty International, the @elenaevdokimov7 account is linked to a number of “false flag” conspiracy theories that either proved to be completely false or involved blaming Ukrainian forces for actions taken by Russian or Russian-backed forces (the staged detonation of the police chief’s jeep in Donetsk, as a provocation for the invasion to begin), and promoted videos by a disinformation project “Bonanza Media”, organised by the Main Directorate of the General Staff of the Russian Armed Forces, commonly known as the GRU. If a future investigation were able to establish a direct link between these accounts and the Russian government, it would provide evidence of premeditation and pre-planning by the Russian armed forces to carry out the drama theatre strike. See Amnesty International, [“Children”: the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine](#), 30 June 2022, p. 41.

263 Amnesty International, [Ukraine: Deadly Mariupol theatre strike ‘a clear war crime’ by Russian forces — new investigation](#), 30 June 2022; Human Rights Watch, [Ukraine: Mariupol Theater hit by Russian attack sheltered hundreds](#), 16 March 2022.

264 Amnesty International, [“Children”: the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine](#), 30 June 2022, p. 28.

141. At the time of the attack, hundreds of men, women, and children who had no role in the conflict were in and around the theatre. Due to the “children” sign in large block letters visible from the air,<sup>265</sup> the available information on the ground, and the likely Russian reconnaissance through an informer on the ground, the theatre was a known civilian object. It remained so until the day it was destroyed. There was no significant military presence in or even near the building.

142. At 14:57 EET (2:57 pm), Daniil Bezsonov, the former so-called Deputy Minister of Information of the DPR, stated that a Ukrainian soldier who had defected told the DPR army that the Ukrainian army headquarters was located in the basement of the Drama Theatre. At the same time, he stated that the theatre lobby was fully packed with civilians who were being watched over by 12 Azov fighters, preventing them from escaping. In this way, per Bezsonov’s words, the Ukrainian army was using civilians as human shields.<sup>266</sup>

143. As noted above, on 12 March 2022, Steshin alleged a planned “provocation” by the Ukrainian army in a message.<sup>267</sup> He subsequently authored an article on the KP website supporting the narrative that the Ukrainian army orchestrated the attack on the Mariupol theatre.<sup>268</sup> Furthermore, Steshin’s visit to Mariupol in April 2022, where he claimed to have observed evidence of civilians’ presence in the theatre basement, reinforced this assertion. He also asserted that the alleged theatre “provocation” bore similarities to the incident at Maternity Ward No.3, with the primary distinction lying in the method employed: allegedly, a landmine was utilised at Hospital No.3, whereas the theatre’s main hall was purportedly detonated internally.<sup>269</sup>

144. Telegram channels started promoting similar narratives. This included Unofficial Bezsonov, who expanded on the earlier narrative of Azov and the Ukrainian army stationed inside the theatre. In particular, according to him, the theatre was blown up by Azov members from the inside to destroy the evidence of using a civilian object for military purposes and civilians as human shields. He referred to documents discovered at the site proving this narrative.<sup>270</sup> Reportedly, according to the DPR People’s Militia, Azov blew up the theatre to “cover up something”.<sup>271</sup>

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265 A satellite image of Mariupol Drama Theatre can be found [here](#).

266 Unofficial Bezsonov, Telegram, [16 March 2022](#) [translated from Russian].

267 See [supra](#).

268 Steshin D., [The bombing of the Mariupol Theatre was being prepared four days ago](#), 16 March 2022 [translated from Russian].

269 Steshin D., [Mariupol: Stalingrad revived. How else could it be liberated? There was no other way](#), 19 April 2022 [translated from Russian].

270 Unofficial Bezsonov, Telegram, [16 March 2022](#) [translated from Russian].

271 Obsessed with Z war, Telegram, [16 March 2022](#) [translated from Russian].



145. On the same day, the Telegram channel Readovka posted a video featuring an unnamed woman who called herself “a refugee from Mariupol” and claimed to have witnessed Azov blowing up the drama theatre while civilians were held as “human shields”.<sup>272</sup> The next day, the Russian Ministry of Defence posted this video with a similar message.<sup>273</sup>

146. A Russian pro-war military blogger posting under the name Rybar endorsed this sequence of events, stating that the theatre was destroyed after defecting members of the Ukrainian army alerted the DPR army about civilians held hostage by Azov.<sup>274</sup> Other commentators labelled the theatre as an “Azov base”.<sup>275</sup> To support allegations of Ukrainian involvement in the attacks, Russian military blogger Colonelcassad, known for their pro-Russian commentary, cited a message from Elena Evdokimova dated 13 March 2022 implicating Ukraine in the attacks.<sup>276</sup>

147. The Russian Telegram channel SIGNAL explained why the “CHILDREN” inscription on the building might have been overlooked if the airstrike occurred. They referenced a brief from the MoD dated 7 March 2022, where spokesperson Igor Konashenkov mentioned that civilians in Mariupol were forced to mark their homes with indications of children’s presence to deter shelling. However, Konashenkov noted that this only attracted the Ukrainian army to establish firing positions within those buildings.<sup>277</sup> Thus, SIGNAL contended that the sign in front of the theatre was meant to safeguard the Azov regiment that had set up a headquarters there, kept civilians captive, and ultimately caused the building’s destruction.<sup>278</sup>

148. War on Fakes provided a consolidated account of various narratives surrounding the theatre incident. These narratives, attributed to various actors, presented differing perspectives on the events. One narrative crafted by Readovka claimed that no aerial attacks were planned in the vicinity of the theatre. Another narrative by Unofficial Bezsonov characterised the incident as a provocation orchestrated by the Azov Brigade, alleging the brigade used human shields within the theatre, with “twelve Azov fighters” watching the civilians to “prevent them from escaping”. Additionally, the account noted that in the days leading up to the attack, Telegram channels circulated warnings falsely claiming that the “Azov” headquarters was located in the basement of the theatre. Moreover, ‘War on Fakes, citing Obsessed with Z war, asserted that “eyewitnesses confirm that ‘Azov’ headquarters

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272 Readovka, Telegram, 16 March 2022 [translated from Russian].

273 Ministry of Defence of the Russian Federation, Telegram, 17 March 2022 [translated from Russian].

274 Rybar, Telegram, 16 March 2022 [translated from Russian].

275 Operational reports, Telegram, 16 March 2022 [translated from Russian].

276 Colonelcassad, Telegram, 16 March 2022 [translated from Russian].

277 Ministry of Defence of the Russian Federation, Briefing, 7 March 2022 [translated from Russian].

278 SIGNAL, Telegram, 16 March 2022 [translated from Russian].



were relocated today". War on Fakes also highlighted the claim that the theatre incident was the second "atrocious" provocation, following the earlier bombing of Hospital No.3.<sup>279</sup>

## ***After the Attack (17 March 2022 Onwards)***

149. The official position of the Russian Foreign Ministry asserts that Russia bears no responsibility for the bombing of the theatre, characterising it instead as a "provocation" staged by Ukraine to draw NATO forces into the conflict.<sup>280</sup> Spokesperson Maria Zakharova accused Ukraine of using civilians as human shields within the Drama Theatre and claimed that the Russian army did not engage in bombing urban areas.<sup>281</sup> DPR representatives alleged that the Ukrainian army shelled the theatre and staged a provocation intended to assign blame to Russia.<sup>282</sup>

150. During the UN Security Council meeting held on 17 March 2022, Nebenzia cited information published by private individuals on 13 March as evidence suggesting that the attack on the theatre was a staged provocation. It is highly probable that he was referring to a message posted by the Elena Evdokimova social media account, which alleged that the Ukrainian Azov regiment was preparing for a "bloody provocation" involving hostages.<sup>283</sup> The Russian Ambassador to the OSCE Aleksandr Lukashevich blamed Ukraine for attacking the theatre with civilians inside and denied the aerial nature of the attack.<sup>284</sup> Additionally, Lukashevich cited information published on 13 March 2022 concerning this planned "provocation".<sup>285</sup>

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279 War on Fakes, Telegram, [16 March 2022](#) [translated from Russian]; see also Readovka, Telegram, [16 March 2022](#) [translated from Russian]; Unofficial Bezsonov, Telegram, [16 March 2022](#) [translated from Russian]; Obsessed with Z war, Telegram, [16 March 2022](#) [translated from Russian].

280 Interfax, [Russian Foreign Ministry: Claims that Russian military are behind attack on Drama Theatre in Mariupol are false](#), 17 March 2022 [translated from Russian]; TASS, [The Russian Embassy in the United States called on American media to cover events in Ukraine objectively](#), 17 March 2022 [translated from Russian]. Similar narratives were also published by Max Blumenthal from GRAYZONE media and VPK. See GRAYZONE, [Was bombing of Mariupol theater staged by Ukrainian Azov extremists to trigger NATO intervention?](#), 18 March 2022; VPK.com, [Theater in Mariupol: how the Ukrainian authorities lie to the whole world](#), 23 March 2022. The allegations raised by GRAYZONE and VPK have subsequently been disproven by the Molfar OSINT agency. See Molfar, [Drama Theater in Mariupol: Molfar does fact-checking for The Times](#), 11 March 2022.

281 The Ministry of Foreign Affairs of the Russian Federation, [Briefing by Foreign Ministry spokeswoman Maria Zakharova](#), 17 March 2022 [translated from Russian].

282 RIA, [Ukrainian militants deliberately shot at a theatre in Mariupol, the DPR said](#), 17 March 2022 [translated from Russian].

283 Permanent Mission of the Russian Federation to the UN, [Speech by the Permanent Representative V.A. Nebenzia at the UN Security Council meeting on the humanitarian situation in Ukraine](#), 17 March 2022 [translated from Russian].

284 Ministry of Foreign Affairs of the Russian Federation, [Statement by the Permanent Representative of the Russian Federation to the OSCE A. Lukashevich at a meeting of the OSCE Permanent Council 'On the ongoing crimes of Ukraine' with the support of several OSCE participating States](#), 17 March 2022 [translated from Russian].

285 *Ibid.*

151. On 3 April 2022, VGTRK correspondents reported that the drama theatre had been destroyed by the Azov group while civilians were present within the structure.<sup>286</sup> Two days later, a video was released featuring a local resident named Eduard, who corroborated the assertion that the Azov Brigade had orchestrated the destruction of the theatre by staging the shelling.<sup>287</sup>

152. On 18 April 2022, Daniil Bezsonov published alleged documentation purportedly obtained by the DPR army from the destroyed theatre, which he presented as evidence of the theatre's utilisation as a military base by Azov members. The documentation reportedly included written applications for joining the regiment, inventory statements and annual leave plans.<sup>288</sup> The military blogger Rybar subsequently shared these statements on his Telegram channel.<sup>289</sup> However, there is no verifiable evidence, apart from assertions made by the DPR army, to confirm that these documents were genuinely recovered from the destroyed theatre. Further, even if such documents were found within the theatre, there remains a lack of additional evidence to demonstrate that this alone qualifies as proof of the theatre's use as a base for Azov.

153. In April 2022, an interview featuring Daria Morozova, the ombudsman for the DPR, was published by the Russian news outlet Izvestiya. During this interview, Morozova confirmed that the theatre was operating as a civilian hub, serving as a distribution centre for humanitarian aid and providing shelter for 500 individuals. However, Morozova noted that the theatre's doors were blocked by the Ukrainian army, which prevented civilians from evacuating during the attack.<sup>290</sup>

154. On 19 July 2022, Alexey Kutsurubenko, who holds the so-called position of "head of the investigation department of the DPR Prosecutor General's Office", issued two statements regarding the attack. Firstly, he asserted that the explosion at the Mariupol Drama Theatre originated internally, characterising the claims of a Russian airstrike as unfounded.<sup>291</sup> Secondly, contrary to prior reports indicating that civilians were present in the theatre and being forcibly used as human shields to safeguard Ukrainian soldiers from attack, he stated that no civilians were located at the Mariupol Drama Theatre during the time of the explosion. Instead, he stated that the Ukrainian army had established firing points in that location.<sup>292</sup>

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286 Vesti.ru, [Nationalists sacrificed Mariupol](#), 3 April 2022 [translated from Russian].

287 Together for Russia, Telegram, [5 April 2022](#) [translated from Russian].

288 Unofficial Bezsonov, Telegram, [18 April 2022](#); Unofficial Bezsonov, Telegram, [20 April 2022](#) [translated from Russian].

289 Rybar, Telegram, [20 April 2022](#) [translated from Russian].

290 Izvestiya, [DPR ombudsman reveals details of explosion in Mariupol Drama Theatre](#), 26 April 2022 [translated from Russian].

291 RIA Novosti, Telegram, [19 July 2022](#) [translated from Russian].

292 *Ibid.*

## Independent, Objective Findings Disproving Russia's Information Alibi

155. Amnesty International conducted a comprehensive investigation into various alternative theories regarding the responsibility for the attack and the types of weapons potentially utilised against civilians.<sup>293</sup> The organisation determined that a deliberate air strike aimed at a civilian object represents the most plausible explanation. None of the 28 survivors interviewed by Amnesty International, nor any witnesses present in the vicinity of the theatre on the day of the attack, provided any information indicating that the Ukrainian military utilised the theatre as a base for operations, a storage site for weapons, or a launching point for attacks.<sup>294</sup> The civilian nature of the theatre and the presence of numerous civilians were evident in the weeks leading up to the attack. The characteristics of the attack, the location of the strike within the building, the likely type of weapon employed, alongside the absence of any potentially legitimate military objectives in close proximity, demonstrate that the theatre was indeed the intended target.<sup>295</sup>

156. UN HRMMU stated that the theatre was likely targeted by a "Russian air bomb".<sup>296</sup> Further, the UN High Commissioner on Human Rights confirmed that the incident constituted an air strike.<sup>297</sup>

157. The OSCE mission observed that while Russia does not assert that the theatre was a legitimate military target, it has alleged that the Ukrainian Azov battalion was responsible for the explosion. However, the OSCE mission did not find any evidence to support this claim.<sup>298</sup> Consequently, the OSCE mission characterised the attack as being most likely an "egregious violation of IHL" by the Russian army and a war crime.<sup>299</sup>

158. Finally, the European Centre for Constitutional and Human Rights (ECCHR) conducted a legal analysis of the attack on the Mariupol Drama Theatre and concluded that it constituted an apparent war crime. Evidence provided by the Centre for Spatial

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293 Amnesty International, ["Children": the attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine](#), 30 June 2022, p. 5.

294 *Ibid.*

295 *Ibid.*

296 OHCHR, [The situation of human rights in Ukraine in the context of the armed attack by the Russian Federation](#), 24 February to 15 May 2022, 29 June 2022, para. 42.

297 UN High Commissioner for Human Rights, [High Commissioner updates the Human Rights Council on Mariupol, Ukraine](#), 16 June 2022.

298 OSCE, [Report of the OSCE Moscow Mechanism's mission of experts entitled 'Report on violations of international humanitarian and human rights law, war crimes and crimes against humanity committed in Ukraine since 24 February 2022'](#), 13 April 2022, pp. 47–48.

299 *Ibid.*

Technologies indicated that the attack was carried out by Russian forces, who were likely intentionally targeting civilians sheltering in the theatre — a site recognised as a protected civilian object.<sup>300</sup>

159. But even in the event that they erroneously considered the Mariupol Drama Theatre to be a military objective, the foreseeable harm to civilians was clearly excessive compared to any conceivable concrete military advantage, and the attack was thus disproportionate, in clear violation of the IHL.<sup>301</sup>

## Information Alibi No. 3: Kramatorsk Train Station

160. The city of Kramatorsk is located in the northern part of the Donetsk region. In July 2014, it was designated as the administrative centre of the Donetsk region and served as the military headquarters for the front line.<sup>302</sup> Following the onset of the full-scale Russian invasion, the Kramatorsk train station emerged as a significant transfer hub for the evacuation of civilians from conflict zones.<sup>303</sup> According to UNICEF, the Kramatorsk train station served as the primary evacuation route out for families fleeing the war-affected Donetsk region to relatively safer areas in Ukraine.<sup>304</sup> In the days preceding the 8 April attack, tens of thousands of civilians were successfully evacuated through the Kramatorsk train station.<sup>305</sup>

161. On the day preceding this incident, several thousand civilians were unable to evacuate from Kramatorsk and were awaiting three trains that had been delayed en route due to damage sustained by a railway bridge from an air strike. In light of the absence of any clear

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300 ECCHR, [The attack on the Mariupol Drama Theater: a legal assessment](#), January 2024, p. 10.

301 *Ibid.*

302 IPHR, [Rockets hit residential area in Kramatorsk, Ukraine](#), February 2015.

303 Kramatorsk City Council, [Recalling what is known about the missile attack on the Kramatorsk station](#), 8 April 2024 [translated from Ukrainian]; Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023.

304 UNICEF, [Statement by UNICEF Ukraine Representative Murat Sahin on the attack on Kramatorsk train station](#), 8 April 2022.

305 RFE/RL, [At least 52 dead in Russian rocket attack on Ukrainian rail station](#), 8 April 2022. The presence of civilians on the train station for evacuation purposes was confirmed by the Ukrainian NGO Media Initiative for Human Rights. See Tarash L., [Anniversary of the attack on the railway station in Kramatorsk: will perpetrators face justice?](#), 7 April 2023. The presence of "thousands of terrified Ukrainian civilians fleeing their homes in advance of a possible Russian assault" on the Kramatorsk train station when the attack occurred was also acknowledged by the US representative to the OSCE mission. See Carpenter M., [The Russian Federation's ongoing aggression against Ukraine: the attack in Kramatorsk of April 8 2022](#), 11 April 2022. The use of the station for evacuation purposes as well as the absence of military personnel on the day of the attack was also confirmed by Human Rights Watch. See Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023.

schedule for subsequent departures and the precarious and volatile security situation, potential evacuees had been gathering at the train station since early morning on 8 April 2022.<sup>306</sup>

162. On 8 April 2022, at 10:28 EET (10:28 am), a ballistic missile equipped with a cluster munition warhead released 50 small bombs, referred to as submunitions, which struck the station in Kramatorsk.<sup>307</sup> The attack resulted in the death of 60 civilians (4 men, 16 women, 5 girls, 2 boys, and 33 adults whose sex remains unknown) and left 111 individuals injured (1 man, 1 woman, 3 girls, 3 boys, and 92 adults and 11 children whose sex remains unknown).<sup>308</sup>

## Information Landscape Relating to the Attack

### ***Before the Incident (Prior to 8 April 2022)***

163. On 25 March 2022, the Russian Telegram channel Ministry of Truth reported on a Ukrainian Tochka-U missile that was launched and subsequently fell near Kramatorsk. It noted that this type of missile had not been used by the Russian army since 2019.<sup>309</sup>

164. On 27 March 2022, the Telegram channel Typical Kramatorsk announced that the SBU of Ukraine apprehended a group of Russian Federal Security Service (FSB) agents who were allegedly preparing missile attacks against facilities belonging to the Ukrainian railway company Ukrzaliznytsia. This operation involved the sharing of coordinates and routes of military echelons, as well as the locations of railway stations where weaponry for the Ukrainian army was offloaded.<sup>310</sup>

165. On 30 March 2022, a Russian war correspondent accused the Ukrainian army of preparing to utilise the residents of Kramatorsk as human shields.<sup>311</sup> This statement was subsequently reposted by Dmitriy Steshin.<sup>312</sup>

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306 OHCHR, [The situation of human rights in Ukraine in the context of the armed attack by the Russian Federation, 24 February to 15 May 2022](#), 29 June 2022, para. 32.

307 Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023.

308 OHCHR, [The situation of human rights in Ukraine in the context of the armed attack by the Russian Federation, 24 February to 15 May 2022](#), 29 June 2022, para. 32.

309 Ministry of Truth, Telegram, [25 March 2022](#) [translated from Russian]. However, both Bellingcat and HRW disproved those statements, proving that TOCHKA-U missile systems are still in use in the Russian army. See Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023; Bellingcat, [Russia's Kramatorsk 'facts' versus the evidence](#), 14 April 2022.

310 Typical Kramatorsk, Telegram, [27 March 2022](#) [translated from Russian].

311 War correspondent Andrei Kamyzhikin, Telegram, [30 March 2022](#) [translated from Russian].

312 Russkiy tarantas, Telegram, [20 March 2022](#) [translated from Russian].

166. On 1 April 2022, the self-proclaimed head of the DPR, Denis Pushylin, granted an interview to Vzglyad newspaper. In this interview, he urged residents of Kramatorsk, Slovyansk and other cities in the Donetsk region under Ukraine's control to evacuate, thereby preventing the Ukrainian army from using them as human shields. Pushylin further cautioned that Ukraine might attack evacuation convoys, as had allegedly previously occurred in Mariupol.<sup>313</sup>

167. On 7 April 2022, Oleksandr Kamyshyn, a representative of Ukrzaliznytsia, reported that the Russian military had attacked the overpass near Barvinkove station on the Donetsk railway. At that time, this was the only railway route under Ukrainian control for departing from cities such as Slovyansk, Kramatorsk and Lyman. As a result, three evacuation trains were temporarily immobilised in Slovyansk and Kramatorsk on the same date.<sup>314</sup> Additionally, Russian Telegram channels circulated videos depicting civilians gathered at a railway station, asserting that "Kramatorsk residents are evacuating, saving themselves and their children"<sup>315</sup> due to concerns that the city could become a "second Mariupol".<sup>316</sup> Further, a pro-war Russian Telegram channel, ZAPISKI VETERANA, advised individuals currently evacuating from Slovyansk, Kramatorsk and surrounding areas against using railway transport to leave the city, without providing further explanation for this recommendation.<sup>317</sup>

## ***During the Incident (8 April 2022)***

168. Shortly before the attack, the WarGonzo Telegram channel reported that Russian forces had obstructed trains carrying equipment destined for Slovyansk and Kramatorsk.<sup>318</sup> At 9:15 EET (9:15 am), the MoD announced that high-precision, air-launched missiles had destroyed weapons and military equipment of the Ukrainian military reserves at the Pokrovsk, Slovyansk, and Barvenkovo railway stations in the Donetsk region. At 9:25 EET (9:25 am), the Telegram channel Tipichny Donetsk shared a video of missile launches from Russian-occupied Shakersk.<sup>319</sup> At 10:15 EET (10:15 am), ZAPISKI VETERANA reiterated a warning for Kramatorsk residents to avoid railway lines for evacuation purposes.<sup>320</sup>

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313 Vzglyad, [Denis Pushilin: the final liberation of Mariupol is a matter of days](#), 1 April 2022 [translated from Russian].

314 Zalizni Zmniy, Telegram, [7 April 2022](#) [translated from Ukrainian].

315 Russian Spring Z: special operation in Ukraine and Donbass, Telegram, [7 April 2022](#) [translated from Russian].

316 Agent Gosdepa, Telegram, [7 April 2022](#) [translated from Russian].

317 ZAPISKI VETERANA, Telegram, [7 April 2022](#) [translated from Russian].

318 War Gonzo, Telegram, [8 April 2022](#) [translated from Russian].


319 Typical Donetsk, Telegram, [8 April 2022](#) [translated from Russian].

320 ZAPISKI VETERANA, Telegram, [8 April 2022](#) [translated from Russian].

169. The Ukrainian Centre for Strategic Communications reported that the Russian state-owned agency RIA Novosti had published a post on X regarding the explosion of a Tochka-U missile in Kramatorsk at 10:25 EET (10:25 am).<sup>321</sup> However, initial reports from eyewitnesses at the scene of the attack emerged at approximately 10:30 EET (10:30 am).<sup>322</sup> Simply put, the post from the Russian news agency arrived before posts from eyewitnesses to the crime.

170. The original message was deleted shortly thereafter, yet screenshots were retained by Ukrainian journalists.<sup>323</sup> It was also evident that the post was published via TweetDeck, an app used to publish scheduled posts in advance.<sup>324</sup>

171. At 9:44 EET (9:44 am), Ukrzaliznystya official Oleksandr Kamyshyn reported that the Kramatorsk railway station had come under shelling.<sup>325</sup> At 10:41 EET (10:41 am), Yuliya Vityazeva reported that the Kramatorsk railway station had been struck by Ukraine with the intent to attribute blame to Russia and secure additional support from Western allies.<sup>326</sup>

 172. In the immediate aftermath of the attack, the Russian Telegram channel Siloviki prematurely published information stating that the Russian army was engaged with “a cluster of armed forces of Ukraine at Kramatorsk railway station” and expressed approval of casualties allegedly sustained by Ukrainian forces.<sup>327</sup> Although the original post from Siloviki has since been removed from the channel, a repost from the user sharp333 remains accessible online.<sup>328</sup> Shortly after the initial post, it was edited, likely in response to reports concerning civilian casualties. In the revised version, the Ukrainian army was named as the perpetrator, and the Tochka-U missile was specified as the weapon utilised.<sup>329</sup> Further, a similar message was issued by war correspondent Andrei Kamyzhikin, asserting that military equipment had been transported to Kramatorsk prior to the shelling.<sup>330</sup>

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321 SPRAVDI — Stratcom Centre, X, 8 April 2022.

322 *Ibid.*

323 Stopfake, [Fake: Ukrainian military carried out an attack on Kramatorsk railway station](#), 8 April 2022. Further, the thread on X containing the deleted message remains accessible online. See RIA Novosti, X, 8 April 2022. The original message is available by digital archive. See *ibid.*, 8 April 2022.

324 LB.ua, [RIA Novosti reported a strike on Kramatorsk 5 minutes before the shelling](#), 8 April 2022 [translated from Russian].

325 Zalizni Zminy, Telegram, 8 April 2022 [translated from Ukrainian].

326 Yuliya Vityazeva, Telegram, 8 April 2022 [translated from Russian].

327 Siloviki, Telegram, 8 April 2022 [translated from Russian]; sharp333, Telegram, 8 April 2022 [translated from Russian].

328 sharp333, Telegram, 8 April 2022 [translated from Russian].

329 Siloviki, Telegram, 8 April 2022 [translated from Russian].

330 Voenkor [war correspondent] Andrei Kamyzhikin, Telegram, 8 April 2022 [translated from Russian].



173. Sources affiliated with Russia and the DPR have both claimed that the strike did not occur and that Ukrainian forces launched the strike as a false flag operation, contending that Russian forces do not use the Tochka-U missile, as they were all replaced with the Iskander.<sup>331</sup> This assertion has been reiterated by Russian state entities, including the MoD<sup>332</sup> and the Ministry of Foreign Affairs.<sup>333</sup> However, the Institute for the Study of War has confirmed that the Russian army operating in the Donbas is equipped with the Tochka-U missile.<sup>334</sup> Additionally, the investigative group Bellingcat has provided information affirming that the Russian armed forces employed the Tochka-U missile.<sup>335</sup> Further, the Conflict Intelligence Team<sup>336</sup> has corroborated that in March 2022, Tochka-U missiles were transported from Belarus to Belgorod, with the vehicles displaying the Russian pro-war “V” sign.<sup>337</sup>

174. On 8 April 2022, the Russian Ministry of Foreign Affairs issued a statement attributing responsibility for the attack to Ukraine and urging the international community to halt the supply of weapons to Ukraine to prevent the recurrence of similar incidents in the future.<sup>338</sup>

175. Dmitriy Steshin reposted the message from Siloviki detailed above,<sup>339</sup> which was later deleted but remains preserved in the web archive.<sup>340</sup> He also offered his analysis of events, which he called the “anatomy of Kramatorsk provocation”. He claims that the information regarding the Tochka-U missile is false, as it has not been in service in Russia for thirty years.<sup>341</sup>

176. The War on Fakes page corroborates other narratives, claiming that the Kramatorsk area was shelled by Tochka-U missile<sup>342</sup> — an armament that has allegedly not been utilised in Russia since 2019 — aimed at obstructing the population’s evacuation from the city and using civilians as human shields.<sup>343</sup> Further, it alleged that by targeting the station, the

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331 Breege Time ZÖZZ, Telegram, 8 April 2022 [translated from Russian].

332 Ministry of Defence of the Russian Federation, Telegram, 8 April 2022 [translated from Russian].

333 Ministry of Foreign Affairs of the Russian Federation, [Foreign Ministry statement on Ukraine’s strike at Kramatorsk](#), 8 April 2022.

334 ISW, [Russian offensive campaign assessment](#), 8 April 2022.

335 Bellingcat, [Russia’s Kramatorsk ‘facts’ versus the evidence](#), 14 April 2022.

336 Conflict Intelligence Team is a group of independent Russian bloggers investigating the circumstances of Russian armed conflicts using open source information. See DW, [Conflict Intelligence Team](#); see also [CIT \(en\)](#), X, [CIT](#), X.

337 CIT, X, 8 April 2022.

338 Ministry of Foreign Affairs of the Russian Federation, [Foreign Ministry statement on Ukraine’s strike at Kramatorsk](#), 8 April 2022.

339 See *supra*.

340 Russkiy tarantas, Telegram, 8 April 2022 [translated from Russian].

341 *Ibid.*

342 War on Fakes, Telegram, 8 April 2022 [translated from Russian].

343 *Ibid.*

Ukrainian government sought to hinder the evacuation process, reminiscent of the tactics employed during the siege of Mariupol.<sup>344</sup>

177. On 10 April 2022, Russian Telegram channels disseminated information indicating that the Tochka-U was under the control of the Ukrainian army, as evidenced by its serial number.<sup>345</sup> This information was subsequently proven untrue by Bellingcat.<sup>346</sup>

178. On 11 April 2022, the Russian representative to the UN, Dmitry Polyanskiy, presented a consolidated account of all narratives articulated by other parties. He characterised the bombing as a “false flag operation” executed by Ukraine through the deployment of a Tochka-U missile launched from the Ukraine-controlled territory of Donetsk. Further, Polyanskiy characterised the attack as a provocation orchestrated by Ukraine, reiterating accusations that the latter employed civilians as human shields.<sup>347</sup>

179. On 21 May 2022, the War on Fakes channel claimed that the Kramatorsk train station was struck to disrupt the mass evacuation of residents from the city in order to use them as “human shields”.<sup>348</sup>

## Independent, Objective Findings Disproving Russia’s Information Alibi

180. Both Bellingcat and Human Rights Watch, in their investigations regarding the train station attack, refuted the Russian narrative and concluded that the missile responsible for the casualties was launched from territory controlled by Russia in eastern Ukraine.<sup>349</sup> The same preliminary conclusion was reached by the Ukrainian law enforcement bodies, which concluded that the attack originated from the Russian-controlled part of Donetsk region based on forensic evidence.<sup>350</sup>

181. According to HRW and SITU analysis, there is no evidence that the Kramatorsk station was being used for military purposes at the time of the attack, nor that Ukrainian forces

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344 War on Fakes, Telegram, 8 April 2023.

345 Military Informant, Telegram, 9 April 2022; Ministry of Truth, Telegram, 9 April 2022 [translated from Russian].

346 Bellingcat, [Russia’s Kramatorsk ‘facts’ versus the evidence](#), 14 April 2022.

347 Permanent Mission of the Russian Federation to the UN, [Speech by the First Deputy Permanent Representative of the Russian Federation D.A. Polyanskiy during the UN Security Council meeting on the situation in Ukraine](#), 11 April 2022 [translated from Russian].

348 War on Fakes, Telegram, 21 May 2022 [translated from Russian].

349 Human Rights Watch & SITU Research (SITU), [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023; Bellingcat, [Russia’s Kramatorsk ‘facts’ versus the evidence](#), 14 April 2022.

350 Ukrinform, [Rockets at Kramatorsk train station arrived from occupied Shakhtarsk or Starobeshevo — SBU](#), 28 May 2022.

were present in the area.<sup>351</sup> The station's use for civilian evacuations had been publicly announced by local officials and the crowds of civilians at the station would be visible by aerial surveillance. Hence, the Russian military should have known that a large number of civilians would likely be at the station at the time of the attack on 8 April. Moreover, even in the unlikely event that the Kramatorsk station and railroad facilities were indeed used for military purposes, the 8 April attack would still constitute an unlawful, disproportionate attack for inflicting such harm on civilians without discernible anticipated military advantage.<sup>352</sup>

182. Both Bellingcat and HRW have characterised the attack as a violation of the laws of war and an apparent war crime.<sup>353</sup> Similarly, the Ukrainian NGO Media Initiative for Human Rights has classified the Kramatorsk attack as a war crime, emphasising that the targeting of a railway station with indiscriminate weapons during a civilian evacuation did not result in any discernible military advantage, but instead inflicted severe harm on the civilian population.<sup>354</sup>

## Information Alibi No.4: Olenivka POW Camp

183. Volnovakha Correctional Colony No. 120 is located in the village of Molodizhne, within the Olenivka District of Donetsk Oblast. It is commonly known as the "Penal Colony in Olenivka" or "Olenivka prison".<sup>355</sup> Since 2014, the region has been under the occupation of DPR forces and the colony was non-functioning.<sup>356</sup>

184. In April 2022, the penal colony in Olenivka became a principal internment site for POWs from Mariupol and other areas in southern and eastern Ukraine, as well as for civilians detained during the so-called "filtration" processes.<sup>357</sup> The Ukrainian POWs held at Olenivka were primarily military personnel captured during the siege of Mariupol, which

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351 Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023.

352 Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023.

353 Human Rights Watch & SITU, [Death at the station: Russian cluster munition attack in Kramatorsk](#), 21 February 2023; Bellingcat, [Russia's Kramatorsk 'facts' versus the evidence](#), 14 April 2022.

354 Tarash L., [Anniversary of the attack on the railway station in Kramatorsk: will perpetrators face justice?](#), 7 April 2023.

355 GPS coordinates can be found [here](#).

356 CNN, [Russia claims Ukraine used US arms to kill jailed PoWs. Evidence tells a different story](#), 11 August 2022.

357 OHCHR, [Report on the treatment of prisoners of war and persons hors de combat in the context of the armed attack by the Russian Federation against Ukraine: 24 February 2022 — 23 February 2023, 24 March 2023](#), para. 66.

began in February 2022.<sup>358</sup> Following an 80-day siege marked by heavy bombardments, the General Command of the Ukrainian army instructed the remaining troops at the Azovstal steel plant to lay down arms and accept captivity.<sup>359</sup> The unwavering “Azovstal defenders” resistance has since become a symbol of Ukrainian defiance against Russia’s aggression.<sup>360</sup>

185. According to Maria Zakharova, spokeswoman for the Russian Ministry of Foreign Affairs, the Ukrainian army’s retreat from the Azostal plant took place between 16 and 20 May 2022. In total, 2,439 members of the Ukrainian army were relocated to areas of Russian-controlled Donetsk. The wounded were admitted to a hospital in Novoazovsk, a coastal town located approximately 45 km from Mariupol, while the remaining personnel were held at the Olenivka prison. A significant number of those detainees were part of the Azov brigade.<sup>361</sup>

## Information Landscape Relating to the Attack

### ***Before the Attack (Prior to 29 July 2022)***

186. On 16 May 2022, along with the first messages that Azovstal defenders had been transferred to Olenivka came reports of the shelling of Olenivka by the Ukrainian army.<sup>362</sup> The next day, the Readovka Telegram channel and war correspondent Yevgeniy Poddubny posted on the same topic.<sup>363</sup> The Russian news outlet LIFE<sup>364</sup> reported that as of 17 May 2022, Donetsk investigators had started conducting the first interrogations of captured Azov fighters, who might provide intelligence comparable to the “secret of the atomic bomb in WWII”.<sup>365</sup>

187. On 24 May 2022, an allegedly leaked document from the Ukrainian SBU was published via the Telegram channel Zergulio.<sup>366</sup> It reported that Ukrainian intelligence services were

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358 Associated Press, [Russia, Ukraine trade blame for deadly attack on POW prison](#), 29 July 2022.

359 General Staff of the Armed Forces of Ukraine, Facebook, [16 May 2022](#).

360 Associated Press, [Russia, Ukraine trade blame for deadly attack on POW prison](#), 29 July 2022.

361 Maria Zakharova, Telegram, [25 May 2022](#).

362 Irina Kuksenкова, Telegram, [16 May 2022](#) [translated from Russian].

363 Readovka, Telegram, [17 May 2022](#); Poddubny ZOV Edition, Telegram, [17 May 2022](#) [translated from Russian].

364 According to Alexey Kovalev, Life.ru is an “online tabloid, owned by Aram Gabrelyanov, who is ‘one of the Kremlin’s most loyal supporters in the Russian media industry’”. See Annex 2: Expert Statement from Alexey Kovalev, pp. 19–20; AP, [Correction: Russia’s media tycoons story](#), 19 October 2013.


365 Life, [Secrets of the investigation: what captured Azov soldiers and Ukrainian soldiers will tell during interrogations](#), 17 May 2022 [translated from Russian].

366 According to open-source data, the Zergulio channel is owned by Sergei Kolyasnikov, who is known as the author of channels on Telegram and YouTube, as well as one of the speakers of the YouTube channel UralLIVE. The latter is part of the media network of TV presenter Vladimir Soloviev. URA.RU, [Yekaterinburg blogger from Soloviev’s air was detained by mistake](#), 5 March 2022 [translated from Russian].

considering the physical elimination of Ukrainian POWs in occupied territories to inhibit their potential testimony regarding war crimes perpetrated by the Ukrainian army. The author also explicitly claimed that Olenivka had been subject to continuous shelling by the Ukrainian army since the transfer of Ukrainian POWs to that location.<sup>367</sup> Further, the Readovka Telegram channel reposted Zergulio's original message, alluding to Ukrainian President Volodymyr Zelensky's alleged intention to thwart a possible military coup and, consequently, to neutralise active military personnel.<sup>368</sup>

188. On 25 May 2022, the Russian Permanent Representative to the UN Vassily Nebenzia stated during the UN Security Council meeting that Ukrainian POWs were actively confessing to war crimes while in captivity, including the shooting of unarmed civilians and the failure to take Russian service personnel as POWs.<sup>369</sup>

189. On 5 June 2022, an anonymous Telegram channel named Nezygar reported that a HIMARS missile would be used to shell Olenivka prison with POWs under orders of the UK Intelligence Service MI6.<sup>370</sup> According to Nezygar, British intelligence was allegedly planning to conduct a "false flag operation" to falsely accuse Russia of responsibility for the deaths of POWs.<sup>371</sup>

 190. Between June and July 2022, reports regarding the shelling in Olenivka frequently surfaced in the news,<sup>372</sup> accompanied by videos depicting Ukrainian POWs "confessing" to war crimes.<sup>373</sup> These videos were disseminated through various Telegram channels, including those associated with Andrei Rudenko, the Readovka news outlet, UKR Leaks and

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367 Zergulio, Telegram, [24 May 2022](#) [translated from Russian].

