

Ukraine's prosecutor general, Iryna Venediktova, said in April that her office was investigating 5,800 cases of Russian war crimes and had identified more than "500 suspects . . . including Russian politicians, military personnel and propaganda agents."<sup>90</sup> Weeks later, Venediktova reported that the number of war crimes investigations had risen to 13,000.<sup>91</sup> In May, Venediktova announced that the first "handful of cases have now been filed or are ready to be submitted," including cases against Russian soldiers in Ukrainian custody.<sup>92</sup> The first trial began in Kyiv on May 13,<sup>93</sup> and concluded with a guilty plea.<sup>94</sup>

#### INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

##### *United States and Allies Provide Humanitarian Aid to Ukraine and Its Citizens*

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The invasion of Ukraine has unleashed massive humanitarian consequences, including displacement of a significant portion of Ukraine's population, deaths of civilians, and widespread damage to civilian infrastructure in the country. The conflict's effects on wheat exports may also cause humanitarian harms around the world. Neighboring countries and others have taken in Ukrainian refugees, and many governments and other entities have offered humanitarian assistance, though even after the fighting is over, recovery and rebuilding will be a long process.

The ongoing conflict makes accurate reports of casualties difficult, but the human toll of the invasion is clearly high and growing. On March 12, Ukrainian President Volodymyr Zelensky stated that 1,300 Ukrainian military personnel had been killed;<sup>1</sup> that number has not been verified.<sup>2</sup> The toll among civilians appears to be even higher. Through April

<sup>90</sup> Paul LeBlanc, *Ukraine's Prosecutor General Says Office Is Investigating 5,800 Cases of Russian War Crimes*, CNN (Apr. 11, 2022), at <https://www.cnn.com/2022/04/11/politics/iryna-venediktova-ukraine-russia-war-crimes-cnntv/index.html>.

<sup>91</sup> Paulina Firozi, et al., *Russian Soldier Convicted of War Crime—One of 13,000 Probes, Says Ukrainian Official*, WASH. POST (May 23, 2022), at <https://www.washingtonpost.com/world/2022/05/23/russia-ukraine-war-news-live-updates-putin/>.

<sup>92</sup> Daniel Boffey & Pjotr Sauer, *Ukraine Prosecutors Ready to Launch First War Crimes Trials of Russia Conflict*, GUARDIAN (May 11, 2022), at <https://www.theguardian.com/world/2022/may/11/ukraine-prosecutors-ready-launch-first-war-crimes-russia-conflict>.

<sup>93</sup> David L. Stern & Claire Parker, *Ukraine Court Begins First War Crimes Trial for Russian Soldier*, WASH. POST (May 13, 2022), at <https://www.washingtonpost.com/world/2022/05/13/ukraine-russia-war-crimes-trial/>.

<sup>94</sup> Valerie Hopkins, *A Ukrainian Court Convicts a Russian Soldier of War Crimes and Sentences Him to Life in Prison*, N.Y. TIMES (May 23, 2022), at <https://www.nytimes.com/2022/05/23/world/europe/russian-soldier-war-crimes-guilty.html>.

<sup>1</sup> Timothy Bella, *Thousands Protest in Melitopol After Russian Forces Reportedly Abduct Mayor with a Hood Over His Head*, WASH. POST (Mar. 12, 2022), at <https://www.washingtonpost.com/world/2022/03/12/ukraine-melitopol-mayor-fedorov-abducted-zelensky/>.

