

# **Violation of Rights of Prisoners of War to Health and Medical Treatment:**

Consequences, Qualifications  
and Perspectives





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*“Even those, who were taken to hospital, were returned very soon and placed back in barracks. They lacked limbs and had fresh and open wounds. The process of their healing had not even started and that was totally inhumane to return people back in such conditions”*

**A.N., released Ukrainian PoW**

*“If anybody insisted on providing medical care after refusal, he was first threatened and after that four representatives of the prison administration came to the cell, restrained the man and beat him. I know at least two cases when guys died shortly thereafter”*

**O.N., released Ukrainian PoW**

*“The most mocking and cruel thing I remember is when the administration began collecting complaints of dental problems... After that they sent everybody to the dentist, who was obviously drunk and told everyone after sitting in his chair that the only thing he could do is to pull teeth out... and started pulling them out without any anesthesia”*

**S.P., released Ukrainian PoW**

*“There have been several guys with shell fragments in their bodies ... They should be just taken out immediately, that would be very easy but nobody cared about that. We were only provided with Chlorhexidine each day to wash the wound. Some had their wounds healed and some had inflammations for more than six months. I remember one guy who had a nerve in his leg cut by the bullet. He should have been taken to surgery immediately to have his nerve stitched. However, everything he had was just bandaging for years and this bandaging was provided by us, PoWs...”*

**V.S., released Ukrainian PoW**

# Introduction

Since the beginning of the unprovoked aggression of the Russian Federation against Ukraine, approximately 13,500 warriors of the Armed Forces of Ukraine have been reported as detained, although the exact number is not available to date. The Russian Federation systematically neglects its duties and obligations under the international instruments to which it is a party (namely, Geneva Convention Relative to the Treatment of Prisoners of War (**Geneva Convention III, GCIII**) to inform the opposing party about the detention of the prisoners of war (hereinafter, PoWs). Moreover, according to numerous reports, a lot of Ukrainian warriors have not been duly registered as PoWs and have been placed in the detention facilities in Russia and occupied territories of Ukraine as civilians. Therefore, the exact number of the Ukrainian PoWs in Russian captivity is still unavailable.

The majority of reports, articles and research related to the PoWs and violation of their rights by the Russian Federation and its representatives are based on the **major** violations of the PoWs' key rights such **as the right to life and physical inviolability**, infringed by Russian authorized personnel through arbitrary killings and torture of PoWs. Another type of such surveys are the **general** reports and researches prepared by the distinguished international organizations such as the Organization for the Security and Co-operation in Europe (OSCE)<sup>1</sup>, Office of the United Nations High Commissioner for Human Rights (OHCHR)<sup>2</sup> etc. covering the situation overall. The

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1 OSCE. *Report On Possible Violations And Abuses Of International Humanitarian And Human Rights Law, War Crimes And Crimes Against Humanity, Related To The Treatment Of Ukrainian Pows By The Russian Federation*: <https://www.osce.org/sites/default/files/ff/documents/a/0/598042.pdf>

2 OCHR: *TREATMENT OF PRISONERS OF WAR AND UPDATE ON THE HUMAN RIGHTS SITUATION IN UKRAINE 1 June 2024 – 31 August 2024*: <https://ukraine.ohchr.org/sites/default/files/2024-10/2024-10-01%20OHCHR%2040th%20periodic%20report%20on%20Ukraine.pdf>

purpose of this particular research is to provide a more extensive and comprehensive look at one type of the gross violations of the international humanitarian law (IHL) and international human rights law (IHRL) being committed by the Russian state and Russian authorized representatives – **violation of the PoWs’ rights to proper medical attention and corresponding requirements to the detaining state on ensuring such rights.**

Breaches of these rights are not committed through such visible and obviously devastating forms for external observers as deprivation of life and torture, however, consequences of them are no less essential for PoWs- deaths, mutilations, irreversible damage to health, fundamental physical and psychological traumas. Even PoWs who were fortunate to return back home alive are currently struggling to go through long and complicated physical and psychological rehabilitation and not all of them will be able to complete it or to the level of physical and mental health they had before detention. Thus, Russian violations against PoWs regarding the right to health and proper medical attention are not just breaches of the specific provisions of the GCIII or of the 1977 Additional Protocol to the Geneva Conventions but are also targeted and streamlined efforts to deprive Ukraine of the part of its most active and conscious population and even if kept alive and returned, isolating it from normal and active civic life in Ukraine afterwards. Therefore, the analysis and spreading of actual and statistical information, its legal qualification as breach of the IHL and IHRL as well as of the international crime with an emphasis on possible criminal liability for its commission, is a matter of the great importance for Ukrainian domestic circles and even more for the Ukrainian partners, international stakeholders and decision-makers is essential.

**The key aim of this research is to draw the attention of the EU authorities and other international stakeholders to the facts of gross violations of the Ukrainian PoWs’ rights and Russia’s obligations under the IHL instruments to which it is still a party and to make it contribute to the mechanism of bringing Russia to liability through strengthening the sanctions’ mechanism as well as not to allow the burial of the proceedings on bringing offenders against PoWs to due criminal liability.**

This research was conducted based on collecting, processing and systematizing information from different sources such as:

- **Interviews:** 8 PoWs who successfully returned home have been interviewed and provided rather detailed information about their own experience and events they witnessed and which was related to information on violations of PoWs’ rights to medical treatment in places of captivity. The selection of interviewees

was based on their professional background – 100% of the interviewed PoWs **are educated doctors and served as military medical personnel before being captured. Moreover, they used to provide medical assistance during the captivity as well.** Therefore, this group of interviewees provided the most detailed possible and professional qualification of personnel's actions and omission in places of detention and their consequences.

Another group of interviewees is represented by experts who are engaged in medical, physical and psychological rehabilitation of PoWs who returned from captivity. Such specialists provide general information regarding traumas, physical and psychological health implications etc. which makes it possible to form the picture and statistical data.