368 Readovka explains, Telegram, [24 May 2022](#) [translated from Russian].

369 Permanent Mission of the Russian Federation to the UN, [Statement by the Permanent Representative V.A. Nebenzia at the UN Security Council meeting on the topic "protection of civilians in armed conflict"](#), 25 May 2022 [translated from Russian].

370 Nezygar, Telegram, [5 June 2022](#) [translated from Russian]. The original message was deleted, but a digital copy is available in the web archive. Telegram channel 112 claimed that FSB Colonel Mikhail Polyakov was the administrator of the pro-Kremlin channels Kremlevskaya prachka, Siloviki, Nezygar and Brief. See 112, Telegram, [14 July 2023](#). The Nezygar channel, as reported by Proekt media, is specifically associated with the Deputy Head of the Russian Presidential Administration, Alexey Gromov. See Rubin M., [Telegram from the Kremlin. The story of how the authorities turned Telegram into a TV](#), 28 November 2018. It is also assumed that Mikhail Polyakov supervised the channels on behalf of the First Deputy Head of the Presidential Administration Sergei Kiriyenko at least until July 2023, when Polyakov was arrested for extortion. See Novaya Gazeta, [Telegram channels Brief and Nezygar were designated as new "foreign agents"](#), 16 August 2024 [translated from Russian].

371 Nezygar, Telegram, [5 June 2022](#) [translated from Russian].

372 URA News, [Ukrainian Armed Forces shelled a detention centre with Ukrainian prisoners](#), 7 June 2022 [translated from Russian]; TASS, [The DPR stated that the Ukrainian Armed Forces shelled Elenovka, firing 13 Grad shells](#), 12 June 2022; Izvestiya, [Ukrainian fighters shelled Elenovka in the DPR from artillery](#), 16 July 2022 [translated from Russian].

373 Kremlevskaya prachka [directly translated as "Kremlin laundress"], Telegram, [22 June 2022](#) [translated from Russian].

anonymous Telegram channels such as Kremlevskaya prachka.<sup>374</sup> The individuals featured in these videos identified themselves as Ukrainian servicemen and confessed to having committed war crimes, including the deliberate killings of civilians<sup>375</sup> and other POWs.<sup>376</sup> Further, they criticised President Zelensky and the senior military command, labelling them as “criminals”.<sup>377</sup>

191. On 20 June 2022, the anonymous Telegram channel known as Kremlevskaya prachka released a video featuring a POW from the Azov battalion, identified as Vladyslav Dutchak. In the recording, Dutchak appeals to the Ukrainian army to cease the shelling of Olenivka prison, cautioning that continued attacks could result in the deaths of Ukrainian POWs due to friendly fire.<sup>378</sup> On 24 June 2022, blogger Anatoly Shariy urged Ukrainian authorities to halt the shelling of Olenivka, warning that it could lead to the unintentional killing of their own POWs.<sup>379</sup>

192. OHCHR noted that on 27 July 2022, 193 POWs were transferred to a newly constructed barrack that had been distinctly situated away from other barracks within the colony.<sup>380</sup> The colony leadership also ordered the relocation of the guard post further away from this barrack and the excavation of a fortified trench for the guards, a measure not implemented near the other barracks. On 28 July, the guards stationed at the barracks were observed wearing body armour and helmets for the first time.<sup>381</sup>

193. On 28 July 2022, VGTRK reporter Andrei Rudenko published a video featuring Azov member Dmytro Kozatskiy, known by the callsign Orest.<sup>382</sup> In this recording, Kozatskiy

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374 Kremlevskaya prachka, Telegram, 29 June 2022; *ibid.*, 30 June 2022; *ibid.*, 30 June 2022 (same day but distinct message); War Correspondents of the Russian Spring, Telegram, 7 June 2022; UKR Leaks, Telegram, 6 June 2022 [translated from Russian].

375 Readovka, Telegram, 19 May 2022; Readovka, Telegram, 7 June 2022; Reporter Rudenko V, Telegram, 28 July 2022 [translated from Russian].

376 Readovka, Telegram, 29 May 2022; Kremlevskaya prachka, Telegram, 22 June 2022 [translated from Russian].

377 Kremlevskaya prachka, Telegram, 29 June 2022 [translated from Russian].

378 Kremlevskaya prachka, Telegram, 20 June 2022 [translated from Russian].

379 Anatoly Shariy, Telegram, 23 June 2022 [translated from Russian].

380 OHCHR, *Report on the treatment of prisoners of war and persons hors de combat in the context of the armed attack by the Russian Federation against Ukraine: 24 February 2022 — 23 February 2023*, 24 March 2023, para. 66.

381 *Ibid.*, para. 74.

382 Dmytro Kozatskiy returned from captivity on 21 September 2022, severely mentally and physically exhausted with a weight of 51 kg: NV, *Lost weight to 51 kg. Dmytro “Orest” Kozatskiy spoke about his release from Russian captivity and rehabilitation*, 14 October 2022. Although Kozatskiy personally refuses to publicly discuss the conditions of his captivity, he once mentioned that “he’s lucky he hasn’t been tortured as hard as other Azov members”. See Azov News, *“The war will end when all the prisoners return.” Interview with Dmytro “Orest” Kozatskiy*, 23 August 2023. His mother confirmed that he has undergone severe malnutrition and dehydration. See 1+1, *For 10 days in a row they did not give him water, and his weight dropped to 55 kg: in “Breakfast with 1+1” the mother of Azov soldier “Orest” who was released from captivity spoke about their first meeting and her son’s condition*, 23 September 2022. During one of the interviews, Kozatskiy confirmed that he was forced into participating in the filming of staged confessions while in Russian captivity. See Azov News, *“Every hour of February 24 is now months of struggle.” Interview with Dmytro Kozatskiy*, 25 August 2023 [translated from Ukrainian].



"confessed" to committing war crimes, including the filming of executions of Russian POWs, on the orders of President Zelensky. Rudenko concluded his message by enquiring how the "West" would react to this admission.<sup>383</sup> This video was reposted by Yuliya Vityazeva shortly after its initial release.<sup>384</sup>

## ***During the Attack (29 July 2022)***

194. On the night of 28–29 July 2022, the General Staff of the Russian Armed Forces reported an attack on the Olenivka colony. The MoD stated that this attack occurred on 29 July 2022 at 00:20 Moscow time (23:20 EET / 11:20 pm).<sup>385</sup> The investigations conducted by the OSINT for Ukraine group suggest that detainees reported hearing two explosions followed by a fire in the new barrack. The first explosion occurred at approximately 23:30 EET (11:30 pm) and the second around 23:45 EET (11:45 pm).<sup>386</sup> According to Russia, more than 50 Ukrainian soldiers were killed and more than 70 sustained injuries.<sup>387</sup>

195. On the morning of 29 July 2022, Daniil Bezsonov wrote that Olenivka prison had been struck by a HIMARS missile.<sup>388</sup> He claimed that President Zelensky had ordered the killing of the POWs because their confessions damaged Ukraine's reputation.<sup>389</sup> Andrei Rudenko wrote a similar message on his Telegram channel, stating that Zelensky had ordered the killing of POWs after videos with POWs confessing to war crimes started to be published.<sup>390</sup> He also posted three videos from the destroyed barrack. The first had an inscription stating that Zelensky had executed his own people.<sup>391</sup> The second clarified that the attack took place at 2 AM (contradicting the MoD assessment) at night while the POWs were sleeping.<sup>392</sup> The third showed HIMARS missile debris allegedly found on site.<sup>393</sup> Rudenko also posted a video of DPR official Eduard Basurin stating that Ukraine had perpetrated the attack to silence those POWs who had started testifying about war crimes. According to

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383 Reporter Rudenko V, Telegram, 28 July 2022 [translated from Russian].

384 Yuliya Vityazeva, Telegram, 28 July 2022 [translated from Russian].

385 Ministry of Defence of the Russian Federation, [Russian Deputy Defence Minister Alexander Fomin holds briefing for foreign military attachés](#), 29 July 2022.

386 OSINT for Ukraine, [Part 1: "Olenivka: from captivity to being burned to death"](#), 2023.

387 Ombudsman, [Olenivka is not forgotten](#), 23 July 2023.

388 Unofficial Bezsonov, Telegram, 29 July 2022 [translated from Russian].

389 *Ibid*, 29 July 2022.

390 Reporter Rudenko V, Telegram, 29 July 2022 [translated from Russian].

391 *Ibid*, 29 July 2022.

392 *Ibid*, 29 July 2022.

393 *Ibid*, 29 July 2022.

Basurin, Ukraine also insisted on keeping the POWs in Olenivka prison and used HIMARS for the attack.<sup>394</sup>

196. Yuliya Vityazeva provided commentary on the incident, referencing the video initially posted by Andrei Rudenko. She stated that POWs faced punitive actions from the Ukrainian government for disclosing “terrible things” about Zelensky.<sup>395</sup> Additionally, war correspondent Aleksander Kots claimed that “Azov militants” had made numerous allegations concerning their crimes against civilians, extrajudicial killings, torture, and the involvement of the nation’s leadership in acts of terror against civilians.<sup>396</sup>

197. Russian State Duma deputy Vyacheslav Volodin explained that POWs were killed to prevent “the truth about Ukrainian crimes” from being revealed, which in turn would lead to criminal responsibility for senior NATO leadership.<sup>397</sup> Sergey Tsekov, the Federation Council member from occupied Crimea, alleged that the Ukrainian army had shelled a colony to intimidate active fighters and eliminate “inconvenient witnesses” of war crimes in an effort to preserve Zelensky’s good image.<sup>398</sup> Denis Pushilin, the “DPR head”, commented that the goal of the “Olenivka provocation” was to physically destroy the prisoners before they begin to testify against Ukraine.<sup>399</sup>

198. Dmitriy Steshin provided commentary on the incident relating to Nezygar’s post dated 5 June 2022. He further juxtaposed the shelling in Olenivka with the earlier “provocation” that occurred in the drama theatre in Mariupol, which he had cautioned about four days in advance.<sup>400</sup> Additionally, on the same day, he authored an article for KP, alleging that the United States had ordered the attack to eliminate witnesses of its purported war crimes.<sup>401</sup>

199. War on Fakes presented a comprehensive compilation of narratives articulated by various other actors. Specifically, it referenced a video published by Andrei Rudenko the day before the shelling, which reiterated that the colony had been shelled by a HIMARS missile, and posited that Ukraine’s motive behind the attack was to intimidate the soldiers into refusing to surrender into captivity.<sup>402</sup>

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394 *Ibid*, 29 July 2022.

395 Yuliya Vityazeva, Telegram, 29 July 2022 [translated from Russian].

396 Kotsnews, Telegram, 29 July 2022 [translated from Russian].

397 Vyacheslav Volodin, Telegram, 30 July 2022 [translated from Russian].

398 NewsRU, [Senator Tsekov provided an explanation of the AFU missile strike on a colony with Ukrainian prisoners](#), 29 July 2022 [translated from Russian].

399 Izvestiya, [Pushylin named the objective of the Ukrainian Armed Forces strike on the colony in Elenovka](#), 29 July 2022 [translated from Russian].

400 Russkiy Tarantas, Telegram, 29 July 2022 [translated from Russian].

401 KP, [What the US was trying to hide by destroying the barracks with surrendered prisoners from Azovstal in the village of Elenovka](#), 29 July 2022 [translated from Russian].

402 War on Fakes, Telegram, 29 July 2022 [translated from Russian].

## ***After the Attack (30 July Onwards)***

200. During a meeting of the UN Security Council, Dmitry Polyanskiy, the Russian Representative to the UN, repeated key talking points of the cacophony of Russian supporters. This included that the Ukrainian army targeted POWs using HIMARS missiles and that Ukraine acted out of revenge for the POWs who had surrendered into captivity.<sup>403</sup>

201. On 2 August 2022, the Russian MoD issued a statement claiming that Ukraine had hit the prison with a HIMARS missile with the approval of senior US leadership.<sup>404</sup> In a similar vein, Maria Zakharova blamed Ukrainian and US authorities for the incident, contending that the POWs were physically eliminated as potential witnesses and perpetrators of atrocities towards the civilian population.<sup>405</sup>

202. On 3 August 2022, the Russian MoD held a briefing regarding Olenivka. According to the MoD's account, Ukraine insisted on placing POWs in Olenivka prison, which is located in close proximity to active hostilities. Subsequently, the MoD asserted that the prison was struck by a HIMARS missile. It explained Ukraine's motives for the attack by referencing a video featuring Kozatskiy, published on 28 July 2022 by Andrei Rudenko. The MoD contended that the Ukrainian leadership had ordered the strike to eliminate captured members of the Azov regiment, who had begun to provide testimony regarding war crimes. In addition, the MoD attributed blame for the attack to the United States, as the Ukrainian army actively used reconnaissance data obtained from the US Armed Forces and their allies in the planning of fire strikes.<sup>406</sup>

203. On 4 August 2022, reports indicated that prison No. 124 in Donetsk, at which Ukrainian POWs were allegedly being held, was subjected to shelling by the Ukrainian army.<sup>407</sup> On 18 September 2022, further reports surfaced indicating that Olenivka prison was again shelled by Ukrainian forces.<sup>408</sup>

204. On 20 August 2022, Russian Defence Minister Sergey Shoigu attributed the responsibility for the assault on Olenivka to Ukraine, asserting that the POWs were killed to avert their potential testimony regarding war crimes perpetrated by the Ukrainian army against civilians.<sup>409</sup>

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403 Permanent Mission of the Russian Federation to the UN, [Speech by acting Permanent Representative D.A. Polyanskiy at the UN Security Council meeting on Ukraine](#), 29 July 2022 [translated from Russian].

404 Ministry of Defence of the Russian Federation, Telegram, [2 August 2022](#) [translated from Russian].

405 Maria Zakharova, Telegram, [2 August 2022](#) [translated from Russian].

406 Ministry of Defence of the Russian Federation, [Russian Deputy Defence Minister Alexander Fomin holds a briefing for foreign military attachés](#), 3 August 2022.

407 TOPWAR, [The Ukrainian Armed Forces struck colony No.124 in the DPR, where Ukrainian prisoners of war were held](#), 4 August 2022 [translated from Russian].

408 Zergulio, Telegram, [18 April 2022](#).

409 Interfax, [Shoigu stated that the strike on the detention center in Elenovka was carried out by Ukraine from an American MLRS](#), 20 August 2022 [translated from Russian].

## Independent, Objective Findings Disproving Russia's Information Alibi

205. According to Ukrainian intelligence, the attack was a “special operation” against the supply of Western precision weaponry to Ukraine and aimed to “destabilise the Ukrainian society and demoralise Ukrainian prisoners of war”.<sup>410</sup>

206. The HIMARS missile theory has been discredited by multiple weapons experts, who informed CNN that the images and videos from Olenivka were incongruent with a HIMARS missile attack.<sup>411</sup> Further, Volker Turk, the United Nations High Commissioner for Human Rights, indicated that while the exact circumstances of 28–29 July 2022 remain ambiguous, the available information allowed for the conclusion that the incident was not a result of a HIMARS missile attack.<sup>412</sup> UN HRMMU has corroborated that the nature of the explosion is inconsistent with a HIMARS missile attack.<sup>413</sup>

207. UN HRMMU emphasised in its monitoring report that the Russian Federation had failed to fulfill its obligation to conduct a comprehensive investigation into the deaths of POWs at Olenivka prison. The report underscored that the placement of POWs in such a close proximity to the frontline (14 km) placed them in imminent danger, thereby contradicting IHL provisions on the safety of POWs.<sup>414</sup> The Associated Press news agency conducted interviews with over a dozen survivors, investigators, and families of the deceased, estimating that approximately 120 individuals were still missing and believed to be held captive. All of the interviewees provided accounts suggesting that Russia was responsible.<sup>415</sup>

208. Finally, according to Ukraine's Prosecutor General's Office, the leadership of the Olenivka prison colony, working with Russia's Federal Penitentiary Service, caused additional deaths (beyond those killed by the immediate impact of the attack) of injured Ukrainian service personnel. In particular, delayed medical assistance, obstruction of military medics present at the site, delays in evacuation, improper evacuation methods, and the use of inadequate evacuation equipment resulted in the deaths of at least nine more soldiers both during the evacuation.<sup>416</sup>

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410 Defence Intelligence of Ukraine, [Terrorist attack in Olenivka was Russia's special operation to disrupt arms supplies to Ukraine](#), 7 August 2022.

411 CNN, [Russia claims Ukraine used US arms to kill jailed PoWs. Evidence tells a different story](#), 11 August 2022.

412 OHCHR, [Türk decries lack of accountability for Olenivka killings](#), 25 July 2023.

413 OHCHR, [Report on the human rights situation in Ukraine: 1 February-31 July 2023](#), 4 October 2023, para. 10.

414 Office of the High Commissioner for Human Rights, [Report on the human rights situation in Ukraine: 1 February-31 July 2023](#), 4 October 2023, para. 85.

415 Associated Press, [Takeaways from an investigation into deaths of over 50 Ukrainian POWs in a barracks 2 years ago](#), 25 July 2024.

416 NV, [Olenivka Prison camp massacre deliberately caused by Russian action, reveal prosecutors](#), 28 January 2025.

## Information Alibi No. 5: Kakhovka Dam

209. Nova Kakhovka is located in Kherson Oblast.<sup>417</sup> On 24 February 2022, tanks and unidentified armed personnel entered the premises of the Kakhovka Hydroelectric Power Plant (HPP) in Nova Kakhovka and seized control. They have since retained control of the plant.<sup>418</sup>

210. At 1:50 EET (1:50 am)<sup>419</sup> on 6 June 2023, the dam of the Kakhovka HPP was attacked.<sup>420</sup> The Ukrainian army and Ukrainian state-owned hydropower company Ukrhydroenergo indicated that the dam was destroyed by an explosion set off by the Russian Federation,<sup>421</sup> a claim that has been substantiated by various independent investigations.<sup>422</sup>

211. The effect of the explosion resulted in significant flooding affecting at least 80 downstream communities.<sup>423</sup> As of 5 September 2023, Ukrainian authorities reported 32 dead, 28 injured, and 39 missing.<sup>424</sup> According to the joint assessment conducted by the UN and the Government of Ukraine, the flooding caused damage to over 37,000 residential properties, 37 educational institutions, and 11 health facilities. From an economic perspective, the UN reported in October 2023 that the destruction caused by the Kakhovka dam's destruction had inflicted losses totalling approximately USD \$13.79 billion.<sup>425</sup> Further, this incident has disrupted the delivery of potable water and sanitation

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417 Official website of Nova Kakhovka, [Geographical reference](#).

418 Ministry of Energy of Ukraine, Facebook, [24 February 2022](#).

419 2:50 EEST (2:50 am) local time.

420 Svyrydyuk J., Pryshchepa Y. & Sobenko N., [Flooded cities, ecological catastrophe and thousands of people to evacuate: what is known about the bombing of the Kakhovka hydroelectric power station by the Russians](#), 6 June 2023 [translated from Ukrainian]; NV, [Russia blew up the Kakhovka hydroelectric power plant: floods are expected to peak on the morning of June 7, Russians flooded their military equipment, the left bank will be affected more — highlights](#), 7 June 2023 [translated from Ukrainian]; DTEK, [Kakhovka Dam attack shows Russian intent to destroy Ukraine's energy sector](#), 6 June 2023; NV, [Russian occupiers blew up the Kakhovka hydroelectric power plant, evacuation from dangerous areas has started](#), 6 June 2023 [translated from Ukrainian]; Global Rights Compliance, [Harvesting conflict. Russia's deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine](#), December 2024.

421 Operation Command South, Facebook, [6 June 2023](#); Ukrhydroenergo, Facebook, [6 June 2023](#).

422 Glanz J., Santora M., Robles P., Willis H., Leatherby L., Koettl C. & Khavin D., [Why the evidence suggests Russia blew up the Kakhovka dam](#), 16 June 2023; Truth Hounds, [Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2023; Martynyuk L., [Top two Russian falsehoods about the Kakhovka dam's destruction](#), 9 June 2023; Global Rights Compliance, [Harvesting conflict. Russia's deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine](#), December 2024.

423 United Nations Human Rights Monitoring Mission in Ukraine, [Ukraine: protection of civilians in armed conflict: May 2024 update](#), 7 June 2024.


424 Ivanova T. & Bilous S., [32 dead, 39 missing, and \\$1.5 billion in damages: three months ago, the Russian army blew up the Kakhovka HPP](#), Suspilne, 5 September 2023.

425 United Nations Ukraine, [Kakhovka dam destruction inflicted US\\$14 billion damage and loss on Ukraine: government of Ukraine — UN Report](#), 17 October 2023.

services to more than one million individuals in Dnipro, Zaporizhzhia, Mykolaiv, and Kherson regions,<sup>426</sup> with 700,000 requiring urgent assistance,<sup>427</sup> and significantly impacted the well-being of wildlife.<sup>428</sup> Moreover, according to a report published by Global Rights Compliance's starvation and humanitarian division, flooding affected farmland significantly, affecting 94% of the agricultural land in Kherson oblast, with 74% of crops in Zaporizhzhya region and 30% in Dnipro region left without irrigation.<sup>429</sup> Approximately 4,400 homes were flooded, while 40,000 people were forced to evacuate to allow the clearing of landmines.<sup>430</sup>

## Information Landscape Relating to the Attack

### ***Before the Attack (Prior to 6 June 2023)***

 **212.** As early as Spring 2022, there were indications that the Russian disinformation machine had begun preparing a disinformation campaign relating to an imminent attack against the Kakhovka dam by Ukrainian forces. For example, on 4 April 2022, the Telegram channel Kremlevskaya prachka reported that “the neo-Nazis are planning to organise a ‘water blockade’ of a country [Ukraine] by mining hydroelectric power plants to deprive Ukrainians of drinking water and cause widespread flooding of the territories”.<sup>431</sup>

**213.** On 15 April 2022, the MoD claimed that “the Ukrainian 19th Separate Missile Brigade launched a strike on the Kakhovka Hydroelectric Power Plant with two ‘Tochka-U’ tactical missiles”,<sup>432</sup> explaining that “the destruction of the Kakhovka Hydroelectric Power Plant’s dam by the strike was intended to lead to an uncontrolled release of Dnipro water and cause the flooding of many settlements in the Kherson region along with their residents, aiming to hinder the actions of the Russian Armed Forces”.<sup>433</sup> The Ukrainian SBU reported

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426 United Nations Human Rights Monitoring Mission in Ukraine, Ukraine: protection civilians in armed conflict. May 2024 update, 7 June 2024; Global Rights Compliance, [Harvesting conflict. Russia’s deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine](#), December 2024.

427 Global Rights Compliance, [Harvesting conflict. Russia’s deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine](#), December 2024.

428 Ukrainian Nature Conservation Group, [The consequences of the Russian terrorist attack on the Kakhovka Hydroelectric Power Plant \(HPP\) for wildlife](#), 7 June 2023.

429 Global Rights Compliance, [Harvesting conflict. Russia’s deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine](#), December 2024.

430 *Ibid.*

431 Kremlevskaya prachka, Telegram, 4 April 2022 [translated from Russian].

432 Ministry of Defence of the Russian Federation, [Daily briefing](#), 15 April 2022 [translated from Russian].

433 *Ibid.*



that this misleading information reached approximately 7.7 million individuals with 186 reposts.<sup>434</sup>

214. On 21 May 2022, pro-Russian Telegram channels identified as Khersonshina segodnya and Khersonskiy Vestnik posted that Kakhovka HPP was presented to “foreign journalists”, who were assured that “Kakhovka HPP [was] operating at full capacity” and had not been destroyed as “was rumoured in foreign media”.<sup>435</sup>

215. On 8 July 2022, the Russian Telegram channel Smotri reported that the Deputy Head of the Military-Civilian Administration of the Kherson Region stated that “Ukrainian missiles struck the HPP in Nova Kakhovka, with casualties reported”.<sup>436</sup> On 12 July 2022, the Russian Telegram channel Vesti reported that Kherson city authorities noted that shelling by the Ukrainian army of Nova Kakhovka resulted in seven fatalities and 60 injuries. It was asserted that the targeted facility (which was successfully destroyed) was “a factory that produced equipment for hydroelectric power stations worldwide”.<sup>437</sup>

216. On 18 July 2022, the Russian Telegram channel Operation Z: Voenkory of the Russian Spring reported an attack against the Kakhovka HPP. The report noted that there were “explosions and fire near the Kakhovka Hydroelectric Power Plant in the Kherson region”.<sup>438</sup> Additionally, the Russian Telegram channel WarGonzo reported that Sergey Kiriyyenko “came under attack during a missile strike by the Ukrainian army in Nova Kakhovka” while he was visiting the Kakhovka HPP.<sup>439</sup> It was further stated that the Ukrainian army “reportedly launched three missiles”.<sup>440</sup> According to the NGO “Truth Hounds” the Ukrainian army was highly likely to have attacked the vicinity of the dam. The organisation reported that “shelling damaged several buildings on the territory of the power plant and the roadway next to the lock”.<sup>441</sup> However, it is essential to note that only the first and the earliest attack was “confirmed” by the authors of the report.<sup>442</sup>

217. On 13 August 2022, Arseniy Zelensky, Deputy Director of the Kakhovka HPP for Reconstruction, stated that “one turbine of the Kakhovka HPP has been shut down

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434 SBU, Analysis of information threats around the explosion of the Kakhovka Hydroelectric Power Plant (HPP) for the period from 15.04.2022 to 11.10.2023, 2024 [only hard copy available]. p. 9; Soloviev, Telegram, 15 April 2022; Markov's logic, Telegram, 15 April 2022.

435 Khersonshina segodnya, Telegram, 21 May 2022; Khersonskiy Vestnik, Telegram, 21 May 2022 [translated from Russian].

436 Smotri, Telegram, 8 July 2022 [translated from Russian].

437 Vesti, Telegram, 12 July 2022 [translated from Russian].

438 Operation Z: Voenkory of the Russian Spring, Telegram, 18 July 2022 [translated from Russian]; the message was reposted by Soloviev, Telegram, 18 July 2022.

439 WarGonzo, Telegram, 18 July 2022.

440 *Ibid.* The message was reposted by Soloviev, Telegram, 18 July 2022.


441 Truth Hounds, Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice, 6 June 2024, p. 41.

442 *Ibid.*

following the missile strikes” from the Ukrainian army and that “problems with the dam of the Hydroelectric Power Plant could lead to the serious issues at the Zaporizhzhya Nuclear Power Plant which could lead to a nuclear disaster”.<sup>443</sup>

218. Similarly, the Telegram channel Khersonskiy Vestnik disseminated a similar message, asserting that “shelling of the Kakhovka HPP could lead to nuclear disaster”.<sup>444</sup> It was further reported that “as a result of regular attacks on the Kakhovka HPP with GMLRS [Guided Multiple Launch Rocket System] missiles from the American HIMARS by the [Ukrainian army] — in particular, what happened on August 12 this year — three of the six turbines of the HPP were stopped”.<sup>445</sup>

219. On 19 August 2022, the Telegram channel Smotri posted a statement by Vladimir Leontyev, the Head of the Military-Civilian Administration of Nova Kakhovka, asserting that “Ukrainian authorities are waging war against the civilian population” and that “the shelling of the HPP by the Ukrainian army complicates the delivery of food and essential goods to areas north of the Dnipro River”.<sup>446</sup>

 220. On 14 September 2022, the Russian Telegram channel Voyenny Osvedomitel reported that the Ukrainian army was executing “missile strikes with HIMARS on the Kakhovka Hydroelectric Power Station in the Kherson region”.<sup>447</sup> On 5 October 2022, Vladimir Rogov, a member of the chief council of the Zaporizhzhya regional administration, asserted that that “Kyiv is preparing a provocation to flood the Zaporizhzhya Nuclear Power Plant, and for this, an uncontrolled water discharge at several hydroelectric power plants will be triggered”.<sup>448</sup> On 13 October 2022, the Telegram channel Smotri claimed that

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443 TASS, [It was claimed at the Kakhovka HPP that shelling by the Armed Forces of Ukraine could lead to a catastrophe at the Zaporizhzhia NPP](#), 13 July 2022 [translated from Russian].

444 Khersonskiy Vestnik, Telegram, [13 August 2022](#) [translated from Russian].

445 *Ibid.*

446 Smotri, Telegram, [19 August 2022](#) [translated from Russian].

447 Voyenny Osvedomitel, Telegram, [14 September 2022](#) [translated from Russian].

By September 2022, satellite images showed that “the bridges on the dam were rendered inoperative due to high-precision strikes, making them unusable for logistics”. Militarnyi, [The invaders are trying to rebuild the crossing at the Kakhovka dam](#), 19 September 2022; Truth Hounds, [Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2024, pp. 42–44.

Considering available evidence, Truth Hounds concluded that the Ukrainian Armed Forces (UAF) aimed to disrupt the logistics of the Russian army by targeting the bridges, roadways and railways in the vicinity of the Kakhovka dam. Consequently, Truth Hounds established that the UAF “did not intend to destroy the dam and strategically planned their attacks to minimize widespread destruction”. Truth Hounds, [Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2024, pp. 42–43.

However, the report does not contain any information about further strikes in the vicinity of the dam after September 2022. At the same time, it refers to the statement of the Institute for the Study of War, published in October 2022, that Russian forces “are setting information conditions to conduct a false-flag attack on the Kakhovka”, Truth Hounds, [Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2024, p. 45; Lawlor K., Hird K., Mappes G., Bailey R., Barros G. & Kagan F.W., [Russian offensive campaign assessment](#), 19 October 2022.

448 Petrova L., [Rogov: Kyiv is preparing a provocation involving the flooding of the Zaporizhzhya Nuclear Power Plant](#), 5 October 2022; Smotri, Telegram, [5 October 2022](#) [translated from Russian].

the “discharge of Dnipro water through the cascade of HPPs is carried out, in particular, to flood the coastal fortifications on the left bank and to facilitate the planned landing operation of Ukrainian forces at the Zaporizhzhya Nuclear Power Plant”.<sup>449</sup>

221. In response to the dissemination of Russian disinformation regarding the purported continuous shelling of the Kakhovka HPP dam by the Ukrainian army, as well as speculation about an imminent assault from the same, the Russian government expeditiously announced the evacuation of civilians from the subsequently occupied adjacent territories near the Kakhovka dam. On 18 October 2022, the Commander of the Joint Group of Forces in the area, Sergey Surovikin, formally announced that the Russian Armed Forces “have information on the possibility of the Kyiv regime using prohibited methods of warfare in the Kherson area, on Kyiv’s preparation for a massive missile strike on the Kakhovka Hydroelectric Power Plant’s dam, and the execution of a massive missile-artillery strike on the city without regard for specific targets. [...] So, first of all, the Russian army will guarantee the secure departure of the population, which has been prepared by the government”.<sup>450</sup>

222. The Ukrainian SBU noted that the Telegram message ordering the evacuation had approximately 12 million views with 167 reposts.<sup>451</sup> In particular, messages with similar content were spread by the Telegram channels ANNA-NEWS, Smotri, and Logika Markova.<sup>452</sup> Following Commander Surovikin’s message, Sergei Markov, the administrator and author of Markov’s logic Telegram channel, called for revenge.<sup>453</sup> He wrote that “[i]n Surovikin’s speech, I personally missed a simple phrase — if the Ukrainian Armed Forces blow up the dam in Nova Kakhovka, then the Russian army will respond harshly. In the same way, but even more. Enough of tolerating this. It’s time to respond”.<sup>454</sup>

223. Markov also posted that “[t]he UK’s Defence Minister urgently flew to Washington. It is highly likely that they will jointly decide on a tactical nuclear strike on Ukrainian territory, blame Russia for it, and then supposedly carry out a non-nuclear retaliatory strike by NATO countries on the Russian army in Ukraine. Before this, there will be a massive Ukrainian

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449 Smotri, Telegram, [31 October 2022](#) [translated from Russian].

450 TASS, [Surovikin: The Russian Armed Forces have information that Kyiv is preparing a missile strike on the Kakhovka HPP](#), 18 October 2022; TASS, Telegram, [18 October 2022](#) [translated from Russian].


451 SBU, Analysis of information threats around the explosion of the Kakhovka Hydroelectric Power Plant (HPP) for the period from 15.04.2022 to 11.10.2023, 2024, p. 5 [only hard copy available].

452 ANNA-NEWS, Telegram, [18 October 2022](#); Smotri, Telegram, [18 October 2022](#); Logika Markova, Telegram, [18 October 2022](#) [translated from Russian].

453 Sergei Markov is a former MP, a political scientist affiliated with the Administration of the President of the Russian Federation and director of the Institute of Political Studies. See Institute of Political Studies, [About the Institute](#) [translated from Russian]; Institute of Political Studies, [Markov Sergei Aleksandrovich](#), Director of the Institute [translated from Russian]; Verstka, Better than right: the story of ‘Putin’s political scientist’ Sergei Markov, [6 August 2022](#) [translated from Russian].

454 Logika Markova, Telegram, [18 October 2022](#) [translated from Russian].

army offensive on Kherson, and the Kakhovka dam will be blown up. Russia's supposed tactical nuclear strike will be presented as revenge on Ukraine for the offensive and for the dam explosion. All this could happen within the next two weeks, in October, before the US midterm elections".<sup>455</sup>

 224. On 18 October 2022, Vladimir Saldo, the Russian-installed Governor of Kherson Oblast, asserted that "there is immediate danger of flooding due to the planned destruction of the Kakhovka HPP dam and the release of water from a cascade of power plants upstream of the Dnipro" and announced "organised movement of the civilian population of Berislavsky, Belozersky, Snigirevsky and Aleksandrovsky municipalities to the left bank of the Dnipro".<sup>456</sup> Further, he urged Ukrainians to relocate to the Russian-controlled territories, indicating that "for those who decide to move further, the Russian government will provide housing certificates".<sup>457</sup>

225. On 19 October 2022, Governor Saldo issued a decision to "close entry to the territories of the right bank [controlled by Ukraine] for a period of 7 days" referring to the "the tense situation on the front line and the increased threat of a massive missile and artillery strike on the territory of Kherson region and the city of Kherson".<sup>458</sup>

226. Communications regarding "evacuation" and "relocation" were accompanied by a surge of disinformation concerning the Ukrainian army's intentions to detonate the Kakhovka HPP dam. This situation exerts a significant psychological impact on Ukrainian citizens in the area, fostering an environment of persistent fear and, as a result, compelling individuals to consider departing from their homes.

227. Markov claimed that one of the reasons why "mass evacuation from Kherson" was announced was that "there is a possibility of flooding the city as [the Ukrainian army] will blow up the Kakhovka HPP dam".<sup>459</sup> In a lengthy message, Khersonskiy Vestnik furthermore noted that mines were being delivered and that they could be sent downstream with the aim of destroying the dam.<sup>460</sup>

228. The Telegram channel War on Fakes also referenced the authorities of the Kherson region, indicating that the Ukrainian army was preparing to blow up the dam.<sup>461</sup> Further, it reported that "evacuation of the Kherson residents to safe areas has begun", estimating

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455 Logika Markova, Telegram, 18 October 2022 [translated from Russian].

456 Vladimir Saldo, Telegram, 18 October 2022 [translated from Russian].

457 *Ibid.*

458 Vladimir Saldo, Telegram, 19 October 2022 [translated from Russian].

459 Logika Markova, Telegram, 19 October 2022 [translated from Russian].

460 Khersonskiy Vestnik, Telegram, 19 October 2022 [translated from Russian].

461 War on Fakes, Telegram, 19 October 2022 [translated from Russian].

that “it is planned to transport approximately 50–60 thousand people”.<sup>462</sup> In addition, the Russian Telegram channel Smotri referred to Vladimir Saldo and reported that “Kherson is being protected from possible flooding in case of a breach of the Kakhovka HPP sluices”.<sup>463</sup>

229. On 20 October 2022, the Head of the Nova Kakhovka Administrative District Vladimir Leontyev stated that “Russia has no reason to destroy the Kakhovka Hydroelectric Power Plant’s dam; this benefits Ukraine”.<sup>464</sup> Khersonskiy Vestnik posted a message with a “flooding map of the Kherson region in case of a breach of the Kakhovka dam”.<sup>465</sup>

230. On the same day, Khersonskiy Vestnik also published another message claiming that “Ukraine is planning a sabotage operation at the Kakhovka HPP sluice using underwater drones” and that:

given the high cost and limited number of HIMARS missiles, the Ukrainian Armed Forces plan to use British drones against the Kakhovka HPP sluice system. This sabotage will flood the coastal settlements controlled by Russia in the Dnipro estuary, creating a humanitarian crisis and disrupting logistics, but will not destroy the hydroelectric infrastructure.<sup>466</sup>

231. Russian news outlet KP.RU posted a message with a map claiming that:

if the dam explodes, a 5-meter-high wave will move downstream along the Dnipro at a speed of 25 km/h! It will sweep away all coastal settlements, and in two hours, this tsunami will reach Kherson. The water will rise for 14 hours, flooding vast areas [...] The flooding will last for 3 days, after which the water will begin to recede. Surviving in such a water apocalypse will be difficult. But it seems the Ukrainian forces don’t care about the hundreds of thousands of people living in Kherson and the lowlands of the Dnipro.<sup>467</sup>

232. On 21 October 2022, the Russian Government promulgated Resolution No.1879 titled “On implementation of measures on the relocation of residents from the city of Kherson and the right-bank part of the Kherson region who have left their permanent

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462 War on Fakes, Telegram, 19 October 2022 [translated from Russian].