<sup>2</sup> Emily Rauhala, Dan Lamothe, Adela Suliman & Jennifer Hassan, *Russia Could Have Lost as Many as 15,000 Troops in Ukraine War, NATO Official Estimates*, WASH. POST (Mar. 24, 2022), at <https://www.washingtonpost.com/world/2022/03/24/russia-troops-casualties-nato-ukraine/>. The Russian military has reportedly suffered significant losses, though the exact number is unclear. NATO estimates that between 7,000 and 15,000 Russian troops had been killed by the end of March. Daniel Michaels, *NATO: Up to 40,000 Russian Troops*

28, the UN Office of the High Commissioner for Human Rights officially recorded 2,829 civilian casualties, but believes the actual numbers are significantly higher.<sup>3</sup> Media reports indicate that since “Russian forces withdrew in early April, mass civilian graves have been found in most towns” around Kyiv that the Russians had occupied,<sup>4</sup> and satellite images suggest Russian forces dug even larger mass graves near the long besieged city of Mariupol.<sup>5</sup>

In addition to widespread civilian deaths, the conflict has also caused mass displacement of Ukrainian civilians. On April 1, the International Organization for Migration estimated that over four million Ukrainians had become refugees, and a further seven million were internally displaced.<sup>6</sup> These totals represent one quarter of Ukraine’s population of 44 million.<sup>7</sup> Such rapid displacement is unprecedented in modern history,<sup>8</sup> and the United Nations has “projected that the number of refugees could rise to 8.3 million by” the end of 2022.<sup>9</sup> Estimates suggest that a further twelve million people remaining in Ukraine need humanitarian aid.<sup>10</sup>

European countries have taken steps to welcome Ukrainian refugees. On March 4, the European Union (EU) activated its “Temporary Protection Directive,” which grants asylum seekers from Ukraine a range of protections, including a residence permit and the ability to obtain housing and employment.<sup>11</sup> This is the first time the Directive has been activated since its adoption in 2001 in response to wars in the former Yugoslavia.<sup>12</sup> However, there are concerns that individual countries may not be able to absorb the large numbers of refugees arriving. Countries bordering Ukraine have been bearing the brunt of the refugee crisis. For example, in the first three weeks after the invasion, Poland welcomed over 1.7 million

*Killed, Wounded, Taken Prisoner or Missing in Ukraine*, WALL ST. J. (Mar. 23, 2022), at <https://www.wsj.com/livecoverage/russia-ukraine-latest-news-2022-03-23/card/russia-lost-up-to-40-000-troops-in-ukraine-nato-estimates-xyZjWxinMDHzdeRZvAeD>. Russia, however, claimed in early April that only around 1,300 of its military personnel had died, though a Kremlin spokesperson called their losses “significant” and a “huge tragedy.” *Russia Admits “Significant Losses of Troops” in Ukraine*, AL JAZEERA (Apr. 8, 2022), at <https://www.aljazeera.com/news/2022/4/8/we-have-significant-losses-and-its-a-huge-tragedy-kremlin>.

<sup>3</sup> UN Off. of High Comm’r for Hum. Rts. Press Release, *Ukraine: Civilian Casualty Update 28 April 2022* (Apr. 28, 2022), at <https://www.ohchr.org/en/news/2022/04/ukraine-civilian-casualty-update-28-april-2022>.

<sup>4</sup> Louisa Loveluck & Serhiy Morgunov, *In Bucha, the Story of One Man’s Body Left on a Russian Killing Field*, WASH. POST (Apr. 16, 2022), at <https://www.washingtonpost.com/world/interactive/2022/bucha-atrocities-civilian-killings>.

<sup>5</sup> Paulina Villegas, *New Mass Grave Points to War Crimes in Mariupol, Ukrainian Officials Say*, WASH. POST (Apr. 21, 2022), at <https://www.washingtonpost.com/world/2022/04/21/new-mass-grave-manhush-near-mariupol>.

<sup>6</sup> Int’l Org. for Migration, UN Migration, *Ukraine International Displacement Report: General Population Survey Round 2* (Apr. 1, 2022), at <https://displacement.iom.int/reports/ukraine-internal-displacement-report-general-population-survey-round-2-24-march-1-april>.

<sup>7</sup> World Bank, *Population, Total – Ukraine*, at <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=UA>.

