

**Commission on Security & Cooperation in Europe:  
U.S. Helsinki Commission**

**“Russian War Crimes in Ukraine”**

**Committee Members Present:**

**Senator Ben Cardin (D-MD), Chairman;  
Representative Steve Cohen (D-TN), Co-Chairman;  
Senator Roger Wicker (R-MS), Ranking Member;  
Senator Richard Blumenthal (D-CT)**

**Witnesses:**

**Wolfgang Benedek, Professor of International Law (ret.), University of Graz;  
Veronika Bilkova, Associate Professor, Faculty of Law, Charles University in  
Prague;**

**Marco Sassoli, Professor of International Law, University of Geneva;  
Beth Van Schaack, U.S. Ambassador at Large for Global Criminal Justice;  
Timothy Snyder, Professor of History, Yale University and Permanent Fellow,  
the Institute for Human Sciences in Vienna;  
Iryna Venediktova, Prosecutor General, Ukraine**

**The Hearing Was Held From 2:00 p.m. To 3:27 p.m., Room 562, Dirksen  
Senate Office Building, Washington, D.C., Senator Ben Cardin (D-MD),  
Chairman, Commission for Security and Cooperation in Europe, presiding**

**Date: Wednesday, April 6, 2022**

CARDIN: The Helsinki Commission will come to order. I want to first acknowledge the change in the logistics for this hearing. It's an extremely important hearing. We had originally scheduled it to start at 2:30. So we recognize that we have changed the time. The House members are not in Washington, so they'll – those that are joining us will be joining us by Webex. And our witnesses, most will also be joining us by Webex. As I say, this is a critically important hearing dealing with Russian war crimes in Ukraine. We have a multipart strategy to deal with Russia's illegal, unprovoked incursion into Ukraine and the atrocities that have been committed under Mr. Putin's guidance.

Our priorities include making sure that we supply the Ukrainians with whatever they need to defend themselves. And as you know, we've been very aggressive in that, working with our allies around the world. And Congress has appropriated billions of dollars in order to carry that out. We've also led the effort of imposing sanctions against those that are responsible for these atrocities, as well as Russia generally. And we not only have been able to impose those sanctions, we've gotten the international community to join us. So providing strong penalties against Mr. Putin and Russia for their activities in Ukraine.

We are part of an international effort to provide humanitarian assistance to those who have been impacted by this war. The number of displaced persons are record numbers, and the challenges of getting humanitarian assistance in both Ukraine and those that have left Ukraine has been a real challenge to the international community. But we're part of that. And then our last strategy – not in priority order – but the last is accountability, making sure that those that are responsible for these atrocities are held accountable.

Yesterday we had a subcommittee briefing of the Senate Foreign Relations Committee with State Department on establishing our mission again Kyiv. We are close to reaching that time. As we are here having this hearing, we have an analysis going on as to how we can return our mission to Kyiv as quickly as possible, and we hope to do that within the next couple weeks. I had a chance to talk with Ambassador Brink, the nominee to be ambassador to Ukraine, today. And am very anxious to get her into Kyiv, for many reasons. But one of the reasons is to assist in the documentation of the crimes that have been committed under Mr. Putin's direction. Ambassador Brink was successful in the Balkans in assisting in war crimes prosecutions there. And I think she is very sensitive to those particular issues.

So the purpose for today's hearing is to see how we can assist in regards to dealing with accountability for war crimes committed in Ukraine. Like most of the civilized world, I've been absolutely horrified by the wanton assaults against Ukraine on residential buildings, schools, synagogues and churches, and even critical infrastructure including nuclear power plants. Most appalling of all are the reports and images of attacks on civilians, such as the attacks on the waiting trains and stations of Kramatorsk, or the bodies left behind by Russian troops withdrawing from Bucha – some of whom had their hands tied behind their backs and bore signs of torture.

The scale and pattern of these crimes clearly suggests to me that war crimes are being committed by the Russian military on the orders of Vladimir Putin. Mr. Putin must be held

accountable for his unprovoked, bloody attacks on the Ukrainian people. This war is being recorded, as no other war has been before, through videos and cellphones, drones, open-source intelligence, and other digital sources. Photographs, videos, and other reporting have been decimated – disseminated through social media, particularly Telegram. International organizations and NGOs are collecting information and evidence and using artificial intelligence, including facial recognition software, to analyze it.

Nevertheless, in order to hold Mr. Putin, Russian authorities, and Russian troops responsible for these crimes, evidence must be collected and protected and analyzed, so that it meets the criteria for use in legal proceedings. I look forward to hearing from our witnesses as to how this can be done most effectively. In order to help us with this, I, along with a bipartisan group of senators, introduced a resolution calling for Vladimir Putin and members of his regime to be held accountable for the numerous acts of war aggression and human rights abuses that have been conducted under his watch.

The resolution encourages nations to take any and all actions to investigate war crimes and crimes against humanity committed by the Russian armed forces and their proxies, and Mr. Putin's military commanders at the direction of Mr. Putin. I hope today's hearing will also help us move forward in holding accountable perpetrators of these horrendous crimes and providing justice to the Ukrainian people. Never again must mean never again. And the only way that happens if we hold those responsible accountable.

We are going to modify somewhat the order of the witnesses. But first, I would like to give the House chair of the Helsinki Commission, who is with us by Webex, Mr. Cohen, an opportunity to give his opening statement.

COHEN: Thank you, Mr. Chair. And I want to thank our witnesses for being with us today at this important hearing. I want to join and incorporate by reference the remarks Mr. Cardin made about the horrific actions of the Russian government upon the Ukrainian people. It is horrifying to see what they have done and continue to do. It is reprehensible. It is repugnant. And it is reptilian what Russian has done to Ukraine. In my opinion, it is what a genocide is. They want to destroy the Ukrainian people, destroy the country. Those they keep, they want to reorient and indoctrinate to become Russian using rubles, Russian language, Russian friends who are taking over the government. And they want to destroy all Ukrainian culture.