463 Smotri, Telegram, 19 October 2022 [translated from Russian]. This message was subsequently reposted by Yuliya Vityazeva. See Yuliya Vityazeva, Telegram, 19 October 2022 [translated from Russian].

464 Smotri, Telegram, 20 October 2022 [translated from Russian].

465 Khersonskiy Vestnik, Telegram, 20 October 2022 [translated from Russian].

466 Khersonskiy Vestnik, Telegram, 20 October 2022 [translated from Russian].

467 KP.ru, Telegram, 20 October 2022 [translated from Russian]. This message was reposted by the Soloviev Telegram channel. See Soloviev, Telegram, 20 October 2022 [translated from Russian].

place of residence and arrived on an emergency basis in other territories of the Russian Federation".<sup>468</sup> This action further underscored the intent of the Russian authorities to systematically and forcefully relocate residents from the impacted areas.

233. On 21 October 2022, Vladimir Rogov stated on the programme "Soloviev.Live" that Ukraine "is preparing for the terrorist attack not by itself, but clearly at the behest of the Anglo-Saxon".<sup>469</sup>

234. On 22 October 2022, Leontyev asserted to RT Arabic that "all these insinuations and ideas stated by the Ukrainian side that the HPP is mined by Russian troops are complete lies, complete nonsense, which have no basis" and that "all these are done by the Ukrainian side with one goal — to sow panic, force people to leave, and it is quite possible that there is a plan to destroy the HPP".<sup>470</sup>

235. On 22 October 2022, Vassily Nebenzia formally claimed that the Ukrainian army was attacking the Kakhovka HPP and was aiming to destroy it, leading to the possible death of hundreds of thousands of civilians in the area.<sup>471</sup> On 21 October 2022, he submitted a letter to the UN Secretary-General and the President of the UN Security Council, addressing the "plans of the Kiev regime to destroy" the Kakhovka HPP through a mine attack or massive missile strike.<sup>472</sup>

236. On 23 October 2022, Markov utilised his Telegram channel to allege that Western Green parties had failed to take appropriate action in light of the looming threat posed by Ukraine to the Kakhovka HPP dam. He wrote:

The Kyiv junta has been attacking the nuclear power plant for three months in front of the whole world. And now, right before the world's eyes, the Kyiv junta is preparing to blow up the Kakhovka dam, with the applause of the West. But where are the Western Green parties? They are silent and quietly support this environmental terrorism. This means these Green environmentalists are fake. This is the image

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468 Resolution №1879 "On the implementation of measures on the relocation of residents from the city of Kherson and the right-bank part of the Kherson region who have left their permanent place of residence and arrived on an emergency basis in other territories of the Russian Federation", 21 October 2022 [translated from Russian].

469 RT Russian, "Taking advantage of indulgence for criminal acts": Russia urged the UN to prevent Ukrainian Armed Forces' provocations at the Kakhovka HPP, 23 October 2022 [translated from Russian].

470 Hassan Nassr, Telegram, 22 October 2022; RT Russian, Telegram, 22 October 2022 [translated from Russian].

471 RT Russian, Russia urged the UN to prevent Ukrainian Armed Forces' provocations at the Kakhovka HPP, Dzen.ru, 22 October 2022; RT Russian, "Taking advantage of indulgence for criminal acts": Russia urged the UN to prevent Ukrainian Armed Forces' provocations at the Kakhovka HPP, 23 October 2022; Rumbler News, Russia urged the UN to prevent Ukrainian Armed Forces' provocations at the Kakhovka HPP, 23 October 2022 [translated from Russian].

472 MFA Russia, X, 6 June 2023 [translated from Russian].



of Europe now — Green environmentalists actively supporting eco-terrorism.<sup>473</sup>

237. On 24 October 2022, Khersonskiy Vestnik noted that “[t]he criminal Kyiv regime continues to shell civilian infrastructure in Nova Kakhovka. At 11:20, they shelled the Kakhovka HPP, launching 19 HIMARS and Olkha missiles. Some missiles were shot down by air defence, but unfortunately, three missiles hit the HPP. Details on casualties are being clarified”.<sup>474</sup>

238. On 6 November 2022, Kotsnews<sup>475</sup> reported that a “HIMARS missile hits Kakhovka HPP dam lock”.<sup>476</sup> Additionally, Russian news outlet RBC noted that the alleged shelling was perpetrated by the Kakhovka HPP from HIMARS referring to TASS<sup>477</sup> and RIA Novosti.<sup>478</sup>

239. On 9 November 2022, Russian General Sergey Surovikin reported to the Russian Minister of Defence, Sergey Shoigu, regarding the successes of the Russian military in Ukraine. In his communication, he asserted that Ukraine had intentions “to create a flood zone below the Kakhovka HPP dam” and that:

This is confirmed by the constant missile strikes on the Kakhovka HPP dam, as well as on the dam’s spillway gates. For example, on September 26, a strike damaged one of the spillway gates. The intensive release of water through the Kyiv HPP and downstream hydroelectric plants, carried out since October 10, is also a cause for concern due to the risk of the river overflowing in its channel and flooding coastal areas. If the Kyiv regime continues to increase water discharge from the reservoirs or launches a more powerful missile attack on the Kakhovka dam, a flow of water will form, creating extensive flood zones and causing significant civilian casualties. There will be an additional threat to civilians and the complete isolation of our troops on the right bank of the Dnipro.<sup>479</sup>

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473 Logika Markova, Telegram, 23 October 2022 [translated from Russian].

474 Khersonskiy Vestnik, Telegram, 24 October 2022 [translated from Russian].

475 The administrator and author of the channel is Aleksandr Kots — war correspondent of the Publishing House “Komsomolskaya Pravda”. Kotsnews, Detailed information, vk.com [translated from Russian].

476 Kotsnews, Telegram, 6 November 2022 [translated from Russian].

477 Alexey Kovalev describes TASS as “a Soviet legacy news agency”. As explained by Kovalev: “it’s a ‘federal state unitary enterprise,’ which means that it is officially owned and controlled by the Russian government, while its top managers and editors are appointed by the president’s decree. As such, TASS is both expected and obliged to ‘to create an ideologically correct narrative for the Kremlin’, according to a Moscow Times source who commented on the dismissal of TASS’s former editor-in-chief Sergey Mikhailov, reportedly fired for covering Evgeny Prigozhin’s mutiny in June 2023 in ‘too much detail.’” See Annex 2: Expert Statement from Alexey Kovalev, p. 18.


478 RBC, A HIMARS rocket hit the sluice gate of the Kakhovka HPP Dam, 6 November 2022 [translated from Russian].

479 Meduza, General Surovikin reported to Shoigu on the successes of the Russian army in Ukraine. And then announced the withdrawal from Kherson. Here is the full transcript of his report, 9 November 2022 [translated from Russian].

240. On 13 November 2022, the Khersonskiy Vestnik referred to Vladimir Leontyev, and conveyed that the “Kakhovka HPP was severely damaged by shelling” by the Ukrainian army, adding that “in the case that nationalists blow up the station’s dam, a massive flood could occur that will destroy residential buildings”.<sup>480</sup> On the same day, the Telegram channel Smotri reported that the “[a]uthorities of Nova Kakhovka have not ruled out the mothballing of the HPP due to intensive shelling of the station by Ukrainian troops”.<sup>481</sup>

241. On 28 November 2022, the Telegram channel Unofficial Bezsonov reported that the US was considering the Kakhovka dam as a potential target for destruction.<sup>482</sup> On 1 December 2022, the channel “Soloviev” posted a video about reportedly conscripted Russian military personnel from the Russian 205th Separate Motor Rifle Brigade who “defend the Kakhovka HPP”, claiming that “Ukrainian troops are constantly shelling it, trying to destroy the dam. But it doesn’t work: the HPP is reliably defended by the 205th Brigade [...]”<sup>483</sup>

242. Disinformation regarding the Kakhovka HPP dam attack was also leveraged to forcibly relocate vulnerable Ukrainian individuals to Russia. For example, on 21 October 2022, the All-Russian Political Party “United Russia” claimed that they “helped to evacuate a children’s orphanage from Kherson” and “more than 50 children aged 4 months to 4 years, including disabled children, were transported to Crimea”.<sup>484</sup> In May 2024, the Prosecutor’s Office in the Kherson region charged a former Ukrainian officer who, in October 2022 “received an order to organise the forced transfer of convicts from Kherson initially to the ‘Holopristan Penal Colony (№7)’” and then “to other places of detention at the [temporarily occupied territories] and deportation to the Russian Federation” and under whose “direct control and with participation of the suspect, his subordinates as well as employees of the Russian penal institutions, the illegal transfer of more than 150 citizens of Ukraine to the left bank on ‘special’ transport was ensured”.<sup>485</sup>

 243. On 17 April 2022, the Russian Telegram channel Spetsyalno dlia RT referenced Daniil Bezsonov, who asserted that “[p]erhaps, immediately prior to the offensive of the [Ukrainian army], the enemy will open all locks of the dams upstream from the territory under our [Russian] control and the locks of the [Russian-controlled] Kakhovka HPP will be damaged by Ukraine with the same HIMARS MLRS”.<sup>486</sup>

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480 Khersonskiy Vestnik, Telegram, 13 November 2022 [translated from Russian].

481 Smotri, Telegram, 13 October 2022 [translated from Russian].

482 Unofficial Bezsonov, Telegram, 28 November 2022 [translated from Russian].

483 Soloviev, Telegram, 1 December 2022 [translated from Russian].

484 United Russia, Official, Telegram, 21 October 2022; Yuliya Vityazeva (reposted), Telegram, 21 October 2022 [translated from Russian].

485 Kherson Region Prosecutor’s Office, 11 May 2024 [translated from Russian].

486 Spetsyalno dlia RT, Telegram, 17 April 2023 [translated from Russian].

244. On 4 May 2023, the Telegram channel Glavnoe v Khersonie i oblase reported that:

Constant shelling by Kyiv militants, along with several damaged valves and lifting cranes, prevent the regulation of water discharge at the HPP. It is impossible to repair them because Ukrainian snipers are operating on the right bank. This threatens the collapse of the dam in Kamianka-Dniprovska and could lead to the flooding of dozens of settlements, as well as potential problems at the Zaporizhzhya Nuclear Power Plant. The water level has also risen because Kyiv opened the sluice gates in Dnipropetrovsk and Zaporizhzhya.<sup>487</sup>

245. On 17 May 2023, the Telegram channel War on Fakes reported that:

It is a fake that Russia continues to dump water uncontrollably at the Kakhovka HPP, which already led to the death of a person and will soon lead to a disaster. [...] truth: Ukrainian propaganda deliberately distorts information, taking it out of context in order to portray Russia in a negative light. The work of the Kakhovka HPP is going on as usual.<sup>488</sup>

246. On 19 May 2023, the Telegram channel ANNA-NEWS posted a video with the description “[w]ho is trying to flood the Dnipro banks? One of the techniques of Ukrainian propaganda is to accuse the enemy of what you do yourself. How Ukrainian propaganda attributes its actions to the Russian side [...]”<sup>489</sup> The video was further shared by Antifake TV on Russian video platforms RUTUBE and Podoliaka.ru.<sup>490</sup>

247. On 23 May 2023, RUTUBE channel Soloviev live reported that “[a]ccording to some information, Russian troops have begun to use mobile rapid response teams to protect and counter attacks by Ukrainian drones on the territory of the Kakhovka Reservoir”.<sup>491</sup>

248. On 26 May 2023, the programme titled “Time will Tell” on Russian federal television channel Channel One reported that the “Ukraine side more and more often speaks

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487 Glavnoe v Khersonie i oblase, Telegram, 4 May 2023 [translated from Russian].

488 War on Fakes, Telegram, 17 May 2023 [translated from Russian].

489 ANNA-NEWS, Telegram, 19 May 2023 [translated from Russian].

490 RUTUBE: Antifake TV, *Who is trying to flood the Dnipro banks?*; Podoliaka.ru., *Who is trying to flood the Dnipro banks?*, 19 May 2023 [translated from Russian].

491 Soloviev Live, *Special Military Operation 23.05 | Group strike of the Russian aerospace forces on Dnipropetrovsk*, RUTUBE, 23 May 2023 [translated from Russian].

about the need to blow it [Kakhovka HPP] up".<sup>492</sup> It then held a discussion about possible consequences of such an action.<sup>493</sup>

249. On 31 May 2023, it was reported on the Channel One during the TV programme Antifake that "Kakhovka HPP was hit by 70 HIMARS missiles a day" and:

Why were they [the Ukrainians] doing it? It was intended to provoke flooding of our [Russian army] positions just before the offensive. Meaning that powerful and prolonged strikes on the dam of Kakhovka HPP were to cut down line Kakhovka 750, which supplies [electricity] to Zaporizhzhya NPP. Their next objective was to accumulate a large volume of water, even at the cost of flooding the areas controlled by local oligarchs. They anticipated and relied on the possibility of a dam breach, openly discussing and predicting such an outcome. A massive release of water and a dam breach are fundamentally different events, but they specifically aimed to provoke a large-scale disaster. This would enable them to inflict significant material and military damage in this situation.<sup>494</sup>

## ***During the Attack (6 June 2023)***

250. At 1:50 EET (1:50 am) on 6 June 2023, the Kakhovka HPP was attacked.<sup>495</sup>

251. On the date of the attack, the narratives from Russia can be classified into the following categories:

- It was not the first time Ukraine attacked Kakhovka HPP;
- Ukraine prepared for the attack;
- The attack was executed to support the Ukrainian counter-offensive;
- The attack was perpetrated with western weapons;

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492 Channel One, [Time will tell](#), 26 May 2023 [translated from Russian].

493 *Ibid.*

494 Channel One, Anti-Fake, [31 May 2023](#) [translated from Russian].

495 Svyrydyuk Y., Pryshchepa Y. & Sobenko N., [Flooded cities, ecological catastrophe and thousands of people to evacuate: what is known about the bombing of the Kakhovka hydroelectric power station by the Russians](#), Suspilne, 6 June 2023 [translated from Ukrainian].

- Ukrainians orchestrated the attack in a bid to solicit additional weaponry from Western sources;
- Ukraine was responsible for the attack while blaming Russia for the same; and
- Other states are unable to confirm that it was indeed Russia that undertook the attack.

252. The justifications provided by Russian actors to explain their belief that the Ukrainian army executed the attack on the Kakhovka dam will be examined in the subsequent paragraphs.

### *Justification No. 1: It Was Not the First Time that Ukraine Attacked Kakhovka HPP*

253. The Telegram channel RT Russian claimed that “in December last year The Washington Post, citing a Ukrainian general [...] reported on the plans of the [Ukrainian army] to destroy the dam in Nova Kakhovka”.<sup>496</sup> Similar messages were published by the Telegram channel Readovka.<sup>497</sup> The Telegram channel ANNA-NEWS claimed that the Ukrainian army, “not for the first time, shelled Kakhovka HPP”.<sup>498</sup>

### *Justification No. 2: Ukraine Prepared for the Attack*

254. The Telegram channel WarGonzo reported on the day of the attack that:

There are reports that before the destruction of the Kakhovka HPP, representatives of the UG (terrorist group Ukrainian State) deliberately released water from the dam upstream at the Dnipro HPP. If these reports are confirmed, it would mean that the UG was aware of the impending catastrophe (regardless of what caused it — whether it was an explosion, missile strike, or the dam’s compromised state after previous shelling) and intentionally chose to amplify the consequences of the disaster.<sup>499</sup>

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496 RT Russian, Telegram, 6 June 2023 [translated from Russian].

497 Readovka, Telegram, 6 June 2023 [translated from Russian].

498 ANNA-NEWS, Telegram, 6 June 2023 [translated from Russian].

499 WarGonzo, Telegram, 6 June 2023 [translated from Russian].

255. The Telegram channel War on Fakes<sup>500</sup> posted the following message in relation to the attack:

**Fake:** The Russian army blew up the Kakhovka Hydroelectric Power Plant dam. This claim was made by Ukrainian President Volodymyr Zelensky.

**Truth:** The collapse of the dam was the result of six months of shelling by the Ukrainian Armed Forces (UAF), which was widely reported in Ukrainian Telegram channels. These celebratory posts are now being deleted. The second cause of the disaster was the artificial raising of water levels in the Kakhovka Reservoir, deliberately orchestrated by Ukrainian authorities.

For over six months, the UAF targeted the dam using American HIMARS rocket systems. Ukrainian media not only openly acknowledged Ukraine's involvement in the attacks but also attempted to portray the damage to the Kakhovka HPP as a "victory" for Ukrainian forces.

Even Verkhovna Rada MPs confirmed strikes on the hydropower plant. Photos and videos of the dam's damage circulated online, and Ukrainian Telegram channels cheerfully advised Russians to "stock up on inflatable ducks" [...]

Despite months of shelling, the Kakhovka HPP dam held up. However, the Ukrainian side then sought to use the Dnipro River's power to destroy it. The Kyiv regime began artificially raising water levels in the river by increasing discharges at upstream hydro facilities. This led to shallow waters in the upper reaches of the Dnipro, as even Belarusian residents noted.

At the same time, water levels in the Kakhovka Reservoir rose far above normal, creating excessive pressure on the dam's structures already damaged by Ukrainian attacks. The tragedy could have occurred at any moment.

At the end of May 2023, the UAF's constant shelling prevented Kakhovka HPP workers from carrying out measures to discharge water from the reservoir. This was clearly done with the intent to hasten the dam's collapse. Early on the morning of June 6, the damaged structures of the dam could no longer withstand the pressure.

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500 See more about War on Fakes here: Lazarchuck K., "War on Fakes" and schizofascism: how Russia creates and spreads disinformation, 18 July 2022.



Thus, the destruction of the Kakhovka HPP dam was the result of deliberate actions by the Ukrainian government, carried out since the summer of 2022.<sup>501</sup>

256. There is no substantiated evidence supporting the veracity of the aforementioned claims and War on Fakes failed to provide any indication that the account presented in this post bears any relation to the truth.<sup>502</sup>

257. Konstantin Knirik of the FRONTовые Заметки Telegram channel provided commentary during the broadcast of Soloviev Live in which he stated:

UAF knew exactly what would happen to the Kakhovka HPP. [...] I was speaking to our guys on the frontline. [...] [t]he adversary usually sailed up in boats toward Kherson, but at that moment for some reason they were sailing towards Kherson. [...] The scale of this terrorist attack is

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501 War on Fakes, Telegram, 6 June 2023 [translated from Russian].

502 War on Fakes added ten images with alleged screenshots from the Ukrainian Telegram channels purportedly demonstrating that Ukrainian media were posting about the so-called attacks on the Kakhovka dam by the HIMARS and that Ukraine was preparing for the attack, War on Fakes, Telegram, 6 June 2023.

The first image of a screenshot is from the official Telegram channel of the President of Ukraine about the destruction of the Kakhovka dam. Nothing in this image supports the idea that Ukraine had been continually striking the dam with HIMARS missiles.

The second image of a screenshot is from the anonymous Telegram channel Trukha, which is not regarded as reliable media as it is known for spreading disinformation, Duckach J., [UPD: Trukha. How a popular Telegram channel spreads fakes and makes excuses when caught](#), 1 August 2022 [translated from Ukrainian]. Yuriy Hudymenko, a serviceman of the Armed Forces of Ukraine and leader of the "Democratic Axe" party posted on Facebook publicly claiming that during a livestream, the administrator of the Russian Telegram channel Rybar accidentally showed a chat with "Max Lavrichenko", who supposedly is an administrator of Trukha. Trukha denied the accusations, [The biggest Telegram channels: who are they and how are they connected with MPs and who is a bridge for Russian content?](#) LB.ua, 2 August 2023 [translated from Ukrainian].

The third image is made up of screenshots from the Telegram channel of Ukrainian MP Oleksii Honcharenko and Real War | Ukraine News. Although Oleksii Honcharenko is a Ukrainian MP, when he posted the screenshot message about Kakhovka dam he was not a member of any parliamentary working groups connected with internal military information. He also did not make any references to sources for information, see [Honcharenko Oleksii Oleksiiovuch](#), Verkhovna Rada of Ukraine; Honcharenko, Telegram, 18 July 2022. Real War | Ukraine News is an anonymous Telegram channel, see Institute of Mass Information (IMI), [Anonymity and Russian money. Who funds Ukrainian Telegram channels?](#) Detector Media, 5 April 2023 [translated from Ukrainian].

The fourth and fifth images with screenshots are from the anonymous Ukrainian Telegram channels Insider UA and All-Seeing Eye whose owners and sources of funding also are unknown; see *ibid*. Moreover, IMI notes that "[r]egarding the annual statistics of frequent visits, the majority of the audience [of "All-Seeing Eye"] came from Moscow (18.3%), followed by St. Petersburg (8.6%), with significantly fewer from Kyiv (2.9%) and 2.2% from users with Kharkiv IP addresses", *Ibid*.

The sixth image of a screenshot is from the Telegram channel of Anatoliy Gershchenko, Pravda Gerashchenko. However, as captured in the screenshot, at the end of the post there is the hashtag #myopinion. See Pravda Gershchenko, Telegram, 13 August 2022 [translated from Russian].

The seventh, eighth, and ninth images are screenshots from NEXTA Live and Mogilev News, which are media organisations based in Belarus, not Ukraine. See NEXTA Live, [Telegram; Mogilev News, News from Mogilev and Mogilev oblast](#) [translated from Russian].

The tenth image contains a screenshot from Vzgl'yad.ru, which is Russian media. See Vzgl'yad.ru, [Ukraine has started interfering with the discharge of water from the Kakhovka reservoir](#), 31 May 2023; Vzgl'yad.ru, [External data](#) [translated from Russian].

much broader than just Ukrainian actions. Western experts also took part in planning this kind of action.<sup>503</sup>

258. On the day of the attack, the Russian Ministry of Foreign Affairs released a statement asserting that “[t]he destruction of the Kakhovka hydroelectric power plant by the armed forces of Ukraine is a terrorist act”.<sup>504</sup> Vassily Nebenzia, the Russian Permanent Representative of the Russian Federation to the United Nations, formally claimed during a meeting at the UN Security Council that Ukraine was considering the attack before the actual attack (referring to the article in the Washington Post). Further, he claimed that Russia warned about an impending attack on the Kakhovka HPP’s dam (referring to a 21 October 2022 letter from the Russian Federation that warned the international community and the UN about Ukraine’s intentions).<sup>505</sup>

### *Justification No. 3: The Attack was Executed to Support the Ukrainian Counter-offensive*

259. On her Telegram channel, Yuliya Vityazeva cited BBC News Service and claimed that “although both versions — with sabotage from Ukraine or Russia — seem rather controversial, from a merely military point of view, the dam’s breakthrough seems to be more advantageous for the Ukrainian army [...] [o]ver time, the water will subside, and then it will become easier to cross the river”.<sup>506</sup>

260. The Telegram channel Readovka posted a message titled “[w]hy [did] the Ukrainian army blow up Kakhovka dam — Kyiv’s ‘impressive’ plans are failing”, claiming that “Kyiv decided that it would be possible to flood the positions of the Russian Army and force our troops downstream to move away from the shore. Moreover, according to their plans, our mines will be washed away with water”.<sup>507</sup>

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503 FRONTовые Заметки, Telegram, 6 June 2023 [translated from Russian].

504 Ministry of Foreign Affairs of the Russian Federation, [Statement by the Russian Foreign Ministry in connection with the destruction of the Kakhovka hydroelectric power station by the Ukrainian armed forces](#), 6 June 2023 [translated from Russian].

505 Nebenzia, V.A., [Statement by Permanent Representative V.A. Nebenzia at the UN Security Council meeting on the Kakhovka HPP](#), 6 June 2023; Smotri, Telegram, 6 June 2023 [translated from Russian].

Besides the main claim that Ukraine prepared and committed the attack on the Kakhovka dam, Nebenzia made a number of other allegations. These included: that the West was responsible for the attack as it provided the arms to Ukraine; the attack was an act of sabotage by Ukraine with the help of the West (as the West “plans, prepares and authorises sabotage operations of this scale”); the attack took place to help units of the Ukrainian army regroup for its ongoing counter-offensive and to cause humanitarian damage “for the population of vast areas”. Nebenzia further emphasised that “this act can be seen as a continuation of a systematic tactic of the Kyiv regime since 2014, which consists of striking strictly civilian targets with a mere aim of intimidating the civilian population”. See *ibid.*

506 Yuliya Vityazeva, Telegram, 6 June 2023 [translated from Russian].

507 Readovka, Telegram, 6 June 2023 [translated from Russian].

261. The Telegram channel FRONTовые Заметки claimed that “the reason” for Ukraine to destroy the dam was “to flood the left bank of Dnipro to destroy the first line of defence of Russian troops, and to create a powerful media event to make our Western media ‘forget’ about the failure of the three-day offensive”.<sup>508</sup>

#### *Justification No. 4: The Attack was Perpetrated with Western Weapons*

262. Despite the Russian media disseminating the narrative that the attack was executed using a multiple rocket launcher named “Vilkha”,<sup>509</sup> the Telegram channel War on Fakes asserted that “there is substantial evidence that it was the Ukrainian army that repeatedly struck the dam, including with the use of American HIMARS multiple-launch rocket systems”.<sup>510</sup>

#### *Justification No. 5: Ukrainians Orchestrated the Attack in a Bid to Solicit Additional Weaponry from Western Sources*

263. Yuliya Vityazeva claimed in her Telegram channel that “[i]n the Ukrainian segment of Twitter, they collectively decided that, in order to eliminate the consequences of the explosion of the Kakhovka HPP, F-16s and missile strikes on the Crimean bridge are needed”.<sup>511</sup>

264. The Russian Telegram channel of the propagandist and Kremlin pool journalist Dmitry Smirnov,<sup>512</sup> Pul №3 reported that “[t]he explosion of the Kakhovka hydroelectric power plant was done to cause a surge of enthusiasm in Western countries, so that they would hate Russia again”.<sup>513</sup>

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508 FRONTовые Заметки, Telegram, 6 June 2023 [translated from Russian].

509 See RT Russian, Telegram, 6 June 2023 [translated from Russian]; Readovka, Telegram, 6 June 2023 [translated from Russian]; Readovka, Telegram, 6 June 2023 [translated from Russian].

510 War on Fakes, Telegram, 6 June 2023 [translated from Russian].

511 Yuliya Vityazeva, Telegram, 6 June 2023 [translated from Russian].

512 SBU, Analysis of information threats around the explosion of the Kakhovka Hydroelectric Power Plant (HPP) for the period from 15.04.2022 to 11.10.2023, SSU, 2024, p. 54 [only hardcopy available].

513 Pul №3, Telegram, 6 June 2023 [translated from Russian].

## *Justification No. 6: Ukraine was Responsible for the Attack while Blaming Russia for the Same*

265. Yuliya Vityazeva claimed on her Telegram channel that:

Of course, Ukraine “did not blow up” the Kakhovka HPP. Just as it “did not burn” people alive in Odessa. [As it] “did not shoot” Mariupol residents. [As it] “did not bomb” Luhansk. [As it] “did not shell” Donetsk with artillery [As it] “did not execute” prisoners. [As it] “did not [...]” The list of Ukrainian crimes is long. So much so that one more doesn’t surprise any of us much anymore. Just like how, with eagerness and without hesitation, they instantly blamed us once again.<sup>514</sup>

## *Justification No. 7: Other States are Unable to Confirm that it was Indeed Russia that Undertook the Attack*

266. Telegram channel Golos Mordora claimed that the “US cannot confirm involvement of Russia in the explosion of Kakhovka HPP’s dam”.<sup>515</sup>

## *After the Attack (after 6 June 2023)*

267. On 7 June 2023, Maksim Grigoriev accused Ukraine and the West on his Telegram channel, posting that “[t]he reaction of Western media deserves particular attention, demonstrating that Western and Ukrainian offences are planned and executed in tandem with information and psychological operations, accompanied by accusations against Russia”.<sup>516</sup>

268. Russia actively obstructed the possibility of rescue for the civilians, who were affected by the attack. In particular, on 8 June 2023, Russia shelled part of the territory controlled by Ukraine where people from the flooded areas were gathering to evacuate.<sup>517</sup> BBC journalists witnessed the attack.<sup>518</sup> Moreover, according to Global Rights Compliance, Russian Armed Forces “delayed access to aid by maintaining curfews and checkpoints and denying access to both civilians and humanitarian volunteers” on the left bank of Dnipro,

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514 Yuliya Vityazeva, Telegram, 6 June 2023 [translated from Russian].

515 Golos Mordora, Telegram, 6 June 2023 [translated from Russian]. Telegram channel “FRONTовые Заметки” reposted the message, see FRONTовые Заметки, Telegram, 6 June 2023 [translated from Russian].

516 Grigoriev, Telegram, 7 June 2023 [translated from Russian].

517 BBC, “There were explosions everywhere, people were covered in blood”: Russia shelled an evacuation base in Kherson in front of the BBC, 8 June 2023 [translated from Ukrainian].

518 *Ibid.*

which is occupied by Russia. Furthermore, reportedly, “access to humanitarian assistance and basic necessities” depended on obtaining Russian citizenship. Civilians who did not possess Russian passports “were forced to submit to filtration screening processes”. In the Kherson region territories, occupied by the Russian Federation, only civilians who held Russian passports were evacuated from areas affected by flooding.<sup>519</sup>

269. Despite the obvious attack by Russia, it nevertheless accused Ukraine of perpetrating this attack as well. For example, on 10 June 2023, Mariia Zakharova posted on her Telegram a “[c]hronicle of the destruction of the Kakhovka HPP by the Kyiv regime. Methodically, the pro-American ghouls moved toward their intended goal”.<sup>520</sup> She added a link to this message entitled “[o]n the strikes by the Ukrainian Armed Forces on the Kakhovka HPP’s dam (chronology)”. According to the alleged chronology of the attacks on the HPP, they started as early as in summer 2022. Further, the chronology alleged that the Ukrainian army struck the dam with HIMARS MLRS more than three hundred times throughout summer and autumn 2022.<sup>521</sup>

270. On 9 June 2023, Maria Zakharova claimed that the “Kyiv regime” refused to conduct a transparent investigation into the Kakhovka HPP disaster”.<sup>522</sup>

271. On 12 June 2023, Sergei Kiriyenko claimed that “Ukrainian Armed Forces shell places of accommodation for people evacuated from the flooded area of Kakhovka HPP”.<sup>523</sup>

272. On 14 June 2023, TASS, referring to Konstantin Gavrillov, Head of the Delegation of the Russian Federation to the Vienna Negotiations on Military Security and Arms Control, reported that “[t]he United States was aware of Kyiv’s plans to destroy the Kakhovka hydroelectric plant dam but did nothing to prevent the disaster”.<sup>524</sup>

273. On 26 June 2023, the Telegram channel Readovka claimed that “Kyiv abandoned residents of Kherson occupied by the Armed Forces of Ukraine after Ukraine’s terrorist attack on Kakhovka HPP” and did not provide them enough material support, calling Ukrainian Armed Forces “occupiers”.<sup>525</sup>

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519 Global Rights Compliance, “[Harvesting conflict](#)” — Russia’s deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine, December 2024.

520 Maria Zakharova, Telegram, [10 June 2023](#) [translated from Russian].

521 Ministry of Foreign Affairs of the Russian Federation, [On the strikes by the UAF on the Kakhovka HPP dam \(Chronology\)](#), 10 June 2023 [translated from Russian].

522 Maria Zakharova, Telegram, [9 June 2023](#) [translated from Russian].

523 TASS, Telegram, [12 June 2023](#) [translated from Russian].

524 TASS, Telegram, [14 June 2023](#) [translated from Russian].

525 Readovka, Telegram, [26 June 2023](#) [translated from Russian].

274. On 4 August 2023, TASS media claimed that “Ukrainian Armed Forces strike at humanitarian aid distribution point in Oleshky, one of the most affected by floods after the Kakhovka hydroelectric power plant emergency”.<sup>526</sup>

## Independent, Objective Findings Disproving Russia’s Information Alibi

275. Russia’s occupation of the Kakhovka dam site and its denial of humanitarian access have severely hampered investigations into the dam’s destruction.<sup>527</sup> Consequently, OSCE and UN assessments have focused on the aftermath, highlighting the explosion as the cause and emphasising that the dam has been under Russian military control since the invasion began.<sup>528</sup> This restricted access and the nature of the destruction raise serious questions about Russia’s role in the incident.

276. After a comprehensive assessment of potential causes underlying the destruction of the dam, Global Rights Compliance determined that there were indications that “pre-emplaced explosives at critical points in the Dam’s structure” were used to “damag[e] approximately 400 metres of its central section”.<sup>529</sup> It further found that “no valid military objectives” were present on or in the vicinity of the dam.<sup>530</sup> The collected evidence attributed responsibility for the destruction to the Russian Army.<sup>531</sup>

277. Additionally, the findings indicated “signs of premeditation and pre-planning by Russian authorities”, namely the issuance of the Decree No.873, which prohibited investigations into incidents at hazardous production facilities and accidents involving hydraulic structures within Russian occupied territories.<sup>532</sup> Moreover, the investigation found no evidence that preliminary warnings were issued to facilitate the evacuation of

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526 TASS, 4 August 2023 [translated from Russian].

527 See Deep State, [Kakhovka dam \(46.775028, 33.371864\)](#), 28 January 2025; see also OHCHR, [Report on the human rights situation in Ukraine: 1 February to 31 July 2023](#), 2 October 2023, pp. 8–9.

528 OSCE, ODIHR, [Fourth interim report on reported violations of international humanitarian law and international human rights law in Ukraine](#), 12 December 2023, p. 10; Government of Ukraine, United Nations, [Post-disaster needs assessment: 2023 Kakhovka dam disaster, Ukraine](#), October 2023, p. 13; OHCHR, [Report on the human rights situation in Ukraine: 1 February to 31 July 2023](#), 2 October 2023, pp. 8–9.

529 Global Rights Compliance, [“Harvesting conflict” — Russia’s deprivation of objects indispensable to civilian survival and weaponisation of food in Ukraine](#), December 2024.

530 *Ibid.*

531 *Ibid.*

532 *Ibid.*; see also Decree of the Government of the Russian Federation No.873 “On the peculiarities of the application of the provisions of the legislation of the Russian Federation in the territories of the Donetsk People’s Republic, the Luhansk People’s Republic, the Zaporizhzhya region and the Kherson region in the fields of industrial safety of hazardous production facilities and the safety of hydraulic structures”, 30 May 2023.



civilians from areas “that would be affected by the attack, or any other action taken to minimise civilian harm”.<sup>533</sup>

278. Another extensive investigation into the various versions of the dam’s destruction was conducted by Truth Hounds and Project Expedite Justice.<sup>534</sup> Ultimately, they resulted in three main hypotheses: i) the Kakhovka dam was destroyed by natural wear and tear; ii) the Kakhovka dam was destroyed because of shelling by the Ukrainian army; and iii) the Kakhovka dam was blown up by the Russian Federation. After close examination, the first two scenarios were eliminated.<sup>535</sup>

279. The report’s findings on the destruction of the Kakhovka dam cast doubt on the theory of a missile strike. The analysis points to the limited mass of available rockets, such as those used in HIMARS/M270 systems and the Ukrainian Vilkhva MLRS, rendering them incapable of causing such significant damage. This conclusion necessitates the exploration of alternative causes for the dam’s collapse, shifting the focus away from a Ukrainian missile attack.<sup>536</sup>

280. Besides, the report established a number of facts which strengthen the theory that the Russian Federation was preparing the attack. In particular, it was emphasised that i) the Russian military, controlling the Kakhovka dam, deliberately increased the water level in the Kakhovka reservoir to a 30-year high of 17.54 meters in February 2023, indicating a calculated move to amplify any potential flooding;<sup>537</sup> ii) on 30 May 2023, the Russian Federation adopted aforementioned Decree No.873, which prohibited investigation of incidents at hazardous production facilities and accidents involving hydraulic structures in the occupied territories;<sup>538</sup> and iii) on 6 June 2023 the Investigative Committee of the Russian Federation opened a criminal case under Article 205 (2)(a)(c) of the Criminal Code of the Russian Federation (a terrorist act committed by a group of persons in preliminary conspiracy, resulting in considerable property damage or the ensuing of other grave

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533 Global Rights Compliance, “Harvesting conflict” — Russia’s deprivation of objects indispensable to civilian Survival and weaponisation of food in Ukraine, December 2024.

534 Truth Hounds & Project Expedite Justice, *Submerged: study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice*, 6 June 2024, p. 29.

535 *Ibid.*, pp. 29–49. See also, images from the satellite with the location and the nature of damages supporting the argument that Kakhovka dam could not have been destroyed by a missile attack, *Ibid.*, pp. 45–46.

536 *Ibid.*

537 *Ibid.*, pp. 29–49.

