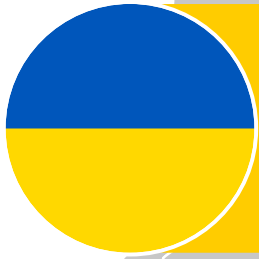


REPARATIONS FOR SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE



COUNTRY BRIEFING: UKRAINE

Official Register of Survivors of conflict-related sexual violence (CRSV):
None

Commonly cited number of CRSV Survivors: No formal estimates exist.

Estimated Real Number of CRSV Survivors: The only available estimate relates to survivors of CRSV experienced in arbitrary detention and is of approx. 340 people. This does not include CRSV at checkpoints and other contexts, and the actual number of detention-related CRSV survivors is also likely to be higher.

Domestic Legal Framework for Administrative Reparations Programme:
None

Mechanism to implement Administrative Reparations Framework:
Not applicable

Domestic Avenues for Reparations through Courts: Limited to compensation awards by civil courts

Approximate Number of Survivors having received any formal Reparations for CRSV: 0

Survivor Perception regarding state of Implementation of Reparations:
Not applicable

Ongoing CRSV: Yes



Nature and Scope of CRSV

The armed conflict(s) in eastern Ukraine broke out in early 2014 between the Ukrainian government and the self-proclaimed “Donetsk and Luhansk People’s Republics” armed groups who claimed “independence” from Ukraine and received support from the Russian Federation. In parallel, the Russian Federation engaged militarily in the Crimean Peninsula, leading to territorial control amounting to an ongoing state of occupation. Access to territories controlled by the armed groups and to Crimea remains extremely limited. Available information nonetheless indicates that CRSV has been perpetrated since the start of the armed conflict in both eastern Ukraine and Crimea.

CRSV has been and continues to be perpetrated in detention centres both in the Government-Controlled Area and the temporarily Non-Government-Controlled Area (NGCA). [According to OHCHR](#), the Ukrainian government is responsible for roughly 2,300 arbitrary detentions with an estimated 4.6 per cent of those arbitrarily detained being subjected to CRSV. Armed groups are responsible for approximately 4,300-4,700 conflict-related detentions in the NGCA with an estimated 3.9 per cent rate of CRSV occurrence. That said, the lack of safe access to the NGCA - most notably to rights groups - insecurity and fear of retaliation are all barriers to CRSV reporting in the NGCA. [Government agents](#) detained mostly men, but also women, and subjected them to forced nudity, unwanted touching, and sexualised torture by blows or electric shocks. Women and men were threatened by rape and threats that female members of their family would also be subjected to rape should they not cooperate in interrogation.

Armed groups in the NGCA have detained men and women on suspicion of supporting Ukraine, as well as to obtain ransom and force the relinquishment of property. [According to OHCHR](#), men are subjected to more severe and prolonged torture than women, but women are more vulnerable to becoming victims of rape, gang rape and attempted rape. Other forms of sexual violence experienced by both men and women at the hands of armed groups include forced nudity, sexual torture with blows or electric shocks to the genitalia, threats of castration, unwanted touching, sexualised insults and intimidation of a sexual nature, including threats of sexual violence against family members.

CRSV also occurs in occupied Crimea, although again, limited information is available about this because of restricted access to the Peninsula for humanitarian and human rights organisations and the UN Human Rights Monitoring Mission in Ukraine (HRMMU). [Such information](#) shows that members of the Federal Security Service of the Russian Federation or paramilitary groups such as the Crimean Self-Defence Militia have been detaining Crimean Tatar and other men suspected of supporting Ukraine, and subjecting them to sexual violence as a method of torture, notably to extract information and confessions. LGBTI people have also been targeted. Forced nudity, threats of rape and blows or electric shocks to the genitals have been reported in limited documented incidents.

CRSV also occurs at checkpoints along the contact line controlled by the Ukrainian government and armed groups, although information available suggests this occurs on a lesser scale than in detention and is also less reported. Incidents of sexual violence and harassment at checkpoints are mostly committed against women, including civilians and humanitarian workers. At checkpoints administered by the Ukrainian government, [OHCHR reported](#) sexual violence, harassment and intimidation of a sexual nature, including requests for sex in exchange for passage. At checkpoints established arbitrarily by armed groups, OHCHR [reports](#) incidents of women experiencing rape and gang rape in a broader context of gender-based humiliation.