Putin is a sick human being. And he has no scintilla of a connection to humanity, morality, or care. It is really unfortunate what we have, and we have to prosecute him if we can. So we look forward to your information in helping us to see what we can do. I mean, Mr. Cardin mentioned some of the things, the raping of women – women who said that the Russian soldiers said: We're going to rape you so that you will never be able to have Ukrainian children. I mean, what horrific human beings they are. But what – if that testimony is accurate, it shows an intent to commit genocide. We've seen the people taking to Russia and disruptions of cities to where there's no aspect of what was Ukraine there. They've been reduced to rubble, in Mariupol and other places.

It is a depravity of Putin and his colleagues unknown since Hitler. And at one time it would have been thought that Hitler would be the worst human being that society would ever remember. He is. He holds that place. But Putin is certainly challenging him. In the eyes of the Ukrainians, he's probably surpassed him. You know, what Lavrov recently said about Hitler being Jewish and some of the biggest anti-Semites being Jews and saying that that shows that you can be Jewish, as Zelensky is, and still be a Nazi is illogical and horrific. And the Russians have put themselves in a zone, in a sphere unknown to man, that suggests that the Jews were somehow responsible for the Holocaust, and that Hitler is a Jew.

But what they've done in Ukraine shows that there's no limits to the depths of their depravity. They're trying to just recreate history to their advantage in the lies that they tell their people and others. So with that, I look forward to your testimony and what we can do to bring these people to justice. It's important that we collect this evidence and do what we can to bring people to justice, and hopefully end this war, and save some Ukrainian children, and women, and men, and human beings, and save the Ukrainian government. And with that, I will just end with

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CARDIN: Thank you, Representative Cohen. We appreciate very much your leadership on this issue and so many issues. We'll now be introducing our witnesses. We have a really distinguished group of witnesses. Your entire statements will be made part of our record. We ask you to try to summarize in approximately five minutes to give us time for having a conversation.

Our first witness is Ambassador Beth Van Schaack, who was sworn in as the U.S. ambassador-at-large for global criminal justice on March 17th, 2022. In this role, she advises the secretary of state and other department leadership on issues related to the prevention of and response to atrocity crimes, including war crimes, crimes against humanity, and genocide. She serves as deputy to the ambassador-at-large in global criminal justice – she did – from 2012 to 2013. And prior to returning to public service in 2022, she was the Leah Kaplan visiting professor in human rights at Stanford Law School, where she taught international criminal law, human rights, human trafficking, and a policy lab on legal and policy tools for preventing atrocities. Madam Ambassador, it's a pleasure to have you here.

VAN SCHAACK: I'd like to really extend my appreciation to the Helsinki Commission chairs and ranking members for convening this really important hearing and for including me. I'm really honored to speak before this body in connection with the Ukrainian Prosecutor General Iryna Venediktova and Professor Timothy Snyder. It's a very timely issue, and so I appreciate the attention it's being given to here in Congress.

It's now been over two months since the Kremlin launched its latest assault and further aggression against Ukraine. Russia's government has failed in its objectives of capturing Kyiv and of subjugating all of Ukraine, but we have still seen Russia's forces commit massive brutality across the country. The United States in the State Department has assessed that members of Russia's forces have committed war crimes across Ukraine, based upon a careful review of available evidence and information, including open source information but also classified sources.

At first, we saw violence from afar that appeared to be deliberate attacks against civilians and elements of the civilian infrastructure. Later, however, when journalists, human rights defenders, and others were able to gain access to the territory following Russia's retreat, what we saw was reports of violence of a different order. We saw credible reports of individuals killed, execution-style, with their hands bound, as you mentioned. We saw bodies showing signs of torture. And we heard horrific accounts of sexual violence against women and girls.

We also have credible information that a Russian military unit operating in the vicinity of Donetsk was allegedly executing captured Ukrainians rather than detaining them. If this is true, it violates a core principle of the laws of war, which is that individuals who are rendered hors de combat by surrender, by illness, any other reason they are incapacitated, they are not to be – they are not to be subjected to summary execution. The images and reports suggest that these are not the rogue acts of an individual unit or individual but rather, as you mentioned, Senator Cardin, they show a deeply disturbing pattern of abuse across all areas where Russia's forces are occupied.

Accordingly, the United States is in a position now to be supporting all international efforts to examine atrocities in Ukraine, including those conducted by the International Criminal Court, the United Nations, and the Organization for Security and Cooperation in Europe. The United States has welcomed the opening of an investigation by the International Criminal Court Office of the Prosecutor into atrocity crimes being committed in Ukraine. And we intend to cooperate with all stakeholders to achieve the common objective of ensuring justice.

Through a joint initiative with the European Union, the United States is also supporting the Ukrainian national authorities, and specifically the war crimes units under the Office of the Prosecutor General – we'll hear more about this later – as they are now preparing to investigate and prosecute war crimes cases within Ukrainian courts. The State Department has funded and deployed to the region a multinational team of international prosecutors, investigators, and other professionals with years of experience before the international war crimes tribunals.

This team is advising and supporting the Office of the Prosecutor General as they collect, preserve, and analyze evidence of atrocities, with a view towards pursuing criminal accountability. The United States also stands ready to assist other national courts around the world in the event that they establish jurisdiction over individuals accused of committing international crimes. A number of countries have already opened investigations within their own systems into these horrific crimes, and we have committed to robust law enforcement and diplomatic cooperation to ensure that there's no safe haven for those who might commit atrocities.

We also support proceedings before the International Court of Justice and the European Court of Human Rights, both of which are adjudicating state responsibility. Building a solid foundation of documentation, as was mentioned, will be essential to laying the groundwork for these accountability efforts around the globe. The United States helped to establish the Human Rights Council's Commission of Inquiry, and gave it a robust mandate to investigate, document,

analyze, preserve, and share evidence of violations of international humanitarian law, and to identify responsible individuals and entities.

The United States also joined 44 OSCE members, with Ukraine's support, to invoke the Moscow mechanism, which we'll hear more about this afternoon. The report, released on April 13th, provided a meticulous and compelling account of Russia's violations. It also cites evidence of direct targeting of civilians, attacks on medical facilities, sexual violence, execution, looting, forced deportation of civilians to Russia. All of the information collected by these various entities can be made available to prosecutorial authorities around the globe.