538 Decree of the Government of the Russian Federation No.873, “On the peculiarities of the application of the provisions of the legislation of the Russian Federation in the territories of the Donetsk People’s Republic, the Luhansk People’s Republic, the Zaporizhzhia region and the Kherson region in the fields of industrial safety of hazardous production facilities and the safety of hydraulic structures”, 30 May 2023.

consequences)".<sup>539</sup> Ultimately, they established that there is a high probability that Kakhovka HPP was attacked by the Russian Armed Forces by the means of "detonations of the explosives planted [...] within the dam structure" on the orders of the highest Russian military and political commanders.<sup>540</sup>

281. The NGO Molfar also concluded that the Russian Army was responsible for the destruction of the Kakhovka dam. This conclusion was based on a comprehensive analysis of various sources of evidence, including satellite imagery of the dam, the extensive damage inflicted (approximately 200 meters in length), the impossibility of causing such damage with the Vilkha MLRS, footage of the explosion, inconsistencies in Russian media reports and statements made by Russian military personnel.<sup>541</sup>

282. On 9 June 2023, the State Security Services of Ukraine (SBU) published a phone intercept stating that "Kakhovka HPP was blown up by the sabotage group of the occupiers", and noted that an investigation was initiated under Article 438 (violation of the laws and customs of war) and Article 441 (Ecocide) of the Criminal Code of Ukraine.<sup>542</sup> On 6 June 2024, based on the evidence gathered by SBU and Office of the Prosecutor General (OPG), Russian Colonel General Oleg Makarevich, commander of the "Dnieper" Russian Army group, was served with a notice of suspicion under Part 2 of Article 28 and Part 2 of Article 438 of the Criminal Code of Ukraine. These charges relate to the violation of the laws and customs of war, as he allegedly "gave the order to blow up the dam of the Kakhovka HPP during the night of June 5 to 6, 2023".<sup>543</sup>

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539 The Investigative Committee of the Russian Federation, [The Investigative Committee of the Russian Federation has opened a criminal case into a terrorist attack relating to the destruction of the Kakhovka HPP dam and the flooding of the territories](#), 6 June 2023; Truth Hounds, Project Expedite Justice, [Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2024, pp. 29–49.

540 Truth Hounds, Project Expedite Justice, [Study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2024, pp. 29–49.

541 Molfar analytics, [The causes, chronology, and culprits of a man-made disaster at the Kakhovska HPP](#). See also Glanz J., Santora M., Robles P., Willis H., Leatherby L., Koettl C. & Khavin D., [Why the evidence suggests Russia blew up the Kakhovka dam](#), New York Times, 16 June 2023.

542 SBU, Telegram, [9 June 2023](#) [translated from Ukrainian].

543 SBU, Telegram, [6 June 2024](#) [translated from Ukrainian]. It was further noted that "As a result of this crime, critical infrastructure was completely destroyed, leading to the death of at least 35 people, the flooding of 46 settlements in Kherson region and partial flooding of 20 settlements in Mykolaiv region. Moreover, the destruction of the dam caused partial disruption of the water supply to the Kherson, Mykolaiv and Dnipropetrovsk regions, as well as the temporarily occupied Crimea. Among other consequences, this created a threat to the technical maintenance of the Zaporizhzhia Nuclear Power Plant (ZNPP), specifically by impairing the functioning of the station's cooling system". *Ibid.*

# Information Alibis and Kinetic Military Operations: A Reasonable Inference of Coordinated Actions

283. As discussed above,<sup>544</sup> an information alibi is likely designed to facilitate the perpetration of a crime, operating in conjunction with political, diplomatic, security and military officials involved in kinetic military operations. While individual participation levels may vary depending on the specific context and circumstances, the coordinated nature of their actions strongly suggest a collaborative effort. This report proposes that it is reasonable to infer that these individuals are colluding in a criminal plan because the information alibi must be published before the crime takes place. In other words, the individuals preparing the information operation and the military officials preparing an attack are mutually cognisant of each other's actions and act collectively to achieve the goal.

284. Given the inherent opacity of such operations — particularly as they are not going to be part of publicly available Russian protocols — the following legal theory is premised upon a reasonable supposition that such activities are indeed occurring. Definitive evidence of their existence is likely to only emerge in the event of a defection by a participant to the activity or another type of “insider” that cooperates with criminal investigators. Nevertheless, a legal framework of information alibis, informed by the definitions and examples outlined above, is briefly articulated in the following paragraphs.

## ***Information Alibis: A Legal Theory of Organised, Coordinated Actions***

285. The notion of an information alibi refers to the deliberate, preemptive dissemination of false narratives designed to misattribute criminal responsibility for unlawful acts. The legal theory posits that such actions are not incidental factual disinformation, but are instead coordinated and strategic efforts. The analysis in Parts I and III of this report illustrates how information alibis are constructed and how various actors — whether formally or informally connected — contribute to the planning, execution and cover-up of international crimes.

286. The process typically begins with the establishment of a strategic, criminal objective by those orchestrating both the information operation and the military attack. Resources are likely allocated to facilitate these objectives, including the identification of key actors responsible for disseminating false narratives across social media platforms, news outlets

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544 See *supra*.

and collaborating groups (formally or otherwise). Simultaneously, military assets are prepared to execute the planned attack.

287. The initial phase of this coordinated strategy likely involves the dissemination of an information alibi. This preemptive disinformation fabricates a narrative of an impending attack or other illicit activities, such as the alleged military use of a civilian object purportedly planned by the adversary. This narrative serves to deflect responsibility and establish a false justification for the subsequent attack. Moreover, these fabricated 'warnings' instill fear and confusion among the adversary's civilian population, contributing to a broader strategy of psychological manipulation.

288. Following the publication of the information alibi, it is presumed that a military attack would be launched against the designated target. Concurrently (or nearly so), the information operation progresses to its second phase, characterised by the immediate denial of responsibility for the attack and the promotion of false narratives attributing the attack to the opposing force. Alternatively, the act is rationalised as a legitimate response to the adversary's alleged illegal activity. The dissemination of such information at or immediately after the attack strongly suggests that the individuals orchestrating the information operation possess advance knowledge of the impending crime. This deliberate release of preemptive narratives, often amplified by media interlocutors, serves to construct a deceptive evidentiary facade, falsely exonerating the actual perpetrators and obfuscating their culpability.

289. Following the attack, the information operators and other complicit actors continue to shape public narratives, blaming the adversary or justifying the attack as a necessary response to the adversary's unlawful acts. This multifaceted disinformation campaign includes the dissemination of fabricated evidence and other deceptive tactics designed to deflect accusations and shield the perpetrators from accountability. This *ex post facto* cover-up reinforces the previously established information alibi, solidifying the false narrative and further obfuscating the truth. This strategy is often amplified by invoking past incidents to falsely contextualise the attack as part of a broader pattern of "planned provocations" orchestrated by the adversary.

290. Given the systematic and sequential nature of the activities presented above, and because the information alibis described above follow a similar pattern,<sup>545</sup> it is reasonable to infer that information alibis are the result of a coordinated strategic activity, rather than circumstantial happenstance. The preemptive disinformation, the synchronised military attack and the continuing disinformation suggest orchestrated, strategic action. The timing of the activities strongly supports a conclusion that information alibis are not isolated disinformation but carefully choreographed activities with kinetic military operations.

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545 See *supra*; and *supra*.

291. This theory is substantiated by case studies in Part III of the report. Several high-profile attacks in Ukraine exemplify this coordinated strategy:

- Mariupol Maternity Ward No.3 was targeted following false claims from Russian sources that the facility was being used by combatants, despite clear evidence to the contrary.
- The Mariupol Drama Theatre, visibly marked as sheltering civilians, was subjected to an airstrike. Disinformation campaigns were disseminated both before, during, and after the attack.
- The Olenivka POW camp explosion was accompanied by Russian narratives falsely accusing Ukraine of attacking its own soldiers.
- The Kramatorsk train station attack, which resulted in mass civilian casualties, was similarly misattributed to Ukrainian forces by Russian sources, despite clear evidence to the contrary.
- The destruction of the Kakhovka dam followed the same pattern, with preemptive disinformation, subsequent denial and blame-shifting by Russian officials.

292. These examples reinforce the report's thesis that Russia employs strategic, premeditated disinformation campaigns that obscure its criminal culpability and mislead the international community. This pattern of behaviour underscores the intentional nature of information alibis as integral elements of Russia's broader military strategy.

293. Part IV presents jurisprudence that supports the likely criminality of such actions.

## ■ PART IV:

# LEGAL ANALYSIS OF THE CONTRIBUTION OF RUSSIA'S INFORMATION ALIBIS TO THE PLANNING, EXECUTION, AND CONCEALMENT OF INTERNATIONAL CRIMES

## Introduction

294. The evolving landscape of modern warfare necessitates a reevaluation of the legal boundaries concerning disinformation. While it remains true that the use of disinformation in warfare (including information alibis) is not inherently criminal, it can become so when employed to plan, execute, or conceal international crimes. This section examines the legal framework governing information alibis and the ways in which disseminating false information can contribute to the commission of such crimes.

295. The Fritzsche case, heard at the IMT in Nuremberg, established the precedent that propaganda and disinformation campaigns during armed conflict generally do not constitute violations of international criminal law. The IMT determined that the disseminating propaganda is not punishable unless the individual knowingly spreads falsehoods with the specific intent to incite atrocities.<sup>546</sup>

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546 Hanz Fritzsche served as a head of the Home Press Division, where he formulated and issued daily radio "paroles" to all Reich Propaganda Offices. His broadcasts contained anti-Semitic statements and other false information about Jewish persons. However, he did not call to persecute or exterminate them and there was no indication that he was aware of their extermination in the East or of the false nature of the disseminated news. See [The trial of the major war criminals before the International Military Tribunal, Nuremberg, 14 November 1945 — 1 October 1946](#), 1948, pp. 583–584. The IMT concluded that despite the fact that "Fritzsche sometimes made strong statements of a propagandistic nature in his broadcasts [...] the Tribunal is not prepared to hold that they were intended to incite the German people to commit atrocities on conquered peoples, and he cannot be held to have been a participant in the crimes charged". Further, due to the lack of the specific intent, Fritzsche's "aim was rather to arouse popular sentiment in support of Hitler and the German war effort". He was acquitted on all counts. *Ibid.*, pp. 584–585.



296. Triffterer and Ambos partly support this view, asserting that “[n]on-physical forms of psychological, political or economic warfare” such as disseminating propaganda or embargoes do not “fall under the notion of an ‘attack’ as defined by the [Rome] statute”.<sup>547</sup> This interpretation may further limit the legal recourse available against disinformation campaigns, as the legal qualification of an “attack” is critical for establishing many core crimes at the ICC.<sup>548</sup>

297. While the Fritzsche precedent establishes that propaganda alone is generally not a crime under international criminal law, this principle requires careful and limited interpretation. In her dissenting opinion in the Mbarushimana case at the ICC, Judge Monageng rightfully noted that “[w]hen the facts of Fritzsche’s acquittal [for spreading propaganda] are fully laid out, it is not at all clear that the IMT concluded that international criminal law precludes responsibility for when propagandists deny crimes”.<sup>549</sup> Further demonstration of this principle will be discussed throughout this report.

298. While the utilisation of information operations in modern warfare is legal and frequently relied upon, it can become criminal when used to deliberately fabricate and weaponise information. Again, the *Mbarushimana* dissent — despite not constituting binding precedent — correctly contends that “denials of crimes and encouragement given through press statements [...] though they could have been non-criminal if made in another context, take on a criminal character on the facts before the Chamber”.<sup>550</sup> This underscores the need for a nuanced understanding of the legal implications of information operations in armed conflict. While propaganda and disinformation may not always constitute crimes in themselves, they can contribute to the commission of international crimes when used to further criminal objectives or conceal criminal activity.

299. Of course, such a principle extends beyond information operations. Analogously, radio broadcasts, while inherently lawful, become criminal when employed to incite violence,

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547 Triffterer O. & Ambos K., (eds.), *Rome Statute of the International Criminal Court, A Commentary, Third Edition*, C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, p. 355.

548 See e.g. International Criminal Court, *Elements of crimes*, Article 7, p. 3, which discusses crimes against humanity and notes in relevant part that “[t]hese elements clarify the requisite participation in and knowledge of a widespread or systematic attack against a civilian population” (emphasis added), International Criminal Court.

549 Prosecutor v. Mbarushimana, *Decision on the confirmation of charges, dissenting opinion of Judge Sanji Mmasenono Monageng*, 16 December 2011, para. 110. The Nuremberg prosecutor Alexander Hardy later revealed that “evidence not yet available at the time of the IMT proceeding would have certainly meant a guilty verdict for Fritzsche at a subsequent Nuremberg trial”, see Gordon, G.S., *The propaganda prosecutions at Nuremberg: The origin of atrocity speech law and the touchstone for normative evolution*, Winter 2017, pp. 230–231 citing Hardy, A. G., *Hitler’s secret weapon; the “Managed press” and propaganda machine of Nazi Germany*, 1968, pp. 85–87.

550 Prosecutor v. Mbarushimana, *Decision on the confirmation of charges, dissenting opinion of Judge Sanji Mmasenono Monageng*, para. 105, 16 December 2011.

such as the dissemination of hateful rhetoric targeting a specific ethnic group.<sup>551</sup> Similarly, political speech expressing opposition to a particular policy is generally considered permissible, yet it may transgress into criminal conduct if it directly instructs individuals to engage in unlawful acts or bears a causal nexus to criminal activity in furtherance of the speech's message.<sup>552</sup>

300. Fundamentally, the determination of criminality under international law looks into the specific means and methods employed in the conduct of warfare, rather than solely upon the weaponry or strategies utilised. Consequently, information operations may become criminal if they are employed to, *inter alia*, incite fear, induce terror, facilitate the perpetration of a crime, conceal criminal activity, contribute to achieving a criminal objective, or fulfill any other criminal purpose.

301. In the framework of international criminal law, various modes of individual criminal liability are recognised. In addition to direct perpetration, individual criminal liability can arise from facilitating a crime.<sup>553</sup> As discussed in this Part, these include aiding and abetting<sup>554</sup> and providing a contribution to a crime “[i]n any other way”.<sup>555</sup> For both modes, the nature and degree of contribution are the critical determinations, rather than whether someone committed the crime.<sup>556</sup>

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551 According to the Rabat Plan of Action, in assessing whether the speech amounts to hate speech it is crucial to consider not only the content of the speech, but also other criteria such as speaker, intent form, extent of the speech act, and likelihood, including imminence. See OHCHR, [Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence](#), 5 October 2012.

In its jurisprudence, ECtHR emphasized the importance of considering not only the content of the speech, but also the context and the speaker of the impugned statements. For example, in case *Zana v. Turkey*, the court emphasized the following criteria: 1) role and the functions of the speaker and 2) social and political context in which the disputed statements were made, ECtHR, [Zana v. Turkey](#), Application No.69/1996/688/880, 25 November 1997, paras 49–50. See also ECtHR, [Özgür Gündem v. Turkey](#), Application No.23144/93, 16 March 2000, para 63; ECtHR, [Süreker and Özdemir v. Turkey](#), Application Nos.23927/94 and 24277/94 8 July 1999, para 61.

In addition, the ECtHR noted that factors such as 1) whether the statements were made against a tense political or social background; 2) whether the statements constituted a direct or indirect call for violence or a justification of violence, hatred or intolerance; 3) the manner in which statements were made and their capacity — direct or indirect — to lead to harmful consequences; concluding that “the interplay between the various factors rather than any one of them taken in isolation” is crucial to decide whether there is a violation of the freedom of expression, ECtHR, [Perinçek v. Switzerland](#), Application No. 27510/08, 15 October 2015, paras 207–208.

552 See, *Prosecutor v. Nahimana et al.*, [Judgement](#), 3 December 2003, paras 1016–1034, 1036–1038; *Prosecutor v. Šešeljić*, [Judgement, volume 1](#), 31 March 2016, paras 2–4, 286–350; *Prosecutor v. Karadžić*, [Judgement, volume II](#), 24 March 2016, paras 3485–3487.

553 International criminal law recognises crimes based on the influence on the commission of the crime, control over crime and contribution to the criminal act. Besides the direct participation in crime, it distinguishes other forms of individual criminal responsibility such as aiding and abetting or contribution to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. See [Rome Statute](#), Article 25 (3); Updated Statute of the International Criminal Tribunal for Yugoslavia, Article 7 (1), Statute of the International Tribunal for Yugoslavia, Article 6(1); Law on the Establishment of the Extraordinary Chambers in the courts of Cambodia for the period for the prosecution of crimes committed during the period of Democratic Kampuchea, Article 29.

554 See [Rome Statute](#), Article 25(3)(c).

555 *Ibid.*, Article 25(3)(d).

556 See [infra](#) and [infra](#).

302. Importantly, liability is not limited to physical acts under either mode of liability. Even mere encouragement through one's physical presence can be sufficient, under certain circumstances, to demonstrate criminal liability.<sup>557</sup> Further, as will be described in detail throughout this part, verbal utterances can qualify as a contribution that may result in criminal liability.<sup>558</sup>

303. Accordingly, the test for establishing criminal liability should be seen through the lens of the nature and degree of contribution, whether through acts, words, mere presence, or any other form of contribution. Any contribution that facilitates the perpetration of a crime and reaches the critical threshold should be considered within the scope of criminal liability, regardless of the nature of the contribution.

304. The analysis below establishes a legal framework for holding individuals criminally accountable for facilitating or obscuring international crimes through disinformation. It focuses on the most relevant modes of criminal liability developed in international jurisprudence, demonstrating how an individual who contributes to commission or facilitation of a crime can be held individually criminally responsible under international criminal law.

## Qualifying an Information Alibi as a Crime at the ICC

305. International criminal tribunals have recognised multiple modes of liability applicable to individuals who plan, execute, or conceal international crimes. This section begins with an analysis of co-perpetration under Article 25(3)(a) of the Rome Statute, which applies to those who exercise control over the commission of the crime. It then considers aiding and abetting under Article 25(3)(c), addressing those who provide knowing assistance that has a substantial effect on the crime's commission. Finally, it examines liability under Article 25(3)(d), which relates to contributions by a person "in any other way" to the commission or attempted commission of a crime by a group of persons acting with a common purpose

306. When assessing the criminal liability of an individual involved in disseminating information alibis, it is helpful to distinguish between strategic decision-makers and 'ground-

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557 Jurisprudence establishes that "the mere presence of the accused at the scene of the crime is sufficient if it has 'a significant legitimizing or encouraging effect on the principals'. See Prosecutor v. Furundžija, [Trial judgment](#), 10 December 1998, para. 232; Prosecutor v. Akayesu, [Trial judgment](#), 2 September 1998, para. 484; Prosecutor v. Brđanin, [Appeal judgment](#), 3 April 2007, para. 273; Triffterer O. & Ambos K., (eds.), [Rome Statute of the International Criminal Court, A Commentary, Third Edition](#), C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, pp. 1004, 1007.

558 See [infra](#).

level' implementers. This distinction is critical in determining the most appropriate mode of liability, as it reflects the individual's level of authority and proximity to the planning, coordination, or execution of the broader criminal plan, but also the degree and form of their participation in it.

307. As described below,<sup>559</sup> Article 25(3)(a) may provide a legal basis for prosecuting higher-level actors (i.e. state officials, spokespersons, senior propagandists, or advisors) who are involved not merely in communication but are likely engaged in shaping, authorising, or coordinating information operations as part of a broader criminal plan. In other words, these are perpetrators who are not only aiding in the cover-up, but play a more significant role in the overall criminal plan to commit the crime. Their involvement in constructing and deploying the information alibi is intentional and directed toward obstructing accountability or facilitating the concealment of international crimes.

308. By contrast, a second category of individuals are actively involved in disseminating false narratives, but are not linked to high-level planning or strategic coordination. Instead, they operate as ground-level implementers. These may include Telegram channel operators, aligned NGOs, media outlets, or other state proxies. Their contribution will most likely be more about spreading the message than creating or designing it in accordance with the broader criminal plan. In such cases, Article 25(3)(d) may be the more suitable mode of liability. While their role may appear almost incidental to the direct perpetrators of a crime, the jurisprudence below demonstrates that the cumulative effect of such dissemination may reach a threshold where prosecutors conclude that an individual has significantly contributed to the commission of a specific criminal act or to a broader plan in which that act was a component.

309. Article 25(3)(c) addressing aiding and abetting liability lands somewhere between principal liability under Article 25(3)(a) and contributing to the common purpose under Article 25(3)(d).<sup>560</sup> As described below, it applies when an individual knowingly provides practical assistance or encouragement that has a substantial effect on the commission

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559 See *infra*.

560 "[A]rticle 25(3)(d) of the Statute provides for a residual form of accessory liability which makes it possible to criminalise those contributions to a crime which cannot be characterised as ordering, soliciting, inducing, aiding, abetting or assisting within the meaning of article 25(3)(b) or article 25(3)(c) of the Statute, by reason of the state of mind in which the contributions were made", Prosecutor v. Lubanga, *Decision on the confirmation of charges*, 29 January 2007, para 337; see also Prosecutor v. Mbarushimana, *Decision on the confirmation of charges*, 16 December 2011, para 278. Article 25(3)(c), as an accessorial mode of criminal liability, is clearly below the direct and indirect perpetration of a crime as a principal actor. As mentioned by Gerhard Werle "Article 25(3)(a)–(d) ICC Statute is [...] best construed as a differentiation model with four levels of participation: at the top, commission as the mode of participation that warrants the highest degree of individual responsibility; on the second level, the different forms of instigation and ordering as accessory liability for those who prompt others to commit crimes under international law; on the third level, assisting a crime, for 'simple' accessories; and finally, contribution to a group crime, as the weakest mode of participation on the fourth level.", Werle G., *Individual Criminal Responsibility in Article 25 ICC Statute*, *Journal of International Criminal Justice* 5, 2007, p. 957. See also Ruto et al., *Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute*, 23 January 2012, para 354 (other citations omitted); see also Triffterer O. & Ambos K., (eds.), *Rome Statute of the International Criminal Court, A Commentary*, Third Edition, C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, p. 1012, which describes the clear delineation of the modes of liability under Article 25(3)(c).

of the crime. The requirement of “substantial” contribution<sup>561</sup> — an element that must be satisfied under Article 25(3)(c) — is a higher threshold than a ‘significant’ contribution — an element under Article 25(3)(d) — but lower than direct perpetration.<sup>562</sup>

310. In addition to the above, there is an added layer of consideration that prosecutors ought to take into account when considering how to charge those disseminating information alibis. Where the underlying crime being covered up — such as a kinetic military action — is executed and the information alibi does not relate to the crime committed but instead functions as part of a broader criminal plan (or other core crimes), it may be more appropriate to prosecute all forms of participation in the information operation, including by leadership, under Article 25(3)(d). In such a situation, the contribution of disinformation to the elements of the core crime may be limited. Accordingly, high-level actors may be more accurately prosecuted under Article 25(3)(d).

311. Alternatively, where leaders are engaged in orchestrating a broader criminal plan that includes the dissemination of information alibis along with other crimes, Article 25(3)(a) may still be relied upon to capture the scope of their criminal responsibility. The Situation in Libya below provides a helpful example.<sup>563</sup>

312. In the end, there is no single approach that investigators and prosecutors must uniformly take. The construct presented above aims to provide a basic understanding for prosecutors in considering how to charge for information alibis. Each of these modes are discussed below.

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561 Note that in this report, the test of “substantial contribution” is applied in relation to Article 25(3)(c) of the Rome Statute. However, the jurisprudence on this principle is not fully concretised at the ICC. In particular, in the case of *Prosecutor v. Bemba et al.*, the ICC stated that “[s]ome chambers construed Article 25(3)(c) of the Statute to encompass the threshold of ‘substantial’ which distinguishes it from other forms of liability set out under Article 25 of the Statute”, referring to *Prosecutor v. Mbarushimana* and *Prosecutor v. Lubanga*. At the same time, the Court noted that “[o]ther chambers, however, did not further qualify the assistance but adverted to the plain wording of the provision”, referring to the *Prosecutor v. Blé Goudé* and *Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute in the Bemba case, Prosecutor v. Bemba et al.*, [Public Redacted Version of Judgment pursuant to Article 74 of the Statute](#), 19 October 2016, paras 91–92 (other citations omitted). Further, the Court noted that “[t]he plain wording of the statutory provision does not suggest the existence of a minimum threshold [...]”. *Ibid*, para. 93 (other citations omitted).

562 The Ruto case at the ICC provided that “[s]ubparagraph (d) establishes [...] the lowest objective threshold for participation according to article 25 since it criminalizes ‘any other way’ that contributes to a crime”. Even assuming, *arguendo*, that the contribution under subparagraph (c), for the mode of participation of aiding and abetting, should be “substantial”, this does not mean that the required contribution under subparagraph (d) must be equally “substantial”. If both subparagraph (c) and (d) required a “substantial” contribution, the hierarchical structure of the different modes of participation envisaged by article 25(3) would be rendered meaningless. As a result, the contribution under subparagraph (d) is satisfied by a less than “substantial” contribution, as far as such contribution results in the commission of the crimes charged.”, *Ruto et al.*, [Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, para 354 (other citations omitted); see also Triffterer O. & Ambos K., (eds.), [Rome Statute of the International Criminal Court, A Commentary](#), Third Edition, C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, p. 1012.

563 See [infra](#).

## Article 25(3)(a) of the Rome Statute: Commission of a Crime

313. Article 25(3)(a) provides that “a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person [...] [c]ommits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible”.<sup>564</sup> Article 25(3)(a) can be broken down to four separate and independent types of commission: i) direct perpetration; ii) co-perpetration; iii) indirect perpetration; iv) indirect co-perpetration.<sup>565</sup>

314. The Office of the Prosecutor (OTP) at the ICC has relied upon Article 25(3)(a) of the Rome Statute in relation to the situation in Libya, focusing on two different forms of perpetration to prosecute individuals involved in the planning, execution and/or cover-up of international crimes. For brevity, this report will examine only those forms of perpetration relevant to Article 25(3)(a) as utilised by the ICC in this situation.

### Indirect Perpetration

315. Indirect perpetration covers situations where the perpetrator commits a crime “through another,” i.e. those who physically carry out the objective elements of the criminal offence.<sup>566</sup> A person is criminally responsible under indirect perpetration if the person:

- Had the requisite intent and knowledge in relation to the commission of the crime in question;
- Exercised control over the commission of the crime, which was carried out by one or more persons; and
- Was aware of the factual circumstances that allow her/him to exercise control over the commission of the crime through others.<sup>567</sup>

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564 [Rome Statute](#), Article 25(3)(a).

565 *Ibid.*

566 Prosecutor v. Lubanga, [Decision on the confirmation of charges](#), 29 January 2007, para. 332; Prosecutor v. Katanga, [Decision on confirmation of charges](#), 30 September 2008, para. 488.

567 Prosecutor v. Katanga, [Judgment pursuant to article 74 of the Statute](#), 7 March 2014, para. 1399.

## Indirect Co-perpetration

316. Indirect co-perpetration relates to the commission of the crime by a perpetrator jointly with another and through another. Essentially, indirect co-perpetration is a combination of the elements of co-perpetration and indirect perpetration.<sup>568</sup> A person would be liable for indirect co-perpetration if s/he and her/his co-perpetrators make their respective contributions to the common plan through other persons.<sup>569</sup>

317. Indirect co-perpetration includes elements of both co-perpetration and indirect perpetration, namely:

- The existence of a common plan between the co-perpetrators which includes a criminal element;
- Essential contribution by each co-perpetrator for the implementation of the common plan;
- The mutual awareness and acceptance by the indirect co-perpetrators that the implementation of the common plan would result in the commission of crimes;
- The perpetrator exercises control over the commission of the crime, which is carried out by one or more persons:
  - The existence of an organisation with an organised and hierarchical apparatus of power;
  - The execution of the crimes by almost automatic compliance with the orders issued by the indirect co-perpetrator; or
  - The indirect co-perpetrator exercised control over the relevant organisation.
  - The awareness of the suspects regarding the factual circumstances enabled them to exercise joint control over the crime through another person.<sup>570</sup>
- Common mental elements of intent and knowledge and any additional mental element (if any) required by the crime in question have to be met.<sup>571</sup>

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568 Prosecutor v. Al Bashir, [Decision on the Prosecution's application for a warrant of arrest against Omar Hassan Ahmad Al Bashir](#), 4 March 2009, para. 213.

569 *Ibid.*

570 See *supra*.

571 Prosecutor v. Blé Goudé, [Decision on the confirmation of charges](#), 11 December 2014, para. 89.



## *Situation in Libya*

318. The ICC OTP investigated the cover-up of crimes in cases relating to the conflict that arose after Libyan pro-democracy protests during the Arab Spring. Muammar Gaddafi, the former *de facto* head of the Libyan State, his son Saif Al-Islam, who acted as *de facto* prime minister and the former head of intelligence Abdullah Al-Senussi were prosecuted under Article 25(3)(a) of the Rome Statute for crimes perpetrated by security forces under their control against members of the civilian population.<sup>572</sup>

319. In particular, the OTP of the ICC prosecuted Muammar Gaddafi as an indirect perpetrator, together with Saif Al-Islam and Al-Senussi as indirect co-perpetrators. They were charged with committing crimes against humanity, specifically murder and persecution.<sup>573</sup> The crimes were allegedly carried out through “the Libyan State apparatus and Security Forces against members of the civilian population, as part of a widespread and systematic attack”.<sup>574</sup>

320. The Chamber found that there were “reasonable grounds to believe that the highest level of the State apparatus, through the legal system, the media monopoly and the Security Forces, designed a system which enables the monitoring, control and repression of any actual or perceived opposition to Muammar Gaddafi’s regime”.<sup>575</sup> Further, the Chamber noted that there were “reasonable grounds to believe that Muammar Gaddafi, either directly or through the State apparatus, ordered the Security Forces to “discipline” the demonstrators”.<sup>576</sup>

321. Additionally, the ICC OTP alleged that a campaign was conducted to cover up the alleged crimes perpetrated by the Libyan state.<sup>577</sup> The campaign allegedly included the following acts:

“(i) targeting journalists to prevent them from reporting events, and punishing them for having done so;

(ii) repeatedly blocking satellite transmission of channels such as Al-Jazeera and Al-Hurra and disrupting internet and telecommunications services;

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572 Prosecutor v. Gaddafi et al., [Decision on the Prosecutor’s application pursuant to Article 58](#), 27 June 2011, para. 4 (other citations omitted).

573 *Ibid.*, para 13 (other citations omitted).

574 *Ibid.*, para 14 (other citations omitted).

575 *Ibid.*, para 24 (other citations omitted).

576 *Ibid.*, para. 29 (other citations omitted).

577 *Ibid.*, para. 30 (other citations omitted).


(iii) confiscating laptops, cameras, mobile phones SD and SIM cards from persons stopped at checkpoints;

(iv) removing dead bodies by the Security Forces including from the hospitals and throwing of at least one body into a rubbish truck in Tripoli;

(v) searching for wounded protesters in the Tripoli hospital; and

(vi) levelling to the ground a Mosque which bore bullet holes as a result of an attack by the Security Forces in Al-Zawiyah; and

(vii) removing evidence of mass graves in Al-Zawiyah."<sup>578</sup>

 **322.** The Trial Chamber observed that the campaign to cover up the crimes made it "difficult to provide an accurate number of those killed"<sup>579</sup> as a result of killing and shooting in Tripoli, Misrata, Benghazi, and nearby cities such as Al-Bayda, Derna, Tobruk and Ajdabiya.<sup>580</sup> The Chamber highlighted that: i) "a considerable number of dead bodies are reported to have disappeared from hospitals and streets";<sup>581</sup> ii) an "unknown number of corpses were reportedly burnt";<sup>582</sup> and iii) the "dead and wounded were removed from the streets by security forces or relatives of the victims".<sup>583</sup>

**323.** In its decision issuing arrest warrants, the Trial Chamber found, in part, that:

The above mentioned plan was effected through the [...] cover-up campaign [...] to conceal the commission of crimes by the Libyan State apparatus, notably through the removal of bodies and other traces of the events from the streets, the surveillance of hospitals to remove data and bodies, and the arrests and manipulation of international journalists to prevent open and free reporting of the events as they occurred.<sup>584</sup>

**324.** In this decision, the Trial Chamber further concluded that Muammar Gaddafi's contributions were "paramount for the implementation of the plan" as he, in particular, "conceived, designed and implemented the cover-up campaign aimed at concealing the

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<sup>578</sup> *Ibid.*

<sup>579</sup> *Ibid.*, para. 40 (other citations omitted).

<sup>580</sup> *Ibid.*, paras 40, 41 (other citations omitted).

<sup>581</sup> *Ibid.*, para 40 (other citations omitted).

<sup>582</sup> *Ibid.*

<sup>583</sup> *Ibid.*

<sup>584</sup> *Ibid.*, para. 77 (other citations omitted).

commission of crimes by [Libyan] Security Forces".<sup>585</sup> Similarly, Saif Al-Islam Gaddafi had "contribut(ed) to the cover-up campaign, notably by denying the commission of crimes by the Security Forces and shifting the responsibility to the demonstrators".<sup>586</sup>

325. The Trial Chamber ruled that the arrest of both Muammar Gaddafi and Saif Al-Islam Gaddafi was necessary to ensure that they did not "continue to use [their] power to obstruct or endanger the investigation, in particular by orchestrating the cover-up of the crimes committed by the Security Forces".<sup>587</sup>

326. This case has not been heard further by the ICC for several reasons. On 4 July 2011, the ICC Registry requested Libya to arrest and surrender Muammar Gaddafi, Saif Al-Islam Gaddafi, and Abdullah Al-Senussi to the court.<sup>588</sup> Concerning Muammar Gaddafi, his case was terminated on 22 November 2011 following his death.<sup>589</sup>

327. On 23 November 2011, the Libyan National Transitional Council confirmed that Saif al-Islam Gaddafi was arrested on 19 November 2011. However, "in accordance with the Rome Statute, the Libyan judiciary has primary jurisdiction to try Saif al-Islam Gaddafi".<sup>590</sup> Further, the "Libyan State [was] willing and able to try him in accordance with Libyan law".<sup>591</sup>

328. On 31 May 2013, the Pre-Trial Chamber rejected Libya's challenge of admissibility.<sup>592</sup> On or around 12 April 2016, Saif al-Islam Gaddafi was released from Libyan prison pursuant to Law No.6 which established that "any further criminal proceedings against [Saif al-Islam Gaddafi] in Libya were "dropped", save that, as provided by law, they could be re-opened and the sentence imposed in full if he committed any new offences within a five-year period".<sup>593</sup>

329. On 5 June 2018, the Defence submitted a challenge to the admissibility of the case before the ICC, claiming that Saif al-Islam Gaddafi had been already tried, convicted and sentenced by the national court for the same conduct.<sup>594</sup> On 5 April 2019, the admissibility

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585 For other contributions, see *ibid.*, paras 77, 79 (other citations omitted).

586 *Ibid.*, para. 80 (other citations omitted).

587 *Ibid.*, paras 94, 98 (other citations omitted).

588 Prosecutor v. Gaddafi, [Request to the Libyan Arab Jamahiriya for the arrest and surrender of Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi](#), 4 July 2011, pp. 4-5 (other citations omitted).

589 ICC, [Gaddafi Case](#).

590 Prosecutor v. Gaddafi, [Annex \[implementation of the "Decision to Add Document to Case Record"\]](#), 23 November 2011 (other citations omitted).

591 *Ibid.*

592 Prosecutor v. Gaddafi, [Decision on the admissibility of the case against Saif Al-Islam Gaddafi](#), 31 May 2013, p. 91 (other citations omitted).

593 Prosecutor v. Gaddafi, [Admissibility challenge by Dr. Saif Al-Islam Gaddafi pursuant to Articles 17\(1\)\(c\), 19 and 20\(3\) of the Rome Statute](#), 5 June 2018, para. 26 (other citations omitted).

594 *Ibid.*, paras 1-4 (other citations omitted).


challenge was rejected by the Trial Chamber.<sup>595</sup> Currently, Saif Al-Islam Gaddafi's case "remains in the Pre-Trial stage, pending Saif Al-Islam Gaddafi's transfer to the seat of the Court in The Hague".<sup>596</sup>

330. Even though the case did not proceed, it demonstrates the ICC Prosecutor's commitment to pursuing charges for covering up and obstructing investigations of international crimes and the Trial Chamber's general willingness to consider cover-up campaigns and various forms of disinformation as contributions to international crimes.

## Article 25(3)(c) of the Rome Statute: Aiding and Abetting

331. Article 25(3)(c) of the Rome Statute specifies that a person shall be criminally responsible for a crime within the jurisdiction of the Court if that person "[f]or the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission".<sup>597</sup>

332. This mode of liability requires that the aider or abettor assisted in the commission or attempted commission of a crime, that the aider or abettor must have facilitated or enabled the crime in some way, and the accused must have acted for the purpose of facilitating the crime.<sup>598</sup>

 333. As stated, a crime as defined in Articles 6–8 *bis* of the Rome Statute must have been attempted or assisted. Regarding the level of contribution, the jurisprudence does not set an established quantitative threshold.<sup>599</sup> Instead, it is principally important that it facilitated a crime in some manner.<sup>600</sup> Moreover, the accused's contribution — whether it be an information alibi or any other form of contribution — must be substantial and have provided practical or material assistance, encouragement, or moral support.<sup>601</sup>

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595 Prosecutor v. Gaddafi, [Decision on the 'Admissibility challenge by Dr. Saif Al-Islam Gaddafi pursuant to Articles 17\(1\) \(c\), 19 and 20\(3\) of the Rome Statute'](#), 5 April 2019, p. 29 (other citations omitted). It was also upheld on appeal. See Prosecutor v. Gaddafi, [Judgment on the appeal of Mr Saif Al-Islam Gaddafi against the decision of Pre-Trial Chamber I entitled 'Decision on the "Admissibility Challenge by Dr. Saif Al-Islam Gaddafi pursuant to Articles 17\(1\) \(c\), 19 and 20\(3\) of the Rome Statute"' of 5 April 2019](#), 9 March 2020, para. 97 (other citations omitted).

