

Scorching Winter

2016-2017

An analysis of the shelling of settlements in eastern Ukraine



This report was prepared jointly by International Partnership for Human Rights (IPHR) and the field team of NGO Truth Hounds, in cooperation with the Norwegian Delegation to the OSCE and the Civil Solidarity Platform (CSP).

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Overview

This report analyses the attacks on settlements in the provinces of Donetsk and Luhansk in eastern Ukraine during the winter of 2016-2017. It presents data about violations of international humanitarian and criminal law which took place or which might have taken place in this period. The authors demonstrate that, despite assurances from parties to the conflict that the active phase of the fighting in Donbas is over, civilians continue to suffer from ongoing attacks. The report also gives a detailed description of events that occurred in Avdiivka city, which has been the target of the bloodiest attacks during the conflict.

The report examines the shelling and attacks on civilians that occurred from 1 December 2016 to 28 February 2017 in 10 settlements. Because of the closed nature of those territories that are not under Ukrainian government control, data was only collected in towns controlled by the Ukrainian forces. However, the monitoring organizations recorded violations of international law carried out by both parties to the conflict.

International Partnership for Human Rights (IPHR) and Truth Hounds Documentation Field Mission are both independent, non-governmental organizations. The organizations worked together to gather evidence through field research and from public sources. The evidence was analyzed using applicable international law and, taking into account the context and history of the conflict. The field monitoring was conducted jointly by IPHR and Truth Hounds together with the Norwegian delegation of the OSCE and the Civil Solidarity Platform (CSP).

Based on the evidence collected by the monitoring teams, we can conclude that:

- During the attacks originating from so called Luhansk and Donetsk Peoples Republics (LDPR) on the settlement of Kurdiumpyka civilian objects were targeted. These objects cannot be classified as military targets, as there were no military objects located there;
- The attacks from so-called LDPR on the settlements of Vrubivka, Krasnogorivka, Mariinka and Sartana resulted in the death of civilians and damage to civilian objects;
- Most attacks on Avdiivka by so-called LDPR cannot be qualified as war crimes under Article 8 (2) (b) (ii) and 8 (2) (b) (iv). However, a comprehensive review of the shelling of the city for the whole documented period from 26 January to 24 February 2017 makes it possible to establish the mental element of a war crime under Article 8 (2) (b) (iv);
- The numerous attacks on civilian targets that occurred during the winter of 2016-2017 were caused by Ukrainian army military equipment being located near to civilian populations. Under the Rome Statute, from the information gathered, many attacks cannot be qualified as war crimes under articles of the Charter because of the proximity of civilian infrastructure to facilities of the armed forces. Modern international humanitarian law (IHL) requires all parties to a conflict to avoid stationing military objectives near civilians. The evidence presented in this report was analyzed according to international agreements and common law relating to conflict and mass atrocities, namely, international humanitarian law and international criminal law.

During the investigation into the attacks on the towns, information from public sources and reports published by the special monitoring mission of the OSCE was also used. The authors of this report believe that based on a common desire for peace, security and justice, it is essential to conduct a full and thorough investigation into these events and bring those responsible for international crimes to trial under independent and impartial proceedings to ensure full respect for basic rights fair trial.

Sources of information and methodology of documentation

Evidence of the violations presented in this report were collected by IPHR and Truth Hounds (together with other partner organizations and independent human rights activists) during field missions in eastern Ukraine which took place in the period of December 2016 - March 2017. During these field missions witnesses and victims were interviewed and information was gathered from independent reliable sources. To ensure a methodologically consistent documentation process, IPHR developed a guide to documenting crimes. The manual contains a detailed description of the elements of crimes (war crimes and crimes against humanity), classification of evidence, instructions for obtaining and the secure storage of evidence of different types, recommendations for field surveys and obtaining appropriate information from victims and witnesses and security rules during field work.

For this report, eighty testimonies from victims and witnesses from 10 settlements in Donetsk and Lugansk regions were analyzed. For the protection of witnesses, all the testimonies were encoded and a coded number in the data base was attributed to each witness. This data forms the evidence of the report. In addition, 113 shell craters created in the region during winter 2016-2017 were mapped and analyzed (Annex 1). We also used data obtained from military sources, international monitors and human rights organizations, and other reliable and checked sources of documentation.

In order to further check data and to improve the quality of mapping, we used the programme EyeWitness to Atrocities, developed by the International Bar Association. This programme is designed to assist human rights defenders to obtain reliable data using photo and video recording. The application records the time, date and place of use, geolocation data and data points of the nearest Wi-Fi and phone masts. All data collected by using this programme can be used in court as evidence of crime.*

Using the above methodology for gathering information not the other ones, the documenters used the “nine step” model of data collection to cross check evidence and reduce the probability of data manipulation.

In the “nine step” model we used:

1. Evidence of signed orders for the use of materials in courts;
2. Photographs of the scene;
3. Video recording of the scene, which depicts the entire process of the monitoring work and shows a panoramic view of the location, allowing the viewer to identify the crime scene;
4. The EyeWitness to Atrocities programme allowing accurate determination and confirmation of the location of the crime scene, in addition to standard photo-video records;
5. Hand drawn maps of the scenes made by witnesses and certified documenters;
6. Google Earth Maps;
7. Information from the OSCE, gathered in the field and verified and information from public sources;
8. Information from the Observation Mission Ukraine-Russia collected in the field and tested;
9. The video service Youtube, complementing the existing information and confirming the findings from the field, and media reports and messages on social networks verified by documenters;

* While EyeWitness can verify the image metadata, EyeWitness does not itself investigate, and therefore does not verify, the contents of the images. Any analysis or conclusions drawn regarding the content of the images captured with the EyeWitness app are those of the report authors and do not belong to the EyeWitness organisation.

History of the conflict

After the annexation of Crimea by the Russian Federation, pro-Russian separatists attempted to gain control of the industrial areas of eastern Ukraine, seizing government buildings in Donetsk, Lugansk, Kharkiv, Slavyansk, Kramatorsk and Gorlovka in April 2014 and calling for a referendum on independence. In response to the increasing number of Russian troops on the border, the Ukrainian government in Kyiv ordered an «anti-terrorist operation» (ATO) and regained control of the city of Kharkiv. On 11 May 2014, pro-Russian separatists in the Donetsk and Lugansk regions held an unrecognized referendum and declared the independence of the so-called «Donetsk People's Republic» (DPR) and «Luhansk People's Republic» (LPR), drafting new constitutions. Fighting quickly broke out on the territory of Donbass and losses, particularly amongst the civilian population, began to mount.

On 17 July 2014 the civilian passenger jet Malaysia Airlines flight MH17 was shot down in rebel-held territory en route from Amsterdam to Kuala Lumpur, claiming 298 lives.

Intense fighting took place in and around Donetsk in late July 2014, and the Ukrainian armed forces retook the cities of Severodonetsk, Lysichansk, Shakhtyarsk Popasna thus isolating the pro-Russian separatists in Donetsk and cutting off supply routes between the so-called LPR and the DPR. By 28 July 2014 the strategic high ground of Savur-Mohyla was under Ukrainian control, together with the town of Debaltseve, an important railway junction linking the self-proclaimed republics.

The Ukrainian forces encircled Donetsk and Luhansk on 3 August 2014, prompting Igor Girkin, commander of the so-called DPR, to call openly for Russian military intervention. Heavy fighting between insurgents and government forces continued around Donetsk in the first weeks of August, including cross-fire, heavy shelling and artillery which caused dozens of civilian deaths and injuries as well as the destruction of civilian buildings and hospitals, where most residents were hiding in basements.

On 14 August, a convoy of some 20 armored vehicles and other vehicles with official Russian military number plates reportedly entered Ukraine near the Izvaryne border crossing point which was controlled by insurgents. NATO Secretary General Anders Fogh Rasmussen called the incident a “Russian incursion” into Ukraine, although the Russian Defense Ministry denied the existence of any such convoy.

By 25 August, an insurgent counter-offensive had stalled the Ukrainian military offensive on Donetsk and Luhansk. The prospect of defeat of the insurgents led to Russian artillery fire on the advancing Ukrainian troops. The artillery was fired from within the territory of the Russian Federation and direct intervention by Russian troops to the territory of Ukraine became a regular feature of the conflict.

After peace talks in Minsk which were held under the auspices of the Organization for Security and Cooperation in Europe (OSCE), Ukraine, Russia and the so-called DPR and LPR, agreed on a ceasefire on 5 September 2014. However, despite the ceasefire, intense fighting in Donbas continued throughout October, leading to military and civilian casualties. On 24 January 2015 multiple launch rocket system Grad (MLRS Grad) rockets fired from rebel-controlled territory onto the residential district of Mariupol left more than 30 civilians dead and nearly 100 wounded.