Finally, as part of our efforts to advance human rights and accountability in Ukraine, the United States has released its priorities for the European Democratic Resilience Initiative. Announced by President Biden in March, it will provide \$320 million to support societal resilience, defend human rights, and advance accountability in Ukraine and neighboring countries. Meanwhile, as has been mentioned, the United States and the EU has been working together closely to implement sanctions on Russia's leaderships as well as private individuals and entities. The goal is to strengthen Ukraine's hand, starve Russia of the resources it has been expending to prosecute this war, and encourage individuals subject to sanction to dramatically change course.

Together, every one of these efforts is part of an interlinked system of international justice. We now occupy a unique historical moment when there is a global consensus that the conduct of the Russian state is intolerable, and those in command and control must be held accountable. At this critical moment, it is crucial for all of us to continue to coordinate international and multinational initiatives to advance the interlocking imperatives of justice and accountability, to preserve the sanctity of international norms, to hold those accountable who are responsible for the crimes, and to respond to victims' legitimate demands and desires for justice.

The people of Ukraine, and indeed civilians around the globe who bear the unspeakable blows of war, should be able to live their lives without fear of having their homes destroyed by an invaders' shell or being shot with their hands tied behind their backs and left to die in the street. Effective accountability measures for those who are ordering and committing atrocities will make clear that those who engage in brutality will not enjoy impunity. Together with Ukraine, we, with our allies and partners, are united to bring perpetrators to justice.

Thank you for the opportunity to appear before you. I look forward to your questions and to the discussion.

CARDIN: Thank you, Ambassador Van Schaack.

We'll now hear from Iryna Venediktova, who is the prosecutor general of Ukraine. It's an honor to have you before our commission. She's held that position since March of 2020, the first woman to hold the office. In 2018, she became the legal adviser to President Zelensky, as an expert on judicial reform. In the July 2019, the Ukrainian parliamentary election, she was elected as a member of parliament, representing the political party Servant of the People. From

August 2019, she chaired the parliament's Committee on Legal Policy. It's a pleasure to have you with us, Madam Prosecutor General.

VENEDIKTOVA: Thank you very much, Chairman Cardin and the Helsinki Commission, for holding this hearing, and inviting me to talk to you about the situation on the ground in Ukraine.

I will just start by expressing gratitude to American government and American people for their firm and continued support of Ukraine during our fight for freedom and democracy. I would like to acknowledge that your support is seen and felt and is one that makes a difference. It is the 70th day of war. For these 70 days, Ukraine and Ukrainians are defending our statehood and independence, writing another chapter of stronger and law-abiding Ukraine that firmly credits underpinning principles of international justice.

In turn, Russia continues killing children. Started then in Mariupol, and then cynically relocated our citizens to Russia, calling us fascists. As you know, the city of Mariupol is destroyed now for 95 percent. In just two months, Russian invaders allegedly killed 20,000 residents, twice as many as German army killed during the two-year occupation of Mariupol during the Second World War. Violations by the Russian army, forces documented by investigators and prosecutors, are called out in their scale and nature. We have documented deliberate targeting and killing of civilians, and destructions of civilians objects, including hospitals, educational facilities, and residential buildings.

For instance, this Monday Russia launched missiles at a students' dormitory in Odessa. As a result, a 14-year boy was killed, and a 17-year girl was injured. We have also seen how Russia blocks humanitarian corridors and intercept the delivery of food and medicine, and how civilians – women and children including – are being shot in the process of evacuation. For instance, in the Kharkiv region, a Russian tank shot a car with a family inside. That family made clear that they were civilians, waved a white flag, but in vain. Parents and 9-year-old girl died, and their 17-year-old son was injured. I can tell you about similar stories happening in every town and city that found themselves in the epicenter of armed hostilities.

However, we saw the real extent of atrocities after Russian forces withdrew the Kyiv region. Let me remind you that the timeframe of the Moscow mechanism report did not include the atrocities discovered in Kyiv region towns. We saw numerous civilians shot right on the streets, near and in their houses. Corpses with clear signs of torture. We also discovered a torture chamber with bodies piled on the ground. We are discovering freshly-dug graves. We are receiving mounting evidence of sexual abuse, including against minors. As the U.N. high commissioner for human rights has put it, international humanitarian law has not merely been ignored, but simply tossed aside.

Since the beginning of Russia's full-scale invasion of Ukraine, 1,400 civilians, including 220 children, have been killed. Now, more than 400 children were wounded. Over 5,100 civilian objects were targeted and mostly destroyed, including 1,500 educational institutions and over than 300 medical facilities.

Against this horrific reality, Ukrainian law enforcement agency are doing everything in their power to ensure a timely and efficient documentation and investigation of core international crimes and are bringing perpetrators to justice. To date, we have opened over 9,600 investigations. Tomorrow, it will be again up and up into instance of violations of law and customs of war. This number we're sure will get higher.

We also have a separate investigation into the crime of genocide. Several days ago, we have charged as suspects 10 Russian soldiers for the commission of war crimes in Bucha. On Monday, we have identified another suspect who killed four unarmed men and tortured a civilian.

This is just a drop in the ocean of cases that we have. However, the initial firm steps are taken. In this process, we are locating and interviewing witnesses and victims, implementing forensic expertise, et cetera. Due to increased volumes of evidence, we are taking steps to safeguard it by creating the data back systems and ensuring that our evidence and materials are properly protected.

Ukraine's partners and allies are playing an important role in assist us with the investigations and with our investigations. French forensic experts have been deployed on the ground to assist Ukrainian colleagues in documentations forensic evidence. We also expect the arrival of other foreign experts in the near future. For example, Slovakian experts now in Chernihiv. Lithuanian team from JIT will come this evening to Ukraine. We closely cooperate with our partners and International Criminal Court, which has launched an investigation into situation in Ukraine. We have established a productive and cordial relationship with the Office of the Prosecutor. ICC investigation team were in Ukraine and had an opportunity to gather evidence and information on the ground. We will do maximum to facilitate timely and comprehensive investigation by the ICC.