<sup>8</sup> Sarah Chodosh, Zach Levitt & Gus Wezerek, *Ukraine’s Refugee Crisis Is Unprecedented. The Response Must Be Too*, N.Y. TIMES (Mar. 15, 2022), at <https://www.nytimes.com/interactive/2022/03/15/opinion/ukraine-refugee-crisis.html> (comparing refugee flows from Ukraine in the first eighteen days after the invasion to other countries’ largest yearly outflows of refugees).

<sup>9</sup> John Ismay, Christopher F. Schuetze & Michael Levenson, *As Diplomacy Hopes Dim, U.S. Marshals Allies to Furnish Long-Term Military Aid to Ukraine*, N.Y. TIMES (Apr. 26, 2022), at <https://www.nytimes.com/2022/04/26/world/europe/russia-ukraine-war-germany-weapons.html>.

<sup>10</sup> Farnaz Fassihi, *Russia Rejects Call for a Cease-Fire to Enable Evacuations, Saying Ukraine Only Wants Time to Arm*, N.Y. TIMES (Apr. 19, 2022), at <https://www.nytimes.com/2022/04/19/world/russia-ukraine-cease-fire-mariupol.html>.

<sup>11</sup> European Commission, *Temporary Protection*, at [https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/temporary-protection\\_en](https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en).

<sup>12</sup> *Id.*

refugees from Ukraine.<sup>13</sup> Moldova, which has a population of 2.59 million, took in more than 420,000 refugees as of April 21.<sup>14</sup> Germany recently called for more even distribution of refugees throughout Europe.<sup>15</sup> The United Kingdom has promised to expedite visas for Ukrainians and offer more support for those arriving.<sup>16</sup> Stating that “this is an international responsibility,”<sup>17</sup> U.S. President Joseph R. Biden Jr. has pledged that the United States will welcome up to 100,000 Ukrainian refugees,<sup>18</sup> and the Biden administration has launched “Uniting for Ukraine,” which it describes as “a streamlined process for Ukrainian citizens who have been displaced by Russia’s aggression to apply for humanitarian parole in the United States.”<sup>19</sup>

Governments worldwide are providing humanitarian aid to Ukraine to address the impacts of the conflict.<sup>20</sup> Although the United States is taking in many fewer refugees than countries neighboring Ukraine, it is the largest donor of humanitarian aid to the country.<sup>21</sup> According to the U.S. Agency for International Development (USAID), through the end of March, the United States pledged \$301 million in humanitarian funding to address the Ukraine crisis.<sup>22</sup> Through April 17, the EU had released €143 million in humanitarian aid,<sup>23</sup> as well as developed logistical hubs to deploy medical aid.<sup>24</sup> Numerous countries outside Europe, including

<sup>13</sup> Chodosh, Levitt & Wezerek, *supra* note 8.

<sup>14</sup> UN Hum. Rts. Off. of High Comm’r Press Release, UN Human Rights in Moldova: Providing Vital Support to Ukrainian Refugees (Apr. 21, 2022), at <https://www.ohchr.org/en/stories/2022/04/un-human-rights-moldova-providing-vital-support-ukrainian-refugees>.

<sup>15</sup> Gabriela Baczynska & Sabine Siebold, *EU Countries Look to Share Effort of Hosting Ukrainian Refugees*, REUTERS (Mar. 28, 2022), at <https://www.reuters.com/world/europe/ukrainian-refugees-should-be-distributed-across-eu-berlin-says-2022-03-28>.

<sup>16</sup> Maite Fernández Simon, *Britain Pledges to Expedite Visas for Refugees from Ukraine*, WASH. POST (Mar. 8, 2022), at <https://www.washingtonpost.com/world/2022/03/08/britain-ukrainian-refugees-visas>.

<sup>17</sup> Miriam Jordan, Zolan Kanno-Youngs & Michael D. Shear, *United States Will Welcome Up to 100,000 Ukrainian Refugees*, N.Y. TIMES (Mar. 24, 2022), at <https://www.nytimes.com/2022/03/24/us/ukrainian-refugees-biden.html>.