These interviews were conducted with **M.T.**, head of the **National Program of Rehabilitation “Unburned”, T.S.**, deputy head of the **Center of Psychological Health and Rehabilitation “Lisova Poliana”**.

- **External sources of information:** Other general reports, studies of international organizations and experts, media articles and journalist investigations related to PoW-related issues as well as sources of information they are referring to (when available) have been thoroughly studied and processed with a focus on medical treatment angle.
- **Legal analysis** Actions and omissions of Russian military and civil personnel regarding Ukrainian PoWs, conditions in places of captivity have been analysed through the lens of violation of the IHL and IHRL taking into account the comments of the International Committee of the Red Cross (ICRC). Such violations have also been analysed based on the presence of elements of international crimes under Article 8 of the Rome Statute of the International Criminal Court (ICC). The case law of the international criminal tribunals such as International Criminal Tribunal on the Former Yugoslavia (ICTY), International Criminal Tribunal on Rwanda (ICTR) and ICC has also been analysed to show the possibility, precedents and practical aspects of bringing to criminal liability for crimes against PoWs.

# / Non-provision of medical attention and improper provision of medical attention

## A.

### Obligations to provide medical attention to PoWs under international law binding for Russia and Russian personnel

**Geneva Convention III:** Provisions of Article 13 of the Convention establish that prisoners of war must at all times be humanely treated and that not only unlawful acts but also **omissions** by the Detaining Power **causing death or seriously endangering the health of a prisoner of war** in its custody is prohibited and is treated as a serious violation of the Convention. Article 15 of the GCIII provides that PoWs have the right to be provided with medical attention required by their state of health free of charge. Articles 22, 25, 29 of the Convention establish the obligation of the detaining state to ensure that the places where the PoWs are detained shall afford every guarantee of hygiene and healthfulness to prevent epidemics. In turn, Articles 30, 31 of the Convention specify the obligation of the Detaining Power to ensure the right to health and medical attention through:

- mandatory establishment of an adequate infirmary where prisoners of war may have the attention they require;
- ensuring isolation wards for cases of contagious or mental diseases;
- ensuring transfer of PoWs suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care to any military or civilian medical unit where such treatment can be given;
- providing that no barriers exist to prevent PoWs from presenting themselves to medical authorities to receive treatment;

- bearing costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles;
- holding medical inspections to supervise the general health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease at least once a month.

**1977 Additional Protocol I to the Geneva Conventions:** Additional Protocol I has a much broader scope of coverage as it supplements all three Geneva conventions. Therefore, it does not contain such specific provisions on PoWs as GCIII, however, Article 11 of the Protocol establishes the general framework for the **prohibition to endanger through an unjustified act or omission** physical or mental health and integrity of persons who are in the power of the adverse Party. Paragraph 4 of the same article stipulates that any such **act or omission shall be deemed as the grave breach of the Protocol. Article 86** of the Additional Protocol envisages that parties to the Conventions and Protocols should **repress** grave breaches, and take measures necessary to **suppress** all other breaches of Conventions and Protocol.

## **B.**

### **Actual situation of compliance by Russia and Russian representatives with the rights of Ukrainian PoWs.**

All eight PoWs interviewed for the purposes of this research have been kept in absolutely different detention facilities located on the territory of the Russian Federation as well as on the occupied territories of Ukraine (all of them not specifically designated for keeping PoWs as required by the GCIII). The geography of locations of prisons, camps, temporary isolators and other types of institutions where Ukrainian warriors have been held together with Ukrainian civil prisoners and Russian convicted criminals is really broad – from occupied part of the Zaporizka oblast of Ukraine to the territory of the Republic of Mordovia, Volga District, central part of the European Russian territory. And yet, the evidence and facts provided by them regarding medical care and its quality are very close with only slight differences.

However, the place which organically unites the majority of the interviewed PoWs and hundreds of others **is the former colony No. 120 in Olenivka, occupied territories of Donetsk region, Ukraine** (hereinafter, Olenivka) which was transformed into the filtration camp and detention center for the Ukrainian PoWs. The concentration of

killings, tortures and other violations of the PoWs' rights here including ones related to the conditions of detention is extremely high and shall be the subject of the analysis here as well.

In general, the actions and omissions related to non-provision/improper provision of medical treatment to the Ukrainian PoWs may be divided into two major groups:

- 1) Related to treatment of wounds, traumas and diseases which the PoWs had **before** detention (including wounds and other injuries sustained on the battlefield);
- 2) Related to treatment of wounds, traumas and diseases sustained by the PoWs **during** their detention, including those obtained because of torture, beatings applied against PoWs by the Russian administration or due to the general conditions of detention

As for the **first** group mentioned above, all the interviewees informed us that in the majority of cases the wounded and diseased PoWs **were not provided any medical attention** except for the hardest cases. However, even in the latter situations PoWs have been provided only enough **not to let them die immediately** and afterwards they have been deprived of any possible care and conditions.

One of the largest concentrations of such PoWs, based on results of the interview, was in Olenivka and places like this, from where the PoWs have been subsequently distributed to other detention facilities. Olenivka is especially remarkable in this regard as the majority of Mariupol defenders from "Azovstal" were placed here and they underwent especially cruel treatment and hostility from administration.