We have also established joint investigation teams with Lithuania and Poland and the support of Eurojust to enable the exchange of information and evidence as well as to facilitate investigations into war crimes, crimes against humanity, and other crimes. ICC has also joined this format. Actually it was first time in the history of ICC when they have done it. Apart from this, 16 national jurisdictions have launched ongoing criminal proceedings regarding international crimes taking place in Ukraine.

All these efforts are directed towards the timely and effective investigations and prosecutions of perpetrators, starting with soldiers and then with military and political commanders. But let me blunt: Indeed, we do face significant challenges as we work on bringing Russian criminals to justice. These difficulties are manifold, ranging from the problems of getting hold of perpetrators, identifying victims and witnesses, as many have relocated to safer places within or outside in Ukraine, or been constrained by the lack of cutting-edge technology and equipment that would help us with investigations.

However, we are determined and will complete the task that is ahead of us. Russia is attempting to redraw the world map and undermine international rule of law. Therefore, Ukraine, together with the world community, should stand up to the Kremlin at the national and



international levels to end Russia's impunity to ensure its accountability for each and every heinous crimes committed by Russian army in Ukraine. I am confident that we will be able to do it.

I will stop here, Mr. Chairman. And as you mentioned, never again, it means that never again. I agree with you absolutely. Thank you for giving me this opportunity, the floor. I stand ready to answer your questions.

CARDIN: Well, thank you very much for bringing us up to date as to what is being done in Ukraine, and particularly in cooperation with the international organizations that also are working to hold those responsible. So we wish you only the best in your work and we thank you for the update.

I want to acknowledge Senator Blumenthal who is with us today, a member of the commission.

BLUMENTHAL: Thank you, Mr. Chairman. I want to thank all of our witnesses, the ambassador, as well as Prosecutor General Venediktova, for your courageous work. Russia's craven, cruel assault on the world order and on the people of Ukraine is more than an effort to conquer land, it is literally an effort to assault and eradicate a people. That's the reason why Russian soldiers have tied hands behind backs and shot people in the head. It's crimes against those individuals because they are Ukrainians, and it fits, in my view, the definition of war crimes, perhaps even genocide. I think the United States ought to make it a priority to assist whenever we can the investigation and prosecution of these war crimes. I am a former prosecutor myself. I think I still think like a prosecutor sometimes, and I know how difficult these kinds of offenses are to prove in a court with evidence showing not just that a crime was committed but that a specific individual committed it with the intent to do so. These are elements of a crime that are often difficult to prove beyond a reasonable doubt, if that's going to be the standard. But I think it's doable, it's necessary to try to do it, it's our obligation to provide the resources for those who do it to be successful.

And Madame Ambassador and Madame Prosecutor General, I am committed as part of this commission but as a member of the United States Senate to do everything we can to ensure your success, because we will be all held complicit, any of us who fail to make this effort, if we allow it to happen without the maximum effort that we can provide, and so I commit my own support.

And I want to thank Chairman Cardin for his leadership. It has been really steadfast and courageous, as you have been in this effort. Thank you, Mr. Chairman.

CARDIN: Thank you, Senator Blumenthal, and your comments, I think, express all of our views. Doing everything we can to help.

Our next witness will be Dr. Wolfgang Benedek who currently holds a position as head of Institute of International Law and International Relations and as director of the European Training and Research Centre for Human Rights and Democracy at the University of Graz. He

is a longtime chair of the NGO World University Service Austria. He's also a veteran of the OSCE Moscow Mechanism reporting and has served as an expert for the 2018 investigation into human rights abuses in Russia Chechen Republic, and the 2020 investigation into human rights abuses in Belarus.

Dr. Benedek, it's a pleasure to have you with us.

BENEDEK: Thank you very much, Mr. Chairman.

In response to the invasion by Russia, on the 3rd of March Ukraine, supported by 45 participating states, has resorted to the Moscow Mechanism of the Human Dimension of the OSCE inviting a mission of experts to address a very comprehensive mandate, as in particular, to establish the facts and circumstances surrounding possible contraventions of OSCE commitments and violations and abuses of international humanitarian law and the international human rights law, as well as possible cases of war crimes and crimes against humanity. And it also gave us the task to collect, consolidate, and analyze this information with a view to presenting it to relevant accountability mechanisms, international courts, or tribunals.

Our mission of experts consisted of Professor Veronika Bilkova from Charles University, Prague, Professor Marco Sassoli from University of Geneva, and myself from University of Graz, as you just said. I was elected as the chair of this mission by my colleagues. According to the rules of the Moscow Mechanism, the report was to be completed within three weeks only, a challenge which we managed to meet, making it the first report of an international mission of inquiry on the matter.

With regard to our methodology, we could only cover the first five weeks of the war while new developments were still unfolding, as in particular, the discovery of large numbers of civilians killed during the Russian occupation of villages in the proximity of Kiev, which points to major war crime and the crime against humanity committed by the Russian forces, which requires serious international inquiry with forensic experts.

In spite of the ongoing hostilities in March, which prevented us to go to Ukraine, and other limitations, our mission has been able to get access to a variety of sources allowing to gain a good oversight of the situation in general and of some particular issues under review. This was due to a large number of contacts with international organizations like United Nations Human Rights Monitoring Mission in Ukraine and information from specialized, nongovernmental organizations like the platform for the investigation of war crimes in Ukraine, consisting of more than 20 Ukrainian NGOs, as well as international investigative NGOs like Bellingcat specialized on digital open-source investigation, but also special university research undertaken, for example, by the Humanitarian Research Lab of the Yale School of Health.

With regards to ensuring accountability for international humanitarian law and human rights violations, war crimes, and crimes against humanity, the report highlights the relevant principles and obligations enshrined in accountability mechanisms at different levels, including the pertinent courts, some of which are already at work. The main responsibility obviously is with Ukraine but the task to prevent impunity and provide justice is enormous. While the

findings of this report are, at least in part, necessarily preliminary, they can inform other bodies, more in-depth investigations into legal and also political accountability like the U.N. Independent Commission of Inquiry, which has just started its work.

And I would also like to mention that in my previous report on human rights violations in Belarus, on my suggestion, an international accountability platform for Belarus has been created to help documenting the violations in a quality that can be used in courts, and in reaction to crimes committed in Ukraine now, proposals have been made to establish a global accountability platform.