<sup>18</sup> White House Press Release, Fact Sheet: The Biden Administration Announces New Humanitarian, Development, and Democracy Assistance to Ukraine and the Surrounding Region (Mar. 24, 2022), at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/24/fact-sheet-the-biden-administration-announces-new-humanitarian-development-and-democracy-assistance-to-ukraine-and-the-surrounding-region> [<https://perma.cc/SG3Q-4T23>].

<sup>19</sup> Dep’t of Homeland Sec. Press Release, President Biden to Announce Uniting for Ukraine, a New Streamlined Process to Welcome Ukrainians Fleeing Russia’s Invasion of Ukraine (Apr. 21, 2022), at <https://www.dhs.gov/news/2022/04/21/president-biden-announce-uniting-ukraine-new-streamlined-process-welcome-ukrainians> [<https://perma.cc/RM4X-KYN5>].

<sup>20</sup> For an overview of humanitarian aid for the Ukraine crisis, see UN Office for the Coordination of Humanitarian Affairs, Financial Tracking Service, *Ukraine 2022*, at <https://fts.unocha.org/countries/234/summary/2022>.

<sup>21</sup> White House Press Release, *supra* note 18.

<sup>22</sup> USAID, *Ukraine: Complex Emergency 10* (Apr. 21, 2022), available at [https://www.usaid.gov/sites/default/files/documents/2022-04-21\\_USG\\_Ukraine\\_Complex\\_Emergency\\_Fact\\_Sheet\\_12.pdf](https://www.usaid.gov/sites/default/files/documents/2022-04-21_USG_Ukraine_Complex_Emergency_Fact_Sheet_12.pdf).

<sup>23</sup> European Commission Press Release, Ukraine: EU Boosts Humanitarian Aid with Additional €50 Million (Apr. 17, 2022), at [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_2482](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2482).

<sup>24</sup> See European Commission, Ukraine: EU Boosts Assistance with Emergency Logistical Hubs and RescEU Aid (Mar. 4, 2022), at [https://ec.europa.eu/echo/news-stories/news/ukraine-eu-boosts-assistance-emergency-logistical-hubs-and-resceu-aid-2022-03-04\\_en](https://ec.europa.eu/echo/news-stories/news/ukraine-eu-boosts-assistance-emergency-logistical-hubs-and-resceu-aid-2022-03-04_en); European Commission Press Release, Ukraine: EU Delivers Additional Assistance, Rescue Vehicles and Emergency Equipment (Mar. 25, 2022), at [https://ec.europa.eu/echo/news-stories/news/ukraine-eu-delivers-additional-assistance-rescue-vehicles-and-emergency-equipment-2022-03-25\\_en](https://ec.europa.eu/echo/news-stories/news/ukraine-eu-delivers-additional-assistance-rescue-vehicles-and-emergency-equipment-2022-03-25_en).

Australia,<sup>25</sup> New Zealand,<sup>26</sup> and Japan,<sup>27</sup> have also committed varying levels of aid, and non-governmental organizations, such as the International Committee of the Red Cross and World Central Kitchen, have provided support on the ground in Ukraine and neighboring countries.<sup>28</sup> However, ongoing fighting has hampered both civilian evacuations and aid delivery.<sup>29</sup>

