



INVESTIGATION

OF THE SHELLING OF MARIUPOL ON 24 JANUARY 2015

Report of a Civic Solidarity Platform field mission for war crimes documentation

**International
Partnership**
for Human Rights

**CIVIC
SOLIDARITY**

Description

On 24 January 2015, at around 9:20 local time, the Vostochniy residential district of Mariupol and surrounding territories were shelled. Around 100 rocket missiles were fired. Many of them struck private and public buildings, shops, drug stores, market places, banks, schools and kindergartens. As a result of the shelling, 31 civilians, including 2 children were killed and more than 100 civilians were injured. Local authorities recorded more than 650 complaints concerning the destruction of private property as a result of the attack. These events were investigated by a team from a field mission set up by International Partnership for Human Rights (IPHR) in the framework of the Civic Solidarity Platform, a network of over 60 NGOs in Europe, the former Soviet Union and North America. In accordance with the mission tasks, the team members interviewed witnesses and victims and examined the scene of the incident and available evidence. The findings of the mission are presented in this report.

Site of the incident



The Vostochniy residential district is located in the eastern part of the city of Mariupol on territory controlled by the Ukrainian government. Some 30 000 civilians live in this district, while there are no military objects there.

A Ukrainian security checkpoint is located in a neighbouring district on the crossing of the Taganrogska and Marshala Zhukova streets of Mariupol. The distance between this checkpoint to the closest residential building (on Kyivska str, 73) is 440 metres. The distance from the checkpoint to the closest of the documented targets of the attack is 830 metres, and the distance to the most distant target is 1900 meters.

The distance between the site of the attack and the unofficial borderline between the territories controlled by the Ukrainian government and the so-called Donetsk Peoples Republic (DPR) is about 4.5 km. The borderline runs along the river Kalmius. The following settlements near the border line are under the control of the DPR¹: Pionerske, Primorske, Kominternovo, Vodiane, Zaichenko, Shyrokynto, Berdianske, Pavlopil, Pyschevyk, Chernenko, Lebedynske and Sopyno of Novoazovsk rayon. The following settlements in this area are controlled by the Ukrainian government: Vynogradne, Talakivka, Sartana and Chermalyk.

Evidence

Members of the field mission team gathered testimony from two civilian eyewitnesses of the attack, as well as from five civilians who were injured in the attack and currently are undergoing treatment in hospital. Members of the team also examined the injuries of the latter and interviewed the head of the city emergency unit, Andriy Pavlenko. Soldiers of the volunteer Azov paramilitary unit provided anonymous testimony.

Members of the team documented a total of 91 craters of the shelling. A comprehensive list of these craters is available and indicated on the map at the following address: <http://qr.net/QZ8Y>.



The mission team members collected and examined shelling splinters and fragments at the site of the incident. They also made photo and video recordings of the craters left by the shelling and determined the direction of the shelling using a compass. The team determined the approximate angle of the shelling; measuring

¹ In accordance with Ukrainian government decree №1085-p that provides a list of settlements "where the sovereignty of Ukraine is not enforced, or enforced only partially."

deviations from the ground perpendicular (normal vector) axis of hitting holes (the map shows the measures of the angles in relation to the earth surface).

The width of the area documented to have been hit by shelling is **817** m on the east-west axis, and **1380** m on the north-south axis.



Sequence of events

Based on the testimonies of the eyewitnesses, examination of the site of the incident and analysis of available information, the members of the mission team have established the following preliminary account of the sequence of events:

On Saturday 24 January 2015, at around 8 am local time, a Ukrainian military base near the village of Sartana located 7 km north from the Vostochniy district was shelled. It is believed that the shelling was carried out using a Grad rocket launcher (MLRS). The shelling destroyed a high-voltage power line providing electricity to the Vostochniy residential district of Mariupol and disrupted electricity and water supply to the district.

On the same morning, Ukrainian military checkpoint in the Vynogradne village (3 km south of the Vostochniy district) was attacked presumably by Grad MRLS. This attack also destroyed a high voltage power line and disrupted electricity supply to this village, and in addition damaged a gas power station.

On the same day, at approximately 9:20 am local time, massive shelling of the Vostochniy residential area of Mariupol took place, affecting an area from Kyivska to Poletaeva street. In total, some 100 projectiles were fired. A total of 30 people were killed, one more died later in the hospital and 102 people received injuries of

various severity as a result of the shelling. Later, one of the wounded died in hospital. The shelling destroyed 55 blockhouses and more than 100 private residential houses, 10 cases of ensuing fires were documented. More than 20 cars belonging to civilians were destroyed. Shelling also struck educational institutions, administrative buildings and public areas. In particular, as documented by the mission team members, one projectile hit kindergarten #160; three projectiles hit the territory of school #5; and 2 projectiles hit the territory of school #57. The team members also documented the impact of shelling that struck the Kyivskiy and Denis markets, shops and a drug store. The shelling lasted anywhere from 35 seconds (according to the monitoring report of the local OSCE mission) up to several minutes (according to one of the victims).