O. N., for instance, informed about consequences related to mass murder of PoWs who were majorly from the "Azov" brigade in barrack No. 200 in Olenivka on 28 - 29 July 2022<sup>1</sup>. He told, that after the explosion of the barrack, the administration of the colony did nothing to provide any possible treatment and all the possible medical assistance was provided by other PoWs who had medical education and/or experience, including O.N.. Moreover, according to the provided information, representatives of the facility administration intentionally **released medical tourniquets applied by Ukrainian PoWs** to make the wounded **bleed which caused more deaths of the injured than could be**. The same approach was supervised regarding another group of PoWs which was shelled during forced labour

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<sup>1</sup> [https://www.ombudsman.gov.ua/en/news\\_details/spilna-zayava-shchodo-masovogo-vbivstva-ukrayinskih-vijskovopoloneni-29-lipnya-2022-roku-u-smt-olenivka-na-timchasovo-okupovanij-teritoriji-doneckoyi-oblasti](https://www.ombudsman.gov.ua/en/news_details/spilna-zayava-shchodo-masovogo-vbivstva-ukrayinskih-vijskovopoloneni-29-lipnya-2022-roku-u-smt-olenivka-na-timchasovo-okupovanij-teritoriji-doneckoyi-oblasti)

two weeks after. *“As far as I remember, only two or three guys from eight survived there and only one completely unharmed, he was lucky to be far from the center of the explosion...One of them, from the State Border Service was lying after that in my barrack with head, stomach, arms and legs wounded and only I provided him help.... And from those who died, only one died immediately. The others died in infirmary, those who survived and other guys applied some improvised tourniquets and those Russians took them off...”*

A. N., in his turn, also supports the statement that the medical care was provided only to the wounded and sick PoWs with the worst health conditions and even that care was provided **at the minimum level** just not to let them die immediately. He told, that after the explosion even the PoWs with medical expertise who volunteered to help were not allowed to provide any assistance for more than 3 hours. *“After that, – he informed – the most heavily wounded have been transported to Donetsk, while the guys with damages of medium and low level were placed in conditions, where their wounds became rotting much more intensively... However, even those who were taken to hospital were returned very soon and placed back in barracks. They lacked limbs and had fresh and open wounds. The process of their healing had not even started and that was totally inhumane to return people back in such conditions”*. He also confirmed that more or less normal medical care to wounded was provided in Olenivka just during the first months of captivity by civil doctors who arrived from Donetsk and only to the most severely wounded. He argued that the whole attitude which included medical care gradually deteriorated and *“after the absolutely null reaction of our international partners after the explosion in barrack No. 200”* even that little care was terminated.

O.N. also informed that facilities administration in some cases intentionally instructed him to conduct the amputation of inflamed and rotting limbs even in cases where it was not necessary or even insisted on it. *“They told me to cut off the fingers of one PoW with inflamed finger phalanges. It took me a while to convince them that I may cure these inflammations by therapeutic methods”*.

M. S., who was also kept in several facilities confirmed the information about treatment regarding the heavily wounded PoWs in Olenivka: *“There were critically wounded people in Olenivka who had just undergone surgery and were brought from the hospital and thrown almost on, well, like, on the floor... We had to clean up after them, bring them food, feed them, because there were guys who had injuries to all four limbs and couldn't do anything on their own, not even go to the toilet. Help was provided only by our guys, guys like me, who also had medical expertise.”* However, according to M. S as well as other interviewed released from captivity, the situation in other detention facilities was not much better. For example, as for the PoWs in the

penal colony in Horlivka, occupied territory of the Donetsk region, V. S. told “There have been several guys with shell fragments in their bodies ...They should be just taken out immediately, that would be very easy, but nobody cared about that. We were only provided with Chlorhexidine each day to wash the wound. Some had their wounds healed and some had inflammations for more than six months. I remember one guy who had a nerve in his leg cut by the bullet. He should have been taken to surgery immediately to have his nerve stitched. However, everything he had was just bandaging during the year and this bandaging was provided by us, PoWs...”.

However, wounded PoWs were not the only category of prisoners who faced full absence or inadequate provision of medical care. Prisoners, who were captured already having diseases (including chronic) and complicated medical conditions, did not receive any assistance and some of them even died. For instance, A. N. informed about the death of the HIV-infected PoW **who was not provided the antiretroviral therapy and finally obtained the severe multi-organ and respiratory failure.** The interviewed also informed about the facts of deaths from complications they personally witnessed – **prisoners who had hepatitis C died from liver cirrhosis and obstruction of biliary tracts** because he was not provided any medical attention despite requests, several PoWs also died from **sepsis of internal organs** as they did not get even minimum care.

**The second group of health problems** inextricably connected with the violations of PoWs’ rights and IHL in general by the Russian administration are the health problems and diseases acquired **during the captivity.** The full and comprehensive analysis of the witnesses’ testimonies as well as of other reports allowed to assume that besides the usual incidence of diseases based on individual health status, the majority of them have been caused by the **deliberate actions/omissions**<sup>2</sup> of the Russian administration.

Such problems with PoWs’ health may be, in their turn, divided into separate sub-groups such as: **1) problems, related to the aftermath of beatings, torture and other kinds of harm inflicted by Russian administration to PoWs; 2) problems (diseases) caused by the conditions of detention and actions/omissions of the Russian administration related to that.**

As for the **first sub-group** numerous damages and injuries of PoWs took place at the beginning of captivity which was called by Russians as “registration” (“priyomka” or “propiska” in Russian). O.K. captured serviceman of the State Border Guard told<sup>3</sup>: “As

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2 <https://www.osce.org/sites/default/files/f/documents/a/0/598042.pdf>, page 28

3 <https://drive.google.com/drive/folders/1D4Z2whydzWFQRsbWfjKRNPn0vE4-qBE>, page 13

soon as they took off the handcuffs and blindfolds, they arranged the ‘registration’ for us - they tortured us with tasers, beat us with batons, fists, legs, whatever they could find. And after they had beaten us up, they cut our hair and washed us - it took about 15 seconds for each of us.” O. N. also confirms that immediately after his transfer from Olenivka to Old Oskol (Russian Federation) he and other PoWs underwent the severe beatings: “There was harsh ‘registration’, meaning they beat us very severely, hitting us on the knees, chest, and head, and putting us on stretchers...”. M.S., for instance, informed that at least four PoWs died the same day from beatings during the entry procedures. Another example he provided was the PoW on whom the dog was set on immediately when they were transferred to a detention facility in Torez (occupied territories of Ukraine). “This guy was not provided with any antibiotics lately and died from sepsis during the month”, told M.S. However, beatings and tortures and, subsequently, severe damage to health took place not just during the ‘registration’ - they have been the usual reaction of the Russian administration to the “disciplinary violations” (as they interpreted it), just for entertainment, or even because of the request for medical care and insisting on it. According to the OSCE report, requests for treatment were met with apathy, threats of violence or death, and, in some cases, physical assaults by medical or prison staff<sup>4</sup>. O. N. also confirmed this situation, telling that in case anybody insisted on provision of medical care after refusal, he was first threatened and after that four representatives of the prison administration came to the cell, restrained the man and beat him. Such situations were usual and systematic. V. L. told us that in his detention facility **it was popular among administration to beat PoWs with steel ruler on soft body tissues which resulted in numerous traumas, wounds and further infections, inflammations and constant pain, as no painkillers have been provided to the PoWs**. Of course, no assistance was provided after such beatings as they were treated by the administration as the **‘fair punishments for misconduct’**.