Concerns are also increasing about the conflict's effects on food supplies around the world, particularly in low-income countries. Russia and Ukraine export a substantial portion of the world's grain products, including a quarter of the world's wheat supply.<sup>30</sup> The COVID-19 pandemic had already increased prices of important commodities like wheat in 2021, but those prices have continued to increase since the invasion.<sup>31</sup> Russian ships have blocked Ukraine from exporting wheat via ports on the Black Sea,<sup>32</sup> and in order to “protect the domestic food market,” Russia has limited its own exports, including banning grain exports to ex-Soviet countries that are part of the Eurasian Economic Union and “not subject to Russia's grain export quotas.”<sup>33</sup> Ukrainian officials and the UN Food and Agriculture Organization have also alleged that “Russian troops have looted stocks of Ukrainian grain and destroyed grain storage facilities, compounding the widespread destruction and suffering inflicted in the war.”<sup>34</sup> The disruption of grain supplies risks significant consequences worldwide. The World Food Programme “buys half of its grain from Ukraine,”<sup>35</sup> and UN officials have warned that “[t]he conflict threatens to exacerbate other crises—such as those in Afghanistan, Yemen, and the Horn of Africa—as those countries and regions are already grappling with food insecurity and

<sup>25</sup> Australian Gov't Press Release, Additional Support for Ukraine (Mar. 20, 2022), at <https://www.foreignminister.gov.au/minister/marise-payne/media-release/additional-support-ukraine>.

<sup>26</sup> New Zealand For. Aff. & Trade Press Release, *Russian Invasion of Ukraine*, at <https://www.mfat.govt.nz/en/countries-and-regions/europe/ukraine/russian-invasion-of-ukraine>.

<sup>27</sup> World Food Programme Press Release, Japan Provides US\$28 Million for Humanitarian Food Assistance in Ukraine (Apr. 6, 2022), at <https://www.wfp.org/news/japan-provides-us28-million-humanitarian-food-assistance-ukraine>.

<sup>28</sup> International Committee of the Red Cross Press Release, Ukraine: Massive, Urgent Response Needed to Meet Soaring Needs (Mar. 9, 2022), at <https://www.icrc.org/en/document/ukraine-massive-urgent-response-needed-meet-soaring-needs>; World Central Kitchen Press Release, #ChefsForUkraine: Over 12 Million Meals Served Across Eight Countries (Apr. 21, 2022), at <https://wck.org/news/chefsforukraine-over-12-million-meals-served>.

<sup>29</sup> See, e.g., UN Press Release, Ukraine: Second UN Convoy Reaches Sumy, Mariupol Access Thwarted (Mar. 31, 2022), at <https://news.un.org/en/story/2022/03/1115252>; Amnesty Int'l, *Ukraine: Humanitarian Corridors for Civilians Fleeing Russian Attacks Must Provide Safety – New Testimonies* (Mar. 10, 2022), at <https://www.amnesty.org/en/latest/news/2022/03/ukraine-humanitarian-corridors-for-civilians-fleeing-russian-attacks-must-provide-safety-new-testimonies>; Nathan Rott, *Ukraine Closes Humanitarian Corridors Because It Says Russia May Attack Them*, NPR (Mar. 28, 2022), at <https://www.npr.org/2022/03/28/1089167897/ukraine-closes-humanitarian-corridors-because-it-says-russia-may-attack-them>.

<sup>30</sup> Ana Swanson, *Ukraine Invasion Threatens Global Wheat Supply*, N.Y. TIMES (Feb. 24, 2022), at <https://www.nytimes.com/2022/02/24/business/ukraine-russia-wheat-prices.html>.

<sup>31</sup> *Id.*

<sup>32</sup> Max Bearak, *Ukraine's Wheat Harvest, Which Feeds the World, Can't Leave the Country*, WASH. POST (Apr. 7, 2022), at <https://www.washingtonpost.com/world/2022/04/07/ukraine-wheat-crop-global-shortage>.

<sup>33</sup> *Russia Temporarily Bans Grain Exports to Ex-Soviet Countries*, REUTERS (Mar. 14, 2022), at <https://www.reuters.com/business/russia-may-suspend-grain-exports-until-june-30-interfax-2022-03-14>.

<sup>34</sup> Nick Cumming-Bruce, *The U.N. Says There Is Evidence that Russian Troops Are Looting Ukrainian Grain Stocks*, N.Y. TIMES (May 6, 2022), at <https://www.nytimes.com/live/2022/05/06/world/ukraine-russia-war-news/the-un-says-there-is-evidence-that-russian-troops-are-looting-ukrainian-grain-stocks>.