Our mission notes several ongoing initiatives on the collection and preservation of evidence on the global, regional, and national levels, both by public and private actors, but it is our view that all this will benefit from the better coordination. While it was able to contribute to a first collection and analysis of the facts, more detailed investigations are obviously necessary in order to establish individual criminal responsibility for war crimes. This is the task for prosecutors in courts, as we just have heard, which can benefit from the collection of evidence by professional organizations and from the assessment of patterns, and specific incidents by missions of inquiry like our own.

Next, my colleague, Professor Sassoli, will present our findings regarding violations of international humanitarian law. Thank you for your attention.

CARDIN: Thank you very much for your testimony and thank you very much for all that you've done in regards to protecting human rights and demanding accountability. As you already introduced our next witness, Dr. Marco Sassoli, who has been the professor of international law at the University of Geneva since 2004. He also has been the commissioner of International Commission on Jurists since 2013, a special adviser pro bono on international humanitarian law to the prosecutor of the International Criminal Court.

Dr. Sassoli.

SASSOLI: Thank you very much, Mr. Chairman, and thank you to give me five minutes to speak about the violations of international humanitarian law or the laws of war. I must make a preliminary remark: International humanitarian law is the law on how war must be conducted. It has to be kept completely separate and distinct from the law on when war may be conducted. The lawyers call that the *jus in bello*, prohibiting inter alia aggression. This equal application of international humanitarian law to both belligerents is particularly difficult to accept in this case, as Russia is the aggressor and therefore responsible for all human suffering in Ukraine. It is nevertheless crucial for the effectivity of international humanitarian law in protecting war victims that both sides have to comply with its rules equally.

Turning now to the findings of our mission on international humanitarian law, during the period under consideration – and I repeat it was until 1st of April – violations occurred on the Ukrainian as well as on the Russian side. Both sides have also in many instances respected international humanitarian law. The violations committed by the Russian Federation, however, are by far larger in scale and nature. Why, due to the time and means of the disposal of the

mission, a detailed assessment of most allegations of IHL – that's international humanitarian law – violations and the identification of war crimes concerning particular incidents has not been possible, the mission found clear patterns of IHL violations by the Russian forces on many of the issues investigated. This concerns in particular the conduct of hostilities.

What counts for humanitarian law is not what was destroyed or who was killed or injured but who and what was targeted. To target civilians or civilian objects violates international humanitarian law and constitutes a war crime. Only in a limited number of instances, which concerns civilians shot at individually outside buildings, or summarily executed when in control of Russian forces does the mission have evidence that the victims were targeted. However, beyond that, it is not conceivable that so many civilian objects, including residential buildings, hospitals, cultural properties, pools, administrative buildings, penitentiary institutions, water stations, and electricity systems would have been damaged or destroyed – and this is uncontroversial that they were damaged and destroyed – if Russia had respected its humanitarian law obligations in terms of distinction, proportionality, and precautions in the conduct of hostilities in Ukraine.

This is in particular true when destructions and deaths occurred far away from the actual fighting, where every house defended by the defender may become a military objective for the attack. Much of the conduct of the Russian forces in parts of Ukraine it occupied before and after 24 February 2022, including through its proxies, the so-called self-proclaimed Republics of Donetsk and Luhansk, equally violate international humanitarian law of military occupation. Some violations and problems were also identified regarding practices of Ukraine. The mission is in particular concerned about the treatment of prisoners of war originally considered all as criminals and treated in ways that are incompatible with Geneva Convention III. The mission is also astonished about the small number of prisoners of war acknowledged by both parties.

Now a word on war crimes. Legally violations of international humanitarian law are committed by states. In reality, they are committed by human beings. Some particularly serious violations of humanitarian law directly engaged the international criminal responsibility of their perpetrators committing them with the necessary knowledge and intent. This includes command responsibility. Such violations are called war crimes. A war crime can only be found if an individual perpetrator can be determined. Such war crimes may be prosecuted by all states under the principle of universality jurisdiction; international criminal tribunals and, in particular, the International Criminal Court may also have jurisdiction.

The primary responsibility remains, however, with the parties to the conflict. Both Russia and have initiated criminal inquiries on war crimes in this conflict, Ukraine even – we heard that – thousands of them. It is, however, unfortunate that they concern only persons belonging to the respective enemy which is lawful under international humanitarian law and even prescribed, but not one single case reported to the mission concerning persons fighting for their own party.

Thank you very much.

CARDIN: And thank you very much for your testimony. I'm now going to recognize the ranking Republican member of the Helsinki Commission, Senator Wicker.

WICKER: Thank you, Mr. Chairman, and thank you to the witnesses. This has been a real education. Many of us are having to go in and out of the hearing room because of other business, but I've learned a lot already.

I certainly want to join everyone who has condemned the ruthless atrocities being committed by the Russian forces against the people of Ukraine. All of us have seen the horrific photographs and videos of civilians murdered and left behind by Russian troops. We've seen Mariupol reduced to rubble with who knows how many civilians buried underneath. We've seen attacks on hospitals, schools, and humanitarian corridors which could not possibly have been military objectives. This must stop, and those responsible must be held accountable.

Vladimir Putin is a serial war criminal. He should be investigated by war crimes authorities internationally, brought to justice, and made to pay – not only for his genocide and atrocities in Ukraine, but also for Aleppo, and Grozny, and the tens of thousands of civilians he has killed out of the pursuit of his desires living in other countries and occurring in other decades and centuries.

Along with Senator Cardin and others, I have cosponsored a Senate resolution calling for Putin and members of his regime to be held accountable for the numerous acts of war, aggression, and human rights abuses we have seen under his watch. The resolution recognizes that Russia's actions in Ukraine rise to the level of crimes against humanity and war crimes. It also supports investigations into war crimes, crimes against humanity, and systematic human rights abuses perpetrated by Putin, Russian forces, and their proxies.

The United States and our global partners need to use our influence and institutions to hold Russia accountable, and this hearing, Mr. Chairman, is a part of that. And I urge the OSCE to do all it can to collect evidence of war crimes and assist Ukrainian authorities in doing so.