This is just the description of the small group of damages and injuries which have been inflicted to the Ukrainian PoWs related directly to the provision of medical care. The horrifying details of the beatings, abuses and tortures over the Ukrainian PoWs have been described in more detail in other reports with a focus on them, like the abovementioned and quoted OSCE report, OHCHR report<sup>5</sup> and materials of media and NGOs<sup>6</sup>.

The **second sub-group** of health problems which PoWs obtained in places of

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4 <https://www.osce.org/sites/default/files/f/documents/a/0/598042.pdf>, page 29

5 <https://ukraine.ohchr.org/sites/default/files/2024-10/2024-10-01%20OHCHR%2040th%20periodic%20report%20on%20Ukraine.pdf>

6 <https://zmina.ua/wp-content/uploads/sites/2/2023/06/ukraine-general-allegation-letter.pdf>

captivity were the general diseases which started in detention facilities or the previously acquired diseases which rapidly developed due to the conditions of detention. All the interviewed PoWs informed that systematically, there have been the outbreaks of different epidemics. A. N. told that after a week of consuming poor food and drinking water with tadpoles and algae there was an epidemic of hepatitis in barracks among almost 600 men. O. N. also reported that there have been numerous cases of tuberculosis and infected PoWs were not isolated in his detention facility from others. In general, infections, flu and other diseases were widespread among PoWs based on the following reasons:

- poor hygiene conditions;
- poor quality food;
- abnormally little space for one PoW ( up to 30 PoWs could have been placed in a cell intended for 8-10 persons) which was favorable for dissemination of viruses and bacteria;
- extremely low temperatures in cells (nearly 9-10°C degrees) etc.

The statement that in 100% of the detention facilities no efforts were made to provide treatment to the sick PoWs would not be true. The reaction of the authorized personnel varied depending on the gravity of the condition of the sick and possible implications for the administration in case of the public consequences. However, in all cases the reaction and efforts differed just on scale from **complete negligence and ignorance** to **formal response** which was never enough and adequate to the actual needs of the PoW.

For instance, as for the obligation of the detaining party to provide regular medical inspections, it is needless to say that, according to the interviews provided, none of them corresponded to the requirements of the Geneva Convention. Article 31 envisages that such inspections shall include checking and recording the dynamics in the weight of each PoW, employing the most efficient methods available to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal diseases. Instead, we have the following information about the inspections provided. A. N., for example, informs: *“To create the illusion of medical care, each facility I was in kept notebooks in the barracks where people could go and sign up if they had any health complaints. It was announced that on specific days, at a specific time, these people would be taken out, lined up, and transported to the medical station... As a result, 5-6 people maximum have been taken to the medical station together with the authorized on medical issues among PoWs [A. N. used to be one of these] to inform about the needs of others. As a result of my complaint, I was provided, for*

*example, with 30 pills of paracetamol and 1 bottle of Naftezin [nasal medicine] for 120 sick people during 14 days until the next inspection". M. S., in his turn, provides: "Throughout my detention, only PoWs did something to help sick fellows, asking for medicine, supervision, instruments... Only in cases where negligence could obviously cause harsh aftermath and problems for administration anything was done. Otherwise, initiative for provision of help could cost a prisoner his own health".*

# // Tortures and abuse during provision of medical treatment

Torture, physical and psychological abuse used to be the common practice for the behaviour of the Russian administration regarding prisoners of war and this topic is in the spotlight of other numerous surveys and is not directly related to this research. However, the issue of torture is inseparable from the topic of medical attention in terms of the provision of care to save the victims from the consequences of tortures or to eliminate such consequences.

M. T., director of the National Program of External Rehabilitation “Unburned” (“Neopalymi”) provided us with the information of the common groups of traumas, his employees or other partnering medical organizations/facilities faced which proved that even minimal assistance was not provided to the affected PoWs after being tortured such as:

- broken facial bones, limb bones which have not been treated properly and with wrong fusion as a result;
- signs of burns and electric-shock torture;
- tissue damage resulting in their necrosis;
- damages aimed at both physical and psychological abuse such as imposition of “swastika” signs on foreheads of prisoners cut out by knives.
- In majority of cases PoWs have been provided minimal or no attention and Ukrainian doctors had to deal with the aftermath of such actions after years of negligence and omissions.

However, some actions which may be treated as tortures and abuses were detected **explicitly** during provision of medical care and **by the medical personnel itself**. One of the most notorious examples was of course branding the sign “Z” and words “Glory to Russia” (“Slava Rossyi”) on the skin of the Ukrainian prisoner Andrii Pereverziev after provision of the surgery following the serious damage of the bladder

and abdominal cavity<sup>1</sup>. According to the results of the journalist investigation, this branding was provided under general anesthesia and with application of the electrocoagulator by two of the surgeons. Despite the fact that this stigmata were provided carefully and highly professionally (according to the qualification of M.T.) their infliction on the body of the detained person is obviously an act of physical and psychological abuse.