596 ICC, [Gaddafi Case](#).

597 [Rome Statute](#), Article 25(3)(c).

598 Prosecutor v. Bemba *et al.*, [Public Redacted Version of Judgment pursuant to Article 74 of the Statute](#), 19 October 2016, paras 87–90.

599 See e.g. Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 279. There is also scholarly debate on the appropriate threshold. See Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 281, fn. 663.

600 Prosecutor v. Bemba *et al.*, [Public redacted version of Judgment pursuant to Article 74 of the Statute](#), 19 October 2016, paras 87–90.

601 *Ibid.*, paras 88–89.

334. The jurisprudence of the *ad hoc* tribunals has established that such contributions can occur before, during, or after the principal crime.<sup>602</sup> With respect to the mental element, aiding and abetting requires a specific intent to facilitate the commission of the crime, which goes beyond the general intent and knowledge thresholds set out in Article 30.<sup>603</sup> Specifically, the perpetrator must act with the *purpose* of facilitating the commission of a crime within the Court's jurisdiction.<sup>604</sup> This means the perpetrator's intent must be to assist or facilitate the crime; there is no additional requirement that they intend to commit the crime itself.<sup>605</sup>

## ***Jurisprudence under Aiding and Abetting Mode of Liability***

335. Given the absence of ICC jurisprudence addressing aiding and abetting in the context of the false dissemination of information, this analysis turns to one case at the ICTY, which offers valuable guidance on the legal contours of aiding and abetting, in relation to using speech to cover up crimes.

336. Aiding and abetting at the ICTY requires that the accused knowingly provided assistance that had a substantial effect on the commission of the crime, whereas the ICC imposes a higher threshold by requiring that such assistance be given with the purpose of facilitating the crime — reflecting a more restrictive interpretation.<sup>606</sup> Under both legal regimes, however, a principal consideration is whether the accused's conduct made a contribution to the commission of the crime. As described above, this requirement may be satisfied in various ways, including by providing practical or material assistance, encouragement, or moral support.<sup>607</sup>

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602 *Ibid.*

603 Article 30 of the Rome Statute provides the general mental element (*mens rea*) requirements that must be met in order to convict an individual of a crime. These mental elements apply generally to all crimes, unless the Statute or the Elements of Crimes require a different or specific mental element in relation to a particular crime.

See paragraph 2 of the [Elements of crimes of the ICC](#): [a]s stated in article 30, unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge".

604 Triffterer O. & Ambos K., (eds.), [Rome Statute of the International Criminal Court, A Commentary, Third Edition](#), C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, p. 1009; Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 274.

605 Triffterer O. & Ambos K., (eds.), [Rome Statute of the International Criminal Court, A Commentary, Third Edition](#), C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, p. 1010.

606 Cornell Law Review (A. Hathaway, A. Francis, A. Haviland, S. Reddy Kethireddy & A. T. Yamamoto), [Aiding and abetting in International Criminal Law](#), pp. 1606–1607.

607 See [supra](#).

## Prosecutor v. Blagojević & Jokić

337. The Blagojević case at the ICTY involved an aiding and abetting prosecution for, *inter alia*, concealing international crimes.<sup>608</sup> The material facts that led to Blagojević's arrest involve the Republika Srpska Army (known as the VRS) denying UN and ICRC staff access "to the areas around Srebrenica where Muslim civilians were being detained".<sup>609</sup> There were also rumours of mass graves in the area.<sup>610</sup> Before access was eventually granted, the VRS (including Blagojević) reburied many of the dead Muslim civilians to conceal "evidence of the mass killings".<sup>611</sup>

338. The Trial Chamber concluded at the 98 *bis* stage of the proceedings<sup>612</sup> that such efforts to conceal crimes "could only be characterised by a reasonable trier of fact as *ex post facto* aiding and abetting in the planning, preparation or execution of the murder operation"<sup>613</sup> so long as "at the time of the planning, preparation or execution of the crime, a prior agreement exists between the principal and the person who subsequently aids and abets in the commission of the crime".<sup>614</sup>

339. At the judgement stage of the trial proceedings, the Trial Chamber concluded that "the evidence does not support a conclusion that the reburial operation itself was agreed upon at the time of the planning, preparation or execution of the crimes".<sup>615</sup> Consequently, the involvement of Blagojević in the reburial operation did not "amount to aiding and abetting the murder operation".<sup>616</sup> Nevertheless, it is clear from this case that, if the facts had substantiated the elements of the crime, it would be established that an aiding and abetting conviction for covering up international crimes could have been found.

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608 Vidoje Blagojević "was appointed as the Commander of the Bratunac Brigade" on 25 May 1995. According to the Prosecution, certain elements of the Bratunac Brigade were involved in the perpetration of international crimes as well as the reburial operation that occurred from about 1 August to 1 November 1995, Prosecutor v. Blagojević & Jokić, *Judgement*, 17 January 2005, paras 4–10 (other citations omitted).

609 *Ibid.*, para. 380 (other citations omitted).

610 *Ibid.*

611 *Ibid.*, para. 382 (other citations omitted).

612 At the close of the prosecutor's case-in-chief at the ICTY, a 98 *bis* hearing is held. During this hearing, after oral submissions by the parties, the judges may enter a judgment of acquittal on any count if they find there is insufficient evidence for a conviction. See ICTY, *Rules of procedure and evidence*, Rule 98 *bis*.

613 Prosecutor v. Blagojević & Jokić, *Judgement on motions for acquittal pursuant to Rule 98 bis*, 5 April 2004, paras 50–51 (other citations omitted). See also, Prosecutor v. Blagojević & Jokić, *Judgement*, 17 January 2005, para. 730 (other citations omitted).

614 Prosecutor v. Blagojević & Jokić, *Judgement*, 17 January 2005, para. 731 (other citations omitted). It should be noted that the requirement for a prior agreement between the principal and individual involved in concealing the crime is not clearly established in the jurisprudence of international criminal tribunals and general principles of international criminal law. Instead, a knowing effort to conceal a crime ought to give rise to criminal responsibility even absent a formal agreement with the principal. Failing to do so risks excluding conduct that materially facilitates the commission of international crimes and may contribute to impunity for such actions.

615 *Ibid.*

616 *Ibid.*

340. While this case does not involve an information alibi, it offers a valuable point of comparison. An information alibi, like other information operations, aims to help with the planning, execution or cover-up of an international crime. The reburial operations in this case, although not involving the creation of a false narrative about who is actually responsible for a crime, serve a similar function: they manipulate available information to create a false impression about the crime itself. Both strategies — the information alibi and the reburial operations — share the objective of concealing the truth and obstructing subsequent investigations.



## Article 25(3)(d) of the Rome Statute: Contributing “In Any Other Way”

341. Article 25(3)(d) of the Rome Statute is a jurisdictional catch-all which specifies that a person may be individually criminally responsible within the jurisdiction of the Court if that person contributes *in any other way* to the commission or attempted commission of a crime by a group of persons acting with a common purpose.<sup>617</sup> As will be discussed below, engaging in information alibi campaigns to cover up the commission of crimes could potentially incur individual criminal responsibility since the campaign can be seen to be contributing to crimes committed by a group acting with a common purpose.



342. The following elements must be established to prove this mode of liability:

- A crime within the jurisdiction of the Court was committed or attempted;
- The direct perpetrators of the crime belonged to a group acting with a common purpose;
- The perpetrator made a significant contribution to the commission of the crime;
- The perpetrator’s contribution was intentional;
- The perpetrator’s contribution was either:
  - Made with the aim of furthering the criminal activity or criminal purpose of the group; or
  - Made in the knowledge of the intention of the group to commit the crime.

343. Concerning the second element, the existence of a group with a common purpose must be established.<sup>618</sup> The group does not necessarily have to be organised in a military,

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617 Rome Statute, Article 25(3)(d).

618 Prosecutor v. Katanga, *Judgment pursuant to Article 74 of the Statute*, 7 March 2014, para. 1626.




political or administrative structure.<sup>619</sup> There is no requirement for the person to be a member of this group, as it is the contribution to the commission of the crime which incurs criminal responsibility.<sup>620</sup>

344. In identifying the common purpose of the group, the following elements should be taken into account to facilitate the identification of the group's unified purpose:

- The scope of the criminal goal, with particular consideration of its temporal scope and location;
- The type, origins or characteristics of the victims pursued; and
- The identity of the members of the group.<sup>621</sup>

345. It is not necessary to prove that the common purpose was previously arranged or formulated — it may instead have materialised with little preparation or be inferred from the subsequent concerted action of the group of persons.<sup>622</sup>

 346. The common purpose must include an element of criminality.<sup>623</sup> The purpose must be either to commit the crime or, if not, encompass the execution of the crime in question.<sup>624</sup> Indeed, it is not necessary for the group to pursue a purely criminal purpose, or for the ultimate goal of the group to be criminal. For example, an otherwise legitimate political or strategic purpose may have the element of criminality if its realisation entails the commission of a crime.<sup>625</sup> Additionally, the members of the group must all intend to cause the consequence which constitutes the crime, or be aware that the crime will occur in the ordinary course of events.<sup>626</sup> This shared intent may be established, for example, by the group's collective decisions and actions, or its omissions.<sup>627</sup>

347. It must be established that the direct perpetrators shared the common purpose and that the crime in question was committed pursuant to it.<sup>628</sup> Only those crimes that the group intended to commit to realise the common purpose would incur liability for

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619 *Ibid.*, para. 1626.

620 *Ibid.*, para. 1631.

621 *Ibid.*, para. 1626.

622 *Ibid.*

623 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 271.

624 Prosecutor v. Katanga, [Judgment pursuant to Article 74 of the Statute](#), 7 March 2014, para. 1627.


625 *Ibid.*

626 *Ibid.*

627 *Ibid.*

628 *Ibid.*, para. 1628.

the complicit perpetrator under this mode of liability.<sup>629</sup> For instance, crimes committed spontaneously due to opportunistic acts by members of the group, which do not have any connection to the common plan, would not incur liability for the complicit person.<sup>630</sup>

 348. In addition to the above, it must be established that the perpetrator made a significant contribution to the crime in question. Such a contribution must be in a way other than those set out in the other modes of liability listed in Article 25(3) (i.e. commits; orders, solicits, or induces; aids, abets or otherwise assists in the commission of a crime).<sup>631</sup> For a person to be complicit in a crime, their contribution must be specifically connected to the commission of that crime and not solely to the activities of the group in general.<sup>632</sup> In this sense, the contribution of the complicit perpetrator to each crime committed by the direct perpetrators must be established individually and must be proven beyond reasonable doubt.<sup>633</sup>

349. The contribution of the individual must be “significant”, meaning that it must have a discernible impact on the commission of the crime and/or the manner in which it was carried out, rather than being inconsequential or immaterial.<sup>634</sup> The contribution does not however need to be shown as the determining factor in the commission of the crime.<sup>635</sup> Additionally, the contribution may be made through direct perpetrators or through other members of the group acting with a common purpose.<sup>636</sup> It may be connected to either the material elements of the crimes (i.e. in the form of provision of resources, such as weapons) or to other elements (i.e. encouragement).<sup>637</sup>

350. The following factors may assist in assessing whether the perpetrator’s conduct amounts to a significant contribution:

- The sustained nature of the participation after acquiring knowledge of the criminality of the group’s common purpose;
- Any efforts made to prevent criminal activity or to impede the efficient functioning of the group’s crimes;

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629 *Ibid.*, para. 1630.

630 *Ibid.*

631 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 8.

632 Prosecutor v. Katanga, [Judgment pursuant to Article 74 of the Statute](#), 7 March 2014, para. 1632; Triffterer O. & Ambos K., (eds.), [Rome Statute of the International Criminal Court, A Commentary, Third Edition](#), C.H. Beck/Hart/Nomos, München/Oxford/Baden-Baden, 2016, p. 1012.

633 *Ibid.*


634 Prosecutor v. Katanga, [Judgment pursuant to Article 74 of the Statute](#), 7 March 2014, paras 1632–1633.

635 *Ibid.*, para. 1633.

636 *Ibid.*, para. 1635.

637 *Ibid.*


- Whether the person creates or merely executes the criminal plan;
- The position of the suspect in the group or relative to the group; and
- The role the suspect played vis-à-vis the seriousness and scope of the crimes committed.<sup>638</sup>

 **351.** Element four requires the contribution to be intentional.<sup>639</sup> This means that the perpetrator's individual criminal responsibility as a complicit actor to a crime may be demonstrated without establishing that the perpetrator had the requisite intent and knowledge pursuant to Article 30 of the Statute in relation to the crimes in question.<sup>640</sup> Instead, this mode of liability requires that the perpetrator's contribution to the crime in question was intentional, i.e. the perpetrator intended to make the relevant contribution.<sup>641</sup>

**352.** Accordingly, what needs to be established here is that the perpetrator intended to engage in the conduct, i.e. their actions must have been deliberate and made with awareness.<sup>642</sup> As such, it must be shown that the perpetrator intended to engage in the conduct which constitutes a contribution and also that they were aware that such conduct contributed to the activities of the group of persons acting with a common purpose.<sup>643</sup>

## ***Case Examples in International Criminal Law***

### ***Situation in the Democratic Republic of Congo***

 **353.** In the Mbarushimana case, the Prosecution sought the arrest of Callixte Mbarushimana, the Executive Secretary of the Forces Démocratiques pour la Liberation du Rwanda or Democratic Forces for the Liberation of Rwanda (FDLR),<sup>644</sup> pursuant to Article 25(3)(d) of the Rome Statute, for his role in denying that the FDLR was perpetrating significant, widespread and serious crimes under the jurisdiction of the Rome Statute. In his leadership role, it was alleged that he had full awareness of the gravity and breadth of crimes being perpetrated by FDLR rebels.<sup>645</sup>

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638 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 284.

639 Prosecutor v. Katanga, [Judgment pursuant to Article 74 of the Statute](#), 7 March 2014, para. 1637.

640 *Ibid.*

641 *Ibid.*, para. 1638.

642 *Ibid.*

643 *Ibid.*, para. 1639.

644 The FDLR was "an armed group seeking 'to reconqu  r et d  fendre la souverain  t   nationale' (to reconquer and defend the national sovereignty) of Rwanda". Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 2 (other citations omitted).

645 Prosecutor v. Mbarushimana, [Prosecution's application under Article 58](#), 20 August 2010, paras 129-161 (other citations omitted).

354. The Prosecution asserted that Mbarushimana, fully aware of the FDLR's crimes, deceptively portrayed them as innocent or uninvolved in press releases, interviews, and numerous media interactions.<sup>646</sup> He also publicly proclaimed that the FDLR was committed to pursuing peace and stability in the Kivu region of the Democratic Republic of Congo (DRC). He attributed the identified crimes to another armed group, most often the DRC Armed Forces.<sup>647</sup> In light of his role with the FDLR, prosecutors regarded him as primarily responsible for executing this element of the group's strategy.<sup>648</sup>

355. The Prosecution alleged that Mbarushimana was fully aware of the crimes being committed, acquiring such knowledge after speaking with insiders that possessed firsthand information of the crimes perpetrated, including high-ranking military commanders of the FDLR, the President of the FDLR, and other authoritative sources.<sup>649</sup> Further, he was informed through "publicly available information and reports from credible sources about the ongoing commission of crimes by the FDLR".<sup>650</sup>

356. Doing so with full cognisance and knowledge of the attacks by FDLR against civilians in eastern DRC, Mbarushimana issued press releases on behalf of FDLR in the aftermath of military operations, systematically denying any responsibility of the group.<sup>651</sup> This included during "international peace talks and negotiations, shrewdly portraying the FDLR as an actor seeking peace and stability in the Kivu area".<sup>652</sup> As the "linchpin" of the overall FDLR strategy, he was able to "transform the FDLR's crimes on the ground into political capital",<sup>653</sup> including "to extort concessions of political power for the FDLR in Rwanda in exchange for stopping the crimes against civilians" by FDLR forces.<sup>654</sup>

357. For instance, one draft press release included acknowledgement of civilian deaths. Mbarushimana, in conversation with another high-ranking official, noted the presumptive illegality of the act. Nevertheless, when the press release was issued, he denied responsibility for the attack and wholly shifted the blame to other armed groups.<sup>655</sup>

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646 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 304 (other citations omitted).

647 *Ibid.*, para. 8 (other citations omitted).

648 *Ibid.*, para. 304 (other citations omitted).

649 Prosecutor v. Mbarushimana, [Prosecution's application under Article 58](#), 20 August 2010, paras 154, 157.

650 For example, he was aware through UN bodies and agencies and other credible sources that the FDLR had attacked civilians or civilian structures in various locations throughout 2009, *Ibid.*, para 151.

651 "In 2009 alone, the Suspect issued approximately 65 press releases", see Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 305 (other citations omitted).

652 *Ibid.*, para. 8 (other citations omitted).

653 *Ibid.*

654 *Ibid.*, para. 304 (other citations omitted).

655 Democratic Republic of the Congo, [Prosecution's application under Article 58](#), 20 August 2010, paras 158–159 (other citations omitted).

358. The Prosecution maintains that this level of access to information establishes reasonable grounds to believe that Mbarushimana was fully aware of the fact that, “pursuant to the FDLR’s strategic policy, FDLR troops would commit crimes in the ordinary course of events”.<sup>656</sup> Despite this, he continued to carry on his responsibilities on their behalf.

359. Concerning Mbarushimana’s intent, the Prosecution alleged that he shared the intent with others to “defraud the international community with a false account of the events”, thereby showing his voluntariness to lie about crimes perpetrated “to counter the reports of the Mission de l’Organisation des Nations Unies pour la stabilisation en République démocratique du Congo or United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the UN Office for the Coordination of Humanitarian Affairs (OCHA), which had explicitly and exclusively attributed certain attacks to FDLR.”<sup>657</sup>

360. In the Trial Chamber’s decision issuing the arrest warrant, it found that it was in “organising and conducting an international campaign using media channels” that it was “satisfied that the risk of continuing contribution to the commission of the said crimes is sufficiently high to justify the issuing of a warrant of arrest”.<sup>658</sup> Further, it found in its decision confirming charges that “the systematic denial [of crimes being perpetrated] was aimed at preventing the FDLR’s leaders from being labelled as mass murderers, on the one hand, and at exploiting the international attention on the FDLR and its political agenda triggered by the attacks, on the other”.<sup>659</sup>

361. In its Decision on the Confirmation of Charges, the Majority of the Pre-trial Chamber disagreed with the Prosecution’s arguments. It found limited evidence that Mbarushimana made extortionate demands in his press releases “that could be interpreted as blackmail of the international community to stop the war”.<sup>660</sup> The Majority further found that “that there is also evidence that the call for negotiations and a peaceful solution was part of the agenda of the organisation rather than part of a strategy of extortion of political concessions”.<sup>661</sup> In light of this and other findings, the Majority found that “the evidence presented is insufficient to show that the Suspect was using his press releases to ‘extort political concessions’ from the FDLR” and that there was “very little of an extortionate

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656 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 157 (other citations omitted).

657 Situation in the Democratic Republic of the Congo, [Prosecution’s application under Article 58](#), 20 August 2010, paras. 158–160 (other citations omitted); see also Situation in the Democratic Republic of the Congo, [Prosecution’s document containing the charges submitted pursuant to Article 61 \(3\) of the Statute](#), English version, 3 August 2011.

658 Situation in the Democratic Republic of the Congo, [Decision on the prosecutor’s application for a warrant of arrest against Callixte Mbarushimana](#), 28 September 2010, paras 46, 49 (other citations omitted).

659 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 7 (other citations omitted).

660 *Ibid.*, paras 307–308 (other citations omitted).

661 *Ibid.*, para. 309 (other citations omitted).

nature to be found in the press releases, and the comments the Suspect makes in relation to the 'consequences' of war with the FDLR or the need for dialogue are insufficient evidence to show a pattern of extortion".<sup>662</sup>

362. The Majority further found that "even those press releases explicitly denying accusations of crimes levelled against the FDLR remain *per se* neutral, unless it is demonstrated: (i) that the Suspect knew that he was denying the truth; and (ii) that this denial of the truth was done in furtherance of an FDLR policy".<sup>663</sup> Also, it found that it was unclear whether "Mbarushimana, or even the FDLR political leadership, was aware of the crimes committed on the ground" as some crimes may have gone unreported.<sup>664</sup> Finally, the Majority found that "the evidence is not sufficient to demonstrate that the Suspect denied crimes in furtherance of a policy of the organization".<sup>665</sup>

363. In view of the foregoing, the Majority of the Chamber found "that the evidence [...] was not sufficient to establish that the Suspect denied crimes committed by the FDLR with knowledge of them and in furtherance of a policy of the organisation and, therefore, he could have not provided, through his radio communications and press releases, a significant contribution to the commission of crimes by the FDLR within the meaning of Article 25(3) (d) of the Statute".<sup>666</sup>

364. The decision was 2–1 in favour of an acquittal for Mbarushimana on these charges. Judge Sanji Mmasenono Monageng wrote a dissenting opinion, contending, *inter alia*, that:

[T]here are substantial grounds to believe that the FDLR launched a media campaign aimed at disavowing suspicions of the FDLR's involvement in crimes and exerting pressure on the international community and the Governments of the DRC and Rwanda so that negotiations with the FDLR could be initiated. The evidence also establishes substantial grounds to believe that said media campaign served, *inter alia*, the purpose of presenting the FDLR as a law abiding organisation committed to peace and the principles of humanitarian law. The creation and promotion of such an image of the organisation was a means to persuade the international community that the FDLR

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662 *Ibid.*, para. 311 (other citations omitted).

663 *Ibid.*, para. 312 (other citations omitted).

664 *Ibid.*, para. 313 (other citations omitted).

665 *Ibid.*, para. 314 (other citations omitted).

666 *Ibid.*, para. 315 (other citations omitted).

was a legitimate partner for negotiations at a high official level. As discussed earlier in this Opinion, the FDLR sought to negotiate the conditions of its return to Rwanda and participation in the Rwandan Government.<sup>667</sup>

365. As to the contribution to the common purpose of the suspect, Judge Monageng claimed that there was evidence “that the Suspect did both publicly and privately welcome international investigations when such investigations were initially announced, particularly when it came to the investigation for crimes committed against Hutu refugees at Shario”.<sup>668</sup> She furthermore reviewed intercepted communications with Ignace Murwanashyaka, the FDLR President, compared it with the timing of the interviews, and concluded that “[t]here is evidence to support the notion that the Suspect was using press releases to conceal crimes”.<sup>669</sup>

366. According to her, the test, introduced by the Majority to decide when denying crimes is not “neutral” is: “i) whether the Suspect knew that he was not stating the truth; and ii) that this failure to state the truth was done in furtherance of a FDLR policy”.<sup>670</sup> The Judge was satisfied that “the evidence shows that the Suspect does know of the falsity of his statements and that these statements are made pursuant to an organizational policy”.<sup>671</sup>

367. She also emphasised that “[t]he Majority also ignores the evidence, [...] which supports the conclusion that the Suspect denied crimes with an aim to blunt the international community’s response to what the FDLR was doing in the field”.<sup>672</sup> This evidence included copies of the press releases, signed by Mbarushimana, at least eight attempts to cover up the crimes by denying such crimes and even “evidence of a telephone conversation, where the Suspect explained to Murwanashyaka how to manipulate the language of the draft press release of Mianga/Busurungi so that the FDLR could avoid accusations of violating international humanitarian law”.<sup>673</sup> She concludes that “there are substantial grounds to believe that the Suspect was using the international media campaign to conceal the criminal activities of the FDLR”.<sup>674</sup>

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667 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges, dissenting opinion of Judge Sanji Mmasenono Monageng](#), 16 December 2011, para. 46 (other citations omitted).

668 *Ibid.*, para. 69 (other citations omitted).

669 *Ibid.*, para. 76 (other citations omitted).

670 *Ibid.*

671 *Ibid.*

672 *Ibid.*, para. 78 (other citations omitted).

673 *Ibid.*

674 *Ibid.*, para. 79 (other citations omitted).



368. Analysing the “significant contribution” requirement, she disagreed with the Majority that the “[s]uspect did not make any contributions to the crimes committed”<sup>675</sup> and that “denials of crimes and encouragement given through press statements which, though they could have been non-criminal if made in another context, take on a criminal character on the facts before the Chamber”.<sup>676</sup> Moreover, she focused on a number of other matters which led to a finding that he made a significant contribution to the commission of the crime. First, she focused on the high-ranking position of the suspect, which makes denials of crimes “more meaningful and effective”.<sup>677</sup> She also referenced evidence of the suspect’s “sustained contribution” to the FDLR activities. Such a contribution was an indication of “an intention on [the Suspect’s] part to further those activities”.<sup>678</sup>

369. Additionally, she found the suspect’s “calls for investigation and peaceful solutions” insincere.<sup>679</sup> Further, she made an overall finding that he played a “meaningful role vis-à-vis the crimes” as “[w]ithout the Suspect and his press statements, there would be less of a reason for the FDLR to commit crimes because they would no longer be linked to any political message”<sup>680</sup> to continue the fighting.

370. On the basis of the above, she concluded that this evidence met the requirement of Article 25(3)(d) that “the contribution to the crime [is] made with the aim to further the general criminal activity or purpose of the group”.<sup>681</sup>

## *Situation in Kenya*

371. The ICC Prosecutor alleged that as early as December 2006, William Samoei Ruto and Henry Kiprono Kosgey, prominent leaders of the Orange Democratic Movement (ODM), began “preparing a criminal plan to attack those identified as supporters of the Party of National Unity” (PNU).<sup>682</sup> Joshua Arap Sang was a radio broadcaster on Kass FM, where he “hosted a call-in program [...] called ‘Lene Emet’” (*‘How is the country?’* or *‘This is what the world says’* or *‘what is the opinion of the country?’*)<sup>683</sup> and was “a prominent

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675 *Ibid.*, para. 103 (other citations omitted).

676 *Ibid.*, para. 105 (other citations omitted).

677 *Ibid.*, para. 106 (other citations omitted).

678 *Ibid.*, para. 107 (other citations omitted).

679 *Ibid.*, para. 108 (other citations omitted).

680 *Ibid.*, para. 109 (other citations omitted).

681 *Ibid.*, para. 128 (other citations omitted).

682 Prosecutor v. Ruto et al., *Prosecutor’s application pursuant to Article 58 as to William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, 15 December 2010, para. 1 (other citations omitted).

683 *Ibid.*, para. 44 (other citations omitted).

ODM supporter, [who] was a crucial part of the plan, using his radio program to collect supporters and provide signals to members of the plan on when and where to attack".<sup>684</sup>

372. The Prosecution further alleged that Ruto, Kogsey, and Sang "coordinated a series of actors and institutions to establish a network, using it to implement an organizational policy to commit crimes".<sup>685</sup> After the PNU (ODM's political opponent) won the presidential elections, the three men "began to execute their plan by attacking PNU supporters".<sup>686</sup> The violence "resulted in more than 1,100 people dead, 3,500 injured, approximately 600,000 victims of forcible displacement, at least hundreds of victims of rape and sexual violence and more than 100,000 properties destroyed in six out of eight of Kenya's provinces. Many women and girls perceived as supporting the ODM were raped".<sup>687</sup>

373. In confirming the charges against the accused, the Trial Chamber found that "Mr. Sang by virtue of his position within Kass FM as a key broadcaster, intentionally contributed to the commission of the crimes against humanity referred to above by: [...] (iv) broadcasting false news regarding alleged murders of Kalenjin people in order to inflame the atmosphere in the days preceding the elections [...]".<sup>688</sup>

374. As to the "evidence concerning the aim of furthering the criminal activity or criminal purpose of the group, as required under article 25(3)(d)(i) of the Statute",<sup>689</sup> the Trial Chamber concluded that:

On the basis of the evidence available, Mr. Sang's contribution was also done with the aim of furthering the criminal activity and purpose of the group established by Mr. Ruto to commit the crimes against humanity referred to above. Mr. Sang participated in five preparatory meetings between 15 April 2007 and 14 December 2007. As already discussed in paragraphs 187–196, the evidence shows that during the course of these meetings, the different facets of the plan to attack the PNU supporters in Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills town were developed. The evidence examined

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684 *Ibid.*, para. 1 (other citations omitted).

685 *Ibid.*

686 *Ibid.*, para. 3 (other citations omitted).

687 *Ibid.*, paras 8,9 (other citations omitted).

688 Other contributions named by the Trial Chamber were the following: "(i) placing his show Lee Nee Emet at the disposal of the organisation; (ii) advertising the meetings of the organisation; (iii) fanning the violence through the spread of hate messages explicitly revealing desire to expel the Kikuyus; (iv) broadcasting false news regarding alleged murders of Kalenjin people in order to inflame the atmosphere in the days preceding the elections; and (v) broadcasting instructions during the attacks in order to direct the physical perpetrators to the areas designated as targets", Prosecutor v. Ruto et al., [Decision on the confirmation of charges pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, para. 355 (other citations omitted).

689 *Ibid.*, para. 364 (other citations omitted).

in the previous paragraphs also supports the finding that Mr. Sang aimed at furthering not only the criminal purpose of the group but also its criminal activity.<sup>690</sup>

375. The Trial Chamber concluded that there were “substantial grounds to believe that Mr. Sang is criminally responsible under Article 25(3)(d)(i) of the Statute for the crimes against humanity committed in the different locations and dates specified under section VII above”.<sup>691</sup>

376. After the Pre-Trial Chamber confirmed charges against Sang and Ruto,<sup>692</sup> the Presidency transferred the case to the Chamber on 29 March 2012.<sup>693</sup> On 3 June 2014, the Trial Chamber issued Decision No.5 on the Conduct of Trial Proceedings (Principles and Procedure on ‘No Case to Answer’ Motions), directing that “any motion of ‘no case to answer’ to be filed in this case shall be guided by the principles and procedure set out above” and sent not later than 14 days after the last day of the Prosecutor’s case.<sup>694</sup> On 10 September 2015, the Prosecution formally closed the case.<sup>695</sup>

377. On 23 October 2015, the Sang Defence submitted a “No Case to Answer” motion, claiming that “evidence led to trial no longer supports allegations” that “Sang participated in several planning meetings and fundraising events”, and that evidence “is clearly lacking” to prove that “Mr Sang, by himself or through his callers, broadcasted messages which incited people to commit violence”.<sup>696</sup> The Defence concluded that evidence provided by the Prosecution was “not capable of satisfying the reasonable doubt standard”, evidence was lacking “in respect of an organizational policy pursued by a ‘Network’ or any other organization” and did not “establish criminal conduct, nor a nexus to criminal conduct, or Mr. Sang’s intent to carry out criminal activities”.<sup>697</sup> On 5 April 2016, the ICC decided to terminate the case against Ruto and Sang. The Trial Chamber concluded that due to the lack of the evidentiary support “charges against the accused are vacated and the accused discharged without prejudice to their prosecution afresh in the future”.<sup>698</sup>

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690 *Ibid.*

691 *Ibid.*, para. 366 (other citations omitted).

692 *Ibid.*

693 Prosecutor v. Ruto et al., [Decision constituting trial chamber V and referring to it the case of the prosecutor v. William Samoei Ruto and Joshua Arap Sang](#), 29 March 2012.

694 Prosecutor v. Ruto et al., [Decision no.5 on the conduct of trial proceedings \(principles and procedure on ‘No case to answer’ motions\)](#), 3 June 2014, p. 20, para 37 (other citations omitted).

695 Prosecutor v. Ruto et al., [Notification of closure of the Prosecution’s case](#), 10 September 2015, p. 3.

696 Prosecutor v. Ruto et al., [Public Redacted Version of Sang Defence ‘No Case to Answer’ Motion](#), filed on 23 October 2015, 6 November 2015, paras 3,4 (other citations omitted).

697 *Ibid.*, para 210 (other citations omitted).

698 Prosecutor v. Ruto et al., [Decision on Defence Applications for Judgments of Acquittal](#), 5 April 2016, p. 1.

## Other Jurisprudence

### Joint Criminal Enterprise

378. This section analyses cases from the *ad hoc* tribunals concerning joint criminal enterprise ('JCE'). In international criminal law, it is well established that the ICC did not adopt the JCE mode of liability. Instead, it recognises three distinct forms of comparable liability under Article 25(3)(a): co-perpetration and indirect co-perpetration, along with a broader category of common purpose liability under Article 25(3)(d). While Article 25(3)(d) is often considered the closest equivalent to the JCE doctrine, there remain differences that meaningfully distinguish the two.<sup>699</sup>

379. Although the Rome Statute does not recognise JCE liability, jurisprudence from other international criminal tribunals assessing whether a perpetrator can be held individually responsible under this mode of liability remains relevant when examining the potential for information operations to give rise to criminal culpability at the ICC.

380. This is particularly important for several reasons. First, while there is a qualitative distinction between JCE and Article 25(3)(d) common purpose liability, there is also significant overlap in their culpability frameworks. For instance, both doctrines require a significant contribution before individual criminal responsibility can be established.

381. Thus, although the ICC does not recognise JCE as a mode of liability, the underlying factual determinations — such as whether an individual made a significant contribution to a common criminal purpose — may be evaluated in a similar manner. Consequently, cases from tribunals such as the ICTY, where JCE serves as a principal mode of liability, can still provide valuable insights and help inform the ICC's approach to individual criminal responsibility in comparable circumstances.


382. Moreover, although the Rome Statute does not explicitly recognise JCE, its consideration remains pertinent for the ICC due to its status as customary international law.<sup>700</sup> Further, JCE has been widely applied in other jurisdictions — including *ad hoc* tribunals like the

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699 The differences between the JCE doctrine and Article 25(3)(d) were identified by the Pre-Trial Chamber in the *Mbarushimana* case and include the following: i) liability as a principal (JCE) or as an accessory (Article 25(3)(d)); ii) the requirement that the accused be part of the group acting with the common purpose (JCE) or not (Article 25(3)(d)); iii) the contribution to the common purpose (JCE) or to the crimes committed (Article 25(3)(d)); iv) requiring some sort of intent (JCE) or mere knowledge (Article 25(3)(d)). See Odriozola-Gurrutxaga M., [The doctrine of Joint Criminal Enterprise at the ad hoc tribunals and its applicability in the Rome Statute of the ICC](#), 2013.

700 See Cassese, A., [The proper limits of individual responsibility under the doctrine of Joint Criminal Enterprise](#), *Journal of International Criminal Justice*, pp. 109–133, 2007 [subscription required]; ICTY, *Prosecutor v Tadić*, [Judgement](#), 15 July 1999, paras 185–233.

ICTY, ICTR and Special Court for Sierra Leone — thereby reinforcing its status as a norm of customary international law.<sup>701</sup>

 383. Upon examining cases pertinent to JCE, there is an extensive body of jurisprudence substantiating the premise that information alibis, disseminating false information, or specific information operations may result in individual criminal responsibility due to their contribution to the planning, execution and concealment of crimes or obstruction into criminal investigations. As stated by Michael Kearney:

Participation in reburial operations, concealing crimes by frustrating investigations, or fabricating evidence of ‘terrorist’ responsibility for crimes have each been relied upon, in combination with various other evidence, as constituting significant contributions to various joint criminal enterprises [...] [f]alse statements to media or to the ‘international community’, issued with the intention of concealing ongoing criminal activity, have also been accepted as meeting the test for significant contributions to joint criminal enterprises, thereby assisting in the Tribunal’s determinations of individual criminal responsibility.<sup>702</sup>

384. Kearney further notes:

The findings of the [ICTY] [...] show that the need to conceal evidence of crimes in order to deflect international scrutiny had become a crucial feature in the commission of crimes in contemporary armed conflict. Cover-ups are necessary in order to stave off foreign military intervention, criticism by media and NGOs, or the attention of international prosecutors.<sup>703</sup>

385. This section considers various cases at the ICTY and a contribution to a joint criminal enterprise in the form of taking steps to plan crimes, concealing crimes having already taken place, and frustrating investigations that were perpetrated by various armed groups participating in the conflict in the Balkans.

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701 *Ibid.*, see also Prosecutor v. Tadić, [Judgement](#), 15 July 1999, paras 185–233; Prosecutor v. Nizeyimana, [Judgement](#), 19 June 2012, paras 1453–1463; Prosecutor v. Sesay et al., [Judgement](#), 2 March 2009, paras 340–394.

702 Kearney M.G., “Any other contribution”: ascribing liability for cover-ups of international crimes, 15 January 2013, p. 18.

703 *Ibid.*, p. 19.

## Prosecutor v. Gotovina et al.

386. In the Gotovina case, the ICTY prosecution alleged two distinct contributions to the JCE that relate closely to information alibis and other disinformation and, more generally, the concealment of crimes. They were alleged in the indictment as follows:

- Para. 17(c): Instigating, supporting, encouraging, facilitating and/or participating in the dissemination of information, false information and propaganda to the Krajina Serbs that was intended to cause them to leave the area.
- Para. 17(f): Engaging in, encouraging, facilitating or supporting efforts to deny, conceal and/or minimise crimes committed by the Croatian authorities and forces against Serbs, including the provision of false, incomplete or misleading information to international organisations, monitors, investigators and the public.<sup>704</sup>

387. Concerning paragraph 17(c), it is clear that ICTY prosecutors believed that the false dissemination of information and propaganda should be considered a material contribution to the crimes of deportation or forcible transfer against Krajina Serbs during Operation Storm.<sup>705</sup> Paragraph 17(f) makes clear that the prosecutors believed that taking steps to “deny, conceal and/or minimise crimes committed by Croatian authorities and forces”<sup>706</sup> through disseminating false information — both locally and internationally — was also a contribution to the JCE.<sup>707</sup>

388. In the Gotovina case, Ivan Čermak (one of the three accused)<sup>708</sup> represented the Croatian Government in its relations with the UN, other international organisations, and the media. During Operation Storm, he was “personally and regularly notified by senior

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704 Prosecutor v. Gotovina et al., [Judgement, volume 2](#), 15 April 2011, paras 2449–2450, 2471–2546 (other citations omitted).