Minsk II, the new package of peacemaking measures, was signed on 11 February 2015. However, in spite of the ceasefire the rebels continued their assault, attacking Mariupol. They also attacked the headquarters of the government's Anti-Terrorist Operation (ATO), located far outside the conflict zone, hitting residential districts and killing civilians in the process. Minor violations of the ceasefire continued throughout March and April, although the ceasefire was largely observed throughout the conflict zone. Both sides withdrew heavy weaponry from the frontline, but fighting continued to break out from time to time.

In early winter 2016, intense fighting resumed on the territory under Ukrainian control, resulting in death of many civilians and combatants.

Donetsk oblast

Avdiivka

A visit by the Truth Hounds Documentation Field Mission with a representative of the organization Blue Bird and expert in the field of human rights in Belarus, 14-17 February, 28 February, 30 March, 2017.

The city of Avdiivka (under control of the Ukrainian Government) is located to the north of Donetsk and west of Yasinuvata, controlled by the so-called DPR. The distance from the southernmost buildings of Avdiivka to Spartak village in Donetsk city is only three and a half kilometers. The south-eastern part of the city is close to the front line between combatants. The “Koksokhim” factory constitutes the main enterprise in the city.¹

Avdiivka became a hotspot in the military conflict in eastern Ukraine after government troops took control of the industrial zone in the southeast of the city (Point 17 on the map). At the end of January 2017 intense fighting resumed and both the old town, located to the east of the railroad, and the newer part of town (including the Khimik residential area) were hit hard.

Ukrainian government forces in Avdiivka were located in a building situated between the city and the “Koksokhim” factory. A checkpoint was set up on Vorobyov street and military personnel were stationed in a civilian building nearby. Another unit was based on the premises of the orphanage. Two further military posts were set up among nearby buildings. Firing positions were situated on the edge of the south-southeast part of the city at the end of Lermontov and Kolosov streets. Ammunition warehouses² by armored combat vehicles³ and army personnel are situated in the midst of residential buildings, and Ukrainian government forces use cannon fire from this position,⁴ which puts the residents living in the area at increased risk of injury in retaliation fire.

On 26 January 2017 at 11:00 pm⁵, firing from heavy high caliber artillery ammunition began in the old town on Lermontov and Kolosov streets.⁶ Craters left in the ground measured up to 6.2 m in length and 180cm in depth.⁷ Explosions damaged houses number 23 and 27 on Kolosov Street⁸ and house number 23 was left without a roof and its porch and outbuildings were completely destroyed (points 67 and 68).⁹ As a result of the shelling, electricity and gas supplies were disconnected. The water in the heating system froze in several buildings, and central heating boilers were destroyed.¹⁰

One shell exploded in the backyard of house number 71 on Lermontov Street, smashing windows and destroying outbuildings (point 18).¹¹

Although the 26 January shelling was carried out with the use of heavy projectiles, it did not cause severe damage. However, it was a prelude to more dramatic events that caused deaths and much more damage to the city of Avdiivka.

On 30 January at 4:30 pm, two artillery shells were fired at intervals of 3-4 seconds and landed in the old town.¹² The first shell hit the gable of number 35 on Turgenyev Street but did not explode (point 69).¹³ The second shell

1 Information about Avdiivka factory <https://akhz.metinvestholding.com/ru>

2 Photo evidence documented by Truth Hounds: IMG_1494.jpg; Video evidence documented by Truth Hounds WP_20170216_12_26_53_Pro.mp4

3 Video evidence documented by Truth Hounds: IMG_1496.MOV

4 Witness statement: 0237K877

5 Witness statement: 0237K877

6 Video evidence documented by Truth Hounds: V70216-122041.mp4

7 Video evidence documented by Truth Hounds: WP_20170216_12_59_17_Pro.mp4 , IMG_1500.MOV

8 Video evidence documented by Truth Hounds: V70216-110124.mp4

9 Witness statement: 0221K878

10 Witness statement: 0237K877

11 Witness statement: 0221K879

12 Witness statement: 0118K880

13 Photo evidence documented by Truth Hounds: IMG_1478.MOV



exploded under the roof of the summer kitchen on 42 Zelena Street. The place that was hit indicates that the projectile was launched from the direction of Yasinovataya (point 70).¹⁴

The shelling on that day also hit the “Koksokhim” factory, and the whole city suffered a power outage and the heating supply to apartment buildings was cut off¹⁵ In temperatures of -20C the city began to experience a humanitarian crisis¹⁶ and a state of emergency was declared.¹⁷

On 31 January, at about 7:00 am¹⁸, the district of “Khimik” came under fire from MLRS Grad rockets. One shell hit the south-eastern facade of a roof of a multi-story building at 31 Komunalna Street (point 111).¹⁹ Apartments 74 and 75 were badly damaged.²⁰ Apartments 71 and 72 were also affected. Turgenev Street came under fire on the same day (point 71).²¹ In addition, the police reported²² damage to four houses on Zelena and Kolosov streets, and that one civilian was wounded as the result of a mortar attack. The authorities set up centres to provide emergency food and heating and began evacuating those citizens who wanted to leave Avdiivka.

On 1 February, from 7:00 am onwards MLRS “Grad” rockets again fell on Avdiivka.²³ Four witnesses interviewed by the documenters indicated that they had been fired from the east.²⁴ Other witnesses were unable to identify the location from where the projectiles had been launched. Truth Hounds Documentation Field Mission recorded dozens of shell craters which all indicated that the fire came from the east-south-east or the south-east.

As a result, a massive shelling destroyed and damaged houses and buildings in the old town. In particular, we recorded a direct hit to house number 45 on Zelena Street, which completely destroyed the roof and led to the ceiling partially collapsing (point 72).²⁵

An explosion occurred just four meters away from 83 Zavodska Street.²⁶ (point 73) The house sustained damage to its facade and broken windows, as did neighboring buildings. The direction of the fire was east-southeast, azimuth of 108 degrees.²⁷

There was a direct hit to a house on 96 Zavodska Street (point 74). The shell struck the roof and exploded as its remains struck the floor, forming a crater.²⁸

An explosion happened in the yard of number 100 Zavodska Street, damaging walls and windows of the house (point 75). Another crater²⁹ was documented in front of this building, which showed signs that the shooting had come from the southeast. The front of the house was struck and all the windows were smashed.

Several craters were also found on Kolosov Street in the heart of the old town.³⁰ One shell hit house number 214³¹, destroying and damaging outbuildings. Another exploded in the summer house, leaving a narrow crater in

14 Video evidence documented by Truth Hounds: 20170215_122441.mp4

15 SMM OSCE report, access: <http://www.osce.org/ru/ukraine-smm/296981>

16 <https://www.gismeteo.ru/diary/11340/2017/1/>

17 Media information, access: https://censor.net.ua/news/425635/v_avdeevke_obyavleno_chrezvychayinoe_polojenie_glava_ovga_jebrivskiyi

18 Witness statement: 0221K881

19 Video evidence documented by Truth Hounds: V70214-112040.mp4

20 Video evidence documented by Truth Hounds: V70214-171237.mp4

21 Video evidence documented by Truth Hounds: V70215-110254.mp4

22 Ukrainian police report, access: <https://cv.npu.gov.ua/mvs/control/donetsk/uk/publish/article/399817>

23 Witness statement: 0221K882

24 Witness statement: 0221K882, 0221K883, 0221K884, 0221K885

25 Video evidence documented by Truth Hounds: WP_20170215_13_22_00_Pro.mp4

26 Video evidence documented by Truth Hounds: WP_20170215_17_29_06_Pro.mp4

27 Video evidence documented by Truth Hounds: IMG_1481.MOV

28 Video evidence documented by Truth Hounds: IMG_1481.MOV

29 Video evidence documented by Truth Hounds: WP_20170215_17_23_12_Pro.mp4

30 Video evidence documented by Truth Hounds: WP_20170216_14_37_23_Pro.mp4

31 Video evidence documented by Truth Hounds: MG_1513.MOV

the ground pointing east.³² Documenters found part of a detonator and the body of a MLRS BM-21 Grad (point 109).³³

On 84 Turgenev Street the team documented a direct hit to the east side of a barn (point 76).³⁴

The next shelling which occurred on 1 February on Zavodska Street killed local resident Ekaterina Volkova.³⁵

According to the regional police Chief Vyacheslav Abroskin, 52 buildings in the area were destroyed or damaged that day.³⁶

The 2 February proved the bloodiest of the war: a center providing humanitarian aid, a hospital, and a school were shelled. Civilians were killed and injured.