The provision of **dental care** for the Ukrainian PoWs resulted in a whole separate pattern of torture and physical abuse. S.P. informed us, that as a result of poor hygiene and food quality, the absolute majority of his fellows had serious dental problems and the majority of suffering had either to live with the pain or to rely on the possibility of getting painkillers which were in huge deficit for PoWs. However, those who were finally offered dental care had to regret it otherwise. *“Once they were transported to the medical institution, the drunk doctor informed them that no dental therapy shall be provided, only tooth extraction... But the worst part was that after they provided consent to extraction [which was understandable as suffering from toothache, one of the strongest forms of pain, permanently was unbearable], the doctor informed them that no anesthesia is available and teeth shall be extracted as is”*, told A. N. Other interviewed ex-PoWs also informed that dental problems have either been ignored or resolved with extraction without anesthesia and in one facility, according to M. S., the prison doctor handed dental extraction forceps to the prisoners and proposed them to extract teeth by themselves, as no one from medical staff wanted to bother themselves with that.

Some of the PoWs who addressed the administration with complaints related to the headaches and panic attacks had to regret this as well. T. S., deputy head of the Center of Psychological Health and Rehabilitation “Lisova Poliana” and psychiatrist who works with ex-PoWs informed that in several detention facilities such complaint resulted in application of psychotropic drugs or even in unfounded transfer of prisoners to the psychiatric clinics where they have been subjected to the inhumane and unnecessary psychotropic treatment, **including experimental psychotropic drugs on them**. Currently, irreversible damage has been done to the mental health of such ex-prisoners and turned them into mentally unstable or even disabled persons with a lot of problems of re-integration to normal social life.

Finally, interviewed ex-PoWs as well as mentioned global surveys inform about regular psychological abuse and humiliation of PoWs not only by prison administration but by the medical staff as well. Such abuse and humiliations were based on the grounds of anti-Ukrainian xenophobic positions, treating Ukrainians as ‘Nazis’, ‘banderovtsi’ etc.

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<sup>1</sup> Investigation names surgeons suspected of burning «Glory to Russia» onto Ukrainian POW's body: <https://www.pravda.com.ua/eng/news/2026/01/20/8017125/>

# III. Severe and irreversible damage to health incurred during detention and deaths

While the released PoWs shared their hard personal experience about medical care in Russian facilities, the information from the competent Ukrainian medical and psychological/psychiatric experts allowed us to collect the general information about the consequences of Russian captivity for the Ukrainian defenders. For the purposes of this research, such information allows to see not just the general picture of gross human rights violations committed regarding PoWs - torture, sexual abuse, mutilations - but also see how inadequate provision of medical care/failure to provide such care affected the general health condition through not just failing to improve it by curing the diseases/traumas but deteriorated it as well.

M.T., the head of the **National Program of Rehabilitation “Unburned”**, informed us that 90% of the former PoWs who were the patients of the program **underwent torture** and had the relative consequences: broken fingers, burns, scars, artificially made by prison personnel. Also the absolute majority of them had old traumas and burns obtained on the battlefield before captivity and not cured at all. Some of the traumas were, unfortunately, found irreversible and incurable.

The representative of the **Center of Psychological Health and Rehabilitation “Lisova Poliana”** T.S. together with other operating doctors provided information allowing us to generalize the health problems which the absolute majority of the released PoWs have:

- 1) **Problems with the autonomic nervous system, the cardiovascular system, the lymphatic system, a tendency toward swelling, and occasional joint pains** as consequences of the **torture by electricity**;
- 2) **Muscle atrophy, heart problems, varicose veins** as a result of conditions of

- confinement, permanent forceful putting in unnatural positions of the body;
- 3) **Dental problems** caused by poor food quality, absence of proper hygiene, beatings;
  - 4) **Endocrine problems** resulting from permanent stress, poor food quality and unnatural dietary supplements;
  - 5) **Urological and gynecological issues** and venereal diseases caused by sexual abuse, rape, absence of hygiene and absence menstrual hygiene products;
  - 6) **Proctological infections** as a result of rape and absence of hygiene;
  - 7) **Infectious diseases** with complications including hepatitis, tuberculosis, fungal infections;
  - 8) **Loss of vision;**
  - 9) **Rheumatoid arthritis**

Except that, the experts informed about the numerous psychological and psychiatric complications with the released PoWs related to:

- 10) **Head traumas;**
- 11) **Onset of mental disorders which would unlikely happen without captivity:** schizophrenia, bipolar disorder;
- 12) **PTSD (post-traumatic stress disorder)** accompanied with depression, acquired susceptibility to addictions, psychological triggers, a crushing sense of guilt toward those left in captivity.

Experts told us that a lot of prisoners, while being in captivity were forcefully subjected to taking psychotropic medication both during torture and as an experimental trial of such medicine. Those who complained of depression or other psychological problems were transported to psychiatric clinics and subjected to a harsh course of psychotropic treatment.

The experts estimated the harsh results of being in captivity as awful and destructive for the majority of released PoWs they dealt with. A significant number of them obtained irreversible physical harm and may stay disabled or restricted in some kinds of activities until the end of their lives. Many more suffered from so many psychological traumas that it would be extremely difficult for them to return back to normal civilian social life, be a lawful, happy and productive member of the society. And for some of them **it may never be possible.**

# IV. Legal qualification and perspectives of prosecuting actions/omissions against PoWs as international crimes

As already stated above, Article 11 (4) of the Additional Protocol I to the Geneva Convention explicitly envisages that **any wilful act or omission which seriously endangers the physical or mental health or integrity of any person who is in the power of a detaining party, constitutes a grave breach of the Protocol and, thus, of the Geneva Convention.** Therefore, such acts and omissions were definitely implied as international crimes by the drafters of the statutory documents, such as the Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY)<sup>1</sup> and Rome Statute of the International Criminal Court (ICC)<sup>2</sup>. Certainly, non-provision or improper provision of medical attention was not explicitly identified as a separate international crime but, as the applicable case law shows, definitely falls under the framework of the general violations of Geneva Conventions defined as crimes. For instance, Article 2 of the ICTY Statute formulates “grave breaches of Geneva conventions of 1949” as a separate group of crimes differing from war crimes, crimes against humanity, crimes of genocide and aggression to which international lawyers are accustomed to. This defines ‘*torture or inhuman treatment, including biological experiments*’ and ‘*wilfully causing great suffering or serious injury to body or health*’ as mentioned grave breaches of Geneva conventions of 1949 which used to be subject to prosecution and judgment of the ICTY while it was implementing its activities<sup>3</sup>. All the sentences and judgments related to crimes against PoWs issued by ICTY and related to the medical care were issued based on these breaches.