Another setting for CRSV is in residential communities where there is an increased presence of military and armed groups. Such incidents are also underreported due to, inter alia, survivors' fear of retaliation. In areas controlled by armed groups in eastern Ukraine, [OHCHR reports](#) allegations by women of armed groups keeping women “for entertainment” in a seized kindergarten, as well as other incidents and allegations of rape including some instances where women were killed following the rape. Further, LGBTI persons, in particular women, are at a heightened risk of sexual violence at the hands of the armed groups based on their gender identity and sexual orientation. In areas controlled by the government's military, incidents reported by OHCHR include drunken soldiers or patrol officers who physically attacked and beat women and insulted them sexually, including one incident involving a pregnant woman. [OHCHR reports](#) a lack of response or effective investigation into these cases by the Ukrainian police.

FACTS AND FIGURES

- OHCHR estimates approx. 340 survivors of CRSV in detention centres: 190-230 men and 120-140 women. The actual number is likely to be much higher.
- A study by NGO Eastern-Ukrainian Centre for Civic Initiatives (EUCCI) estimates that one in three female interviewees and one in four male interviewees is a survivor of, or witness to, sexual violence.



Harm caused to Survivors, Families and Communities

CRSV survivors in eastern Ukraine have experienced serious physical, psychological, and emotional harm. As a result, survivors live with physical injuries and related physical illnesses. Psychologically, survivors note symptoms of depression and anxiety which interfere with their ability to hold employment. More often than not, survivors are also displaced due to the lack of security caused by the conflict, and are often physically separated from loved ones, particularly children, which has caused immeasurable emotional harm and stress. Many of the survivors experienced CRSV in unlawful detention, which has further impacted them and their family members psychologically. Furthermore, survivors report an emotional distance or tension between themselves and the family members, friends and communities they end up living with following displacement because of what they have lived through.



Survivors' Perspectives

Needs and Expectations

Needs expressed by survivors include comprehensive and sustainable medical and psychological support, financial assistance, professional training and employment opportunities and, importantly, housing. Additional short-term needs include assistance with family reunification and information on what resources are available to survivors. Long-term needs include being granted a victim status, which would guarantee state protection, as well as justice through effective investigation of conflict-related crimes.

Overall, survivors' demands cover all general categories of reparation, namely rehabilitation, restitution, compensation, satisfaction, and guarantees of non-repetition.



*Art work during training with survivors, 2021, Ukraine.
© Blue Bird*



Survivors' Initiatives

In 2019, a network of survivors known as the Ukrainian Network of Women Affected by Violence ([SEMA Ukraine](#)) was formed and has since been active in raising awareness about CRSV among decision-makers, law enforcement, the army and the general public. Members of the SEMA network also highlight the importance of reparations to CRSV survivors and have participated in an educational trip to Kosovo and Bosnia to identify good practices and lessons learned which can be of use in the Ukrainian context. SEMA Ukraine is supported by the [Mukwege Foundation](#) and EUCCI to participate, and present the survivor perspective, in policy discussions in Ukraine.

"Communicating with victims like me allows me to speak out and listen to others. It makes these problems easier to bear. It may hurt, but this kind of interaction [with the network] unites. It hurts to remember, but you speak up and it gets easier."



Reparations

IN THEORY

The Ukrainian government is required under [international human rights](#) and international humanitarian law treaties and [customary international law](#), to prevent, protect from and respond to CRSV, as well as provide full and adequate reparations to victims and survivors of the conflict, including for acts committed by other conflict parties where such parties are unwilling or unable to provide reparation.

Establishing reparation schemes is not dependant on the end of the conflict, the creation of truth commissions or any comprehensive transitional justice framework. Ukraine should promptly make judicial and administrative reparations frameworks available for CRSV survivors, who should meaningfully participate in the process, in line with [international guidance](#).

IN PRACTICE

The right to remedy and reparations for CRSV survivors is largely unfulfilled, with CRSV by all conflict parties being under-investigated and under-prosecuted. CRSV survivors have no access to reparations via judicial channels and the government has not established a comprehensive or specific reparations programme that addresses either the harm caused by CRSV or the needs of survivors.

Several legislative and policy initiatives still in progress may pave the way for reparation programmes to be established in the future, but eight years into the conflict, reparation processes are not yet in place for survivors whose needs remain urgent.

Such initiatives have not consulted survivors on their needs and expectations in relation to reparations, which risks resulting in future programmes that do not meet the needs or expectations of survivors.