At 3:30 am a mortar attack began near the city railway crossing between the old and new part of Avdiivka (point 77).³⁷ A car parts store was partly destroyed, a garage was set on fire and a tire shop was destroyed. According to our estimates based on the analysis of craters and evidence mortars of 120mm caliber were used in the shelling and were fired from the east.³⁸ On 19 Sadova Street, a crater 280 cm and 260 cm length and 80 cm depth was found near to the petrol station.³⁹ Eight craters were found in this area.⁴⁰



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32 Video evidence documented by Truth Hounds: V70216-135835.mp4

33 Video evidence documented by Truth Hounds: IMG_1514.MOV

34 Video evidence documented by Truth Hounds: 20170215_111838.mp4

35 Witness statement: 0221K886; News media, access: <https://ru.krymr.com/a/28275399.html>

36 Chief of police in Donetsk area Vyacheslav Abroskin, access: <https://www.facebook.com/Vyacheslav.Abroskin/posts/1680505355575465>

37 Witness statement: 0221K887

38 Video evidence documented by Truth Hounds: IMG_1466.MOV

39 Video evidence documented by Truth Hounds: IMG_1465.MOV

40 Witness statement: 0221K888; Video evidence documented by Truth Hounds: V70214-161226.mp4, V70214-160240.mp4

Later in the morning school number 7 and the hospital of Avdiivka came under tank fire. One shell exploded between the school and the hospital⁴¹ (point 106), one hit the school stadium⁴² (point 108), and another one exploded among trees 100 meters away from the hospital (point 107).⁴³ Truth Hounds documenters found a stabilizer from a tank missile near these craters.

From 9:30 pm to 10:00 pm a mortar attack began on the city.⁴⁴ Shells exploded near house number 8 on Mendelev Street (point 78). One of the explosions killed local resident, Elena Volkova (37 years old), who was taken to hospital but declared dead on arrival.⁴⁵ A foreign photographer sustained a serious eye injury.⁴⁶ Several apartments in the building number 8 were also damaged.⁴⁷ Shells exploded near the south-eastern wall of the building and judging by fragmentation traces on the house, the fire also came from the southeast.⁴⁸

At 9:30 pm there were two direct hits on house number 17 on Molodizhna Street (point 115).⁴⁹ The first shell hit the bedroom of apartment number 116, which was south-east facing. The second shell broke the southeast corner of the building of the same apartment.⁵⁰ The explosions broke a gas pipe causing a gas leak. In one of the apartments in 9 Vorobyov Street, a local resident suffered a head injury.⁵¹ A witness from the same building pointed out that during this attack he saw the shell from his window, which glowed amber and flew east (azimuth



41 Video evidence documented by Truth Hounds: V70214-123916.mp4

42 Video evidence documented by Truth Hounds: V70214-122018.mp4, V70214-121404.mp4

43 Video evidence documented by Truth Hounds: IMG_1464.MOV

44 Witness statement: 0221K889

45 Witness statement: 0221K890, 0221K891

46 Witness statement: 0221K889

47 Witness statement: 0221K892

48 Video evidence documented by Truth Hounds: V70214-092831.mp4

49 Witness statement: 0221K893, 0221K894

50 Witness statement: 0221K931, Video evidence documented by Truth Hounds: V70214-104915.mp4

51 Witness statement: 0221K894

53).⁵² The shell exploded near the house⁵³, and the blast caused a window to open and hit the witness in the face. Many windows of the house were broken and debris struck the façade (point 79).

There is a crater in the asphalted road near house number 19 on Molodizhna Street (point 80).⁵⁴ During the shelling, a resident of an apartment on the second floor sustained a head wound from shell fragments.⁵⁵

Several shells fell in the yard of school number 2 (point 81) as a convoy of humanitarian aid was being unloaded. An ambulance driver was killed, and the head of the emergency services was wounded⁵⁶ died a few weeks later in hospital in Dnipro city.⁵⁷

The eastern facade of building number 13 on Molodizhna Street took a direct hit to the fifth floor (point 82).⁵⁸ The shelling occurred at 11:00 pm. Five shells exploded near the building.⁵⁹

On 3 February at 10:00 pm a shell hit the eastern facade of house number 73 on Soborna Street in the old part of Avdiivka (point 83).⁶⁰ The shell landed between the second and third floor, knocking a 150x150 cm size hole in the masonry and partially destroying two apartments.⁶¹

On 9 February, the old district of the city was once again shelled at 2:00 pm. One shell exploded near number 14 Turgenev Street, knocking out windows and damaging walls (point 84).⁶² A resident on Soborna Street sustained an injury to the arm from fragments of a projectile.⁶³ The shell, probably a 82 mm mortar shell, exploded directly in front of the building.⁶⁴ The injured man was admitted to hospital in Dnipro.

15 February at 8:40 pm the Truth Hounds Documentation Field Mission, who were at that time in the district of «Khimik», heard a series of loud and frequent explosions coming from the old part of the district, an area adjacent to the industrial zone.⁶⁵ They described the sounds of the explosions as being similar to explosions from 120-mm mortar.

Next morning, the documenters went to the site of the shelling. On that same morning, houses on Kolosov and Lermontov Street were heavily shelled. The houses are situated some 500 meters from the industrial zone where Ukrainian military personnel, personnel, equipment and firing positions were situated. At the crime scene the documenters found lots of newly made craters of the same type (points 85-90). All were about one meter in diameter and two feet deep.⁶⁶ Next to some craters in the fresh snow scree ground ejected from the crater of the explosion was clearly visible.⁶⁷ Documenters concluded that 120 mm caliber mortar shells had been used and that the direction of fire was south-east or south-southeast.

Witnesses stated that the shelling in their district started at 9:30 pm.⁶⁸

One of the mines fell on a house at 42 Kolosov Street, destroying it and setting it on fire (point 66). An elderly

52 Witness statement: 0221K886

53 Video evidence documented by Truth Hounds: IMG_1462.MOV

54 Video evidence documented by Truth Hounds: 20170213_164435.mp4

55 Witness statement: 0221K894

56 Witness statement: 0221K891

57 News media, access: https://gazeta.ua/ru/articles/donbas/_umer-ranenyj-pod-avdeevkoj-podpolkovnik-mcs/754217

58 Video evidence documented by Truth Hounds: 20170214_095633.mp4

59 Witness statement: 0221K895

60 Video evidence documented by Truth Hounds: 20170214_163147.mp4

61 Video evidence documented by Truth Hounds: 20170214_163557.mp4

62 Witness statement: 0221K885

63 Witness statement: 0221K896

64 Video evidence documented by Truth Hounds: V70215-102910.mp4

65 Video evidence documented by Truth Hounds: WP_20170215_22_34_49_Pro.mp4

66 Video evidence documented by Truth Hounds: WP_20170216_13_08_10_Pro.mp4

67 Video evidence documented by Truth Hounds: WP_20170216_11_46_28_Pro.mp4

68 Witness statement: 0237K877

couple were in the house at the time and were evacuated by the emergency services.⁶⁹ The building was still burning by the time we arrived at the scene.⁷⁰

Another mortar shell exploded under the wall of number 31 Kolosov Street.⁷¹ The explosion damaged the load-bearing wall, knocked out eight windows and pulled the locks out of the door.

15 February at 9:30 pm heavy fire partially destroyed houses and outbuildings at numbers 9, 12, 14, 19 Kolosov Street.⁷² This area came under heavy fire from mortars and grenade machine guns.⁷³ House number 21 was also damaged.⁷⁴ House number 36 on Kolosov Street was hit from fire coming from the direction of Yasinovata.

At 9:25 pm a shell struck the side of 71 Lermontov Street which faces the industrial zone and Yasinovataya. The shell broke the roof and the ceiling in two rooms.⁷⁵ In the garden of number 75 Lermontov Street three funnels were found at a distance of about 20 m apart. The explosions destroyed fences, porches and broke a power line.⁷⁶ The shelling also affected houses number 69, 74⁷⁷, 76 and 85.⁷⁸

At 6:03 pm on 16 February the district of Khimik came under tank fire. Over a period of fifty seconds three consecutive explosions took place.⁷⁹ Truth Hounds documenters were only 100 meters away from the site hit (point 114).