Rome Statute of the International Criminal Court, the only currently operating

1 [https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf)

2 <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

3 ICTY issued its final judgement on November 29, 2017 and ceased to exist on December 31, 2017

global international criminal tribunal with jurisdiction to prosecute for the majority of international crimes committed by Russians in Ukraine (except for the crime of aggression) also follows the exact formulations of the grave breaches of 1949 Geneva conventions but includes them all in the list of the war crimes envisaged by Article 8, clause 2 (a). Moreover, certain acts and omissions may possibly form the elements of another **war crime prescribed by Article 8, clause 2 (b) (x)**: “Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons”.

As of the date of preparing this research, no final sentence or judgement has been issued by the ICC regarding omission of crimes against PoWs or PoW-type civilian prisoners related to non-provision/improper provision of the medical care. However, ICC issued at least two judgments regarding **cruel treatment** and **outrages against personal dignity** including omissions in ensuring the proper conditions of confinement regarding civil abductees and detainees who may not be provided the PoWs’ status. Nevertheless, the reasoning and assessment of evidence by the ICC in the mentioned cases *Prosecutor v. Bosco Ntaganda (ICC-01/04-02/06)*<sup>4</sup> and *Prosecutor v. Dominic Ongwen (ICC-02/04-01/15)*<sup>5</sup> may be used by analogy in ICC proceedings including the ongoing investigation on the situation in Ukraine<sup>6</sup> and its pre-trial (indictment preparation) and trial phases.

However, the main case law basis for crimes against PoWs and PoW-related crimes linked with medical care relies on the judgments of the ICTY which, as the eligible source of the international law<sup>7</sup>, may be successfully used in the ICC proceedings and proceedings of the Special Tribunal on the Crime of Aggression as well.

### 1) The Prosecutor v. Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo<sup>8</sup>

According to the indictment in 1992 forces consisting of Bosnian Muslims and

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4 [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019\\_03568.PDF\\_para\\_497\\_et\\_al](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_03568.PDF_para_497_et_al)

5 [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021\\_01026.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_01026.PDF)

6 <https://www.icc-cpi.int/situations/ukraine>

7 According to the Article 38 of the Statute of International Court of Justice

8 Trial Judgement of November 16, 1998: [https://www.icty.org/x/cases/mucic/tjug/en/981116\\_judg\\_en.pdf](https://www.icty.org/x/cases/mucic/tjug/en/981116_judg_en.pdf)

Bosnian Croats took control of those villages that contained predominantly Bosnian Serbs within and around the Konjic municipality in central Bosnia. Those persons detained during these operations were held in a former JNA facility in the village of Celebici, the Celebici prison-camp, where detainees were killed, tortured, sexually assaulted, beaten and otherwise subjected to cruel and inhuman treatment by the four accused.

Three of the accused were sentenced to different terms of imprisonment (from 7 to 20 years) including on the grounds of:

- inhuman and cruel treatment
- wilfully causing great suffering or serious injury to body or health

Among the arguments proving the committed grave breaches of the 1949 Geneva conventions, the following arguments related to the medical care have been provided:

*“...In light of the consistent testimony regarding the inadequacy of the medical supplies available in the prison-camp infirmary, therefore, this evidence cannot affect **the Trial Chamber’s finding that the medical facilities available to the detainees suffered from a serious lack of basic medical supplies...**”<sup>9</sup>*

*“... the medical care provided for the detainees in the Čelebići prison-camp **was clearly inadequate**, especially in light of the serious injuries suffered by many of the detainees during their detention. Further, the Trial Chamber finds that **the detainees were often denied access to the basic medical facilities that were available...**”<sup>10</sup>.*

In this judgment, the Trial explicitly stressed the principle of the command responsibility of the senior personnel who does not directly perform duties but is obliged to ensure their performance, including ensuring the humane treatment and proper provision of medical care. An order to conduct an act or omission, failure to prevent it when the commander knew or should have known about that is also a basis for bringing to criminal liability.

In this judgment as in other cited, failure to ensure proper medical care/non-provision of medical care was not an independent basis for the criminal liability but contributed to it strongly as an aggravating circumstance.

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9 *Ibid.*, para. 1102

10 *Ibid.*, para. 1105

## 2) The Prosecutor v. Miroslav Kvočka, Dragoljub Prcać, Milošević, Miroslav, Mlađo Radić & Zoran Žigić<sup>11</sup>

According to the indictment, 5 (five) Serbian police officers committed numerous grave breaches of 1949 Geneva conventions in Omarska detention camp (Prijedor, Bosnia and Herzegovina) between May–August 1992 against non-Serb detainees during the armed conflict. All the accused were finally **convicted** for the **persecution, inhuman treatment and torture**.

It is noteworthy that the victims in this case were among the civilian population, thus the conclusions of the Trial are not applicable in their entirety to the PoWs. Moreover, in the case of Miroslav Kvočka, the offence was qualified as a crime against humanity which may not possibly be committed against PoWs.