According to the testimonies of victims, ambulances and staff of the city's emergency department arrived to the place of shelling in 10-30 minutes (depending on the location of the victim). Representatives of law enforcement authorities, the Ukrainian army and the Azov paramilitary unit also arrived to the site. Most of those injured were taken to the hospital in the timeframe of 11:00-12:00. Staff of the city's emergency department extinguished the fire that had broken out as a result of the shelling and worked with engineers from the Azov unit on diffusing unexploded missiles that had not yet exploded. Representatives of the police and prosecutor's office gathered fragments of missiles.



The corpses of those killed in the attack were delivered to the mortuary at

² More photos from the incident are available at the official site of Mariupol:
<http://www.0629.com.ua/news/719982>

Domenna str., 1.

Around 13.00, when rescue works were under way in the Vostochniy residential district, a Grad rocket attack struck the Ukrainian military checkpoint located in the vicinity of this district. According to the information provided by Azov, this shelling involved a standard missile package (40 shots). No one was injured in this attack.

According to head of the emergency department Andriy Pavlenko, at around 15:00 local authorities were informed by Ukrainian militaries of the threat of another attack on the Vostochniy residential district. A warning was aired in the district. However, no attack has followed.

On 2 February 2015 the Vynogradne village was shelled again. Moreover, the villages of Sartana and Vynogradne located 3 km south from Mariupol are repeatedly shelled throughout second half of January from the locations under the control of the so-called DPR.

Arms and fire line

At the time of the shelling on 24 January 2015, the weather in the affected area was cloudy and dry and visibility was very high.

Members of the group unearthed the front part of and other parts of a missile near the house #31 on Ravnynna str (point «20» on the map). These included fragments obtained from sites near house #31 on Ravnynna str. (point 20 on the map mentioned above); house #37/2 on Ravnynna str. (point 12 on the map); apartment #163 in house #79 at Olympiyska str (point 39 on the map) and another crater (point 29 on the map).

Analysis of these missile fragments, as well as the impact craters indicate that the shelling was performed using MLRS Grad. **Members of the mission team did not find traces of other arms.**

An examination of the impact sites, the angles of deviation of the strikes and shrapnel traces near the epicentres of the explosions provide a basis for concluding that the shelling originated from the east-north-east direction, azimuth 65-80°

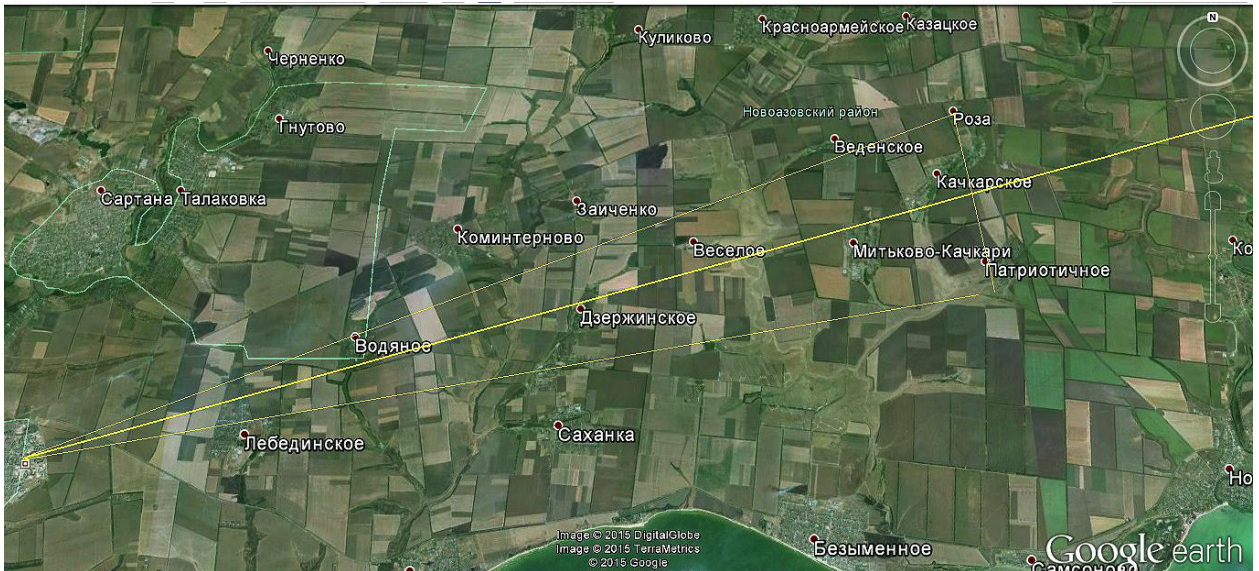
Exceptions to this general pattern are: at the impact site no. 24 on the map, the shelling was determined to have originated from the south-east direction, azimuth 100-120°, and at the site no. 87 from east, azimuth 95-100°. Marker measurements indicate approximate angles of incidence of 45-55° of projectiles before explosions, with the exception of impact site no. 14 where the angle of incidence was measured as 15°.