One shell hit the building at number 12 Gagarin Street, destroying the shop «Barvinok» which was located on the first floor of a five-story building (point 91).⁸⁰ The projectile hit a window on the south side and struck the brick wall opposite, leaving a hole of 116x89 cm in size. All the windows in the entrance were knocked out by the blast wave.

Another rocket hit the southern facade of the building at number 1 Gagarin Street at the level of the fourth floor. The explosion destroyed the ceilings from the fourth to the first floor (point 123).⁸¹

The third and last rocket hit the apartment number 10 of building number 1 of 9th Kvartal Street which was east facing. (point 92).⁸² As a result, a man living on the floor above sustained a leg injury. Two men walking their children to school were hit as they walked along the path outside the house. They tried to protect their children when the shelling began – one man was fatally shot in the head and other was wounded in the leg.⁸³

The shelling continued that day. At 6:47 pm the documenters recorded frequent explosions in the old part of Avdiivka. Judging by the sound, a full MLRS Grad system was used to shell the area. At 7:34 pm there were three successive explosions at intervals of a few seconds. They were similar to the one that occurred at 6:03 pm.⁸⁴

17 February, the district of “Khimik” was shelled again,⁸⁵ by a total of eight shells.⁸⁶ Two tank shells fired successively

69 Witness statement: 0237K877

70 Video evidence documented by Truth Hounds: WP_20170216_11_18_43_Pro.mp4, IMG_1485.MOV

71 Witness statement: 0237K877

72 Witness statement: 0221K878, IMG_1496.MOV

73 Video evidence documented by Truth Hounds: V70216-111115.mp4

74 Video evidence documented by Truth Hounds: V70216-110844.mp4

75 Witness statement: 0221K879

76 Video evidence documented by Truth Hounds: IMG_1500.MOV

77 Video evidence documented by Truth Hounds: V70216-115919.mp4

78 Video evidence documented by Truth Hounds: WP_20170216_13_42_04_Pro.mp4, IMG_1502.MOV

79 Documentor statement: DU-00372

80 Video evidence documented by Truth Hounds: IMG_1529.MOV, IMG_1525.MOV, IMG_1526.MOV, V70217-083018.mp4

81 Truth Hounds Facebook page video, access: <https://www.facebook.com/truthhounds/videos/198294410647214/>; Video evidence documented by Truth Hounds: V70217-082122.mp4

82 Video evidence documented by Truth Hounds: IMG_1521.MOV

83 Witness statement: 0221K897

84 Documentor statement: DU-00372

85 Witness statement: 0221K898

86 Witness statement: 0221K899

hit the south-east corner of building 81 on Grushevskoho Street on the 14th floor⁸⁷, and also the south-east façade of building number 8 on Uvileynyy Kvartal (point 21). The second explosion occurred in an apartment on the second floor and destroyed the ceilings on three floors.⁸⁸ Two teenagers teenagers who were in one of apartments were wounded.⁸⁹ Four apartments were severely damaged in this building, numbers 39, 43, 44 and 47⁹⁰.

24 February at 7:45 pm⁹¹ Chernyshevsky Street came under intense mortar fire. Mortar shells directly hit outbuildings on 68 Chernytsky Street (point 93). The walls and roof of the same building were damaged. An elderly couple was just able to escape the house, including the owner of the house who is disabled after losing a leg in the shelling of 1 January 2014.⁹² Another shell hit house number 68⁹³ and one exploded next to building 59 on the street (point 94). The roof of a building on neighboring Sportivna Street blown off (point 95).

The shelling of Avdiivka did not come to an end in spring. On 2 March, from 4:00 pm to 5:10 pm tank shelling occurred in the district of Khimik.⁹⁴ Three rockets fired from the east hit high-rise buildings numbers 3 and 5 Mendelev Street as well as on Molodijna Street⁹⁵ (points 96, 97, 98), although that one did not explode. It was identified as a 125-mm tank high-explosive projectile.⁹⁶

Meanwhile, school number 7 was shelled (10 Communal Street)⁹⁷: a shell exploded at the school fence 20 meters from the south-eastern wall of the building, damaging the facade, the glass doors⁹⁸ (point 99).

At 5:10 pm a shell hit a building located at 8a Gagarin Street (point 100).⁹⁹ Another hit the roof of number 1 Gagarin Street (point 101).¹⁰⁰ Several shells exploded near the Malyatko kindergarten (point 102). One hit a tree in the grounds while others but the others did not explode luckily as children and teachers were in the grounds at the time of the explosion. The debris struck the door to the nursery room, two balconies were riddled by debris and the shock wave knocked out 24 windows.¹⁰¹

We continue to receive information about ongoing attacks on civilians in this city.¹⁰²

NUMBER OF WITNESSES INTERVIEWED – 46

NUMBER OF CRATERS DOCUMENTED – DOZENS

87 Photo evidence documented by Truth Hounds: IMG_1631.JPG

88 Video evidence documented by Truth Hounds: IMG_1604.MOV

89 Witness statement: 0221K932

90 Witness statement: 0221K898

91 Witness statement: 0221K900

92 Witness statement: 0221K901

93 Witness statement: 0221K900

94 Witness statement: 0221K902

95 Video evidence documented by Truth Hounds: IMG_0187.MOV; Witness statement: 0221K902

96 Witness statement: 0221K903

97 Witness statement: 0221K904, 0221K905

98 Video evidence documented by Truth Hounds: IMG_0189.MOV, Witness statement: 0221K905

99 Witness statement: 0221K906

100 Witness statement: 0221K907

101 Witness statement: 0221K908

102 News media, access: https://censor.net.ua/news/442107/vrajeskiyi_obstrel_avdeevki_troe_mirnyh_jiteleyi_poluchili_raneniya_na_avtobusnoyi_ostanovke_shtab

Kurdiumyvka

The Truth Hounds Documentation Field Mission visited this town with Blue Bird NGO on 27 February and 14 March 2017.

The town of Kyrdiumyvka is located on Ukrainian controlled territory in the province of Donetsk. The settlement of Horlovka, situated seven kilometers to the south-south-east of the town, is under the control of the DPR. Bakhmut city is situated some 12 km to the northeast. There are no Ukrainian military objects on the territory of the town, only a pumping station that supplies water to Vuglegirsk power station, a railway station and a cemetery.

Despite the absence of military objects in the town, Kurdiumyvka was repeatedly subjected to shelling: in June 2015¹⁰³, and twice in January 2015¹⁰⁴ local residents were forced to take refuge from the shells by hiding in basements. The year 2016 was one of the only peaceful ones in recent times for the inhabitants of Kyrdiumyvka.

However, during winter 2017, Kurdyumivka was again subjected to severe shelling which began on the night of 6 February¹⁰⁵, at approximately 9:00pm.¹⁰⁶ Buildings on Vatutin, Zavodska and Sevastopolska streets were damaged. According to local residents, about 30 shells were fired on the settlement, in two volleys of shooting.¹⁰⁷

According to witness testimonies, the sound of the salvos differed. The time between shot and explosion was about 30 seconds and the shelling was quite intense, with some 30 shells fired in a few minutes. Victims reported that the shelling was accompanied by the sound of «rustling paper». The blast wave from the explosions had been shaking the walls. The blast knocked out windows, damaged walls, and tore up fences.¹⁰⁸

Our team was able to document 16 craters after the attack (points 22-37). The others had been filled in by inhabitants, mostly because they were located in garden soil. Those craters that had not been filled in were round shaped, slightly elongated from east to west. They were around 2.6, 2.8 meters in diameter, with the diameters of the entry holes of 9 cm, 12 cm, 27 cm.¹⁰⁹ They indicated an approximate direction of fire from south-south-east, azimuth 160 degrees. The settlement of Zaitseve is located in this direction.