However, this distinction is not decisive in this case, as the merits of the arguments related to medical care:

*“...According to the Prosecution, the Trial Chamber concluded that **the medical care at Omarska was grossly inadequate** and since the ICRC Commentary (Additional Protocol I) to Article 75(1)(a) of Additional Protocol I recognizes that **murder includes manslaughter by wilful negligence**, the **substantial cause of the death of Hodzic must be attributed to the personnel of the camp because of their wilful omission to provide medical care to him**. It argues that **Kvočka must be held liable as the death resulted from a prolonged lack of medical care and Kvočka was in a position to assist detainees in receiving medical care**. Kvočka replies that he was not in the camp at the time and that this murder should be separately analysed.”<sup>12</sup>*

*“...Having examined the testimony cited by the Trial Chamber, the Appeals Chamber is satisfied that a reasonable trier of fact could conclude that the victim died as a result of deliberate lack of treatment for his chronic ailment. It is therefore reasonable to conclude that Ismet Hodzic, **who died as a result of wilful omission to provide medical care, was murdered**.”<sup>13</sup>*

Thus, in this case the court found failure to ensure the adequate medical care and death because of the inadequately prolonged medical care **murder** and interpreted

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<sup>11</sup> Appeals judgement (finally confirming trial's judgement): <https://www.icty.org/x/cases/kvočka/acjug/en/>

<sup>12</sup> *Ibid*, para 269

<sup>13</sup> *Ibid*, para. 270

the provisions of the Additional Protocol I as finding such omission manslaughter. While in Omarska camp prisoners died because of negligence, in Russian facilities, according to the provided testimonies, a lot of PoWs died when the personnel willfully denied any medical help, accompanying this denial with mocking and insults, which makes these circumstances even more aggravating.

### 3) The Prosecutor v Milorad Krnojelac<sup>14</sup>

In this case the Appeals Chamber confirmed the findings of the Trial about the guilt of the accused camp commander in persecution and inhumane acts and one of the arguments was that the “...Hygienic conditions were deplorable and washing facilities minimal, **while medical care was inadequate and medicine in very short supply. A basic medical service was provided but those in need of urgent medical attention were left unattended or given insufficient treatment. At least one detainee died as a result of the lack of or late medical care...**”<sup>15</sup>

### 4) The Prosecutor v. Blagoje Simić, Miroslav Tadić, Simo Zarić<sup>16</sup>; Prosecutor v. Dusko Tadic aka «Dule»<sup>17</sup>

These two proceedings are weaker in their argumentative basis than the previous ones but they also contain the paragraphs showing that the negligence or willful omission of the accused contributed to torture, inhumane treatment and injuries to body and health.

For instance, the argument that “...Dysentery was rife and there was no medical care for illness or for the injuries inflicted by beatings”<sup>18</sup> strongly supported that in general the accused was **found guilty on charges of inhumane and cruel treatment**. At the same time, in *Simić* case the Appeals Chamber supported the Trials’ conclusion that even despite the fact, that accused provided some efforts to supply the camp with medical supplies and drugs, the fact that detainees were

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14 Appeals Judgement of 17 September 2003: <https://www.icty.org/x/cases/krnjelac/acjug/en/>

15 *Ibid*, para 193

16 Appeals Chamber decision of November 28 2006: <https://www.icty.org/x/cases/simic/acjug/en/061128.pdf>

17 Trial Judgement of May 7, 1997

18 *Ibid*, para 170

deprived of medical care and supplies was anyway enough<sup>19</sup> to contribute to finding him guilty on charges of **cruel treatment**.

**In general**, the ICTY case law establishes the standard of finding non-provision or inadequate provision of medical care or failure to ensure it by the administration as a **direct proof of omission of grave breaches of 1949 Geneva conventions, i.e. inhumane treatment, willful causing harm to body and health, persecution**. It is also crucial to stress that in the majority of cases, the victims were from among the civilians and not subject to such specific protection during imprisonment as PoWs. Moreover, the majority of victims were not wounded and in need of medical care as military PoWs. Nevertheless, the ICTY found the majority of the accused guilty based on, **including, negligence or not enough efforts to ensure adequate medical care**. Considering the information provided to us about conditions for the Ukrainian PoWs, the crimes committed by Russians against them are much more **intentional** and with much more **aggravating circumstances**.

The information provided by the interviewed released PoWs does not allow us enough arguments to presume strongly the presence of the genocidal intent and **elements of the crimes of genocide** against PoWs. i.e. acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as long as interviewed could not reasonably state that those who died or got irreversible damages were neglected, beaten etc. due to their Ukrainian citizenship. However, the interviewed informed that they were permanently mocked and verbally offended because they were Ukrainians and the circle of offenders also included medical personnel in case some medical care was finally provided. For instance, there have been a lot of comments from administrative and medical personnel that “*you should understand, you deserved all this*”. O.N. told that his and other cells where only PoWs were kept, were given the cloths with Ukrainian symbols to clean the dirt. Russian criminals sitting together with Ukrainian PoWs were sometimes conducting abuses, including sexual, without any proper reaction from administration and, allegedly, with their tacit consent.

We will certainly look for more facts to link them arguably with acts/omissions related to the non-provision/inadequate provision of the medical care. At least, the relevant ICTY case law, the Appeals Chamber’s judgement *The Prosecutor v. Zdravko Tolimir* citing **and confirming the** Trial Chamber’s findings, provides:

**“The underlying acts covered by Article 4(2)(c) [crime of genocide through deliberately inflicting on the group conditions of life calculated to bring about**

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<sup>19</sup> Appeals Chamber decision of November 28 2006, para. 133

*its physical destruction in whole or in part] are methods of destruction that do not immediately kill the members of the group, **but ultimately seek their physical destruction**. Examples of such acts punishable under Article 4(2)(c) include, inter alia, subjecting the group to a subsistence diet; **failing to provide adequate medical care**; systematically expelling members of the group from their homes; and generally creating circumstances that would lead to a slow death such as the lack of proper food, water, shelter, clothing, sanitation, or subjecting members of the group to excessive work or physical exertion.”*

Therefore, the subsequent proper collection of evidence linking failure to provide proper medical care/non-provision of medical care to Ukrainian PoWs to the genocidal intent to destroy the part of the Ukrainian population, the most active and motivated by creating the conditions, showing that the offender was seeking such destruction, would certainly contribute to successful allegations and sentences regarding **crimes of genocide as well**. However, the elements of the numerous **war crimes against Ukrainian PoWs** already look strong and promising in terms of successful indictments and sentences.