Finally I wish to express my solidarity with the people who have been affected by this unprovoked brutality. No one can ever replace the loved ones who have been murdered by this genocidal regime. And even when this war is over, it will take years to rebuild. But you deserve justice, and I hope to be a part of achieving that justice for you.

Thank you, sir.

CARDIN: Thank you, Senator Wicker. I appreciate it very much.

We'll now hear from Dr. Veronika Bilkova, who is the head of the Center for International Law at the Institute of International Relations, Prague. She also teaches public international law at the Faculty of the Law at the Charles University in Prague, and since 2010, she has represented the Czech Republic in the Venice Commission of the Council of Europe, and since 2020 she has been chair of the Czech government's Committee on Human Rights of Older Persons. Dr. Bilkova.

BILKOVA: Thank you for giving me the floor. It is an honor to attend this hearing.

In my speech, I will focus on alleged violations of international human rights law. The report starts from the assumption that this law continues to apply in the situation of armed conflict and that some of its basic guarantees may never be suspended. It however also accepts that in times of war human rights standards must be interpreted in light of the applicable – (inaudible) – that is international humanitarian law.

The mission was not in the position to verify all the reported incidents which might involve violations of international human rights law. Yet, based on a thorough analysis of these incidents, we were able to come to four main conclusions.

First, the mission found credible evidence suggesting that the violations of human rights had indeed taken place during the first five weeks of the conflict, the period under scrutiny in the report. Most of these violations occurred in the areas under the temporary occupation of the Russian Federation and seem largely attributable to this country. The most serious of these violations include, but are not limited to: targeted killing of civilians, including journalists and human rights defenders; mistreatment of civilians, including torture and rape of women and girls; and abductions, enforced disappearances, and massive deportations of large number of civilians. The seriousness of these violations is further compounded by their denial and the lack of any attempt to investigate them and bring those responsible for them to justice by the Russian Federation.

Second, the mission concluded that the impact of the conflict on human rights had gone beyond the direct violations of these rights. By causing a high level of destruction, and by interfering with the provision of vital services such as education or health care, the conflict has made it very difficult for the Ukrainian people to fully enjoy their human rights, and it has also made it very difficult for Ukraine, as the state, to effectively respect, protect, and fulfill all the human rights of its inhabitants. The number of persons who might suffer or even eventually die in result of all these disruptions is likely to be as high as – if not higher than – the number of persons harmed by active hostilities.

Third, the report notes that while the conflict has affected all inhabitants of Ukraine, it has had a particularly strong effect on individuals belonging to vulnerable groups. These groups encompass, but again are not limited to: women, who experience various forms of gender-based, conflict-related violence including rape; children, who had their family links disrupted and were subject to massive displacement; or older persons and persons with disabilities who are often left behind or decide to stay behind without any care and means of subsistence. The conflict has also produced new vulnerable groups, especially refugees and internally displaced persons, and there are more than 12 millions of them, both in Ukraine – seven-point-something in Ukraine and five-point-something in other countries of Europe, including my own.

Finally, fourth, the report has established that some of the violations of international human rights law are likely to amount to crimes against humanity, thus giving crimes not only to the responsibility of the state – mostly Russia – but also to criminal responsibility of individual

perpetrators. Crimes against humanity are violent acts such as murder, torture, or rape which are committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack.

Now the mission was not able to conclude whether the Russian attack on Ukraine, in itself, per se, could qualify as a widespread or systematic attack against a civilian population. Yet it found credible evidence suggesting that at least some patterns of violent acts which had been repeatedly documented in the course of the conflict, such as targeted killing, rape, or abductions made this qualification. It is now for national and international courts to identify concrete individuals standing behind these crimes and hold them criminally responsible. And that is already happening, as we heard in the previous testimonies.

Thank you for your attention.

CARDIN: And thank you very much for your testimony. I appreciate it very much.

Our final witness is Timothy Snyder, who is the Richard C. Levin Professor of History at Yale University, and a permanent fellow at the Institute for Human Sciences in Vienna. His work has appeared in 40 languages and has received a number of prizes including the Emerson Prize in the Humanities, the Literature Award of the American Academy of Arts and Letters, the Vaclav Havel Foundation prize, the Foundation for Polish Science prize in social sciences, and the list goes on and on and on.

In the interest of time, I think I'll shorten that introduction a little bit, and Mr. Snyder, it's wonderful to have you with us. Thank you.

SNYDER: Thank you very much. I'm very glad to be with you.

The contribution that I hope to make during these brief few minutes that I have with you is to consider the possibility – and what I take to be the reality – that the crimes against humanity that we've been discussing amount to genocide.

So let me start by saying historically speaking, the idea of genocide in Ukraine is more than thinkable. Indeed, the very word genocide was coined by a Polish Jewish lawyer called Raphael Lemkin, who studied in the city of Lviv, which is now in western Ukraine and which is being bombed today as we speak. Mr. Lemkin coined the term "genocide" during the Second World War, and he had in mind of course the mass extermination of the Jews of Europe by Nazi Germany and collaborators with Nazi Germany.

That said, he also had in mind a whole series of other historical events, including the planned Soviet famine in Ukraine. So the origins of the word genocide have a great deal to do with Ukraine, and the two very dramatic, horrifying cases of genocide also have to do with Ukraine because – not just the planned famine by Stalin in 1932 and 1933, but also the Holocaust is deeply connected to Ukraine. The Holocaust was possible because the war aim of Hitler's Germany was the conquest of Ukraine. It was that war aim – that colonial war aim to control Ukraine and its food which ended up bringing the territory where most Jews lived under German

control. So we need to – we have to understand that genocide in Ukraine is thinkable. Unfortunately, it's already very much part of Ukrainian history.

So now let me ask the question about law. I'm sure there are many here who are more familiar with the law around the Genocide Convention of 1948 than I am. I will simply stick to its clear provisions. Section 2 of the Genocide Convention of 1948 specifies five sorts of actions which would qualify as being the crime of genocide. In my view – and the previous testimony, I think, simply confirms this – in my view, all five of these actions have been carried out.