Six people in Kurdiumyvka died as a result of the shelling, including one child - a boy who was killed as the last shell struck (point 104)¹¹⁰

TOTAL NUMBER OF WITNESSES INTERVIEWED – 8

NUMBER OF CRATERS DOCUMENTED– 16

103 Location: Kurdiumovka, Vksalna 18 str, June 2015

104 Location: Kurdiumovka, Vksalna 6 str, 31 January 2015, Kurdiumivka, Zelenopillia, Molodizhna 3 st, 31 January 2015

105 Witness statement: 0259K912, 0259K913, 0259K909, 0259K910, 0259K911

106 Witness statement: 0259K912, 0259K913, 0259K909, 0259K910, 0259K911

107 Witness statement: 0259K909, 0259K913

108 Witness statement: 0259K913, 0259K909, 0259K910, 0259K911

109 Video evidence documented by Truth Hounds: 0314-101446, 20170314_121335.mp4, 20170314_104239.mp4, 20170314_111938.mp4, 20170314_120022.mp4, 20170216_102738.mp4

110 Witness statement: 0259K910

Sartana

Visited by the Truth Hounds Documentation Field Mission on 1 March, 2017

Sartana is a village located to the north-east of Mariupol city on Ukrainian controlled territory. Six kilometers from the village the Vostochniy residential district of Mariupol is situated, which was subjected to massive shelling by MLRS Grad rockets on 24 January 2015.¹¹¹ The conflict line between the warring parties is situated 8.5 km east of the village. The population of Sartana is largely comprised of ethnic Greeks. During the war this settlement came under artillery fire seven times;¹¹² the most dramatic shelling occurred when a Grad rocket launcher targeted a funeral procession on 14 October 2014 killing seven civilians and injuring 14.¹¹³ The rockets were launched from the east.¹¹⁴

There are no military objects in the village, but Ukrainian artillery temporary positions¹¹⁵ are located 1,5-2 km away, and artillery periodically fires from those positions and then retreats to positions further away from Sartana.

On 3 February 2017 Sartana was twice shelled by MLRS Grad rockets.

The first wave of rockets hit the village at 5:00 am local time. The shelling was carried out in a series of six to seven rounds with subsequent correction.¹¹⁶ The first explosions occurred in a field to the north of the village and on the territory of the cemetery (points 2, 3). The last hit areas around houses and farm buildings on Severnaya Street and set fire to an agricultural grain container.¹¹⁷ In other words, the artillery systems' fire was corrected to target the area where the residential area is situated. Members of the Truth Hounds Documentation Field Mission investigated the funnel¹¹⁸ (point 1)¹¹⁹ and established that it had been created by the explosion of a MLRS Grad projectile, launched from the north-east (azimuth 340). The other funnel examined at the cemetery (point 2) shows the azimuth to an artillery gun which originated from — 730.¹²⁰

Residential houses, farm buildings and agricultural machinery were damaged in the shelling.¹²¹

The second bout of shelling occurred at 11:05 pm.¹²² Attackers used



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111 IPHR report on shelling of Mariupol, access: <http://iphronline.org/ukraine-field-mission-report-mariupol-20150213.html>

112 Witness statement: 0256K914

113 SMM OSCE report, access: <http://www.osce.org/ukraine-smm/125545>

114 SMM OSCE report, access: <http://www.osce.org/ukraine-smm/125545>

115 Witness statement: 0256K915

116 Witness statement: 0256K914

117 Police of Donetsk area report, access: <https://dn.npu.gov.ua/uk/publish/article/401752>

118 Video evidence documented by Truth Hounds: IMG_1672.MOV

119 Map, access: <http://bit.ly/2rGkMY>

120 Video evidence documented by Truth Hounds: IMG_1675.MOV

121 Video evidence documented by Truth Hounds: IMG_1673.MOV

122 Police of Donetsk area report, access: <https://dn.npu.gov.ua/uk/publish/article/402653>



MRLS Grad rockets similar to those used in the attack, and this attack was also three rounds of fire with interruptions about a minute between them.¹²³ The evening shelling caused more damage than the morning one.¹²⁴ The Truth Hounds Documentation Field Mission examined the funnel created by the explosion of the projectile (point 4 on the map). The form of the funnel was similar to craters created by Grad projectiles and showed azimuth 107° to an artillery gun.¹²⁵ Members of the group extracted the remains of a Grad projectile's shank part from the funnel.¹²⁶ Buildings on Pivnichna Street (points 5, 6) sustained damage.¹²⁷

The shelling of Sartana occurred against a background of escalating warfare in this region, and attempts by government forces to occupy the village of Pikuzy (Kominternovo) which is located 9 kilometers to the east of Sartana.¹²⁸

DOCUMENTED STATEMENTS – 3

NUMBER OF CRATERS DOCUMENTED – 6

Krasnohorivka

Visited by the Truth Hounds Documentation Field Mission on 26 February, 2017

The city of Krasnohorivka in Marjinka district in the Donetsk region has suffered from artillery fire throughout the armed conflict. Six schools including an agricultural technical school, and a vocational school as well as many households were damaged by shelling.¹²⁹ There are no government troop firing positions in the city, and the only Ukrainian armed forces base is located in the center of the city on a business premises. At the entrance to the city a checkpoint was set up and several soldiers perform police functions.

On 10 February 2017 at about 2:30 pm a projectile exploded on the road between Marjinka and Krasnohorivka (point 15), presumably launched by a MLRS Grad BM-21 or Grad-P.¹³⁰ The explosion temporarily deafened two locals, who were walking on the road. Another shell exploded on Shkilna Street (point 14).

On 18 February 2017 at 7:30 pm the city was shelled again. A video of the shelling was shared on the Twitter account of Marjinka city.¹³¹ The sounds of the flying projectiles and explosions can be heard on the video. One witness saw 10 projectiles explode in 63 seconds. As a result of artillery

123 Witness statement: 0256K914

124 SMM OSCE report, access: <http://www.osce.org/ukraine-smm/297821>

125 Video evidence documented by Truth Hounds: IMG_1670.MOV

126 Video evidence documented by Truth Hounds: IMG_1671.MOV

127 Witness statement: 0256K933, 0256K934

128 News media, access: <https://www.obozrevatel.com/crime/95432-ukrainskie-voennyye-osvobodili-kominternovo.htm>

129 Evidence collected by Truth Hounds on Krasnogorivka, marked as a number 138

130 Witness statement: 0138K916

131 Video from the non-official Twitter chanel of Marinka, access: https://twitter.com/hyeva_Marinka/status/833030190729220098

fire residential houses on Shkilna Street (formerly Paryzkoi Kommuny) were damaged.¹³² Members of the field mission recorded a hit under the foundation of house number 53 (point 16 on the map).¹³³ When the field mission visited the funnel had already been filled in, but shrapnel marks on the house and the degree of damage, along with analysis of video footage lead us to conclude that the attack was carried out using several units of 122 mm caliber artillery fired from the east.

On 24 February 2017 Krasnohorivka city was shelled by mortar fire during which a coal shed on Shkilna Street was destroyed.¹³⁴