705 Prosecutor v. Gotovina et al., [Judgement, volume 2](#), 15 April 2011, para. 2449 (other citations omitted).  
Croatian leaders and officials “initiated ‘Operation Storm’, a military action which aimed to take control of territory in the Krajina region of Croatia” which had been occupied by ethnically Serbian persons. See Prosecutor v Gotovina et al., [Appeal judgement](#), 16 November 2012, para 1 (other citations omitted).

706 Prosecutor v. Gotovina et al., [Judgement, volume 2](#), 15 April 2011, para. 2471 (other citations omitted).

707 *Ibid.*

708 Čermak was appointed by the President of Croatia, Franjo Tuđman, as a Commander of the Knin Garrison on 5 August 1995 and was a principal liaison between the Croatian government and the international community as Military Governor of Knin. Čermak “exercised effective control over HV [Army of Croatia] units operating in the Knin Garrison area including a Military Police company. [...] Among other duties, he was required to discipline and supervise the conduct of military personnel in the Garrison area; organise duty services in the Garrison; and establish cooperation between or among the Garrison and area police forces, for the purposes of establishing and maintaining law and order. He issued orders to the HV, including the Military Police, and the civilian authorities”. Prosecutor v. Gotovina et al., [Submission of the public version of the prosecution pre-trial brief](#), 23 March 2007, paras 72, 74, 75 (other citations omitted).

UN officials"<sup>709</sup> and others that his subordinates were committing international crimes.<sup>710</sup> Despite such awareness, Croatian President Tuđman chose Čermak to work on Croatian propaganda and "ensure maintenance of international support by managing negative political implications arising from [Operation] Storm. Tuđman intended to exploit the situation through the media".<sup>711</sup>

389. Further, the Prosecution alleged that Čermak "met regularly with representatives of the various international organisations"<sup>712</sup> to discuss ongoing problems.<sup>713</sup>

He addressed their concerns with deflections and obfuscations. Many letters of protests were ignored. He repeatedly assured international interlocutors that the Croatian authorities would respond, investigate and stop crimes. Nevertheless, promises made remained unfulfilled.<sup>714</sup>

390. The Prosecution alleged that "[h]e ingratiated himself with some victims and observers but failed to use the powers at his disposal to prevent the crimes or punish those who were committing them".<sup>715</sup> The Prosecution contended that he was "instrumental in covering-up crimes and obstructing Internationals [*sic*] from investigating alarming incidents of Croatian Forces crimes", such as murders.<sup>716</sup>

391. Similar to the Mbarushimana case at the ICC,<sup>717</sup> the Prosecution further alleged that "Čermak presented a public face of rectitude whilst knowing that vast criminality was continuing beyond the view of international observers".<sup>718</sup> Instead of taking steps to

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709 *Ibid.*, para. 77 (other citations omitted).

710 *Ibid.* This included members from the International Committee of the Red Cross, UN, UN Civil Affairs and several other organisations on a daily basis. See Prosecutor v. Gotovina *et al.*, [Prosecution's public redacted final trial brief](#), 2 August 2010, para. 355.

711 Prosecutor v. Gotovina *et al.*, [Prosecution's public redacted final trial brief](#), 2 August 2010, para. 347 (other citations omitted).

712 Prosecutor v. Gotovina *et al.*, [Submission of the public version of the prosecution pre-trial brief](#), 23 March 2007, para. 78 (other citations omitted).

713 *Ibid.*

714 *Ibid.*

715 Prosecutor v. Gotovina *et al.*, [Submission of the public version of the prosecution pre-trial brief](#), 23 March 2007, para. 79 (other citations omitted).

716 Prosecutor v. Gotovina *et al.*, [Prosecution's public redacted final trial brief](#), 2 August 2010, para. 348 (other citations omitted).

717 See [supra](#).

718 Prosecutor v. Gotovina *et al.*, [Submission of the public version of the prosecution pre-trial brief](#), 23 March 2007, para. 79 (other citations omitted). This included a large number of people killed by gunshot wounds to the head; "acts of arson, looting and killing"; the mistreatment of civilians and POWs; burning of houses; soldiers blowing up civilian homes; dead bodies lying in the street, being burned; etc. Prosecutor v. Gotovina *et al.*, [Prosecution's public redacted final trial brief](#), 2 August 2010, para. 357.



address crimes to protect Serbian victims, he “used it to protect Croatia’s public image”.<sup>719</sup> By virtue of failing to do anything to protect the Serbian civilians, this “permitted the crimes to continue with impunity”.<sup>720</sup>

392. Concerning psychological operations, false broadcasts were made as part of Croatia’s information operations to accompany the shelling of Knin, one of the principal Serbian towns in the region of Krajina in Croatia. It included broadcasts “via local radio stations and the dissemination of false leaflets (purporting to be from the RSK [the Serbian militia established to protect Croatian Serbs]) urging Serbs to flee.”<sup>721</sup> Such operations “were also couched as humanitarian gestures in order to simultaneously play to the international community while pushing frightened civilians out of the Krajina”.<sup>722</sup>

393. The Prosecution further alleged that due to the shelling, but also the “fear of violence, duress, psychological oppression” and other factors, Croatian Serbs were forced to flee Croatia. Čermak’s “obfuscation was aimed at furthering the common criminal purpose [of the JCE] by dissipating the complaints of internationals, facilitating the ongoing crimes against Serbs, and preventing potentially damaging information from coming to light that could prompt outside intervention”.<sup>723</sup> His contribution included, *inter alia*, presenting “the criminal campaign to drive out remaining Serbs and prevent the return of departed Serbs in a light that would do as little damage to the Croatian authorities as possible. [His] media interviews during this period reflect his shared intent for the criminal common purpose” of the JCE.<sup>724</sup> His objective was to “obstruct their investigations and interventions, and to disseminate false information to the media in order to advance the common criminal purpose of the permanent removal of Serbs from Croatia”.<sup>725</sup>

394. Ultimately, the Trial Chamber held that the evidence did not conclusively establish “that the Croatian authorities prioritized sanitation in order to purposefully hinder the investigation of possible murders”.<sup>726</sup> The Chamber found the evidence to indicate that investigatory efforts yielded relatively few results and “that at the political level, these

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719 Prosecutor v. Gotovina et al., [Submission of the public version of the prosecution pre-trial brief](#), 23 March 2007, para. 80 (other citations omitted).

720 *Ibid.*, para. 81 (other citations omitted).

721 *Ibid.*, para. 36 (other citations omitted).

722 Prosecutor v. Gotovina et al., [Submission of the public version of the prosecution pre-trial brief](#), 23 March 2007, para. 36 (other citations omitted).

723 Prosecutor v. Gotovina et al., [Prosecution’s public redacted final trial brief](#), 2 August 2010, para. 348 (other citations omitted).

724 *Ibid.*, para. 350 (other citations omitted).

725 *Ibid.*, para. 360 (other citations omitted).

726 Prosecutor v. Gotovina et al., [Judgement, volume 2](#), 15 April 2011, para. 2199 (other citations omitted).

efforts were motivated at least in part by a concern for Croatia's international standing rather than by genuine concern for victims".<sup>727</sup>

## ***Prosecutor v. Popović et al.***

395. In the case of *Prosecutor v Popović et al.*,<sup>728</sup> Milan Gvero was one of five co-accused. He was part of the VRS Main Staff<sup>729</sup> and responsible for "propaganda, self-protection and co-operation with UNPROFOR".<sup>730</sup> In this role, "he released false statements concerning the attacks on the enclaves to the media, the international organizations and the public, in order to assist in the takeover of [the] Srebrenica enclave".<sup>731</sup>

396. In his role on behalf of the Bosnian Serb leadership, he contributed to a document on "Moral and psychological support" for the combat troops that noted "[t]hrough planned and coordinated informative and propaganda activities with state organs [of the Bosnian Serbs] and media institutions, [the VRS will] expose the bias of UNPROFOR and the international community, which are allowing the enemy to arm freely and continually attack Serbian defensive positions" from certain protected safe zones such as Tuzla in Bosnia.<sup>732</sup> As a consequence, the Prosecution noted that his "use of threats and deceit toward UNPROFOR and the international community would shortly contribute significantly to taking down both the Srebrenica and Žepa enclaves".<sup>733</sup>

397. The Prosecution also alleged that Gvero was engaged in the false dissemination of information to the international community. Specifically, on 10 July 1995 Bosnian Serb forces were attacking the Srebrenica hospital. Despite this and with near sure cognisance of the attacks taking place, Gvero wrote in part that combat activities of the Bosnian Serbs were "directed towards neutralising the Muslim terrorists, and are in no way directed against civilians or members of UNPROFOR... [a]ll in all, there is no reason for the media and

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727 *Ibid.*, para. 2203 (other citations omitted).

728 The 1995 Srebrenica case (Popović) involved the forced displacement and genocide of Bosnian Muslims in Srebrenica and Žepa by Bosnian Serb Forces. The International Criminal Tribunal for the former Yugoslavia ruled that these actions constituted genocide. See *Prosecutor v. Popović et al.*, [Judgement](#), 10 June 2010, paras 882, 886.

729 Formed on 12 May 1992, the VRS Main Staff, led by General Ratko Mladić, functioned as its highest operative body, under the supreme command of Radovan Karadžić. Key sectors included Morale, Legal and Religious Affairs; Intelligence and Security; Logistics; and Mobilization and Personnel. General Milan Gvero, Assistant Commander for Morale, Legal and Religious Affairs, was responsible for troop morale, disseminating information and propaganda, monitoring military courts, and addressing non-prosecutable disciplinary violations. *Ibid.*, paras 90, 104, 105, 108; Annex A. [The military structure of the Army of the Republika Sprska \("VRS"\)](#).

730 *Prosecutor v. Popović et al.*, [Judgement, volume II](#), 10 June 2010, para. 1737. UNPROFOR was the UN peacekeeping force in Croatia and in Bosnia and Herzegovina at that time.

731 *Prosecutor v. Popović et al.*, [Judgement, volume II](#), 10 June 2010, para. 1737.

732 *Prosecutor v. Popović et al.*, [Prosecution's notice of filing redacted version of the prosecution final trial brief](#), 14 July 2010, para. 1763.

733 *Ibid.*, para. 1764 (other citations omitted).

foreigners to get involved in the Muslim war propaganda, be their trump card and justify their terrorist actions".<sup>734</sup> It concluded its argument by noting that "Gvero's lies [...] were designed to vilify the Muslims in the media and portray the Serbs as humanitarian — all to hide and take the spot light *[sic]* off Gvero's and the Serb leadership's true intention to disable UNPROFOR and remove the Muslim population".<sup>735</sup>

398. The Prosecution further noted that "as chief propagandist in the VRS [Bosnian Serb army], Gvero constantly had an eye on how the VRS was perceived in the international media, looking for opportunities to present the VRS positively, as well as watching out for sources of negative portrayal".<sup>736</sup> It contended that certain of his messages were not conveyed for humanitarian purposes, but rather as recognition that not mistreating international actors had significant importance, including that the objectives "of the VRS to remove the Muslim population completely and efficiently, would be best served with the least international scrutiny or condemnation".<sup>737</sup> A UN soldier present at the time noted that Gvero was deliberately stalling, with the clear intention of allowing the Bosnian Serb forces to finalise their operation of forcibly removing the Muslim population from the Srebrenica area. He noted that "it created confusion on our part [and] delayed us in taking actions... it allowed them more time to press on and move on to the pocket".<sup>738</sup>

399. By 20 July 1995, after the fall of Srebrenica and the death of thousands of innocent people, the Prosecution submitted that Gvero was not engaged in any humanitarian action but was "in fact engaged in a grotesque cover up of the mass killings which were still underway while he was meeting with the ICRC and UNHCR. It was absolutely essential for the RS and VRS objective in Žepa and Goradže and future negotiations that all information associated with the mass executions of Srebrenica be carefully controlled and hidden from view. Gvero took a lead role in this crucial task".<sup>739</sup>

400. This and other false statements, taken together with false statements by others, constituted delaying tactics that "impeded the UN's ability to react to the situation on the ground [...] and in the meantime permitted the VRS to press forward its attack on the [Srebrenica] enclave".<sup>740</sup>

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734 *Ibid.*, para. 1778 (other citations omitted).

735 *Ibid.*, para. 1780 (other citations omitted).

736 *Ibid.*, para. 1785 (other citations omitted).

737 *Ibid.*


738 *Ibid.*, para. 1787 (other citations omitted).

739 *Ibid.*, para. 1814 (other citations omitted).

740 *Ibid.*, para. 1793 (other citations omitted).

401. The Trial Chamber found that Gvero did not have as much authority as the Prosecution alleged, noting that he “was limited in what he could actually do in relation to the media, since the media outlets and resources of RS were controlled by state leadership”.<sup>741</sup> It also found that “maintaining contacts with UNPROFOR and international humanitarian organisations did not fall directly within Gvero’s responsibilities” and was instead reserved for higher-ranking officials.

402. However, it did find that “Gvero was entrusted with key functions related to external propaganda and interaction with international organisations, aimed at supporting the plan to forcibly transfer” the Muslim population from Srebrenica and Žepa.<sup>742</sup> Further, it found that after the attack on Srebrenica, Gvero “issued a statement to the media, concerning the attack on the enclave, in which he explained that the VRS’ combat activity was directed towards neutralising Muslim terrorists” rather than attacking the civilian population and UNPROFOR.<sup>743</sup> He noted that there was “no reason for the media and foreigners to get involved in the Muslim war propaganda”.<sup>744</sup>

 403. It then noted:

Considering that Gvero knew of the plan to take-over the Srebrenica enclave and to forcibly remove the civilian population, and the action which had been taken to implement it, [the above press release] was unquestionably a misleading press release. While of course the release of false information to the media and international authorities does not constitute a criminal act, the purpose of the release was not an innocent one. The only reasonable inference as to the goal behind this communiqué is that it was intended to mislead, in particular the international authorities concerned with protecting the enclave, with a view to delaying any action on their part which might thwart the VRS’ military efforts.<sup>745</sup>

404. Concerning NATO strikes against VRS positions after their attacks against Muslim civilians, the Trial Chamber noted that “Gvero formed part of a concerted response from the VRS to stop the bombing” by “falsely asserting that this was only the VRS responding to attacks”.<sup>746</sup> At this time, he knew that the Muslim population had fled to the UN Dutch

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741 Prosecutor v. Popović, *Judgement, volume II*, 10 June 2010, para. 1753 (other citations omitted). In fact, it was controlled by Radovan Karadžić’s daughter in Pale, Bosnia, *ibid.*

742 *Ibid.*, para. 1813 (other citations omitted).

743 *Ibid.*, para. 1814 (other citations omitted).


744 *Ibid.*

745 *Ibid.*, para. 1815 (other citations omitted).

746 *Ibid.*, para. 1816 (other citations omitted).

soldiers, but claimed that they had not and that NATO strikes against the VRS would be attacks against the Muslim civilians. The Trial Chamber concluded that Gvero's aim was to contribute to getting the NATO forces to stop attacking VRS troops. From its perspective, the Trial Chamber believed that the NATO forces were the last significant obstacle to the completion of the plan to take over the Srebrenica enclave.<sup>747</sup> It concluded that it was satisfied that "by disseminating false information and issuing a serious threat [to NATO forces], whether effective or not in the end" Gvero made a significant contribution to the JCE.<sup>748</sup>

## **Prosecutor v. Mladić**

 **405.** Radko Mladić, former commander of the Bosnian Serb military, was also involved in information operations for the Bosnian Serbs. According to the evidence in the case against him, Mladić delivered false information about the crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organisations, the media and the public, thereby facilitating the commission of crimes.<sup>749</sup>

**406.** For example, John Wilson, one of the chief UN Military Observers<sup>750</sup> for UNPROFOR in Sarajevo, testified that when he spoke to Mladić in Geneva "about a photograph of a malnourished man held at a Serb detention camp which was circulating in the media",<sup>751</sup> Mladić responded that "the photographer had picked a particularly skinny man and that the man's condition did not accurately represent the treatment of persons detained by the Serbs, who looked after their detainees and fed them properly".<sup>752</sup>

**407.** Further, during a meeting with ICRC representatives, Mladić accused the media for escalating the situation in Trnopolje when he stated that "the foreign media had raised tensions and turned the international community against the 'Serbs'".<sup>753</sup> Mladić contended that 'more than 5,000 'POWs' had been released from Manjača and Trnopolje camps'.<sup>754</sup> In reality, the Trial Chamber determined that "camp guards frequently and severely beat detainees and that camp authorities supplied insufficient amounts of food to the

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747 *Ibid.*, para. 1818 (other citations omitted).

748 *Ibid.*, paras 1819–1820 (other citations omitted).

749 Prosecutor v. Mladić, *Judgement, volume IV*, 22 November 2017, para. 4612 (other citations omitted).

750 General John Wilson "was the UN Chief Military Observer from March 1992 to December 1992", *Prosecution witnesses — Prosecution v. Ratko Mladić*, p. 12.

751 Prosecutor v. Mladić, *Judgement, volume IV*, 22 November 2017, para. 4504 (other citations omitted).

752 *Ibid.*


753 *Ibid.*, para. 4505 (other citations omitted).

754 *Ibid.*

detainees".<sup>755</sup> It was further found that "Mladić ordered that 'POW' camps be prepared for the visits of foreign journalists and members of the ICRC which facilitated [Commander Momir] Talić's follow-up action 'to make conditions in these camps satisfactory' before such visits".<sup>756</sup>

408. The Trial Chamber noted that "[i]n both instances, Mladić's words and actions were deliberately misleading as they were made in an attempt to portray the camp conditions in a more favourable light than what was actually the case".<sup>757</sup> Ultimately, the Trial Chamber concluded that the "deliberately misleading statements to members of the media and international community in relation to crimes committed on the ground",<sup>758</sup> made by Mladić, was an act which together with other acts or omissions,<sup>759</sup> amounted to a significant contribution to achieving "the objective of permanently removing the Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia-Herzegovina through persecution, extermination, murder, inhumane acts (forcible transfer), and deportation".<sup>760</sup>

409. Other evidence implicating Mladić included that he was "[e]ngaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes".<sup>761</sup>

 410. Other findings that implicated Mladić in efforts to conceal crime and frustrate investigations include a number of incidents of sniping and shelling of civilians in Sarajevo by the VRS/SRK.<sup>762</sup> The Trial Chamber found out that Mladić "denied involvement of any Serb forces and claimed that the shooting and shelling had come from the Bosnian-Muslim side when confronted by UNPROFOR".<sup>763</sup>

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755 *Ibid.*, para. 4512 (other citations omitted).

756 *Ibid.*

757 Prosecutor v. Mladić, *Judgement, volume IV*, 22 November 2017, para. 4512 (other citations omitted).

758 *Ibid.*, para. 4611 (other citations omitted).

759 The Trial Chamber determined that Mladić's acts and omissions, including that he "(vii) made deliberately misleading statements to members of the media and international community in relation to crimes committed on the ground" amounted to a significant contribution to the overarching JCE, *ibid.*, para. 4611 (other citations omitted).

760 *Ibid.*, para. 4612 (other citations omitted).

761 *Ibid.*, chapter 9.5.7 (other citations omitted).

762 *Ibid.*, para. 4829 (other citations omitted). SRK refers to the Sarajevo-Romanija Korpus or Sarajevo Romanija Corps, Prosecutor v. Mladić, *Judgement, volume I*, p. 15. See more about SRK and its structure, command and control in Prosecutor v. Ratko Mladić, *Judgement, volume I*, paras 221-233.

763 Prosecutor v. Mladić, *Judgement, volume IV*, 22 November 2017, para. 4830 (other citations omitted).

411. It further noted that:

In light of the Accused's position, and his words at the 16th Session of the Bosnian-Serb Assembly in relation to how to deal with the international public, namely to mislead them, the Trial Chamber finds that the Accused either knew that his statements were inaccurate, or that he had insufficient information at the time, yet still blamed the Bosnian Muslims. In either event, his words in relation to these incidents were deliberately misleading.<sup>764</sup>

412. The Trial Chamber concluded that providing "misleading information about crimes to representatives of the international community"<sup>765</sup> was an act which together with other acts or omissions<sup>766</sup> amounted to a significant contribution "to achieving the objective of spreading terror among the civilian population of Sarajevo through a campaign of sniping and shelling by way of committing the crimes of terror, unlawful attacks against civilians, and murder".<sup>767</sup>

413. Other charges against Mladić related to him "[e]ngaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and about the role that Serb Forces played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes".<sup>768</sup>

414. According to findings of the Trial Chamber, Mladić issued an order on 13 July 1995 that banned "the giving of information to the media and that entry of all uninvited individuals [...] to the combat operations zone in the general sector of Srebrenica and Žepa".<sup>769</sup> The Trial Chamber found that this was aimed at keeping "the media and international community from knowing what was happening in Srebrenica".<sup>770</sup>

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764 *Ibid.*

765 *Ibid.*, para. 4893 (other citations omitted).

766 Other acts or omissions included that Mladić: "(i) worked on establishing the SRK in May 1992; (ii) made personnel decisions in the SRK; (iii) commanded SRK units from 1992 to 1995 in various operations; (iv) ordered the production and use of modified air bombs; (v) procured military assistance from the VJ for the SRK; (vi) participated in policy discussions between 1992 and 1995 with members of the Bosnian-Serb government; (vii) participated in the dissemination of anti-Muslim and anti-Croat propaganda between September 1992 and June 1995; (viii) provided misleading information about crimes to representatives of the international community; (ix) failed to investigate crimes and/or punish members of the SRK who committed crimes; and (x) frequently ordered the restriction of humanitarian aid to Sarajevo", *ibid.*).

767 *Ibid* (other citations omitted).

768 *Ibid.*, chapter 9.7.4. (other citations omitted).

769 *Ibid.*, para. 5072 (other citations omitted).

770 *Ibid.*, para. 5081 (other citations omitted).



415. On 11 July 1995, Mladić stated that “the civilians were free to stay or go [...] [he] repeated this statement to a journalist as well as to the people gathered in Potočari on 12 July 1995 adding that if they decided to leave they would be taken to Kladanj or anywhere they liked”.<sup>771</sup> He also asserted that the “population present in Potočari was evacuated at its own request”.<sup>772</sup> The Trial Chamber concluded that “Mladić was deliberately misleading representatives of the international community, the public, and the media on these occasions”.<sup>773</sup>

416. On 12 July 1995, Mladić visited Potočari and addressed the people, telling them that “buses would arrive soon and bring them to Kladanj or wherever they wanted to be taken and that they were safe”,<sup>774</sup> and that “the men had to wait longer and be patient”.<sup>775</sup> Answering a journalist who asked what would happen to “several hundred Muslim civilians located in the newly liberated Srebrenica”, Mladić responded that:

representatives of the population had asked him for assistance to enable the ‘civilians’ who wanted to leave Srebrenica to go to territory controlled by the Muslims and Croats [...] transportation had been arranged for them along with food, water and medicine and that the ‘civilians’ and UNPROFOR were never the VRS’s targets. Women, children and the elderly would be the first to be evacuated on that day without any kind of force, along with anyone else who wanted to leave.<sup>776</sup>

417. Moreover, Serbian soldiers and Mladić were filmed distributing food and cigarettes to Bosnian Muslims in Potočari.<sup>777</sup> As soon as the observers left and the cameras were switched off, the Serbians took back the candies and beverages they had given to people.<sup>778</sup> Mladić ordered the head of the VRS Main Staff Information Service to sell the tape to “foreign agencies, with funds to be paid to the VRS Main Staff Financial Service”.<sup>779</sup> The Trial Chamber found out that “Mladić’s order regarding the selling of the videotape of the distribution of food and water to foreign agencies was meant to deliberately mislead the international community”.<sup>780</sup>

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771 *Ibid.*, para. 5082 (other citations omitted).

772 *Ibid.*, para. 5082 (other citations omitted).

773 *Ibid.*, para. 5082 (other citations omitted).

774 *Ibid.*, para. 5073 (other citations omitted).

775 *Ibid.*

776 *Ibid.*

777 *Ibid.*, para. 5074 (other citations omitted).

778 *Ibid.*

779 *Ibid.*

780 *Ibid.*, para. 5083 (other citations omitted).

418. In an 13 August 1995 interview with CNN, Mladić was asked “where the Muslims from Srebrenica who disappeared while fighting the Serbs were”.<sup>781</sup> He answered that “most had gotten through to Muslim territory and that a small part of the group had surrendered and were under their control and had been registered, or would be registered by the ICRC”.<sup>782</sup> He denied that any had been executed, claiming that mass graves were for people “who were killed in battle [and] were, for hygienic reasons, put ‘in the proper place’ until their remains could be exchanged”.<sup>783</sup>

419. The Trial Chamber noted that “Mladić’s words and actions during these occasions were deliberately misleading as they did not reflect the reality of the fate of many Bosnian Muslims of Srebrenica of which Mladić was aware”.<sup>784</sup> By providing such misleading information about crimes committed by Bosnian Serb forces, his actions amounted to a significant contribution “to achieving the objective of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica by way of committing the crimes of persecution, inhumane acts (forcible transfer), genocide, extermination, and murder”.<sup>785</sup>

## **Prosecutor v. Karadžić**

420. Radovan Karadžić was a Bosnian Serb politician and founding member of the Serb Democratic Party (SDS). He “served as its President from 12 July 1990 to 19 July 1996”.<sup>786</sup> From 17 December 1992, he was “a sole President of the Republika Srpska (RS) and Supreme Commander of the RS armed forces”.<sup>787</sup>

421. Karadžić was accused of participation in four different JCEs. This included an overarching JCE that lasted from at least October 1991 to 30 November 1995. The alleged objective of this JCE was to “permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory in Bosnia and Herzegovina (BiH) through the crimes charged therein”.<sup>788</sup>

422. In relation to his contribution to the JCE, the Trial Chamber examined Karadžić’s situation and made certain findings relating to information operations during conflict.

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781 *Ibid.*

782 *Ibid.*, para. 5079 (other citations omitted).

783 *Ibid.*

784 *Ibid.*, para. 5084 (other citations omitted).

785 *Ibid.*, para. 5098 (other citations omitted).

786 *Prosecutor v. Karadžić, Judgement, volume I*, 24 March 2016, para. 2 (other citations omitted).

787 *Ibid.*

788 *Ibid.*, para. 4 (other citations omitted).

First, “he minimised the extent of criminal activity in the Bosnian municipalities when speaking to the international media, negotiators, and to the public”.<sup>789</sup> Further, he “shifted blame for the crimes away from the Bosnian Serbs. For example, he often stated that: (i) his interlocutors had been misinformed; (ii) their sources were biased; (iii) crimes and terrible things happened historically and were continuing to happen to Bosnian Serbs as well; (iv) everybody is guilty; (v) he had warned that the declarations of BiH independence would provoke a terrible war; and (vi) the international community was responsible. In addition, Bosnian Serb leaders when confronted with allegations of rape and expulsion of Bosnian Muslims sometimes would also suggest that these abuses had been committed by Bosnian Muslims who were masquerading as Serb soldiers but did not deny these crimes were happening”.<sup>790</sup>

423. In addition to the above, the Trial Chamber also found that Karadžić “boasted to the Bosnian Serb Assembly about the proper conduct of the Serb Forces, when he knew it was not true”.<sup>791</sup> On 2 April 1993, “the Accused stated that the UN could present evidence of war crimes for the RS to investigate and prosecute matters itself, and that their army could never have committed crimes”.<sup>792</sup>

424. The Trial Chamber concluded that “the Accused minimised what he knew about criminal activity committed by Serb Forces and misled international interlocutors and the public with respect to that activity in Bosnian Serb claimed territory in the Municipalities”.<sup>793</sup>

425. As to the dissemination of propaganda, the Trial Chamber found that Karadžić was active in presenting Croats and Bosnians “as the historic enemies of the Serbs”.<sup>794</sup> Such speech and statements “went beyond mere rhetoric and formed a core element in the politics and plans developed by the Accused and the Bosnian Serb leadership”.<sup>795</sup> The ideology was eventually used as a justification to create ethnically homogenous entities in BiH and to decrease the number of Bosnian Muslims and Bosnian Croats who remained in the Bosnian Serb state.<sup>796</sup>

426. Regarding the dissemination of misleading information, the Trial Chamber concluded that Karadžić:

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789 Prosecutor v. Karadžić, *Judgement, volume II*, 24 March 2016, para. 3376 (other citations omitted).

790 *Ibid.*, para. 3377 (other citations omitted).

791 *Ibid.*, para. 3378 (other citations omitted).

792 *Ibid.*, para. 3379 (other citations omitted).

793 *Ibid.*, para. 3381 (other citations omitted).

794 *Ibid.*, paras 3485–3488 (other citations omitted).

795 *Ibid.*, para 3487 (other citations omitted).

796 *Ibid.*

Provided misleading information to representatives of international organisations, the public, and to the media in relation to these crimes. He covered up, for instance, the severity of the conditions in detention

facilities, and he deflated criticism expressed by internationals in relation to claims of “ethnic cleansings” by claiming that non-Serbs were leaving “out of fear”.<sup>797</sup>

427. The Chamber found “a clear disjuncture between the manner in which the Accused defended the actions of the Bosnian Serbs in international settings and press conferences and the reality on the ground, of which he was fully aware”.<sup>798</sup> Further, it found that at the same time he learned about the crimes committed against non-Serbs and “not taking sufficient steps to prevent or punish them, the Accused was providing misleading information to international observers on the ground and the media”.<sup>799</sup>

428. By his denials of crimes being committed, the Trial Chamber found that Karadžić “created an environment in which Bosnian Serbs could continue to commit the crimes through which the common purpose of the Overarching JCE was implemented”.<sup>800</sup> Further, it found that “the Accused [...] promot[ed] propaganda [that established] the institutions used to carry out the objective of the common plan, and [created] a climate of impunity for criminal acts committed against non-Serbs”.<sup>801</sup>

## *Prosecutor v. Đorđević*

429. Vlastimir Đorđević’s case at the ICTY also involved an allegation that concealing the bodies of victims killed in Kosovo constituted participation in an alleged JCE.<sup>802</sup> The Prosecution claimed that “in furtherance of the JCE, during the Indictment period, the Bosnian Police (MUP) systematically concealed the bodies of the Kosovo Albanian civilians killed in Kosovo by Serbian forces” by frequently transporting them “from where they were

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797 Prosecutor v. Radovan Karadžić, [Judgement, Volume II](#), 24 March 2016, paras 3503 (other citations omitted).

798 *Ibid.*, para. 3503 (other citations omitted).

799 *Ibid.*, para. 3504 (other citations omitted).

800 *Ibid.*, para. 3504 (other citations omitted).

801 *Ibid.*, para. 3514 (other citations omitted).

802 Prosecutor v. Đorđević, [Judgement](#), 23 February 2011, para. 1262 (other citations omitted). The ICTY indictment against Vlastimir Đorđević alleged his involvement in crimes against Kosovo Albanians by Serbian forces in 1999. These crimes included: i) the systematic shelling of towns and villages; ii) the burning of homes and farms; iii) the murder of over 800 Kosovo Albanians; iv) damage and destruction of cultural and religious institutions; and v) sexual assault of women. This conduct resulted in the deportation of approximately 800,000 Kosovo Albanians. Prosecutor v. Đorđević, [Judgement summary for Vlastimir Đorđević](#), 25 February 2011.

killed, temporarily hidden in local graves, subsequently disinterred and transported to large mass grave sites in Serbia proper".<sup>803</sup>

430. The Trial Chamber further discussed whether efforts to conceal crimes against Kosovo Albanian civilians was a part of the common plan of the JCE,<sup>804</sup> examining, in particular, the paucity of investigations taking place and other techniques enacted to obstruct investigations.<sup>805</sup>

431. In its Judgement, the Trial Chamber noted that "a pattern of excessive use of force by the Serbian forces in Kosovo and the absence of action to investigate and sanction the perpetrators of crimes committed against Kosovo Albanians"<sup>806</sup> was present during the events from 1998 to the first half of 1999.<sup>807</sup> Further, the Trial Chamber concluded that the MUP and Yugoslavian Army (VJ) were making efforts to conceal crimes, and that "there was a conspiracy of silence at all levels of [the Serbian authorities], as is evidenced from the almost complete absence of any reports, records or minutes of meetings [...]"<sup>808</sup> at all levels.<sup>809</sup> The Chamber also found that "either all written records have been destroyed, or there was a very determined effort at all levels to avoid written records so that there could be nothing on which international investigations could proceed, or both".<sup>810</sup>

432. As to the crime of murder, the Trial Chamber further noted:

With respect to the crime of murder [...] the Chamber is satisfied that large-scale killing of men and boys of Albanian ethnicity was intended in the common plan. This was a central element of the campaign of terror. [...] In some cases women and children were also killed as an element of the campaign of terror to cause Kosovo Albanians to leave Kosovo. In some cases, entire families, including women and children were killed to set an example for the local Kosovo Albanian population by showing what would happen if they did not leave their villages, towns or cities, or simply to create an atmosphere of terror to induce the Kosovo Albanians to leave.<sup>811</sup>

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803 Prosecutor v. Đorđević, [Judgement](#), 23 February 2011, para. 1262 (other citations omitted).

804 *Ibid.*, para. 2081 (other citations omitted).

805 *Ibid.*

806 *Ibid.*, para. 2083 (other citations omitted).

807 *Ibid.*

808 *Ibid.*, para. 2108 (other citations omitted).

809 *Ibid.*

810 *Ibid.*

811 *Ibid.*, para. 2137 (other citations omitted).

433. Further, the Trial Chamber concluded that it “was satisfied that the Accused played a leading role in the MUP efforts to conceal the crime of murder of Kosovo Albanian civilians and others taking no active part in the hostilities during the Indictment period”.<sup>812</sup> Also, after crimes were perpetrated, he “gave specific orders to preclude judicial investigations”.<sup>813</sup> Although it was “his duty under the law to have the emergence of the bodies properly investigated, the role the Accused played ensured that the bodies were not the subject of investigation at the time”.<sup>814</sup> It continued that it “was also satisfied that despite being aware of crimes committed by MUP forces in Kosovo, at no time during the Indictment period, or thereafter while he remained the head of the RJB did the Accused take any measures to ensure the investigation of the crimes or the punishment of those involved in their commission”.<sup>815</sup>

434. The Trial Chamber found:

The Chamber is satisfied that the Accused’s conduct, as described in the summary of findings above, contributed significantly to the campaign of terror and extreme violence by Serbian forces against Kosovo Albanians which had the purpose of changing the demographic composition of Kosovo. Considering its earlier findings that the Accused had knowledge of crimes committed by Serbian forces in Kosovo as established in this Judgement, the Chamber is satisfied that when, *inter alia*, he acted to conceal crimes of Serbian forces in Kosovo, when he deployed paramilitary units to Kosovo, and when he failed to ensure the investigation and sanction of MUP personnel for crimes in Kosovo the Accused acted with the requisite intent.<sup>816</sup>

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812 *Ibid.*, para. 2156 (other citations omitted).

813 *Ibid.*

814 *Ibid.*

815 *Ibid.*, para. 2157 (other citations omitted).

816 *Ibid.*, para. 2158 (other citations omitted).

## PART V:

# CHARGING INFORMATION ALIBIS AS INTERNATIONAL CRIMES AT THE INTERNATIONAL CRIMINAL COURT

435. Part V presents a blueprint for investigating and prosecuting individuals who criminally coordinate information operations and disseminate related content alongside military actions during an armed conflict. While this framework can be applied across various investigative contexts, the report specifically outlines key considerations for pursuing charges against Russian individuals actively involved in planning and executing such operations within the scope of Russia's ongoing war of aggression against Ukraine.

436. The following analysis outlines four key investigative steps that ought to be taken into account when determining whether to bring charges against individuals responsible for coordinating and disseminating information alibis that materially contribute to the planning, execution and cover-up of international crimes. At each investigative step, the use of an information alibi to falsely accuse the Ukrainian army of destroying the Kakhovka dam will be examined.

## Step 1: Identify the Perpetration of an International Crime

437. The initial step necessitates ascertaining whether a crime has indeed occurred. In the absence of a criminal offence (or attempted offence), it is much more likely that the information operation associated with the military operation in question will be deemed lawful, thereby obviating the need for further investigation, even in instances where an information alibi and other forms of disinformation have been utilised as components of an overarching strategy.



438. While the 6 June 2023 attack on the Kakhovka dam appears to constitute a potential crime (principally a crime under Article 7(1)(d) of the Rome Statute for the forcible transfer of Ukrainian civilians), a thorough investigation is necessary to confirm the presence of all the constituent elements of an international crime. Despite disinformation campaigns designed to deflect blame — before, during and after the attack — compelling evidence points towards Russian culpability.<sup>817</sup>

439. A comprehensive on-site investigation is impossible due to the dam's location in Russian-occupied territory and in an active conflict zone. Further complications include the absence of independent reporting on the matter and the near guarantee that Russian authorities will tamper with the crime scene to obscure any culpability. Despite these limitations, remote investigations and analyses conducted by organisations like the OSCE and the UN strongly indicate Russian responsibility.<sup>818</sup> Given that the Kakhovka dam was destroyed by an explosion, an accidental cause is highly unlikely. This occurred while the dam and its surrounding area were controlled by Russian forces, which have occupied the region since February 2022.<sup>819</sup>

440. The intentional destruction of the Kakhovka dam, a civilian object under international law, may constitute a war crime under Article 8(2)(b)(ii) or Article 8(2)(b)(iv) of the Rome Statute.<sup>820</sup> This provision prohibits intentionally directing attacks against civilian objects. Given the dam's primary function of hydroelectric power generation, irrigation and water supply, it ought to be considered a civilian object (albeit with limited military usage). The attack's consequences, including widespread flooding, displacement of civilians, environmental damage and extensive damage to civilian infrastructure, further underscore the potential for this act to be classified as a war crime.