Members of the mission team measured the distances between the impact sites no. 60 and 8, on one hand and residential houses located to the east (9 floor, 30 m height), on the other hand. These points were chosen by the mission team to confirm a fairly steep trajectory of shells, because in these particular cases the shells had to overcome a barrier in a form of a building. In both cases, the distance

was around 29 meters, which provides a basis for assessing the trajectory of projectiles.

On the basis of the above, the mission team members have concluded that most of the shelling is likely to have been carried out using several Grad rocket launchers (MLRS) located at a point east-north-east from the affected area, at azimuth 65-80°.

The estimated site from which the shelling originated is controlled by the so-called DPR and is indicated below:



Legal assessment/qualification

After assessing the site targeted by the attack on 24 January 2015, the weapons used, and the scale and direction of the shelling, the mission team members have concluded that the incident was a deliberate attack in the context of the ongoing armed conflict between the armed forces of the Ukrainian government and Russia-backed pro-separatist armed groups from Eastern Ukraine.

Given the context in which the attack occurred, it can be assumed that those who carried out the attack were aware that the strike could result in a large number of victims among civilians* living in the Vostochniy residential district of Mariupol.

The Vostochniy residential district could not have been selected as a military target as neither military objects nor army divisions were located there. The only military activity in the area is the regular patrol of the residential area and the soldier shop in the area. The nearest military object, a Ukrainian security checkpoint (at 47° 7'52.17"C and 37° 41'15.43"B) is located more than 800 meters from the closest documented impact site and 1900 meters from the most distant documented impact site.

Therefore, the available evidence suggests that those who carried out the attack purposely targeted the civilian population. Taking into account the origin of the artillery shelling and the fact that the head of the so-called DPR Zakharchenko has publicly announced the advance on Mariupol prior to the actual attack, it can be stated that the attack on residential area was deliberate.

According to the applicable law (article 8(2)(b)(i) of the Rome Statute and article 51(2)(3) of Additional Protocol 1 to the Geneva Conventions), intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities is a war crime. According to article 85(3)(a) of Additional Protocol 1 to the Geneva Conventions, making the civilian population or individual civilians the object of an attack is a grave breach of the Geneva Conventions.

An alternative interpretation of the motives behind the attack points to possibility that the original target of the shelling intended to be the Ukrainian army checkpoint situated close to the residential area of Vostochniy. This hypothesis, however, implies that the intercept was missed by 1200 meters - the distance between the checkpoint and nearest point of impact.

Furthermore, it can be assumed that the attack launchers made the mistake while calculating the fire trajectory since the coverage area of one rocket is 1046 sq.m. and there were three barrages in total. This version is also supported by the audio intercepted and released by the Ukrainian Security Services, in which the alleged attackers report to higher in command with comments such as "we overdid it". However, the authenticity of this video has not been proven, thus cannot be used as a solid source of evidence.

Even if the second version of the events is confirmed by the investigation, this particular attack can still be classified as a war crime. Attackers have violated both principle of distinction and the principle of proportional harm, as the intercept and the weapon are selected without proper consideration of the military gains and possible harm to the civilian population. Article 51.4 (b, c) of Protocol I to Geneva Conventions qualify such attack as indiscriminate as it employs a method or means of combat which cannot be directed at a specific military objective and the effects of which cannot be limited and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

In its advisory opinion of 1996 on Legality of the Threat or Use of Nuclear Weapons, the International Court of Justice recognized the principle of distinction between combatants and non-combatants as a fundamental and intransgressible principle of customary international law. This principle is reflected in Article 48 of Additional Protocol I of 1977, entitled 'basic rule': *the parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.*³

Accordingly, we can speak about the recklessness factor. Considering the coverage area (1046 m²) perpetrators must have been aware that even in the case where

³ Additional Protocol to Geneva Conventions of 12 August 1949, and Relating to the Protection Of Victims of International Armed Conflicts (Protocol I) 1997

the rockets hit the intercept, residential area would also have been damaged and the civilian losses would be highly probable if not inevitable. This falls under the article 30 of the Rome Statute, which stipulates that a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge. For the purposes of this article, 'knowledge' means awareness that a circumstance exists or a consequence will occur in the ordinary course of events.

Conclusion

The field mission team members investigated the shelling that occurred in Vostochniy residential district of Mariupol on 24 January 2015, as a result of which 31 civilians died and 102 were injured.