NUMBER OF WITNESSES INTERVIEWED: 4

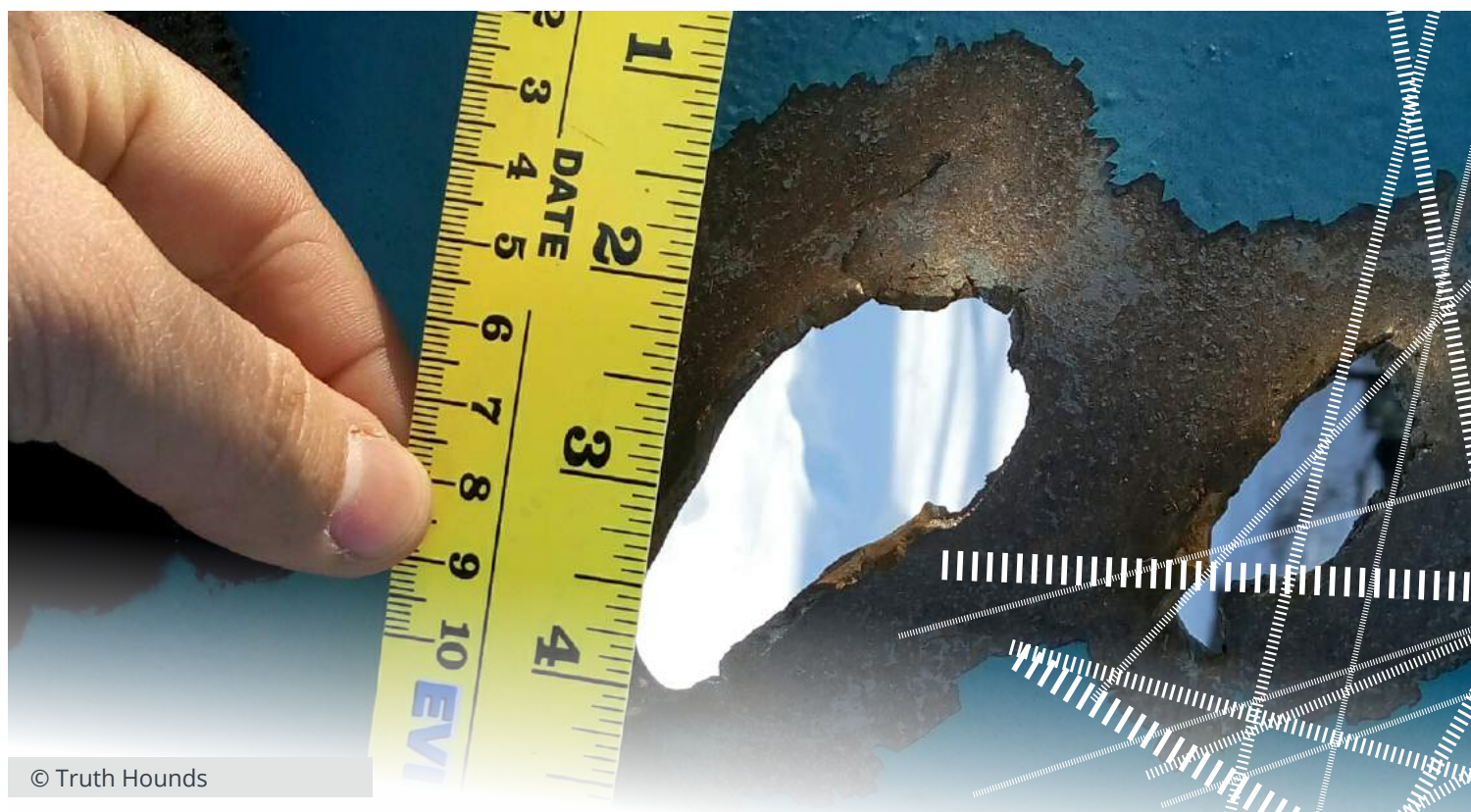
NUMBER OF CRATERS DOCUMENTED : 3

Marjinka

The Truth Hounds Documentation Field Mission visited the city of Marjinka on 16 and 17 December 2016 and again on 26 February 2017

The city of Marjinka in Donetsk region is under Ukrainian government control. A checkpoint for cars and pedestrians is situated there for communication with the territory of the self-proclaimed DPR.¹³⁵ To the east-southeast Marjinka adjoins the village of Oleksandrivka, controlled by the so-called DPR. To the east of the city lies the Trudovskie residential district of Donetsk city. The distance between the separatists' base on the territory of the enterprise Donbas-Ekvitsentr and the nearest households in Marjinka is 400 meters.

Houses of local civilians in the eastern part of Marjinka constantly suffer from hits from light and heavy infantry



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132 Witness statement: 0138K917

133 Witness statement: 0138K917, 0138K918; Video evidence documented by Truth Hounds: IMG_1592.MOV, IMG_1595.MOV; Photo evidence documented by Truth Hounds: IMG_1593.JPG, IMG_1594.JPG, IMG_1599.JPG, IMG_1600.JPG

134 Witness statement: 0138K918, 0138K919

135 Map, access: <http://bit.ly/2rOtkin>

weapons. The streets which most frequently come under fire are Telmana, Matrosova, and the houses at the end of the streets of Oktyabrskaya, Lenina, and Shevchenko.¹³⁶ In regards to these incidents of shelling it is impossible to put forward the thesis of war crimes, because civilian objects are located actually on the contact line between combatants.

However, the shelling on 2 February 2017 at 19:30-20:30 nevertheless has elements of a war crime.¹³⁷ As a result of small-caliber artillery ammunition explosions houses and outbuildings on Pervomayska Street¹³⁸ and Horkoho street (points 7-11) were damaged. Members of the field mission examined the shelled locations, interviewed witnesses and recorded the damage. The cap of a small-caliber projectile from the door of an outbuilding was extracted.¹³⁹ The door of this building is east-facing.

Analysis of other hits also gives grounds to conclude that the shelling originated from the east side, presumably using a 20-mm automatic gun mounted on the BMP-2.

The funnels situated not less than 1,400 meters to the north-west of the position of the Ukrainian armed forces.

In addition, members of the field mission witnessed one shelling incident. On 17 December 2016 at 4:45 pm, our group was moving down Pervomayska Street in Marjinka to the crossroads (points #12 on the map).¹⁴⁰ The group saw glowing red projectiles flying from the east to Pervomayska Street (point 12) and then stuck in the road some 200 meters ahead of the mission team's car. A local citizen was killed on the same street in 2015 when standing in his own yard.

NUMBER OF WITNESSES INTERVIEWED: 2

DOCUMENTED STRIKES: 4

Novoselivka-3

Visited by the Truth Hounds Documentation Field Mission on 23 February, 2017

Novoselivka is controlled by the Ukrainian government and is located 15 km north of Yasynovata and 11 km south-west of Horlivka (both settlements are controlled by the so-called DPR). During the war units and fire positions of the Ukrainian army were located around the village, and the Ukraine armed forces base is situated 350 meters north-west of the last building of the village.¹⁴¹ Ukrainian army combatants lived in Novoselivka. The shelling of the village lasted throughout the conflict.¹⁴²

On 13 January 2017 at 7:10 pm artillery shelling began from the direction of Panteleymonivka and Ozeryanivka (controlled by DPR).¹⁴³ The projectiles destroyed an electricity pole on Svobody Street and hit the east side of residential house at number 42 Myra Street (point 103).¹⁴⁴ As a result of explosion the buildings were uninhabitable and a 2x2 meters hole was made in the wall.¹⁴⁵

136 Witness statement: 0134K920; Video evidence documented by Truth Hounds: IMG_1569.MOV, IMG_1570.MOV, IMG_1571.MOV, IMG_1573.MOV, IMG_1575.MOV, IMG_1574.MOV, IMG_1581.MOV; Photo evidence documented by Truth Hounds: IMG_1572.JPG, IMG_1576.JPG, IMG_1577.JPG, IMG_1578.JPG, IMG_1579.JPG, IMG_1580.JPG

137 Witness statement: 0134K921

138 Witness statement: 0134K922; Video evidence documented by Truth Hounds: WP_20170226_11_38_28_Pro.mp4, WP_20170226_11_43_19_Pro.mp4, IMG_1584.MOV, IMG_1585.MOV, IMG_1586.MOV, IMG_1589.MOV; Photo evidence documented by Truth Hounds: WP_20170226_11_37_25_Pro.jpg, WP_20170226_11_37_29_Pro.jpg

139 Video evidence documented by Truth Hounds: WP_20170226_11_43_19_Pro.mp4

140 Map, access: <http://bit.ly/2rGkMYM>

141 Map access: <http://bit.ly/2r0FCjM>

142 Witness statement: 0258K923

143 Witness statement: 0258K923

144 Video evidence documented by Truth Hounds: IMG_1621.MOV, IMG_1620.MOV

145 Photo evidence documented by Truth Hounds: WP_20170227_15_06_52_Pro.jpg

Ukrainian military were quartered 100 meters away from the damaged house, as were six or seven wheeled vehicles for military use. The attack destroyed the military equipment.¹⁴⁶

NUMBER OF WITNESSES INTERVIEWED : 1

DOCUMENTED STRIKES: 1



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146 Witness statement: 0258K923

Luhansk oblast

Zolote-4

The Truth Hounds Documentation Field Mission visited Zolote-4 with a representative of the organization Blue Bird on 28 March, 2017

The borderline between the warring parties runs through the city of Zolote in Luhansk region. The residential district Zolote-4 is located in the 'grey zone' on the south-east, and the eastern areas are controlled by the so-called LPR.

There is a car and pedestrian checkpoint 'Zolote' (approximate coordinates 48°40'38.2"N 38°30'46.1"E) for communication with the territory of the self-proclaimed LPR. According to the Special Monitoring Mission of the OSCE¹⁴⁷ and the testimonies of local civilians¹⁴⁸, Ukrainian armed forces set up checkpoints in the courtyards of residential households.

From the beginning of the war the residential district Zolote-4 has constantly suffered from fire from light infantry and heavy weapons. The situation has not improved significantly after the troop withdrawal and deaths and injuries among the civilian population still occur, mainly from shrapnel and bullet wounds.

On 1 March 2017 at about 7:30 pm local time shelling began from the direction of Mykhailivka (controlled by so-called LPR). The first explosions were heard near the stadium and further south.¹⁴⁹

As a result a 24-year-old man was injured in his own yard at 9/2 Nakhimova Street.¹⁵⁰ The Truth Hounds team recorded the trace of a shank in the floor of the building (point 110). According to the victim another two projectiles from a grenade launcher (AGL) fell into the yard during the same shelling, one was fired from the south (direction of Pervomaysk, controlled by LPR), and the other from the opposite direction.