441. Further, the emergency, coerced evacuation of civilians may meet the threshold of "forcible" displacement as defined under international law. The displacement of civilians subsequent to the dam's destruction may constitute a crime against humanity pursuant to Article 7(1)(d) or a war crime under Article 8(2)(a)(vii) of the Rome Statute.

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817 See *supra*.

818 See *supra*.

819 OSCE, ODIHR, *Fourth interim report on reported violations of international humanitarian law and international human rights law in Ukraine*, 12 December 2023, p. 10; Government of Ukraine, United Nations, *Post-disaster needs assessment, 2023 Kakhovka dam disaster, Ukraine*, October 2023, p. 13; OHCHR, *Report on the human rights situation in Ukraine 1 February to 31 July 2023*, 2 October 2023, pp. 8–9.

820 See also ICC, *Situation in Ukraine: ICC judges issue arrest warrants against Sergei Ivanovich Kobylash and Viktor Nikolayevich Sokolov*, 5 March 2024.

## Step 2: Identify Russian Individuals and Groups Spreading Information Alibis

442. Understanding the complex structure of Russian information operations is crucial to identifying individuals responsible for disseminating propaganda more broadly, as well as disinformation operations and “information alibis” more specifically. However, identifying specific perpetrators involved in Russia’s information operations may be challenging. For example, identifying those related to the attack on the Kakhovka Dam presents significant investigative challenges. The inherently opaque nature of such operations, combined with the complexities of attributing individual responsibility within coordinated disinformation campaigns, makes precise identification difficult at this early stage. This, in turn, complicates efforts to fully identify the structure of the information operation itself, since understanding the system depends in part on knowing who participates in it. Future research and detailed investigations will therefore be essential to clarify individual roles and responsibilities with precision.

443. For the moment, however, this section outlines the general three-pillar structure — comprising official state narratives, proxy or government-affiliated media channels, and social media campaigns — that consistently contributes to Russian information operations in conflict settings. This framework serves as a strong departure point for analysis, offering a basis for examining how these individuals interact to strategise and disseminate disinformation, including information alibis. Additionally, the analysis will present available information regarding specific actors implicated in disseminating disinformation surrounding the attack on the Kakhovka Dam, offering a foundation for later accountability efforts.

### Identification of the General Structure and Individuals Involved in Russian Information Operations

444. The first pillar of Russian information operations during conflict includes Russian senior political leadership, headed by Russian President Vladimir Putin and his nearest allies and advisors, including but not limited to such figures as Sergei Kiriyenko,<sup>821</sup> Alexei

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821 Sergei Kiriyenko is reportedly the curator of the Kremlin’s domestic policy bloc, officially holding the position of the First Deputy Chief of Staff in Presidential Administration. Kiriyenko and his subordinates oversee the internet in Russia, alongside the curator of the Kremlin’s information bloc, Alexey Gromov. See Pertsev A., [How Kiriyenko is winning Putin’s ear](#), 23 March 2023.

Gromov<sup>822</sup> and Sofia Zakharova.<sup>823</sup> These persons are identified as “curators” of Russia’s propaganda machine and main executors of Putin’s direct orders.<sup>824</sup> Alexey Gromov, Putin’s former press secretary, oversees traditional media (i.e., television). Sergei Kiriyeenko oversees new media (i.e., the internet), while his son Vladimir Kiriyeenko is CEO of Russia’s most important digital holding company called ‘VK’.<sup>825</sup>

445. According to the 2024 US District Court for the Eastern District of Pennsylvania affidavit,<sup>826</sup> both Sergei Kiriyeenko and Sofia Zakharova reportedly assumed leadership roles in curating the ‘Doppelgänger’ campaign<sup>827</sup> aimed at creating fakes about Ukraine at least from 2022 to 2024, actively liaising with non-state actors such as ANO Dialog and Social Design Agency (SDA, sometimes referred to as ASD).<sup>828</sup>

446. The second pillar comprises representatives from key Russian executive bodies. Firstly, the Russian Ministry of Defence (MoD) is actively engaged in the planning of military

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822 Gromov is a “key manager of the Putin government’s control over what gets said — or not — in Russia’s major print and broadcast media. He is also a co-creator of RT [Russia today], the international propaganda network formerly known as Russia Today”, Rubin M., Zholobova M., Badanin R., [The lord of the puppets: a portrait of Alexey Gromov, head of Russian state propaganda](#), 5 June 2019. Alexey Kovalev, an independent Russian journalist, pointed out that “Gromov is largely responsible for micromanaging the ‘legacy’ media such as national news agencies and TV. [...] This includes not only ensuring that all Kremlin-controlled media closely follow the talking points distributed by Gromov during his weekly meetings with top editors and media managers, but also seeing that undesirable information is suppressed”. See Annex 2: expert statement from Alexey Kovalev, pp. 14–15.

823 According to the US affidavit, Sofia Zakharova is a Russian Presidential Administration spokesperson who has also focused on information technology and communications infrastructure. Zakharova has also regularly taken part in conferences and events dedicated to artificial intelligence. See United States District Court for the Eastern District of Pennsylvania, [Affidavit in support of a seizure warrant](#), 9 April 2024, para. 54. During the meetings of the Council of Europe’s Ad Hoc Committee on Artificial Intelligence (CAHAI), she was referred to as “Head of the Department, Presidential Directorate for the Development of ICT and Communication Infrastructure”, CAHAI, [Abridged meeting report and list of decisions](#), 7 July 2021, p. 15. According to Matthew Kupfer, Sofia Zakharova is “the coordinator and ‘brain’ of the European and Ukrainian disinformation campaign”, Kupfer M., [Investigation: who is Ilya Gambashidze, the man the US government accuses of running a Kremlin disinformation campaign?](#), 9 July 2024. See Annex 2: expert statement from Alexey Kovalev, p. 13.

824 See generally Annex 1: expert statement from Keir Giles, pp. 8, 15–16, 30.

825 Zygar M., [All the autocrat’s men: the court politics of Putin’s inner circle](#), March 2024, p. 8.

826 An affidavit is a sworn statement a person makes before a notary or officer of the court outside of the court asserting that certain facts are true to the best of that person’s knowledge. In the present case, such an affidavit was filed to the U.S. District Court for the Eastern District of Pennsylvania by the FBI agent who in the 277-page dossier detailed internal documents, web domains and online accounts used in the Russia-sponsored “Doppelgänger” influence campaign. As a result, based on the evidence enlisted in the affidavit and the subsequent arrest warrant issued by the U.S. District Court for the Eastern District of Pennsylvania, the U.S. Department of Justice seized 32 domains, including those belonging to ‘War on fakes’ resources. See U.S. Department of Justice, [Justice department disrupts covert Russian government-sponsored foreign malign influence operation targeting audiences in the United States and elsewhere](#), 4 September 2024; Pompilio K., [Justice dept. disrupts Russian influence campaign, indicts Russian nationals](#), 4 September 2024.

827 “Doppelgänger” is a sophisticated Russian influence campaign operated since at least May 2022 by the Russian Social Design Agency and Structura National Technologies. It promotes pro-Russian narratives and infiltrates Europe’s media landscape by disseminating disinformation through a network of cloned websites, fake articles and social media manipulation through mimicking legitimate media, news outlets, governments, and think tanks, such as Bild, The Guardian, RBC Ukraine and many others. See USCYBERCOM Public Affairs, [Russian disinformation campaign “Doppelgänger” unmasked: a web of deception](#), 3 September 2024.

828 United States District Court for the Eastern District of Pennsylvania, [Affidavit in support of a seizure warrant](#), 9 April 2024, para. 54.

operations. The Russian MoD spokesperson, Igor Konashenkov,<sup>829</sup> officially communicates the ministry position, which denies any involvement in attacks that might constitute war crimes.<sup>830</sup> Secondly, the Russian Ministry of Foreign Affairs (MFA) plays an important role within this framework. Prominent figures in the MFA includes Foreign Minister Sergey Lavrov,<sup>831</sup> MFA spokeswoman Maria Zakharova,<sup>832</sup> and representatives from the Russian Permanent Mission to the UN, Vassily Nebenzia<sup>833</sup> and Dmitry Polyanskiy.<sup>834</sup> These leaders disseminate information, including fabricated alibis, to promote narratives that enhance Russia's reputation or damage the reputations of other states internationally. For example, Keir Giles notes that "a persistent Russian disinformation campaign alleges that the United States has conducted biological weapons research in Ukraine, and before that in Georgia. This campaign provides an example of Russian diplomats acting as an integral part of a coordinated disinformation operation".<sup>835</sup>

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829 Igor Konashenkov is Chief of the Directorate of Media Service and Information of the Ministry of Defence of the Russian Federation, Major-General, Ministry of Defence of the Russian Federation Leadership, [Information](#), archived 31 August 2022. According to Alexey Kovalev, Igor Konashenkov "is famous for his outlandish statements about the Russian army's progress in Ukraine — such as claims that the Russian army has destroyed more Ukrainian military equipment than Ukraine has ever possessed. However, it is not clear whether Konashenkov is himself the author of these claims and conspiracy theories or he, as a spokesman, simply transmits someone else's ideas,

Villarreal D., [Russian conspiracy theory says U.S. training birds to spread bio weapons](#), 11 March 2022; Meduza, [According to Russia's press releases, they've destroyed more military hardware than Ukraine ever had: Proekt's journalists analyzed the Russian Defense Ministry's reports](#), 30 June 2022; Annex 2: expert statement from Alexey Kovalev, p. 15.

830 Head of the Department of Information and Communications of the Ministry of Defence of the Russian Federation. According to the EU Council implementing decision, Konashenkov in his position of Chief Spokesman for the Russian Ministry of Defence has been responsible for manipulating information and spreading disinformation about Russian military actions in Ukraine. See EU Council, [Regulation 2024/849 implementing Regulation \(EU\) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine](#), 12 March 2024, p. 35.

831 According to the Anti-Corruption Foundation (ACF) list of war enablers, Lavrov "manages a state body of the Russian Federation, which supports or implements actions or policies that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine." See Open Sanctions, [Sergey Viktorovich Lavrov](#), 25 December 2024.

832 Director of the Information and Press Department of the Ministry of Foreign Affairs of the Russian Federation; MFA spokesperson since 2015. According to the [sanctions portal](#), Zakharova is "a central figure of the government propaganda... she promoted the deployment of Russian forces in Ukraine." See also Annex 2: expert statement from Alexey Kovalev, pp. 12–13.

833 Vassily Nebenzia has been Russia's ambassador to the United Nations since 2017. Since the full-scale invasion, Nebenzia has "relentlessly pushed Putin's narrative" such as Russia's claim that Ukraine needs "denazification" or that the Kyiv "regime" is a terrorist one. Fillion S., [Putin's foot soldier in New York: How Vassily Nebenzia fought on after Russia's Invasion of Ukraine](#), 23 May 2024. See Annex 2: expert statement from Alexey Kovalev, p. 12.

834 Russia's First Deputy Permanent Representative to the UN. Polyanskiy also took an active part in crafting information alibis during the full-scale invasion. For example, he falsely accused the 'Western-Ukrainian fake news factory' of faking and fabricating the images of Bucha massacre "in the best traditions of the notorious British-Syrian 'White Helmets'". See TASS, [Evidence of staged events in Bucha is multiplying — Russian Deputy Envoy to UN](#), 11 April 2022. According to Alexey Kovalev, Polyanskiy "is primarily known for employing Western pundits to disseminate the Kremlin's narratives via proxy. One of the most notable examples of such cooperation is Polyanskiy's relationship with Grayzone, a pro-Kremlin conspiracy blog whose staff and contributors are mostly RT/Sputnik alumni", Hamad S.C. & Katerji O., [Did a Kremlin pilgrimage cause Alternet blogger's Damascus conversion?](#), 22 August 2017; Annex 2: expert statement from Alexey Kovalev, p. 12.

835 See examples of the involvement of MFA and Russian Mission to UN in the process of dissemination of Russian propaganda in Annex 1: expert statement from Keir Giles, pp. 19, 20, 22, 26–27.

447. In another case, Russian MFA's spokeswoman Maria Zakharova was the first official to spread false information relying on "a video with the BBC's logo [first shared by a troll account on X] about an alleged 'Reporters without Borders' study that found 1,000 cases of Ukrainian soldiers showing sympathy for Nazism". This false information was ultimately shared by the Russian embassies, posted on the MFA website, shared by at least one presenter on Channel One and by military blogger Sergei Kolyasnikov.<sup>836</sup>

448. The involvement of Russian executive bodies in influence operations was also alleged in the September 2024 indictment filed by prosecutors in its case against Channel One host Dimitri Simes.<sup>837</sup> According to the indictment,<sup>838</sup> Simes appears to have received instructions on issues related to the Russia-Ukraine war covered in his TV show from the MFA, Russian Security Council, General Staff, and even reportedly had personal conversations with President Putin.<sup>839</sup> While not certain, this may further substantiate the involvement of Russian executive bodies in the structure and hierarchy of Russian information operations during armed conflict.

449. The third pillar includes non-state actors who are either involved in disseminating false narratives, or have crafted some on their own thanks to the decentralised nature of the information operations hierarchy and structure. Some of these actors are directly connected to the Russian government, while other operators include TV propagandists and hosts, representatives of media outlets and administrators of Telegram channels and other social media platforms.

450. One amongst many in the third pillar is ANO Dialog,<sup>840</sup> a pseudo-NGO and barely concealed government shill that mimics government propaganda. Reportedly in direct

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836 See Reporters without Borders, [How Russia used a fake video about RSF as war propaganda](#), 13 September 2024.

837 Dimitri Simes was born in the USSR and moved to the US in the 1970s. He formerly headed the Center for National Interest, a foreign policy think tank that has previously advocated for improving relations between the US and Russia. In late 2022, he was granted Russian citizenship and relocated to Moscow, where he served as a moderator of the Moscow-based show "Big Game" on Channel One Russia. See Lynch S., [US charges Russian TV contributor Dimitri Simes with sanctions violations](#), 5 September 2024.

Keir Giles adds that in his TV show, Simes likened Ukraine to a "scorpion" alleging its penchant for terrorism in the absence of success on the battlefield; and assumed that the "collective West" is "at war with Russia, as it prosecutes a hidden act of aggression against Russia on a very large scale". Simes is now a regular on Channel One's *Voskresnoye Vremya* (Sunday Time), its weekly primetime news review. Annex 1: expert statement from Keir Giles, p. 30.

838 Based on the personal correspondence cited in the United States District Court of Columbia, [Indictment](#), 9 April 2024.

839 The indictment does not mention incidents related to this report. However, in paragraphs 26–32, it is mentioned that, for example, Simes has received instructions from unnamed Russian interlocutors on how to cover the Ukrainian attack on Crimean (Kerch) bridge. United States District Court of Columbia, [Indictment](#), 9 April 2024.

840 According to its website, ANO Dialog is a "nationwide interagency center of expertise in the field of internet communications and serves as a digital communication operator between the government and society. It was established in 2019". See ANO Dialog, [About](#) [translated from Russian].

contact with Sergei Kiriyenko from the Presidential Administration<sup>841</sup> and the MoD, ANO Dialogue has emerged as a principal propagandist 'outside' government. For example, Tikhon Makarov is the Deputy Director of ANO Dialog and responsible for both liaising with the MoD and curating the fact-checking project called "War on Fakes".<sup>842</sup>

451. ANO Dialog<sup>843</sup> is headed by journalist Vladimir Tabak<sup>844</sup> Within a few months of the invasion of Ukraine, this group began creating falsehoods about Ukraine and Ukrainian people, aimed at justifying Russia's atrocities.<sup>845</sup>

452. According to Keir Giles, the Meduza investigation established that "ANO Dialog [...] used a 'vast network of popular Telegram channels' and more than 100,000 social media pages to spread fake news designed to discredit and undermine the government of Ukraine. The investigation traced the evolution of the organisation's activities along the path of pro-government propaganda and profiled its key personnel, surmising that it amounts to a 'wartime disinformation' machine".<sup>846</sup>

453. The organisation's regional governance centres (RGC) are a key part of ANO Dialog. According to Keir Giles, the Meduza investigation concluded that they are "central to its mission".<sup>847</sup> He stated that "one of the main jobs of Dialog's RGCs, according to a source close to the Putin administration, is to promote information favorable to the government in the traditional media, on social networks, and on Telegram".<sup>848</sup>

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841 ANO Dialog is allegedly acting under orders and instructions from Sergei Kiriyenko. For example, during the "Doppelgänger" campaign, ANO Dialog was supposedly acting under direction and control of Kiriyenko, "focused on creating original brands [...] to disseminate Russian propaganda", United States of America v. Certain Domains, *Affidavit in support of seizure warrant*, 9 April 2024, para.43. See also Pertsev A., Political bloc without borders and boundaries, 8 March 2024; Meduza, State-controlled 'autonomy' How the Kremlin uses 'independent organizations' to do its propaganda dirty work, 26 February 2024.

842 Meduza, [Russia's sprawling wartime fake news machine: meet the organization behind the Kremlin's disinformation about Ukraine](#), 25 September 2023; Annex 2: expert statement from Alexey Kovalev, pp. 2,15.

843 According to Keir Giles "[I]n September 2024, the United States announced sanctions against the managing director of the ANO Dialog organisation, on the grounds that it had been distributing deep fakes, disinformation and counterfeit documents at the direction of the Russian state.", US Department of the Treasury, [Treasury takes action as part of a U.S. government response to Russia's foreign malign influence operations](#), 4 September 2024; Annex 1: expert statement from Keir Giles, pp. 15–16.

844 Vladimir Tabak became a Director General of ANO Dialog and ANO Dialog Regions on 1 December 2021. From 2019 to 2021 he served as a deputy of Director General of ANO Dialog Roscongress, [Vladimir Tabak](#).

845 After the start of full-scale invasion in Ukraine, ANO Dialog concentrated on crafting disinformation about Ukraine. See Annex 1: expert statement from Keir Giles, p. 15; Meduza, [Russia's sprawling wartime fake news machine: meet the organization behind the Kremlin's disinformation about Ukraine](#), 25 September 2023.

846 *Ibid.*; Annex 1: Expert Statement from Keir Giles, pp. 16–17.

847 *Ibid.*; Annex 1: Expert Statement from Keir Giles, p. 16.

848 *Ibid.*; Annex 1: Expert Statement from Keir Giles, p. 17.



454. An ANO Dialog employee named Timofey Vasilyev created the pseudo-fact checking resource named 'War on Fakes'.<sup>849</sup> which produces quick counter-narratives designed to be appealing to both pro-Russia followers and global audiences inclined to be skeptical of traditional news sources. The method employed by War on Fakes is a novel disinformation technique emulating independent open-source intelligence investigations. Their posts debunking atrocities in Ukraine have acquired widespread popularity among pro-Kremlin Telegram channels, as they are intended to shift the blame and responsibility for civilian harm in Ukraine away from Russia. Their findings are also often based on official statements by the Russian Ministry of Defense or information from other pro-Kremlin news sources.<sup>850</sup> Posts on the War on Fakes Telegram channel and content from its website are regularly shared by official Russian government accounts, including the MoD,<sup>851</sup> Russian governmental officials<sup>852</sup> and embassies around the world<sup>853</sup>, as well as top media personalities like Margarita Simonyan.<sup>854</sup> The channel has also frequently disputed Russia's responsibility for bombings, sharing "evidence" shifting the blame on Ukraine. As noted, the goal is not to convince large audiences, but rather to seed doubt and make it seem impossible to know what's really happening on the ground.<sup>855</sup>

455. According to Alexey Kovalev, the Russian state exerts its hierarchical influence on third pillar groups in the media without any explicit political message. For example, nominally private companies controlled by Putin loyalists, such as National Media Group, and groups like ANO Dialog and the Internet Development Institute (IID)<sup>856</sup> distribute billions of rubles annually in grants and lend significant organisational support to an array of projects.

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- 849 According to the investigation of IMI, "War on Fakes" was created several hours after the Russian full-scale invasion of Ukraine on 24 February 2022. The main account, "War on Fakes", is in the center of the network of the related channels (some of them are devoted to Russian regions, such as War on Fakes Rostov, or War on Fakes Belgorod, while others are designed to target Ukraine and Belarus). There are at least 26 related War on Fakes Telegram channels, which were also created in the first weeks after the start of the full-scale invasion and in the first two weeks alone "managed to garner 700,000 subscribers, publishing an average of 30 posts per day", Lazaruk K., "War on Fakes" and schizofascism. How Russia generates and spreads disinformation, 22 August 2022.
- 850 Yaromich K. & Solovyeva A., [Russian propaganda and attacks against Ukrainian civilian infrastructure](#), August 2023, p.
- 851 See for example repost of a message by War on Fakes by Russian MOD about mass civilian victims in Bucha, Russian Ministry of Defence, Telegram, 3 April 2022.
- 852 For example, Spokeswoman of the Russian MFA Maria Zakharova reposted a message by War on Fakes on 10 March 2022, alleging that information that Russian aviation targeted the Mariupol maternity hospital is fake. See Maria Zakharova, Telegram, 10 March 2022.
- 853 See for example Virginum, [RRN: a complex and persistent information manipulation campaign](#), 19 July 2023, p. 19.
- 854 For example, on 10 March 2022 Margarita Simonyan reposted an RT Russian post that referred to the War on Fakes, claiming that photos with pregnant women from Mariupol maternity hospital were fakes, Margarita Simonyan, Telegram, 10 March 2022.
- 855 Bergengruen V., [Unmasking the man behind one of Russia's most popular propaganda channels](#), 15 March 2023.
- 856 IID was created with support from the Russian presidential administration in 2015 and receives several billions of rubles from the Russian state each year. According to Open Sanctions data, the IID is "an essential element of the Kremlin's propaganda about the war in Ukraine and therefore supports and implements actions which undermine Ukraine's territorial integrity, sovereignty and independence". IID was included in the sanction list of the EU countries and Switzerland. See Open Sanctions, [Institute for Internet Development \(IID\)](#), 12 November 2024. See Annex 2: expert statement from Alexey Kovalev, p. 3.



456. The close ties between Russian pseudo-NGOs and key political leadership in conducting influence operations was revealed by the US in an affidavit published in September 2024. According to the FBI agent, the head of the 'Social Design Agency' (SDA),<sup>857</sup> Ilya Gambashidze,<sup>858</sup> took notes relating to at least 20 Russian Presidential Administration meetings.<sup>859</sup> The leaked documents, comprising thousands of files from SDA servers, correspond with the latest FBI files on Russian influence operations and reveal how the SDA operates as a centre for psychological warfare, undermining support for Ukraine by influencing public opinion. The leaked files include detailed reports on the thousands of fake comments made in various countries, along with instructions on how to craft such comments.<sup>860</sup>

457. Further, pro-war Telegram channels and military bloggers have emerged as new third pillar actors, forming a critical component of Russia's information operations ecosystem.<sup>861</sup> As indicated by Keir Giles, since the start of the full-scale invasion, "a new pro-war social media segment has arisen, which includes pro-war Telegram channels, so-called 'voyenkors' and so-called 'Z-bloggers'. The two terms are specifically Russian. The first, 'voyenkors' or 'voyenkory' as transliterated from Russian, translates as 'war correspondents'. The second, "'Z-bloggers', is applied to activists wholly supportive of the Russian war in Ukraine. They are named after insignia stylised as the letter Z, derived from tactical recognition markers

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857 According to Coline Chavane, threat research analyst at French cybersecurity company Sekoia.io, SDA acts "both as a coordinator of the various players involved in these disinformation campaigns, and as an operator, creating false content". See Seibt S., [Ilya Gambashidze: simple soldier of disinformation or king of Russia's trolls?](#), 28 February 2024.

According to Keir Giles, Meduza describes the aim of the SDA as an entity that "uses disinformation to discredit Ukraine, its top leadership and citizens, as well as the Western leaders who support it. At the same time, the agency promotes the interests of Russia and those European politicians who defend them", Meduza, [Russia's sprawling wartime fake news machine: meet the organization behind the Kremlin's disinformation about Ukraine](#), 25 September 2023; Annex 1: expert statement from Keir Giles, p. 17.

858 Ilya Gambashidze is a head of SDA, a digital marketing agency which creates fake news sites mimicking the real news outlets to mislead people and contribute to reducing Western support for Ukraine. In March 2024, the US Treasury Department imposed sanctions on Gambashidze. See Kupfer M., [Investigation: who is Ilya Gambashidze, the man the US government accuses of running a Kremlin disinformation campaign?](#), 9 May 2024.

859 It is claimed that "Gambashidze took extensive notes documenting meetings between Kiriienko, SDA, Structura, Tupikin, ANO Dialog, members of the Russian government like Sofia Zakharova, and others involved in Doppelgänger. Gambashidze's notes include contact lists, staff lists, task or to-do lists, and potential ideas for malign foreign influence campaigns. Between April 2022 and April 2023, Gambashidze took notes related to at least 20 Russian Presidential Administration meetings", United States of America v. certain domains, [Affidavit in support of seizure warrant](#), 9 April 2024, para. 49.

Gambashidze's notes reveal that Sergey Kiriienko was also present during at least part of the meetings. Furthermore, to his opinions Gambashidze responded with phrases such as "well received", "need to work" or "the right thing to do", that support the allegation that SDA, Structura, Tupikin and ANO Dialog are acting, at least partially, under Kiriienko's instructions. See United States of America v. certain domains, [Affidavit in support of seizure warrant](#), 9 April 2024, para.51. See also Annex 2: expert statement from Alexey Kovalev, p. 13; Annex 1: expert statement from Keir Giles, p. 17.

860 Kupfer M., [Investigation: who is Ilya Gambashidze, the man the US government accuses of running a Kremlin disinformation campaign?](#), 9 May 2024.

861 On the emergence of military bloggers or "voyenkory", see Wanger A., [Return of the voyenkory: the military as a new opinion leader in Russia?](#), 15 August 2022.

used by Russia as its forces entered Ukraine”.<sup>862</sup> However, “not all of the ‘voyenkors’ are in strict terms Russian media war correspondents”; “the boundary between them and the Z-bloggers is blurred”.<sup>863</sup>

458. According to Alexey Kovalev, pro-war Telegram channels vary in popularity, from only a few dozen followers to millions of subscribers.<sup>864</sup> Keir Giles, Mark Krutov, and Sergey Dobrynin have estimated that there are around 10 million “voyenkors” and “Z-bloggers” in the Russian news media landscape,<sup>865</sup> including not just the “voyenkors” proper but also the channels run by volunteers and service personnel, among others”.<sup>866</sup>

459. As mentioned by Alexey Kovalev, pro-war Telegram channels are run by individuals collectively known as “voyenkory”, derived from the Russian words “voyenny korrespondent,” meaning “war reporter”. These persons profit from the war, celebrate it, downplay the severity of Russian losses and even openly cheer for war crimes. If they have one consistent criticism, it is that Russia is not waging as much war in Ukraine as they would like.<sup>867</sup> Additionally, their instant reaction to events on the ground allows them to respond in real time. However, to avoid the wrath of first pillar actors, they must eventually adopt the government’s position, as strict oversight remains in place. There are also public reports of meetings held between war correspondents and Putin, Defence Minister Sergei Shoigu, the Defence Ministry’s PR lead Igor Konashenkov, and other higher (military) officials. The Russian media Proekt observed that after these meetings, the invited reporters significantly toned down the commentary on their Telegram channels.<sup>868</sup> If these commentators “cross the line”, direct action will be taken to neutralise the threat.<sup>869</sup>

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862 Annex 1: expert statement from Keir Giles, p. 9.

863 Annex 1: expert statement from Keir Giles, p. 9; Krutov M. & Dobrynin S., “[They are being walked on.](#)” [How the Kremlin is devouring supporters of war](#), 11 October 2024 [translated from Russian].

864 Kovalev A., [Inside the world of Russian ‘war reporters’ demanding more blood than the Kremlin can deliver](#), 26 June 2023.

865 Among the popular pro-war Telegram channels mentioned by Keir Giles, are the following: (i) Operatsiya Z; Voyenkory russkoy vesny [Russian spring voenkors] (@RVvoenkor) > 1,300,000; Rybar (Mikhail Zvinchuk, @rybar) < 1,200,000; WarGonzo (Semyon Pegov, @wargonzo) < 1,100,000; Sladkov + (Aleksandr Sladkov, @Sladkov\_plus) < 1,000,000; Colonelcassad (Boris Rozhin, @boris\_rozhin) > 800,000; Poddubny |Z|O|V| edition (Yevgeniy Poddubnyy, @epoddubny) > 730,000; Orkestr Vagnera (Wagner’s orchestra, @orchestra\_w) > 720,000. See Annex 1: expert statement from Keir Giles, p. 10; [Voyenkory russkoy vesny \[Russian spring Voyenkors\]](#), Telegram; [Rybar](#), Telegram; [WarGonzo](#), Telegram; [Sladkov +](#), Telegram; [Colonelcassad](#), Telegram; [Poddubny |Z|O|V| edition](#), Telegram; [Orkestr Vagnera](#), Telegram.

866 Annex 1: expert statement from Keir Giles, p. 9; Krutov M. & Dobrynin S., “[They are being walked on.](#)” [How the Kremlin is devouring supporters of war](#), 11 October 2024 [translated from Russian].

867 Kovalev A., [Inside the world of Russian ‘war reporters’ demanding more blood than the Kremlin can deliver](#), 26 June 2023.

868 Snój V., [How Russian pro-Kremlin military correspondents cover the invasion of Ukraine](#), 31 January 2023; Arenina K., Rubin M., Badanin R., [The house of little fame: the tale of Kremlin’s fight against the bad news](#), 19 December 2022.

869 Irregular Warfare Center, [Russian information warfare strategy: new Irregular Warfare Center translation gives insights into vulnerabilities](#), December 2023, p. 3.

460. According to an investigation of Russian journalists, ANO Dialog has also hosted coordination meetings which included, for example, representatives of the pro-Kremlin Telegram channels Readovka and Mash, one of the largest “tabloid” Telegram channels. The blogger Katrusya, who runs the Telegram channel Signal, has also attended meetings at Dialog, representing a “network” of channels owned by propagandist Kristina Potupchik, a friend of Vladimir Tabak.<sup>870</sup>

461. Based on the open-source research and two expert statements, the above presents the likely structure of Russian information operations, organised across three key pillars: senior political leadership, executive bodies and non-state actors. While the framework provides an informed overview, it is neither exhaustive nor conclusive, given the opaque and evolving nature of Russia’s information operations. Nonetheless, the findings highlight the significant influence of the Putin administration in shaping strategic narratives, even within a potentially decentralised structure. Further investigation is required to deepen understanding of this complex and adaptive information network.

## Identification of Individuals Involved in Russian Information Operations Regarding Kakhovka Dam

462. The attack on the Kakhovka HPP was preceded and followed by extensive disinformation campaigns, primarily orchestrated by Russian individuals.<sup>871</sup> These campaigns sought to shape the narrative surrounding the attack and deflect blame from Russia. While a degree of decentralisation undoubtedly exists, Russian information operations appear to be orchestrated (or at least strongly influenced) by a hierarchical network of state and non-state actors. This network includes senior political leaders, representatives from key executive bodies (such as the Ministry of Defence and the Ministry of Foreign Affairs), and various non-state actors, such as media organisations and social media influencers. The specific roles and responsibilities within this network can vary depending on the context and objectives of the operation.<sup>872</sup>

463. Given the consistency with which Russian information operations have relied on a hierarchical network including state and non-state actors, and as demonstrated in the research presented throughout this report, it is likely that a similar structure was employed regarding disinformation operations for the Kakhovka dam. The paragraphs below summarise key individuals and entities identified in the course of our research, further illustrating how this operational framework functioned.

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870 Meduza, [Russia’s sprawling wartime fake news machine: meet the organization behind the Kremlin’s disinformation about Ukraine](#), 25 September 2023.

871 See [supra](#).

872 See [supra](#).

464. *Russian Telegram channels*: Various Russian Telegram channels, including Kremlevskaya prachka, Khersonskiy Vestnik, Smotri, Vesti, WarGonzo, Operation Z: Voyenkory of the Russian Spring, and others, played a material role in disseminating false information and propaganda about the Kakhovka dam. These channels consistently accused Ukrainian forces of planning and executing attacks on the dam, often citing alleged military objectives and Western support.<sup>873</sup>

465. *Russian Ministry of Defence*: The Russian Ministry of Defence was a major source of disinformation, making early claims that Ukraine had attacked the Kakhovka HPP with missiles. These claims were amplified by other Russian state-controlled media outlets and reached millions of people.<sup>874</sup>

466. *Russian officials*: High-ranking Russian officials, including Sergei Surovikin, Sergey Lavrov, Vladimir Saldo, Sergei Markov, Maria Zakharova, Vassily Nebenzia, and others, actively participated in the disinformation campaign. They made public statements accusing Ukraine of planning to destroy the dam, using this narrative to justify the evacuation of civilians from the Kherson region and to garner international support.<sup>875</sup>

467. *Pro-Russian Telegram channels and media outlets*: Pro-Russian Telegram channels and media outlets, such as Readovka, Pul №3, ANNA-NEWS, War on Fakes, and others, consistently echoed the official Russian narrative and amplified the disinformation campaign. They often used misleading information, false claims, and conspiracy theories to blame Ukraine for the dam's destruction.<sup>876</sup>

468. *Russian-installed officials in occupied territories*: Russian-installed officials in occupied Ukrainian territories, such as Vladimir Leontyev in Nova Kakhovka, contributed to the disinformation by downplaying Russia's role and accusing Ukraine of plotting to destroy the dam.<sup>877</sup>

469. The individuals above employed various tactics and strategies in spreading false information to the public in an effort to reject accusations that the Russian state was somehow engaged in the destruction of the dam. Russia also falsely accused Ukraine of planning the attack, despite the complete absence of any supporting evidence. This disinformation campaign included misleading narratives about Ukraine's military capabilities and the involvement of Western powers. The information operations also promoted conspiracy-type theories to help excuse an attack that Russia clearly perpetrated.

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873 See *supra*.

874 *Ibid.*

875 *Ibid.*

876 *Ibid.*

877 *Ibid.*

470. Russia's motive for attacking the dam remains unclear, but the resulting displacement of thousands of civilians may have been used to justify their relocation to Russia and temporarily occupied areas of Ukraine, altering the region's demographics and weakening local resistance.<sup>878</sup> Additionally, the flooding had a significant impact on Ukraine's counteroffensive, disrupting military operations and creating strategic obstacles.<sup>879</sup> It also damaged Ukraine's infrastructure.<sup>880</sup>

## Step 3: Information Alibi Qualifying as an Exemption to Freedom of Expression

471. Step three requires evaluating whether the information operation constitutes protected speech under international law. As discussed above in Part I, it is crucial to recognise that the right to freedom of expression, though fundamental, is not unlimited. Disinformation may lose this protection when it contributes to the planning, execution, or concealment of criminal acts, as such activity poses a threat, *inter alia*, to public safety, public order or national security.

472. As discussed in Part I, the legitimacy of any restriction on freedom of expression, including disinformation, is assessed through the tripartite test:

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878 According to the Fourth Interim Report on reported violations of international humanitarian law and international human rights law in Ukraine by ODIHR, OSCE referring to the Russian Ministry of Emergency Situations asserted that "over 7,500 people, including 461 children and 146 individuals with limited mobility" were evacuated, OSCE, ODIHR, [Fourth interim report on reported violations of international humanitarian law and international human rights law in Ukraine](#), 12 December 2023, p. 23, *citing* RIA News, [The Ministry of Emergencies evacuated more than 7,500 people after an emergency at Kakhovka HPP](#), 15 June 2023. It was further noted that "[b]y 19 June, this number had risen to 8,200", OSCE, ODIHR, [Fourth interim report on reported violations of international humanitarian law and international human rights law in Ukraine](#), 12 December 2023, p. 23, *citing* Ministry of Emergency Situations of Russia, Telegram, 19 June 2023.

879 As stated in the report by NGO "Truth Hounds" and Project Expedite Justice, "[t]he Russian military leadership may claim to have expected to prevent the Ukrainian counteroffensive in the Kherson Region, in particular through the damage of the Dam road connecting 2 banks of the Dnipro River, or inundate the Ukrainian military to force them to leave their positions on the islands and on the left bank", Truth Hounds & Project Expedite Justice, [Submerged: study of the destruction of the Kakhovka dam and its impacts on ecosystems, agrarians, other civilians, and international justice](#), 6 June 2024, p. 259, *citing* TASS, [Putin named Ukrainian side guilty in Kakhovskaya HPP collapse](#), 13 June 2023; Interfax, [Patrushev announced the release of water at the Dnieper HPP, which preceded the explosion of the Kakhovka HPP dam](#), 7 June 2023.