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*1949 Geneva Conventions and Additional Protocol I to them which Russia is still a party to, establish strong and detailed obligations of a detaining Party regarding prisoners of war during the armed conflict which includes ensuring the humane treatment, fair trial, essential rights and freedoms which cover conditions of detention: specialized premises, proper food, clothing, sanitary standards and hygiene tools and, of course, provision of proper medical attention.*

*While Global reports of the UN Monitoring Mission, OSCE, journalist investigations focus on the major violations of the PoWs' key rights to life and health by arbitrary killings, tortures, mutilations, another huge group of violations of PoWs' rights and, as a result, international crimes, which is **non-provision of medical care or inadequate provision of medical care when required** is not under such a deliberate focus of attention. However, consequences are no less essential for PoWs- deaths, mutilations, irreversible damage to health, fundamental psychological traumas. The released PoWs who managed to survive, nevertheless face a lot of physical and psychological problems related to the reintegration to the normal social life and not all of them have real chances of doing so.*

In the absolute majority of detention places **no sufficient medical attention was provided to PoWs** who were taken there **already** wounded or sick. Only those who had the most severe wounds have been transported to hospitals but they were provided help **only enough not to die immediately**. They were subsequently returned to prison and held in inadequate conditions with open wounds and amputated limbs, leading to many preventable deaths. Those, who had moderate or minor wounds have not been provided any care at all and some of them died too while the other part spent the whole captivity with inflamed wounds and shell fragments in their bodies. In Olenivka penal colony, where the conditions used to be especially cruel and inhumane, a lot of wounded PoWs were intentionally left to die by leaving without urgent help or loosening blood-stopping tourniquets.

The PoWs with chronic diseases and harsh infections were not provided even the minimum care which led to death of some and deterioration of health conditions of others. PoWs report about deaths of HIV-infected prisoners from lack of even minimal antiretroviral therapy, as well as of prisoners sick with hepatitis, tuberculosis, dysentery – diseases which ceased to be deemed lethal in the 21st century and are usually effectively cured. Even in cases when the administration did not refuse from providing medical help, such help was obviously inadequate compared with the problem.

Also, a lot of wounds and diseases were the results of the administration's acts/ omissions as well as conditions of detention and no medical care or inadequate medical care have been also provided regarding them. For instance, the interviewed released PoWs report that the newly arrived prisoners go through the cruel beatings and tortures by the administration employees. A lot of such PoWs are reported to die from the consequences of such 'registration' with no medical help provided from bleeding, sepsis, peritonitis and other consequences.

Beatings and torture have been applied not just against newcomers but regarding all PoWs for alleged disciplinary violations or just 'for fun'. One of the reasons for beatings and torture were the cases when the prisoners insisted to be provided with medical help after the administration's refusal to do so. Deaths of PoWs after beatings in such cases are also reported.

Except for the atrocities of administration, diseases were widespread in places of captivity due to the existing conditions and failure of administration to change anything. In each penal facility where the Ukrainian PoWs were kept numerous epidemics of infections took place repeatedly: hepatitis C, tuberculosis, flu etc. The reasons for such diseases were related to: poor food quality and lack of nutrition, lack of sufficient space and ventilation.

Except the direct violations related to non-provisions or improper provision of medical care, some actions of medical personnel can be treated as clear abuse and torture. An especially harsh situation is related to dental care. There are a lot of cases reported when the PoWs who requested the dental treatment were forcibly made to suffer the extraction of teeth without any anesthesia. There are also documented situations when PoWs with terrible toothaches were proposed by the administration to rip their teeth off by themselves.

The doctors and psychiatric experts working with the released PoWs inform that the majority (almost 90% of the treated PoWs) underwent torture and abuse. The absolute majority of them are reported to have severe and sometimes irreversible physical and mental health damages as a consequence of Russian captivity and for a big part of them such damages resulted in being found officially disabled or actually non-capable to reintegrate in normal social life. In general, doctors and experts provide for the several general groups of health problems acquired by the majority of the released PoWs based on conditions of detention: food, medical care, hygiene, beatings and tortures, physical and sexual abuse. These are the problems with **autonomic-vascular system, nervous system, chronic pain syndrome, vein diseases in the legs, dental problems and complications, endocrine problems and complications, urological and proctological infections, genital infections, fungal infections, complicated hepatitis and tuberculosis, vision problems or complete loss of vision.** The separate set of health damages are the psychological implications such as **inflammation and brain damage as a result of head traumas, exacerbation of schizophrenia and bipolar affective disorders, PTSD, psychological triggers, depression, suicidal ideation.** The psychiatric experts also report that during the captivity PoWs with strong mental disorders and problems were taken to psychiatric facilities where psychotropic drugs were used on them.

Such acts/omissions of the Russian authorities and their consequences are not just the violations of the PoWs' rights, they are **international crimes stemming from such violations.** First of all, they should be qualified as war crimes under Article 8 of the Rome Statute, namely the crimes **involving torture or inhuman treatment, wilfully causing great suffering, or serious injury to body or health, subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind.** The existing case law of the international criminal tribunals (namely, ICTY) strongly allows to presume that grounds for bringing perpetrators to liability for such crimes exist and even for much less negligence or wilful acts/omissions. Moreover, in case there is clear evidence linking failure to provide proper medical care/non-provision of medical care to Ukrainian PoWs to the genocidal intent to destroy the part of the Ukrainian population, the most active and motivated by creating the conditions, showing that

the offender was seeking such destruction, we may expect the successful prosecution of the **crimes of genocide through causing serious bodily or mental harm to members of the group and deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part** aimed at killing Ukrainian PoWs or making them incapable to reintegrate to the Ukrainian society thus depriving Ukrainian people of its most conscious and active part of population.

The political, civil and military administration that directly ordered to commit such violations or did not prevent them should obviously be subjected to all possible measures of personal liability including all applicable foreign penalties and sanctions. All Ukrainian international partners should take all possible actions to implement their obligations under Article 86 of the Additional Protocol I to **repress** grave breaches, and take measures necessary to **suppress** all other breaches of Geneva Conventions and Protocol, as well as under the 1948 Convention on Prevention and Punishment of the Crime of Genocide to prevent and suppress acts of genocide committed or intended to be committed against Ukrainian defenders under Russian custody.





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