Residential households were also affected: 10/2 and 14/2 on Nakhimova Street; 11/3 Klenova Street (ex. Komsomolska); houses 77 - 94 on 2nd Svobodna Street and 5 and 8 on Polyova Street.¹⁵¹

NUMBER OF WITNESSES INTERVIEWED: 2

DOCUMENTED STRIKES: 1

Vrubivka

The Truth Hounds Documentation Field Mission visited Zolote-4 with a representative of the organization Blue Bird on 27 March, 2017

Vrubivka¹⁵² is located 10 km north of Popasna and about 11 km south-east from the contact line between the warring parties.

Ukrainian troops are housed in the premises of the former health camp, in the forest, 220 meters south-east of the nearest residential house. There are no fire positions around.

¹⁴⁷ SMM OSCE report, access: <http://www.osce.org/ukraine-smm/300276?download=true>

¹⁴⁸ Witness statement: 0227K924

¹⁴⁹ Witness statement: 0227K925

¹⁵⁰ Witness statement: 0227K926

¹⁵¹ Facebook photo-report on shelling: https://www.facebook.com/permalink.php?story_fbid=435122183507787&id=100010300268235

¹⁵² Map, access: <http://bit.ly/2qSnM39>

Vrubivka was shelled during the winter 2016/2017. On 1 February 2017 at 5:00 am local time¹⁵³ Michurina Street, Zarichna Street and Tsentralna Street came under artillery shelling (points 105, 116-118).¹⁵⁴ The explosions cut off electricity wires and damaged fences, outbuildings and windows.¹⁵⁵ Given the density of fragment traces and the shape of funnels, the fire originated in the east-southeast.¹⁵⁶ Zolote (controlled by Ukrainian government) is located 10km in this direction, and beyond it lie territories controlled by the separatists.

NUMBER OF WITNESSES INTERVIEWED: 2

DOCUMENTED STRIKES: 4

Troitske

Visited by the Truth Hounds Documentation Field Mission on 27 March, 2017.

The village Troitske in Popasna district, Luhansk area is located in the valley between two hills, held by opposing combatants. The border line between the opposing parties is situated in the north-east part of the village which adjoins the village of Kalynove, controlled by the so-called LPR. To the north of Troitske lies Novozvanivka settlement, where Ukrainian armed forces are located; the ratio of combatants to civilians is 5:1.

The Ukrainian Forces are stationed in the village, but there are no military facilities. One checkpoint is located in the direction of Kalynove on the way out of the village on Kvitkova street (ex.Krasna), the other is at the entrance to Troitske, about 300 m before the damaged bridge over the Luhanka River.

Troitske has repeatedly come under shell fire since the start of the war and singles deaths and injuries of civilians have been documented.

On 29 January 2017 ¹⁵⁷ at 11.00 pm shell fire caused the residential house at 21 Pushkina Street to be damaged. Members of the Truth Hounds Documentation Field Mission visited the shelled areas, interviewed witnesses, recorded damage and craters caused by the explosions.¹⁵⁸ The remains of an artillery shell case were found in one funnel of 50cm depth and 180cm diameter. (points 119, 120).¹⁵⁹

Witness explained¹⁶⁰ that the nearest checkpoint had been located 2 km from the affected household that it had been removed before the end of 2016.

On 2 February 2017 the local medical clinic was affected and sustained broken windows and damage to the roof of an outbuilding (point 113).

Members of the field mission Truth Hounds recorded two filled funnels near the buildings and two more situated 40-50 meters away from the clinic. The different forms, depth and diameter of the funnels and the extracted fragments¹⁶¹ give reason to assume that it was mortar and heavy artillery fire. There are no military facilities nearby.

Two other houses, numbers 25 and 27 on Kvitkova Street (ex.Krasna) were affected on the same day, the roof and a wall of the one house were damaged by shrapnel, windows were broken and a corner on the building the

153 Witness statement: 0227K927

154 Video evidence documented by Truth Hounds: IMG_0139.MOV

155 Witness statement: 0227K928

156 Video evidence documented by Truth Hounds: IMG_0150.MOV

157 SMM OSCE report, access: <http://www.osce.org/ukraine-smm/296961>

158 Witness statement: 0260K929

159 Video evidence documented by Truth Hounds: IMG_0097.MOV

160 Witness statement: 0260K929

161 Video evidence documented by Truth Hounds: IMG_0083.MOV, IMG_0084.MOV, IMG_0085.MOV, IMG_0088.MOV, IMG_0089.MOV, IMG_0090.MOV; Photo evidence documented by Truth Hounds: IMG_0086.JPG, IMG_0087.JPG



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south-west side was completely destroyed.¹⁶²

The team also recorded damage caused by another shelling on 4 February 2017 on Kvitkova Street (ex.Krasna): the roof of house number 21 was damaged and two new funnels were found about 10-15 meters from the house. According to witness statements, both funnels were formed by explosions of 82 mm mortar shell.¹⁶³

Damage on Kvitkova street was located in a 500 meter stretch from the the checkpoint of Ukrainian Armed Forces in the direction of Kalynove (point 121).

NUMBER OF WITNESSES INTERVIEWED: 8

DOCUMENTED STRIKES: 2

Tryokhizbenka

Visited by the Truth Hounds Documentation Field Mission on 29 March, 2017.

The village stretches along the left bank of the Siversky Donets River from west to south-east. The bridge located to the east of the settlement was used in September 2014 (approximate coordinates 48°44'13.3"N 38°57'35.2"E) and the road T1315 passes under it. The borderline on this area passes almost along the river bed.

Shelling in January - February 2015 caused a great deal of damage and local residents report that 473 houses were affected. After the troops withdrew, the situation improved but but destruction of property and buildings and civilian casualties still occur.

¹⁶² SMM OSCE report, access: <http://www.osce.org/ukraine-smm/297576>

¹⁶³ SMM OSCE report, access: <http://www.osce.org/ukraine-smm/297821>

Members of the field mission recorded the damage caused by the mortar shelling of 31 January 2017. The shelling started at 6:40 pm. As a result of the shelling one woman was concussed.¹⁶⁴ Residential houses and outbuildings at 14¹⁶⁵ and 29¹⁶⁶ Smolyanka Street - (formerly Parkhomenko) (point 122) and the local school¹⁶⁷ at 2 Tsentralna Street (ex. Shchorsa) were damaged (point 112). According to local residents, military trenches are situated about 500 meters from the school (approximate coordinates 48°45'57.6"N 38°58'06.0"E) and the position of 93 Brigade of the Ukrainian Armed Forces is also nearby.

NUMBER OF WITNESSES INTERVIEWED: 2

DOCUMENTED STRIKES: 3



© Truth Hounds

164 Witness statement: T1K930

165 Video evidence documented by Truth Hounds: Видео IMG_0175.MOV

166 Video evidence documented by Truth Hounds: Видео IMG_0171.MOV

167 Witness statement: T1K931

Legal assessment

One of the most important principles of international humanitarian law is the distinction between civilian and military facilities and the conducting of military operations solely against military facilities.¹⁶⁸ This principle means that attacks against civilian objects are a violation of international humanitarian law and may constitute war crimes. At the same time, certain damage to civilian objects can be inflicted without violating international humanitarian law, provided that : a) these objects are used for military purposes; b) objects have a dual (military and civil) appointment; c) the goals of attack are military objectives, and proportional collateral harm is caused to civilian objects.

Violations of international humanitarian law in relation to harming civilians can be excluded only under the following conditions:

- A)** To carry out an attack on civilian objects, which are used for military purposes only if this attack makes an effective contribution to hostilities.¹⁶⁹ The attack is possible only at that time, when a civilian object is being used for military purposes and is inadmissible after the cessation of such use.
- B)** Mixed objects (bridges, television infrastructure, etc.) can be attacked only if the military advantage resulting from their destruction or damage outweighs the harm caused to civilians.¹⁷⁰
- C)** The necessary conditions for the legitimacy of the attack against military objects, which can cause proportional collateral harm to civilian objects follows the principle of proportionality. The attack cannot be considered proportional if damage to civilian objects is excessive compared to the concrete and direct military advantage.¹⁷¹

The Statute of the International Criminal Court criminalized the following acts related to attacks on civilian objects:

- Intentional attacks on civilian objects, that is, objects that are not military targets (Article 8 (2)(b)(ii))
- Deliberate attack, when it is known that this attack causes accidental death or injury to civilians or harm to civilian objects, or extensive, long-term and serious damage to the environment, which would be clearly incommensurable with the concrete and direct anticipated overall military superiority (Article 8(2)(b)(iv))
- Deliberate strikes against the civilian population as such and deliberate attacks on individual civilians, who do not take part in hostilities directly. (Article 8(2)(e)(i))

Articles 8 (2)(b)(ii) and 8(2)(b)(iv) are directly aimed at criminalizing attacks against civilian objects in the conditions of an international armed conflict. Article 8(2)(e)(i) is a general article, which criminalizes encroachment on civilians in the case of armed conflict of non-international character. At the same time, based on the practice of International Criminal Court, this article should be understood as prohibiting the targeting not only of civilians, but also of protected civil objects.¹⁷²

The qualification of the actions described in the report under Article 8 part b or e of the Rome Statute depends on the overall qualification of the armed conflict in certain areas of the Donetsk and Lugansk regions. The issue of the qualification of this armed conflict was covered in previous reports by Truth Hounds.