880 According to the report entitled "Post-disaster needs assessment. 2023 Kakhovka dam disaster, Ukraine", prepared by the Government of Ukraine and the United Nations, destruction of the Kakhovka dam inflicted severe consequences for Ukraine's energy infrastructure. It noted that "[p]reliminary estimates place the damage to the energy infrastructure in the Kherson oblast at US\$1.26 billion, chiefly from the irreparable destruction of the Kakhovka Hydroelectric Power Plant (HPP), accounting for US\$1.2 billion [...]. The energy sector's overall losses from the dam explosion surpassed US\$3.8 billion. The dam breach and drainage of the reservoir disrupted water supply to the cooling systems of the Zaporizhzhia Nuclear Power Plant (ZNPP), Ukraine's largest nuclear power plant, putting the operation of the ZNPP at risk", Government of Ukraine, United Nations, [Post-disaster needs assessment: 2023 Kakhovka dam disaster, Ukraine](#), October 2023, p. 22. Moreover, the report concluded that the damage of the Municipal Services and Community Infrastructure sector was significant, estimating it at US\$127.8 million, Government of Ukraine, United Nations, [Post-disaster needs assessment: 2023 Kakhovka dam disaster, Ukraine](#), October 2023, p. 23.

- *Legality*: The restrictions on expression by penalising the dissemination of information alibis must be clearly defined in law (i.e. not vague or overbroad), accessible to the public, and formulated with sufficient precision to enable individuals to understand the law.
- *Legitimate aim*: Restricting a person's freedom of expression as it relates to disseminating information alibis that plan, execute and conceal crime must pursue a legitimate aim recognised by international law, such as upholding public safety, public order; or protecting national security.
- *Necessity and proportionality*: The restriction must be the least restrictive means to achieve the legitimate aim and proportionate to the harm caused by the information alibi.

473. The perpetration of an international crime that is facilitated by speech — in this case an information alibi — must be defined in law and should be publicly available to satisfy the principle of legality.<sup>881</sup> Although neither the Rome Statute nor customary international law explicitly criminalises information alibis that contribute to the planning, execution or cover-up of international crimes, the Rome Statute's existing provisions provide a sufficient legal framework to satisfy the principle of legality.

474. Specifically, the crimes enumerated in Articles 6 to 8 *bis* — addressing genocide, crimes against humanity, war crimes and the crime of aggression — are clearly defined and publicly available. Liability for conduct involving information alibis can be indirectly established under these provisions, provided that the elements of the crime and the relevant mode of liability are satisfied. Accordingly, while information alibis are not explicitly criminalised, the clear articulation of crimes and modes of liability in the Rome Statute satisfies the principle of legality.<sup>882</sup>

475. The existence of such a law must pursue a legitimate aim, such as upholding public safety and order. In the case of information alibis, this aim is incontrovertible, as such narratives (when reaching a critical threshold) can have a material effect on the planning,

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881 See *infra*.

In the Ukrainian domestic context, the legality requirement can be established through a range of provisions in the Criminal Code of Ukraine. This includes the following: i) actions aimed at forceful change or overthrow of the constitutional order or take-over of government (Art. 109); ii) trespass against the territorial integrity and inviolability of Ukraine (public calls or distribution of materials with calls to commit any such actions) (Art. 110); iii) collaborationist activity (in particular, public denial by a citizen of Ukraine of the armed aggression against Ukraine, the establishment and consolidation of the temporary occupation of part of Ukraine's territory, or public calls by a citizen of Ukraine to support the decisions and/or actions of the aggressor state, its armed formations, and/or the occupation administration of the aggressor state; to cooperate with the aggressor state, its armed formations, and/or its occupation administration; or to refuse recognition of the extension of Ukraine's state sovereignty over the temporarily occupied territories of Ukraine) (Art. 111-1); iv) public calls for terrorist activities (Art. 258-2); v) public calls to actions that threaten public order (in particular, public calls for riots, arson, destruction of property, seizure of buildings or structures, or the violent eviction of citizens, which threaten public order) (Art. 295). See *Criminal Code of Ukraine*, 2001 (last amendment 9 January 2025); *Criminal Code of Ukraine, official translation*, 2001 (last modification 4 June 2021).

882 See for example, Prosecutor v. Hartman, *Judgement*, 14 September 2009, paras 69–74.



execution and cover-up of an international crime.<sup>883</sup> Rome Statute crimes in Articles 6–8bis are designed to, *inter alia*, safeguard public safety and order by criminalising acts such as genocide, crimes against humanity, war crimes and the crime of aggression. By ensuring that perpetrators of these crimes are held individually criminally responsible, the enforcement of these provisions helps to maintain such public safety and order.<sup>884</sup>

476. Finally, the measure in place must restrict free expression using the least restrictive means available. For instance, if a state prohibits information alibis due to their connection to the planning of crimes, it should not ban all other information operations that are otherwise legal.

477. Considering proportionality, a fact-finder must assess the overall balance between the benefits of criminalising information alibis that contribute to planning, executing and covering up international crimes and the harm that comes from restricting such speech. So long as the restriction goes no further, the harm it prevents far outweighs the limited restriction on the right to free expression.<sup>885</sup>

478. A law that criminalises the information alibi that was part of the attack on the Kakhovka dam would satisfy all three branches of the test, so long as it was not unduly overinclusive in criminalising all information operations. Instead, if it focused on punishing only such speech that endeavoured to plan, execute or cover up the attack on the dam and other such crimes perpetrated by Russia, then it would not run afoul of such fundamental protections.

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883 See Article 20 (2) of the ICCPR which prohibits “any advocacy of national, racial, or religious hatred, that constitutes incitement [...] to violence”, ICCPR, Article 20 (2). See also [Rabat plan of action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence](#), 5 October 2012. Moreover, incitement to genocide or crime against humanity (persecution) is prohibited. See for example, Prosecutor v. Nahimana et al., [Appeal judgement](#), 28 November 2007, paras 677–892, 972–996, 1001–1002; Prosecutor v. Šešelji, [Appeal judgement](#), 11 April 2018, paras 156–165.

884 For example, freedom of expression can be legitimately limited for the reasons of protecting public safety and order. For example, according to the HRC “[o]n the basis of maintenance of public order (*ordre public*) it may, for instance, be permissible in certain circumstances to regulate speech-making in a particular public place”, UNHRC, [General Comment 34](#), paras 29–31, citing Coleman v. Australia, [Decision](#), Communication No.1157/2003, 17 July 2006.

In the case Pentikäinen v. Finland, the applicant participated as a journalist and photographer in the massive protest during the then-ongoing Asia-Europe Meeting in Helsinki. After the protest escalated violently to a riot, the police urged participants that only peaceful gatherings are allowed and asked the crowd to disperse, but the Applicant decided to remain, and consequently was apprehended and detained. The Finnish Police Act established that the police could “order a crowd to disperse or move if the gathering threatened public order”, and in case the “order to disperse or move was not obeyed, police officers had the right to use force to disperse the crowd and to apprehend non-compliant persons”. ECtHR, Pentikäinen v. Finland, Application No.11882/10, [Judgement](#), 20 October 2015, paras 10, 12, 19, 20, 44. The court noted that it weighed the interest of “the police in maintaining public order in the context of a violent demonstration and the interest of the public to receive information on an issue of general interest”. *Ibid.*, para. 94.

The court further noted that “[t]he measures were directed not only at the “abstract” protection of public order — the protection of public safety as well as the prevention of disorder and crime — but also at the safety of individuals at or in the vicinity of the demonstration, including members of the media and thus also the applicant himself”. *Ibid.*, para. 96. The court concluded that the interference was “necessary in a democratic society”, and the Applicant’s right to freedom of expression was not violated, ECtHR, Pentikäinen v. Finland, Application No.11882/10, [Judgement](#), 20 October 2015, paras 114,115.

885 See for example, Prosecutor v. Nahimana et al., [Appeal judgement](#), 28 November 2007, paras 677–892, 972–996, 1001–1002.



## ■ Step 4: Select a Mode of Liability

479. Investigators and prosecutors should next seek to qualify the contribution made by individuals involved in propagating and disseminating information alibis. Determining criminal responsibility depends on several factors, including the individual's level of involvement (as a principal or accessory), the manner of participation (directly or through influencing/assisting others), their hierarchical influence (i.e. senior/subordinate relationships), and the nature of the contribution. Understanding these nuances and factors is crucial in precisely determining an individual's criminal responsibility.

480. Part IV of this report examined the requirements for evaluating the legality of an information alibi under three distinct modes of criminal liability. The following section will focus on a single mode: whether the attack on the Kakhovka dam constitutes a crime under Article 25(3)(d) of the Rome Statute.

481. This provision is selected for analysis as it is the most applicable to cases involving information alibis, which typically operate in a supporting capacity within a group engaged in planning an international crime. Consequently, such contributions do not typically fall under direct perpetration, ordering, inducing, aiding and abetting or any other enumerated form of liability under Article 25. Instead, they are best qualified as "any other form of contribution" under Article 25(3)(d).

482. This report examines the criminal act surrounding the destruction of the Kakhovka dam in a broad context, focusing on the overall circumstances and potential legal ramifications rather than attempting to pinpoint the actions or culpability of any specific individual. The complex nature of the situation and the limitations of currently available information preclude assigning individual criminal liability at this stage, a task that properly falls to future investigations and the establishment of specific facts that identify the specific role of a particular individual to the extent required to assess individual criminal liability. This generalised approach is also advantageous for the present analysis, as it avoids the complexities inherent in evaluating potential charges against unnamed individuals, allowing for a more comprehensive exploration of the broader legal issues at play. The determination of individual criminal liability will be the subject of subsequent investigations and the gathering of more specific evidence, representing the crucial next stage in pursuing accountability for this event.

483. As noted in Part IV,<sup>886</sup> the following elements must be established to prove this mode of liability:

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886 See *supra*.

- A crime within the jurisdiction of the Court was committed or attempted;
- The direct perpetrators of the crime belonged to a group acting with a common purpose;
- The perpetrator made a significant contribution to the commission of the crime;
- The perpetrator's contribution was intentional;
- The perpetrator's contribution was either:
  - Made with the aim of furthering the criminal activity or criminal purpose of the group; or
  - Made in the knowledge of the intention of the group to commit the crime.<sup>887</sup>

## A Crime within the Jurisdiction of the Court

484. The starting point to establish this mode of liability is to prove that a crime within the jurisdiction of the court was committed or attempted. It must be proven beyond reasonable doubt that the crimes the perpetrator allegedly contributed to, were actually committed or attempted.<sup>888</sup>

485. As noted, the war crime of attacking civilian objects (Article 8(2)(b)(ii) of the Rome Statute) or disproportionate attack (Article 8(2)(b)(iv) of the Rome Statute) and the crime against humanity of forcible displacement (Article 7(1)(d)) or a war crime under Article 8(2)(a)(vii) have likely taken place as a result of the attack on the Kakhovka dam.<sup>889</sup>



## Perpetrators Belong to a Group Acting with a Common Purpose

486. Establishing criminal liability requires demonstrating that perpetrators belonged to a group acting with a common purpose. While Step 2 of this Part endeavoured to identify potential perpetrators involved in the attack on the Kakhovka dam, the early stage of this investigation makes definitive identification challenging. Instead, it outlined the general structure of the relevant Russian information operations and provided as much detail as

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887 See *supra*.

888 Prosecutor v. Katanga, *Judgment pursuant to Article 74 of the Statute*, 7 March 2014, para. 1622.

889 See *supra*.

possible regarding individuals who may have contributed from a disinformation standpoint to the attack against the Kakhovka dam.

487. Even if the perpetrators involved in disseminating the information alibi related to the attack on the Kakhovka Dam could be clearly identified, accurately assessing the significance of their individual contributions remains challenging. This difficulty arises primarily from uncertainty surrounding the exact contours and strategic objectives of the underlying common plan or purpose. The precise nature of the underlying plan — whether to displace the population, cause environmental damage, or disrupt Ukraine's counter-offensive — critically shapes how those contributions are to be understood.

488. Absent a clear and comprehensive understanding of this potential framework, it is difficult to establish precisely how and to what extent these individuals' disinformation activities materially advanced or supported the group's criminal goals. In fact, it is not even known whether one could establish that an alleged perpetrator was part of the group at all. Moreover, any assessment of an individual's awareness of the common plan or purpose and intent to contribute to it necessarily depends on a concrete understanding of that framework.

489. There are several possible criminal plans that might be evidenced. For example, the attack on the Kakhovka dam may be part of a broader common purpose — specifically, Russia's war of aggression against Ukraine — which encompasses the perpetration of this crime.<sup>890</sup> Part of Russia's war of aggression relates to its interest in controlling all of Ukrainian territory, maintaining a weaker Ukraine that has weakened relations with the West, persecuting those of Ukrainian nationality and changing the overall ethnic character of Ukraine through forcible displacement, persecutory treatment and other crimes. The forced evacuation of civilians to Russia or Russian-controlled territories raises serious concerns about potential war crimes and crimes against humanity as well. Article 7(1)(d) of the Rome Statute, which prohibits the forcible displacement of populations, and Article 8(2)(b)(ii), which prohibits attacks against civilian objects, is highly relevant here.

490. If a future prosecutor were to consider a more narrowly focused common purpose specifically related to the attack on the Kakhovka dam, or regional attacks on civilian infrastructure (rather than a broadly worded indictment that included a wider range of crimes), there appear to be several multifaceted criminal objectives. These include that the repeated attacks on Ukraine's energy infrastructure, including the likely attack on the dam, constitute a pattern of targeting civilian objects or disproportionate attacks excessive in relation to the military advantage anticipated. Such an attack could be a violation of international criminal law, specifically Article 8(2)(b)(iv) of the Rome Statute, which prohibits intentionally launching a clearly disproportionate, harmful attack.

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890 See *supra*.

## Significant Contribution to the Commission of the Crime

### Various Forms of Contributions

491. Part IV reviewed established jurisprudence at international criminal tribunals which demonstrated how such courts have dealt with similar issues of disseminating false information to obstruct criminal investigations or conceal crimes. Critically, the ICC, ICTY and ICTR have precedents establishing that speech, including information operations during conflict, can be considered as a material contribution to international crimes.

492. The jurisprudence of these tribunals, as well as the practices of their prosecution offices, reveals a range of activities that have been considered as contributing to the commission of crimes to a degree that gives rise to individual criminal liability. These activities encompass both the dissemination of false information for the purpose of covering up criminal acts and more general efforts undertaken to conceal crimes and obstruct investigations. These various types of contributions, which have been described throughout this report, are compiled succinctly as follows:

- Disinformation spread to fabricate the presence of crimes, manipulate the media and public perception and provide a false justification for actions taken against opposition forces and others.
  - *Spreading disinformation to assist in taking over territory.* Releasing false statements to the press in an effort to assist in the takeover of Srebrenica.<sup>891</sup>
  - *Avoiding intervention by outside forces.* The dissemination of false information employed as a tactic to prevent potentially damaging information from being revealed, thereby forestalling external intervention and ensuring continued progress toward the achievement of the common criminal purpose.<sup>892</sup>
  - *Blaming the other side.* Denying involvement and laying blame on terrorists for crimes committed;<sup>893</sup> and
  - *Blaming the other side.* Denying responsibility for an attack and shifting blame to another group participating in hostilities.<sup>894</sup>

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891 See *supra*.

892 See *supra*.

893 See *supra*.

894 See *supra*.

- Evidence of international crimes is concealed and evidence collection is obstructed.
  - *Concealing bodies of deceased persons.* Concealment of bodies that had been killed, including at a hospital, during public protests and elsewhere;<sup>895</sup>
  - *Concealing bodies of deceased persons.* Concealment of mass graves;<sup>896</sup>
  - *Concealing bodies of deceased persons.* Participating in reburial operations of deceased bodies to cover up evidence of a crime taking place;<sup>897</sup>
  - *Concealing the total number of persons deceased.* This makes prosecution of the individual difficult, thereby affecting the rights of the victims and the ability to sentence proportionately to the crimes committed;<sup>898</sup>
  - *Covering up crimes.* Covering up crimes and obstructing international investigations into incidents of crimes including murders;<sup>899</sup>
  - *Disseminating false information to conceal crimes.* Denying, concealing and / or minimising crimes committed by Croatian authorities and forces through disseminating false information, both locally and internationally;<sup>900</sup>
  - *Taking equipment used to collect information.* Confiscating equipment that can be used to conduct a criminal investigation;<sup>901</sup>
  - *Destroying evidence of crimes.* Destroying civilian infrastructure or other objects that show evidence of fighting and potential crimes taking place during the fighting; and<sup>902</sup>
  - *Spreading false information to address complaints.* Spreading false information in response to complaints by international actors that has the effect of obfuscating ongoing crimes, thereby furthering the common criminal purpose.<sup>903</sup>

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895 See *supra*.

896 *Ibid*; see also *supra*.

897 See *supra*.

898 See *supra*.

899 See *supra*.

900 See *supra*.

901 See *supra*.

902 *Ibid*.

903 See *supra*.

- Obstruction of justice
  - *Failing to investigate or punish the perpetration of a crime.* Failing to investigate or punish crimes and instead presenting fighting forces as law-abiding, despite knowing that criminality is prevalent;<sup>904</sup>
  - *Frustrating investigations.* Disseminating false information to frustrate investigative efforts to identify the actual perpetrator of the crime;<sup>905</sup>
  - *Obstructing investigations.* Endangering or obstructing an investigation into crimes perpetrated;<sup>906</sup>
  - *Disseminating false information as a contribution to crime.* Falsely disseminating information to contribute to the crimes of deportation or forcible transfer against Krajina Serbs during Operation Storm;<sup>907</sup>
  - *Delaying investigations to promote the military's progress.* Delaying action to initiate an investigation because the investigations may negatively affect a group's military efforts;<sup>908</sup>
  - *Limit total number of investigations to avoid 'discovering' crimes.* Minimal investigations that yield relatively few results because the individuals are more concerned with their international standing than concern for the victims of the crimes not being investigated;<sup>909</sup> and
  - *Obstructing independent investigations.* Targeting journalists to stop or otherwise manipulate them away from investigating the perpetration of crimes.<sup>910</sup>

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904 See *supra*.

905 See *supra*.

906 See *supra*.

907 See *supra*.

908 See *supra*.

909 See *supra*.

910 See *supra*.

## ***Contributions in the Kakhovka Dam Attack to an International Crime***

493. As described above, in evaluating whether contributions related to the Kakhovka Dam attack may give rise to individual responsibility for an international crime, Article 25(3) (d) requires that the individual's contribution be "significant".<sup>911</sup> For a contribution to be "significant", it can be made through direct perpetrators or other group members sharing a common purpose and can relate to either the crime's material elements (e.g. providing weapons) or subjective elements (e.g. encouragement).<sup>912</sup> The ICC emphasises a case-by-case approach in determining whether the threshold of significance is met.<sup>913</sup> Despite such emphasis, its jurisprudence presents the following factors that may assist in assessing the weight of the person's conduct:

- The sustained nature of the participation after acquiring knowledge of the criminality of the group's common purpose;
- Any efforts made to prevent criminal activity or to impede the efficient functioning of the group's crimes;
- Whether the person creates or merely executes the criminal plan;
- The position of the suspect in the group or relative to the group; and
- The role the suspect played vis-à-vis the seriousness and scope of the crimes committed.<sup>914</sup>

494. The emphasis on conducting case-by-case assessments, alongside the consideration of the above factors for determining significance, underscores that such determinations are inherently context-specific and must be evaluated in light of the particular circumstances of each individual's conduct and role within the broader criminal framework. Further, and as stated above,<sup>915</sup> understanding whether a contribution is "significant" under Article 25(3)(d) of the Rome Statute requires more than an assessment of isolated actions by an accused. It is imperative to first establish the contours of the common purpose that forms the basis of the group's action. Without a clear articulation of the shared criminal objective, it is impossible to evaluate whether an individual's actions were sufficiently impactful to meet the threshold of a "significant contribution."

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911 See *supra*.

912 Prosecutor v. Katanga, *Judgment pursuant to Article 74 of the Statute*, 7 March 2014, para. 1635.

913 Prosecutor v. Mbarushimana, *Decision on the confirmation of charges*, 16 December 2011, para. 284.

914 Prosecutor v. Mbarushimana, *Decision on the confirmation of charges*, 16 December 2011, para. 284.

915 See *supra*.



495. What follows is a factor-by-factor consideration of the above criteria relevant to determining significance under Article 25(3)(d) of the Rome Statute. At this stage of the investigation, it is difficult to evaluate an individuals' actions against these factors because we are hamstrung with insufficient information. Nevertheless, the analysis below attempts to illuminate how each factor could apply when evaluating whether the information alibi relating to the attack on the Kakhovka Dam is sufficient to draw the conclusion that 'significance' can be established..

### *Sustained nature of the participation after acquiring knowledge of the criminality of the group's common purpose*

496. Continued and sustained contributions to the groups' common purpose is a relevant consideration, as such involvement may demonstrate an intentional act in furtherance of the groups' common purpose and, therefore, reinforcing the effect of the conduct.<sup>916</sup> In creating and executing an information operation that involves an information alibi concerning the attack on the Kakhovka dam, the contribution was sustained over a lengthy period of time, as it was disseminated before and after the commission of the crime (i.e. the explosion took place). Such continuity provides *prima facie* evidence of a deliberate and ongoing participation in support of the Russian Army's criminal purpose to attack the Kakhovka dam and place blame on the Ukrainians. This reinforces the significance of the contribution.

497. As an example, Vassily Nebenzia actively engaged in disseminating the information alibi before and after the attack against the Kakhovka dam. In particular, on 21 October 2022 he submitted a formal letter to the UN Secretary-General and the President of the UN Security Council, alleging that the "Kiev regime" is "planning" "to destroy the [Kakhovka] hydroelectric dam in Kherson province" as "Ukrainian forces are considering launching sea mines downstream the Dniepr River or a massive missile strike".<sup>917</sup> Following the 6 June 2023 attack, Nebenzia referred back to the letter, stating that "[Russia] warned the global community and UN leadership [about the attack on the Kakhovka dam]" thereby invoking it as retrospective justification.<sup>918</sup>

498. Nebenzia's continuous engagement spreading the information alibi reflects a sustained pattern of conduct aimed at concealing the Russian Army's responsibility for the attack. This ongoing effort forms part of a broader narrative strategy and should be

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916 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 284.

917 MFA Russia, X, [6 June 2023](#) [translated from Russian].

918 Permanent Mission of the Russian Federation to the United Nations, [Statement by Permanent Representative Vassily Nebenzia at UNSC briefing on the situation around the Kakhovka Hydroelectric Power Plant](#), 6 June 2023.

considered whether his actions significantly contributed to the group's common purpose of targeting the dam.

499. Of course, Nebenzia is not the only individual involved in spreading the information alibi. As detailed throughout this report, many other persons were participating in spreading the same narrative. Each of their respective contributions should likewise be assessed in light of this and all other factors.

### *Any efforts made to prevent criminal activity or to impede the efficient functioning of the group's crimes*

500. Assessing this factor is, in many respects, straightforward — an individuals' efforts to prevent the commission of the crime in furtherance of the common purpose counters the objectives of the group and may work against a 'significant' determination. For example, in the context of the Kakhovka dam attack, if Ambassador Nebenzia was aware of the imminent attack and had alerted anyone (other than those belonging to the same group acting pursuant to the common purpose), sought to undermine the criminal objectives internally, or otherwise refused to participate, it could augur in his favour if he was indicted for such crimes. Of course, Nebenzia did the opposite and continued to spread the narrative of the Ukrainian Army attacking the dam.

### *Whether the person creates or merely executes the criminal plan*

501. At this stage, it is premature to conclude whether any individual was responsible for creating the information alibi as part of the kinetic military operation or they were merely executing a pre-existing plan. Even further, it remains possible that those spreading the information alibi were unaware that they were contributing to the common purpose. This answer will manifest itself after further investigations are conducted.

502. Despite the early stage of this investigation, there are indicators that those disseminating the information alibi — particularly senior figures in the Putin regime — were aware of their conduct and may have actively participated in shaping the broader disinformation strategy. At the least, they had extensive advanced foreknowledge of an impending crime and actively contributed to its perpetration.

503. Further, despite it being theoretically possible, it is unlikely that those participating in constructing the military plan were the architects of the information alibi that accompanied their attack. This suggests that the information operation was possibly created separately — or even in parallel — by individuals or entities with specific responsibilities in messaging rather than the attacks. This allows for a *prima facie* conclusion to be drawn that those crafting the information alibi were present and active in contributing to the perpetration

of the crime at a very formative stage of its design. By splitting up the various expertise that each group possesses (i.e. military or information operations) it suggests that certain persons were involved early on and that the disinformation was integrated into the military operations..

504. Concerning Nebenzia, while we still lack specifics concerning his full contribution and level of involvement, it is evident that he was engaged in spreading the information alibi regarding the Kakhovka dam attack many months before the attack took place. Particularly, at least since submitting a letter on 21 October 2022 to the UN Secretary-General and the President of the UN Security Council.<sup>919</sup>

505. Nebenzia's early involvement is an indicator of his contribution to the overall common purpose and is consistent with the broader information operation linked to the military attack on the dam.

### *The position of the suspect in the group or relative to the group*

506. This report has sought to elucidate the role of individuals involved in information operations and potentially the construction and dissemination of information alibis, by presenting a three-pillar framework alongside a detailed record of the criminal attacks presented in Part III. Nevertheless, continued investigative efforts are essential to better understand the precise position of each individual within the broader machinery of Russia's operations — which spans both the informational and military spheres — and how such conduct may have been designed in advance to serve a common criminal objective.

507. Concerning Nebenzia, we know that he has functioned as one of the Kremlin's principal international spokespersons and a staunch supporter of Russia's war of aggression against Ukraine. The ICC case against Mbarushimana shows that serving as one of the public faces of an organisation — disseminating disinformation and advancing its strategic objectives — can lead to one's prosecution for international crimes.<sup>920</sup> Similarly, the jurisprudence referenced above includes cases such as the prosecution of General Mladić, where the spreading of false narratives was among the conduct contributing to his conviction.<sup>921</sup>

508. While no conclusive findings can yet be made, further investigation is warranted to determine whether such considerations might apply to Nebenzia or others in assessing the significance of their potential contribution to the common (criminal) purpose.

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919 MFA Russia, X, 6 June 2023 [translated from Russian].

920 See *supra*.

921 See *supra*.

## *The role the suspect played vis-à-vis the seriousness and scope of the crime(s) committed*

509. The Mbarushimana case considered this factor “perhaps the most important[]” in evaluating the significance of an individual’s contribution to a crime.<sup>922</sup> According to the Pre-Trial Chamber in the case, this analysis requires an assessment of the weight or gravity of an individuals’ actions in light of the overall impact and magnitude of the crimes committed by the group acting pursuant to a common purpose.<sup>923</sup>

510. In addition to Mbarushimana, this principle finds support in the Kvočka case before the ICTY, which held that in determining individual responsibility for grave and large-scale crimes, the decisive element should be the nature and extent of the perpetrators role relative to the overall seriousness and scope of the underlying criminal acts.<sup>924</sup> This idea also aligns with Nuremberg-era cases which established that individuals may incur responsibility through a variety of roles within a criminal enterprise, provided they were aware of its criminal nature and that it had led to the commission of a crime.<sup>925</sup>

511. Applied to the context of disinformation surrounding the Kakhovka dam attack, this framework suggests that if a suspect played a central role in crafting and disseminating false information that preemptively blamed Ukraine many months in advance and that narrative was subsequently used to obscure the Russian Army’s responsibility, such a contribution must be considered material and consequential. The deliberate construction of an information alibi in advance of the attack strengthens the inference of intent and amplifies the strategic importance of the messaging.

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922 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 284 (other citations omitted).

923 Prosecutor v. Mbarushimana, [Decision on the confirmation of charges](#), 16 December 2011, para. 284 (other citations omitted), *citing* Prosecutor v. Kvočka et al., [Judgement](#), 2 November 2001, para 311; General Military Government Court of the United States Zone, [Trial of Martin Gottfried Weiss and Thirty-Nine Others](#), 15 November — 13 December 1945, United Nations War Crimes Commission, Law Reports of Trials of War Criminals, 1945, Vol. XI, p. 14; British Military Court, [Trial of Max Wielen and 17 Others](#), 1 July — 3 September 1947, Law Reports of Trials of War Criminals, 1945, Vol. XI, p. 46.

924 Prosecutor v. Kvočka et al., [Judgement](#), 2 November 2001, para 311.

925 According to the Ministries Judgment, “such persons responsible for the enterprise’s crimes regardless of whether they originated or executed them, or merely implemented them, justified them to the world, or gave aid and comfort to their perpetrators”. See Ministries Judgment, 472.; The “Dachau Concentration Case” described contributions in two ways: “(a) if his duties were such as to constitute in themselves an execution or administration of the system that would suffice to make him guilty of participation in the common design, or, (b) if his duties were not in themselves illegal or interwoven with illegality he would be guilty if he performed these duties in an illegal manner”). See General Military Government Court of the United States Zone, [Trial of Martin Gottfried Weiss and Thirty-Nine Others](#), United Nations War Crimes Commission, Law Reports of Trials of War Criminals, 1945. Vol. XI, p. 13

In Stalag Luf III Judgment, it was noted that “the persons concerned must have been part of the machine doing some duty, carrying out some performance which went on directly to achieve the killing, that it had some real bearing on the killing, would not have been so effective or been done so expeditiously if that person had not contributed his willing aid”. See British Military Court, [Trial of Max Wielen and 17 Others](#), United Nations War Crimes Commission, Law Reports of Trials of War Criminals, 1947. Vol. XI (“Stalag Luf III Judgment”), p. 46.

512. As this factor makes clear, the significance of any individual's contribution is magnified by the gravity of the attack. The destruction of the Kakhovka dam resulted in the damage to over 37,000 residential properties, along with 37 educational institutions and 11 health facilities.<sup>926</sup> The economic cost has been estimated at around USD \$13.79 billion. Tragically, at least 32 people lost their lives, 28 were injured and 39 missing due to the explosion and the subsequent flooding.<sup>927</sup>

## Conclusion on Significant Contribution

513. Despite the apparent contribution made by individuals denying or redirecting responsibility for the attack on the dam to Ukraine, it remains challenging at this stage to definitively assess whether such contributions would meet the threshold of a 'significant' under Article 25(3)(d) of the Rome Statute. This uncertainty stems, *inter alia*, from a lack of clarity regarding how a prosecution case might be best constituted according to evidence that reveals the most likely common purpose — whether narrowly (limited to the specific attack on the dam) or more broadly (encompassing a wider pattern of attacks or related criminal conduct). The scope of this common purpose is critical, as it directly informs the legal relevance and weight of any individual's contribution to the alleged group's criminality.

## Intentional Act to Further Criminal Activity or Criminal Purpose or with Knowledge of the Intent of the Group to Commit the Crime

514. The individual supporting Russia in relation to a criminal allegation must have intended to engage in the conduct, i.e. their actions must have been deliberate and made with awareness. As such, it must be shown that the perpetrator intended to engage in the conduct that constitutes a contribution and also that they were aware that such conduct contributed to the activities of the group of persons acting with a common purpose.<sup>928</sup>

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926 United Nations Ukraine, [Kakhovka dam destruction inflicted US\\$14 billion damage and loss on Ukraine: government of Ukraine — UN Report](#), 17 October 2023.

927 Ivanova T. & Bilous S., [32 dead, 39 missing, and \\$1.5 billion in damages: three months ago, the Russian army blew up the Kakhovka HPP](#), Suspilne, 5 September 2023.

928 See *supra*.

515. While this report does identify a range of different actors who participated in the disinformation campaign concerning the attack on the Kakhovka dam,<sup>929</sup> the evidence is insufficient, without further investigation, to conclude that they bear the requisite intent to further the criminal activity or criminal purpose or had knowledge of the intent of the group to commit the attack against the dam. However, those participating in the planning of the information alibi should be clearly seen to have the requisite intent. Individuals with less direct information about the false nature of the information disseminated require a deeper investigation before establishing whether they have the requisite intent to attract individual criminal liability.

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929 There are indications that the following people from the Russian government, Russian-installed government in the occupied territories and the Russian media may have been participating in the information campaign to cover up the crime of attacking the Kakhovka dam. In particular, among the allegedly involved persons are Russian General Sergey Surovikin, Sergey Shoigu, the Russian Minister of Defence; Sergei Kiriyyenko, first deputy chief of the Russian presidential administration; Vassily Nebenzia, Permanent Representative of the Russian Federation to the United Nations; Maria Zakharova, Director of the Information and Press Department of the Russian MFA; Vladimir Leontyev, the Head of the Military-Civilian Administration of Nova Kakhovka; Vladimir Saldo, the Russian-installed Governor of Kherson Oblast; Vladimir Rogov, a member of the Chief Council of the Zaporizhzhya Regional Administration; Anatoly Matviychuk of ANNA-NEWS; Timofey Vasilyev of War on Fakes; Sergey Markov of Logika Markova; Daniil Bezsonov of Unofficial BeZsonoV; RT Russian, WarGonzo, Kostantin Knirk of "FRONTовые Заметки"; and Yuliya Vityazeva on her Telegram channel.

# CONCLUSION

516. “Manufacturing Impunity” has examined the phenomenon of information alibis, a modern form of disinformation employed by the Russian Federation in its war of aggression against Ukraine and in other regions of the world. These alibis, characterised by the preemptive dissemination of false narratives designed to deflect responsibility, *inter alia*, for international crimes, constitute a cynical manipulation of the information landscape and a threat to international peace and security.

517. Through a thorough analysis of international law, including the Rome Statute of the International Criminal Court and the *ad hoc* international criminal tribunals, this report has established that the dissemination of information alibis can, under certain circumstances, constitute a criminal contribution to the perpetration of international crimes. This culpability may extend beyond the immediate perpetrators of violence to encompass part or all of a network of actors involved in the creation and dissemination of these deceptive narratives. This network may include senior political leaders, military officials, media organisations and social media influencers, all complicit in the manipulation of public perception and the advancement of Russia’s strategic objectives — in its war of aggression against Ukraine and beyond.

518. The report’s detailed case studies, focusing on five incidents in Ukraine, provide compelling evidence of the devastating consequences of information alibis. The attacks on the Mariupol Maternity Ward No.3, the Mariupol Drama Theatre, the Kramatorsk Train Station, the Olenivka POW Camp and the Kakhovka Dam, illustrate the diverse tactics employed by Russia to create and disseminate disinformation, highlighting the tragic loss of life and the erosion of trust in information sources.

519. Further, the report’s legal analysis demonstrates that individuals involved in disseminating information alibis ought to be investigated for individual criminal liability according to legal standards of the Rome Statute. This liability may arise under several modes of liability, including those articulated in Part IV of the report.<sup>930</sup> These provisions provide a legal framework for prosecuting individuals who, through their actions, contribute to the planning, execution, or concealment of international crimes.

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930 See *supra*.



520. The report's blueprint for investigating and prosecuting individuals involved in information alibis offers a practical framework for pursuing accountability. By outlining the key investigative steps and legal considerations, the report aims to assist international efforts to counter disinformation and ensure that those responsible for these egregious acts are brought to justice.

521. In conclusion, this report underscores the urgent need for the international community to recognise and address the threat posed by information alibis. This will require a concerted effort to uphold international law, promote accountability and protect civilians in conflict zones. The International Criminal Court, the United Nations, states and civil society organisations all have a crucial role to play in countering disinformation and ensuring that those who manipulate the information landscape for criminal purposes are held responsible for their actions. Only through such collective action can we hope to safeguard international peace and security and prevent the further loss of trust in information sources.

## Next Steps: Advancing Accountability Initiatives

522. This report advances a working theory of criminal culpability concerning the use of information alibis, grounded in existing legal frameworks and supported by preliminary evidentiary analysis. While it establishes a robust conceptual and legal foundation, further investigative steps are required to identify specific individuals — including participants in information operations — who may bear criminal responsibility, and to substantiate their role in facilitating or concealing the commission of international crimes.

523. The following section outlines key preparatory steps that must be undertaken prior to submitting such information to accountability mechanisms.

### Clearly Identify Perpetrators Involved in Attacks in Ukraine

524. Part II presents a basic understanding of Russian information operations in the context of its military operations, including a basic description of the structure and potential hierarchy of such operations and more specific detail of how they are integrated into military operations.<sup>931</sup> Although it is plain that overall they are integrated, a critical next step is to conduct investigations to systematically identify the individuals and entities

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931 See *supra* para. 69 et seq.

responsible for the creation and dissemination of information alibis, including how they operate in tandem with the military operations, whether through specific orders per operation or more generalised planning that requires their action according to pre-set triggers. This requires a mapping of networks, including the roles played by state officials, military leaders, media actors and social media contributors (i.e. Telegram channel creators). It must also include evaluations of the precise nature of the hierarchical system that appears to exist, the nature of communication pathways, and the decision-making processes that are relied upon to disseminate the information alibis.

## Collecting More Evidence Concerning the Five Factual Scenarios

525. Part III presents *prima facie* evidence demonstrating that Russian operators participated in disinformation campaigns before, during and after five attacks against Ukrainian targets that constitute international crimes. Further investigations should prioritise the collection of more information establishing with even greater clarity the perpetration of a crime. Additional evidence including open-source intelligence, satellite imagery, intercepted communications and witness testimony including insiders should be collected to further substantiate the involvement of relevant perpetrators, listed in Part III and otherwise.

## Establishing Causal Links between Disinformation and the Perpetration of Specific Crimes

526. It is critical to further establish clear causal links between actions taken by individuals involved in disinformation campaigns and the perpetration or cover-up of a crime. Whilst it is not necessary to establish any *sine qua non* relationship,<sup>932</sup> it is important to establish these links beyond a reasonable doubt, including, *inter alia*, the significance of the contribution to specific crimes or criminal plans and at least the alleged perpetrators' awareness of a contribution.

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932 See e.g. *Prosecutor v. Blaskić*, [Judgement](#), 29 July 2004, para. 48, which discusses aiding and abetting liability and that such a requirement is not necessary.