<sup>35</sup> Bearak, *supra* note 32.

economic fragility.”<sup>36</sup> To mitigate some of the harms to low-income countries, the United States has announced that it will provide \$670 million in aid to Ethiopia, Kenya, Somalia, Sudan, South Sudan, and Yemen in response to food insecurity exacerbated by the invasion of Ukraine.<sup>37</sup>

Even after the fighting ceases, remediating the conflict’s effects on civilian life in Ukraine will take significant resources and time. The remnants of war, particularly landmines and other explosive devices, pose ongoing hazards to civilians. Through the end of May, Ukraine’s State Emergency Services had cleared more than 127,000 “explosive devices,”<sup>38</sup> and estimates suggest that half of Ukrainian territory will require de-mining when the conflict concludes.<sup>39</sup> Ukraine will also need significant resources for rebuilding. The UN estimated that \$100 billion worth of Ukrainian infrastructure was damaged in just the first three weeks after the invasion.<sup>40</sup>

Amidst the destruction, there are, however, hopeful signs. By mid-May, with fighting having shifted to the eastern portion of Ukraine, the Ukrainian border service reported that “[m]ore people have returned to Ukraine than left the country in recent days.”<sup>41</sup>

#### USE OF FORCE, ARMS CONTROL, AND NON-PROLIFERATION

##### *The United States and Allies Provide Military and Intelligence Support to Ukraine*

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In response to Russia’s invasion, the United States and numerous other countries have provided Ukraine with both lethal and non-lethal military aid, as well as intelligence assistance. In doing so, they are attempting to strike a balance between supporting Ukraine and avoiding further escalation of the conflict.

Although the United States has provided foreign and military aid to Ukraine since the collapse of the Soviet Union, those amounts increased after Russia’s invasion of Crimea in 2014.<sup>1</sup> From the invasion of Crimea through early October 2021, the United States “allocated more than \$2.5 billion in security assistance to Ukraine.”<sup>2</sup> During the Obama

<sup>36</sup> UN Security Council Press Release, Conflict, Humanitarian Crisis in Ukraine Threatening Future Global Food Security as Prices Rise, Production Capacity Shrinks, Speakers Warn Security Council (Mar. 29, 2022), at <https://www.un.org/press/en/2022/sc14846.doc.htm>.

<sup>37</sup> USAID Press Release, Biden Administration Announces Hundreds of Millions of Dollars in Global Food Aid to Respond to Putin’s Unprovoked Invasion of Ukraine (Apr. 27, 2022), at <https://www.usaid.gov/news-information/press-releases/apr-27-2022-biden-administration-announces-hundreds-millions-dollars-global-food> [<https://perma.cc/PV4U-YTDC>].

<sup>38</sup> UN Devpt. Programme, Ukraine Mine Action – 5W Situation Report 1 (June 1, 2022), at <https://reliefweb.int/report/ukraine/ukraine-mine-action-5w-situation-report-01-june-2022>.

<sup>39</sup> USAID, *supra* note 22, at 3.

<sup>40</sup> *Ukraine War: \$100 Billion in Infrastructure Damage, and Counting*, UN NEWS (Mar. 16, 2022), at <https://news.un.org/en/story/2022/03/1114022>.

<sup>41</sup> Natalia Ojewska & Ian Lovett, *Ukrainian Refugees Are Heading Home in Droves*, WALL ST. J. (May 16, 2022), at <https://www.wsj.com/articles/ukrainian-refugees-are-heading-home-in-droves-11652695585>.

<sup>1</sup> CORY WELT, CONG. RES. SERV. R45008, UKRAINE: BACKGROUND, CONFLICT WITH RUSSIA, AND U.S. POLICY 32 (2021), available at <https://sgp.fas.org/crs/row/R45008.pdf>.

<sup>2</sup> *Id.* at 33.