The information about shelling of specific settlements in Donetsk and Luhansk regions, collected by IPHR and Truth Hounds, allows us to conclude that the shelling of civilian objects recorded can be qualified as war crimes.

168 Article 52 (2) of the Additional Protocol I to the Geneva Conventions (1977)

169 Article 52 of the Additional Protocol I to the Geneva Conventions (1977)

170 Rule 10 of Code of customary international humanitarian law - https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cha_chapter2_rule10_sectiona

171 Article 51(5)(b) of the Additional Protocol I to the Geneva Conventions (1977); Rule 14 of Code of customary international humanitarian law - https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cha_chapter4_rule14.

172 Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda. - 2014. - ICC-01/04-02/06. - para. 46

I. UNDER ARTICLE 8 (2)(B)(II)

a. The material elements of crime. In the documented shelling of Kurdumivka (at night 6.02.2017) there is evidence beyond reasonable doubt of an attack (an act of violence against enemy in the framework of defense or offense).¹⁷³ In addition, the attacks were carried out against civilian objects, which, by their nature, location, and purpose are not significant for securing military advantage. There were no military objects such as housed units of the armed forces near Kurdumivka when the shelling took place.

b. The mental elements of crime. There are reasonable grounds to consider that the attacks were intentional and civilian objects were specially chosen. This is confirmed, inter alia, by the fact that there were no military objects or forces located near the damaged civilian objects. There are reasonable grounds to consider, that the civilian nature of the objects was known by those responsible for the shelling. In particular, this can be assumed that after several repeated bouts of shelling those responsible for organizing and carrying out the shelling could have known that civilians were being affected and not combatants.

II. UNDER ARTICLE 8(2)(B)(IV)

a. The material elements of crime. As above, as regards the shelling of Vrubivka (1 February 2017), Krasnohorivka (18 and 24 February 2017), Marjinka (2 February 2017), Troitske (29 January, 2 and 4 February 2017) and Sartana (3 February 2017) these appear to be attacks on civilian targets and civilians. These attacks caused the death of civilians and damage of civilian objects. The damage to civilian persons and objects is not proportional to the military advantage which could be obtained by the attacking party. In the case of Sartana the artillery guns, which apparently were the target of the attack, were not constantly located at 1.5-2 km from the houses on the edge of the village. They were moved to a more distant position. Thus, at the moment of shelling of civilian objects, the probability of obtaining any military advantage through the destruction of enemy artillery was extremely small. Besides the adjustment of fire as established by the monitoring mission, was made to target civilians, not military.

b. The mental elements of crime. There are not reasonable grounds to believe that the perpetrators were unaware that attacks would cause accidental deaths or mutilation of civilians or damage to civilian objects. They also could not have been unaware that this death, injury and damage by their character are clearly incompatible with the expected concrete and direct common military superiority. It is possible to conclude that, based on the type of weapon chosen for the attack, it was not intended to target specific objects, but to indiscriminately cover a huge area. Besides, the adjustment of fire (as in the case of Sartana) demonstrates that during the attack no measures were taken to minimize the damage of non-military targets. The same applies to the repeated shelling of the other settlements.

In terms of the Rome Statute, despite the damage caused to many civilian objects, information collected by the documentation team indicates that this damage does not qualify as evidence under the above-mentioned articles, as there is a high probability that these bouts of shelling were aimed at military targets. The collateral damage can be considered as proportional because of the proximity of military objects and the potential military advantage. The shelling at Tryokhizbenka on 31 January 2017 and that of Zolote on 17 January and 25 February 2017 cannot be qualified as war crimes for the same reasons.

Although these attacks cannot be qualified as war crimes, the information available indicates that violations of international law did take place. International humanitarian law requires parties to conflicts to use a series of precautions in attacks to maximize the safety of civilian population and objects.¹⁷⁴ The attacking side must: carefully choose the means and methods of attack; refrain from measures, which can cause the deaths of civilians; to repeal the attack if it becomes evident that the target is not military; give advance warning of attacks which

¹⁷³ Situation in the Democratic Republic of The Congo in the Case of The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui. Decision on the confirmation of charges. - 2008. - ICC-01/04-01/07. - para. 266.

¹⁷⁴ Article 58, 59 of the Additional Protocol I to the Geneva Conventions (1977); Rules 19, 20 of Code of customary international humanitarian law - https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule23.

could affect the civilian population, etc. Every case of shelling recorded which cannot be qualified as a war crime nevertheless shows violations of international humanitarian law and of the requirements to use precautionary measures.

Most of the shelling of Avdiivka, due to the numerous military objects of Ukrainian Armed Forces located in the city, cannot be qualified uniquely as war crimes under Articles 8 (2)(b)(ii) and 8 (2)(b)(iv). At the same time the complex monitoring of the shelling throughout the documented period from 26 January to 24 February allows us to establish the mental element of war crime under the Article 8(2)(b)(iv). The material element regarding damage of civilian objects and deaths of civilians has been established beyond doubt by members of the field mission Truth Hounds (the details of the destruction caused by the shelling are contained in the report). There are also reasonable grounds to consider that there is an element of explicit disparity between the damage caused and the military necessity. The shelling of military targets situated near to civilian households continued in spite of the systematic destruction of civilian objects; precautions were not taken and the choice of means and methods of attack did not become more cautious (as evidenced by the use of systems of salvo fire for the February shelling after the destruction caused by the shelling in January 2017). Moreover, many of the attacks were not aimed at the direction of military facilities or had low chances of causing significant damage to such objects. For example, the shelling of Turgeneva and Zelena streets on 30 January, Turgeneva Street on 31 January and the shelling of Zavodska Street on 1 February with the use of Grad rockets. In these cases there were no military objects in the vicinity and in addition the shelling of Zavodska Street was carried out using a Grad rocket launcher which is not intended to selectively attack military targets. Considering the above facts, it is possible to conclude that the attacks on objects in the city Avdiivka were disproportionate. Probably, the clearest evidence of disproportionate attacks was the shelling of 2 February 2017, which damaged the humanitarian assistance centre, the hospital and the school. Judging by the area where the projectiles landed one can presume that the targets were the checkpoint, and the barracks housing 30-50 soldiers, (who had lived there for over two years). The military advantage achievable by the destruction of these two military targets is clearly incommensurable with the damage and risks which were predictable when the 2 February shelling was being planned.

Additionally, the presence of the mental elements of war crimes under Article 8(2)(b)(iv) can also be established beyond reasonable doubt, because even the first shelling of military targets in Avdiivka led to damage of civilian objects and civilian deaths. Therefore, the perpetrators of the shelling could not have been unaware that their actions would lead to civilian deaths, casualties and damage.

It should be noted that numerous incidents of shelling of civilian objects were possible amongst other things because of the military objects located near to civilian populations and residential areas. Modern international humanitarian law requires parties to conflicts to avoid the deployment and stationing of military facilities near civilian one.¹⁷⁵ Conflicting parties should move civilian population and objects under their control from areas near the military objects. Proceeding from the cited provisions of the Additional Protocol I to the Geneva Conventions (1977) and the customary international law, an absolute prohibition on placing military facilities near civilians in international humanitarian law does not exist. Conflicted parties are only obliged to take action to distance military objects and forces where it is consistent with military necessity.

The Rome Statute designates "Using the presence of civilians or other protected person to protect certain points, areas or armed forces from military actions" as a war crime in the case of international armed conflicts (Article 8 (2)(b)(xxiii)). Due to the lack of practice under this article of the International Tribunals ad hoc and International Criminal Court, it is difficult to predict how exactly civil objects should be used in order that it would constitute a war crime. The lack of clear and precise formulations of conventional and customary international humanitarian law on this issue allow us to assume that not every deployment of military objectives near civilians can be considered as a war crime.

¹⁷⁵ Article 58 of the Additional Protocol I to the Geneva Conventions (1977); Rule 23 of Code of customary international humanitarian law - https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule23.