Opportunities

- **Access to justice:** [Parliament's adoption](#) of [Bill no. 2689](#) on 20 May 2021 to implement International Criminal and Humanitarian Law into the Ukrainian Criminal Code could pave the way for enhanced investigations and prosecution of CRSV, which could provide a measure of satisfaction for survivors and contribute to guaranteeing the non-occurrence of CRSV-related crimes going forward. The bill requires the signature of the President of Ukraine to come into effect.
- **Transitional justice framework:** In 2019, the President of Ukraine initiated work on a comprehensive transitional justice framework and tasked the Law Reform Commission's Working Group on the Reintegration of Temporarily Occupied Territories with developing it. In September 2020, the Working Group submitted a document titled 'State Policy Concepts on the Protection and Restitution of Human Rights and Fundamental Freedoms in the Context of the Armed Conflict on the Territory of Ukraine and on Overcoming Its Consequences' to the Office of the President. The document has not yet been approved by the President, and is not public, but [according to OHCHR](#) *"the provisions related to remedy and reparation [are] generally in line with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law"*.
- **Technical assistance:** UN agencies and other international organisations are providing technical assistance to the Ukrainian government and, in doing so, are generating important guidance on preventing and responding to CRSV, including through reparations. The [Strategy for Prevention of and Response to Conflict Related Sexual Violence](#) in Ukraine, the National Action Plan on the [Implementation of the UNSC Resolution 1325](#) on Women, Peace and Security and the National Strategy in the Field of Human Rights are indicative of the technical assistance available to the government to advance survivors' rights to reparation.

"I am still afraid to take a bus when I see there are no women in it".



Key Challenges

- **No prioritisation of CRSV:** Initially, confusion between the various concepts of “conflict-related sexual violence”, “gender-based violence” and “domestic violence” by a range of actors complicated the understanding and prioritisation of CRSV. Eight years into the conflict, the understanding of CRSV has developed, yet the political will at the level of the government and parliament to fully acknowledge the issue and introduce dedicated CRSV reparation programmes has yet to materialise. A range of actors still consider CRSV in Ukraine as a minor issue and believe that the number of survivors is too small to warrant a dedicated intervention.
- **Impunity and limited specialised capacity:** To date, there has been very little investigation or prosecution of CRSV incidents at the domestic level. A lack of specialised training for law enforcement, including on evidence standards, along with negative attitudes towards CRSV survivors and gender-based crimes, are barriers to such investigations and prosecutions taking place.
- **Lack of survivor consultation:** Survivors' perspectives are not being represented in ongoing policy and legal discussions with an impact on their rights and interests. Survivors have not been adequately consulted about their priorities, needs and expectations. This also contributes to a feeling of exclusion amongst survivors.



*Caption: Survivors drawing a common portrait during a workshop on CRSV reparations, Ukraine, 2021.
Credits: Blue Bird*



Preliminary Recommendations

To all parties to the conflict:

- Immediately end hostilities and cease all violations and abuses of international human rights law and international humanitarian law, including ongoing CRSV.

To the government of Ukraine:

- Commit to treaty obligations to prevent and respond to CRSV and provide victims and survivors with access to a remedy, including reparations.
- Take meaningful steps to address impunity for CRSV including by acknowledging CRSV and integrating specialised modules on CRSV definitions, applicable legal frameworks, and international practices in the training curriculum for key stakeholders including the military, police, prosecutors and judges.
- Issue guidance and standard operating procedures for handling CRSV cases for service providers, including medical professionals and those operating close to the territories most affected by the armed conflict so as to prevent stigmatisation and victim-blaming.
- Progress implementation of the Strategy for Prevention of and Response to Conflict-Related Sexual Violence in Ukraine and implement the recommendations from OHCHR's Human Rights Monitoring Mission in Ukraine including related to CRSV. Demonstrate commitment to implementation through resource mobilisation and continued cooperation with international bodies.
- Establish an administrative reparations framework informed by consultations with survivors on their priorities and expectations as soon as possible. In parallel, identify survivors' urgent needs and address those with interim reparative measures to prevent irreparable harm.

To the President of Ukraine:

- Adopt the State Policy Concepts on the Protection and Restitution of Human Rights and Fundamental Freedoms in the Context of the Armed Conflict on the Territory of Ukraine and on Overcoming Its Consequences with a view of advancing a framework of reparations in Ukraine, including for CRSV. Support initiatives aimed at establishing reparations programmes, including for CRSV survivors.
- Sign Bill no. 2689 On Amendments to Certain Legislative Acts on the Enforcement of International Criminal and Humanitarian Law adopted by the Parliament in May 2021 to enhance accountability for conflict-related crimes, including sexual violence.



Next Steps

Urgent action by the international community, Ukrainian civil society organisations, and State authorities is needed to assist, support and sustain survivors' efforts to obtain implementation of the above recommendations and achieve recognition and effective reparation. These include the following:

- Identify good practices and lessons-learned on the right to remedy and reparations for CRSV and seek technical assistance from experts, international organisations, and other countries to implement such practices in a context-sensitive manner.
- Begin meaningful consultations on reparations with CRSV survivors, doing so in a trauma-informed, gender-sensitive and survivor-centric manner.
- Initiate the drafting of a bill at Parliament or a presidential decree for the establishment of an administrative reparations programme.