Now just to be clear, in order for genocide to have taken place, we don't need all five; we only need one. But I think it is the case, and terrifyingly so, that all five are in fact the case in Russian-occupied Ukraine – in the territories that Russia occupies. Now – or in the territories of north-central Ukraine that Russia occupied and has since abandoned.

The first – the first example – the first example of the crime of genocide is killing members of the group. That has indisputably taken place.

The second is causing serious bodily harm or mental harm to members of the group. That has also indisputably taken place.

The third is deliberately inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or in part. Again, very difficult to dispute that the Russian war of destruction in Ukraine – the details have already been given – amounts to that.

The fourth is imposing measures intended to prevent births within the group. I would say that bombing hospitals – there are whole districts of Ukraine where no hospitals are functioning – and in particular, bombing maternity hospitals, as we've seen in southern Ukraine, would meet that criterion.

And finally, number five is forcibly transferring children of the group to another group. This one is often overlooked, but I think it's quite significant. More than a million people, according to Russian data, have been deported from Ukraine to Russia, and among that million we're talking about well over a hundred thousand children. And those children in Russia are being deprived of their nationality. Russian lawmakers comment on their inability to speak Russian, which of course is an implicit but nevertheless terrifying call to take these children from their culture and educate them within a different culture.

So the only open question then regarding the Genocide Convention, it seems to me, would be the question of intent. The 1948 Genocide Convention specifies that there must be an intent to destroy a group, in whole or in part. I would say that almost uniquely in history we have a rather large list of public declarations from the side of the perpetrators which reveals that intent. When Mr. Putin says – as he has said repeatedly – that there is no Ukrainian state or no Ukrainian nation, scholars of genocide would recognize that as pre-genocidal language. That is, when you say a group doesn't exist, what you're doing is preparing for its destruction.



Mr. Putin has also said that the Ukrainian nation was created exclusively by communists and threatened its de-communization in the clear sense of the destruction of the nation. In a different mood, Mr. Putin has said that Ukraine was created exclusively by Nazis and threatened its de-Nazification, by which also is meant the destruction of the Ukrainian nation. Three days after the Russian invasion of Ukraine began, a victory declaration was published in an official Russian news service which declared the goal of the invasion to be the resolution of the Ukrainian question – which, as we all know, is genocidal language. That same news service a few weeks later published a kind of handbook specifying the steps that would need to be taken to eliminate the Ukrainian nation. And then just a few days ago it was reported the publishers of Russian textbooks for children in school have been instructed to remove mentions of Ukraine and Kyiv, just putting the dot about the I, if you like.

A final – a final word. One thing which might seem confusing about all of this is that Mr. Putin and the Russian regime claim to be invading Ukraine in order to prevent genocide. This not just a kind of mistake or a kind of error. In my view, this is part of the crime itself. When one claims to be preventing genocide and commits genocide, what one is doing is perverting and diluting the sense of the word. And if anything can be worse than that, what one is also doing is turning phrases like “Nazi,” which we ought to be preserving for more important legal and moral purposes – what one is doing is turning words like “Nazi” into instruments of hate speech. So, as we know, Russian soldiers before and after carrying out acts of terror against Ukrainian civilians, including murder and rape, speak of the people who are their victims as Nazis. So reducing the language of the Second World War to a kind of hate speech which enables genocidal action, in my view, is simply one more element of the genocidal policy itself.

Thank you very much again for the invitation and for your attention.

CARDIN: Professor Snyder, thank you for that analysis, particularly as it relates to genocide. I think that’s extremely helpful.

Let me start, if I might, with Ambassador Van Schaack and Prosecutor General Venediktova. You both have talked about the cooperation in trying to make sure that all energies are focused on accountability, but I’d be interested in your views as to how you reconcile the work done by a sovereign country, Ukraine, in holding perpetrators of atrocities accountable, and those of international organizations such as the ICC or other formats that may be used to try to deal with accountability. How do you, in fact, coordinate how to proceed and how the evidence is best captured by the entity that has the strongest potential to hold the perpetrators accountable?

VAN SCHAACK: Yeah. Thank you. Maybe I’ll start and then turn it over to Madam Prosecutor General.

It’s a really critical question because we have so many mechanisms now operating and so many states that are committed to supporting both domestic processes within Ukraine, but also the international institutions. And so this question of coordination is really critical.

One thing we are seeing is the states in Europe in particular have never been more united when it comes to the ability to assist each other in criminal investigations. Several states have

created what's called a joint investigative team. Ukraine has joined that. That enables their law enforcement professionals to speak directly with each other without having to go through a mutual legal assistance treaty. The International Criminal Court has also joined the JIT, the prosecutor himself, and so that will enable him to coordinate. A number of other European states, including the United States, will be supporting that enterprise. There may not be necessarily the need for everyone to join officially as a member, but that does serve as a(n) important coordinating factor.

I think it's also important to think about the U.N. Commission of Inquiry as a potential clearinghouse for information where civil society, states, and other actors who are gathering information and collecting it can share that with the Commission of Inquiry, which then can engage in exercises of authentication and then disseminate that information to prosecutorial authorities, whether at the international or the domestic level.

The prosecutor general already spoke about how she has a strong cooperation with the ICC prosecutor. The ICC is premised on this principle of complementarity, which is the court steps in only when the domestic system is either unwilling or unable to. And if the prosecutor general has cases in which she'd like assistance, maybe to have the ICC take those cases, that can be arranged through these avenues of cooperation.

So it's really going to be critical given the massive amount of information we have and really the massive size of this crime base. Thanks.

VENEDIKTOVA: Mr. Chairman, thank you very much –

CARDIN: Certainly.

VENEDIKTOVA: – for this important question for me.

Of course, it is complicated. But for me, it's absolutely a clear situation. From the first days of the war, we started to create this mechanism, how to manage all of this. We have several approaches. One of them, of course, it is national jurisdictions and verdicts from national courts.

From other side, of course – and again, we use for this platform of – (inaudible) – from first days of the war, when we started to create these, again, complicated international mechanisms of cooperation and participations all states who are ready to be objective and to investigate with us. We created the joint investigation team. I am – I am very appreciative for the Ambassador Beth Van Schaack and I trust her very much and I really sympathize for her expertise, braveness, and honor, but Ukraine is a leader in this process.