By analysing the testimony of witnesses, examining available photo and video evidence, as well as surveying the site of the attack, field mission team members concluded that the shelling originated from the direction of the Dzherzhynske–Kachkarske-Rosy Luxemburg villages, which are located on territory controlled by the DPR. The evidence obtained suggests that the shelling was carried out using several Grad MRLS with light fragmentation parts and involved the firing of more than 100 rockets. Most rockets exploded within the residential district, hit residential buildings, educational institutions, markets, shops and other civilian objects.

On the basis of their assessments, field team members conclude that it is unlikely that the destructive impact of the attack among civilians was due to unintended error resulting from the lack of knowledge on the use of Grad MLRS. On the contrary, available evidence suggests that the attack was deliberately targeted at civilians. Thus, this attack can be qualified as a war crime that should be investigated by the relevant authorities in the framework of international law on armed conflicts.



The incident described in this report is one of dozens of recent attacks resulting in non-combatant casualties during the armed conflict in south-eastern Ukraine. Other human rights organisations, such as Amnesty International and Human Rights Watch have also documented such casualties.⁴ The ongoing conflict has already

⁴ See for example <http://amnesty.org.ru/ru/2015-02-03-ukraina/>; and <http://www.hrw.org/news/2015/02/03/ukraine-rising-civilian-death-toll>

taken the lives of hundreds of innocent civilians and none of these incidents has yet resulted in the identification and punishment of the perpetrators.

IPHR welcomes the steps undertaken by the Ukrainian government to extend the jurisdiction of the International Criminal Court to the events taking place on the territory of Ukraine, by means of a declaration under Article 12(3) of the Rome Statute.

Appendix № 1**List of dead and injured in the attack on 24 January 2015 in Mariupol (not exhaustive)**

-	Name of victims who died	Date of birth	Residence place; or place finding
1	Nykolaychuk Dmitry Vasiliyovych	03.06.1993	Khmelnyska obl, Vykivskiy rayon, Palachentsy village (military)
2	Unknown, woman	Age 25-30	Unknown
3	Unknown, woman		Found near the building № 185 Olympiyska str, Mariupol
4	Unknown, man		Found near the "Kyiv" market; Mariupol
5	Nymenko Liliya Nykolaevna	20.09.1953	Found near the "Kyiv" market; Mariupol, Kyivska str.
6	Unknown, woman	Age 50-55	Found near the "Kyiv" market;
7	Yefymov Yuriy Stefanovych	11.07.1950	Found near the Kyivska str. , Mariupol.
8	Popova Larysa Oleksandrivna	08.11.1948	Found near the building 64, Kyivska str., Mariupol
9	Budnik Valery Valentynovych	16.11.1969	Found near the Kyivska str. , Mariupol.
10	Unknown, young woman	around 20	Found near the Kyivska str. , Mariupol.
11	Demchenko Aleksander Nykolayovych	25.08.1956	Found near the building 68, Kyivska str., Mariupol
12	Bobynev Nikolay Anatolievych		Found near the Zvezdnaya str., Mariupol
13	Bobyneva Lubov Petrivna		Found near the Zvezdnaya str., Mariupol
14	Kashyna Maryna Nikolaevna		Found near the Zvezdnaya str., Mariupol Звездная
15	Kashyn Stanislav	Around 4-5 years old	Found near the Zvezdnaya str., Mariupol
16	Borysov Sergey Leonydovych	Age 54	Found near the Kuzbasskaya str., Mariupol
17	Abdurashitova Olga Vyktorivna	27.10.1977	Found near the "Kyiv" market;
18	Verbytska Lubov Naumivna	27.12.1944	Found in the in the hallway a residential building, Kyivska str., Mariupol.
19	Bushneva Lubov Stepanivna	пенсионерка	Found near the Kyivska str. , Mariupol.
20	Unknown, man		Found near the building 3, Kyivska str., Mariupol
21	Chumak Lina Grigorievna	28.03.1989	Found near the kiosk, Stanislavkogo str.,

			Mariupol
22	Anikienko Galina Vladymyrovna	18.11.1965	Mariupol, ул. Олимпийская, найдена по ул. Полетаева, возле дома 109.
23	Unknown, woman	Около 40 лет	Found near the supermarket 'Silpo', 9- May str., Mariupol
24	Abdurakhmaninova Olga Vyktorivna	27.10.1987	Olimpiyska str.
25	Lutsenko Olena Petrivna	1981	Kyivska str.
26	Yefremov Stanislav Olegovych	19.05.1976	Marshrutna str.
27	Yevgelevska Valentyna Vasylevna	1967	Peyzazhna str.
28	Bondarenko Maria	around 20	Unknown
29	Makarov Andrey Andreevych	Unknown	Unknown