We established joint team – a joint investigation team. And for me, it was very important which states would be members and participants in this joint investigations team. Yes, we have 16 different states who started their own cases, but I am not sure that we all should be at JIT because, again, we should share information and we should have the similar strategy, and to have ordinary understanding of what we want to help and in which way.

That's why we started with Poland, Lithuania, and on – and the leader was Ukraine. Now, we have plus four countries who wants to join us. ICC, it's very important that ICC decided to be a part of this JIT, too. And for my side, I think it is the best example that I want cooperate because you know that the bill which let ICC to do everything right away here in Ukraine of implementation, some procedural instruments of Rome statute was voted yesterday, just yesterday. That's why I think that to have this common platform of JIT with ICC inside, it is very useful for ICC.

Of course, we will understand how many cases can take ICC. All of us understand that it's not pool sort – 9,600 cases which we have now. Of course, some prosecutor of ICC will have his own strategy and his own team, and he will decide what he will do in war crimes in – war crimes against humanity indicate crime of genocide. I don't know. But I started this case of genocide. Crimes against humanity we don't have in our criminal court.

That's why I understand concrete roadmap what we can do here in Ukraine – in Ukrainian legislation and with our flexible – possibilities, but we can be flexible in other jurisdictions. For example, we can create concrete JITs with other subjects. And we think about it now with concrete – it was very narrow subject of war crimes. We think about it and we think about these possibilities.

What about civil society? Civil society is a base. We all understand that it is very important to have civil society on the one page with us. In Ukraine, it's absolutely understandable. Authority – leader of our stage and leader of nation, Volodymyr Zelensky, authority, and civil society on the one page fight against Russian aggressions. We have one enemy. That's why civil society and all non-government organizations should be encouraging nations in that state institutions who have a leader role.

If we speak about criminal justice and investigations of war crimes, they should be in good cooperation with us, and we do it. For example, we have, again, a narrow sphere, for example, of sexual crimes, and we speak with NGOs in Ukraine. For example, we have NGOs in the whole picture of war crimes, and not only Ukrainian NGOs. It's very important they can help us to collect evidence. They can't help us to work with our victims, again, for example, in sexual crimes, but it's very important that we should be in one coordination and understand our common aim because now have this resource, a huge resource. I am very appreciative to the USA, to Great Britain, to the European Union, which help us with this resource.

But again, all our resource is limited, and time resources, and human resources. And again, we should put in laws the possibilities to do everything end-wise and fast. That's why I think the common coordination and to be honest with partners on the platform, it's a deal and what we should do. Thank you very much.

CARDIN: Thank you for that. That helps a great deal to understand that, too, the gaps you have in domestic laws as well as the need to have cooperation in gathering the information for a successful prosecution.

Dr. Benedek and Dr. Sassoli, let me just pose to you a common question. In war, there's always casualties – we recognize this, civilian casualties – and one could argue that an episode that occurred in Ukraine could have been a miscalculation and not really a deliberate war crime. So at what level of evidence does it become apparent that there is targeting of civilian populations? When you see the number of buildings that have been attacked and the types of casualties that have occurred in this battle, where do you have sufficient enough evidence to elevate the accountability that is beyond just carelessness and more, but a deliberative effort to erase civilian populations?

BENEDEK: Thank you for the question. I would leave it to my colleague Sassoli if he is still around.

SASSOLI: Yes, I am around. Thank you.

Well, it depends. A level for what? For a prosecutor, you must have an individual who had the necessary knowledge and intent. While for the responsibility of a state, I think that our finding that so many buildings could not have been destroyed if Russia had respected the principles is an appropriate standard of evidence.

I give you an example. You remember that the United States has destroyed the Doctors Without Borders hospital in Kunduz in Afghanistan. This was one hospital. Mistakes can happen. But 52 mistakes cannot happen. This is somehow the probability evaluation we have made. And 52 hospitals or ambulances, medical transports, first aid stations on the 1<sup>st</sup> of April had been destroyed.

Now, this is not a sufficient argument to convict one individual. There, you must prove that the hospital which was attacked by that individual was, first, not used for military purposes; and second, that that individual not only destroyed but deliberately wanted to destroy that hospital. And this can only be done by a prosecutor. And if I may add, in addition you must have the suspect available because I don't think that a war crimes trial with an absent accused are very meaningful, although they can have symbolic value.

CARDIN: Thank you for that.

I want to ask one or two more brief questions, then we'll turn it over to Congressman Cohen. To Dr. Bilkova, can the use of certain weapons, such as using cluster bombs that go into civilian populations, the indiscriminate use of missiles, can that elevate to being a war crime? Do we still have Dr. Bilkova?

BILKOVA: Yes. Yes, I hope you can see me.

CARDIN: Yes.

BILKOVA: So it's – (off mic) – for my colleague Professor – (off mic) – because this is, obviously, an issue under international humanitarian law, not so much under human rights law. But I can briefly answer that.

Clearly, if any weapon is used in an indiscriminate way, regardless of whether the weapon is lawful or unlawful in itself the indiscriminate use may amount to a violation of international humanitarian law and even to a war crime.

CARDIN: Thank you.

And to Professor Snyder, you raise a point that has really troubled me, and that is the forced deportation of Ukrainians to Russia. The only safe avenue, they explained to the population, to avoid the conflict was to go to Russia, and in some cases, they were absolutely forced to go into Russia. We don't know the exact numbers; we know that it's significant.

You raise a very important point, that that in and of itself could be considered a genocidal activity. Could you just elaborate a little bit more on that?

SNYDER: Sure. Thank you for that question, because this is something that concerns me very much as well.

When these people are deported, I mean, there are two important parts of the context. The first is that they are being deported as the result of an illegal war of aggression. And they are being deported in a context in which crimes of war are probably being committed around them. And then a third piece of the context, as you say, is that they're not being given any choice of where they would like to go, which is why I use the word "deported" as opposed to "evacuated."

Given, you know, the overall penumbra of announced Russian intentions – that is, to weaken or destroy the Ukrainian nation – I think we understand these deportations as a kind of denationalization, as an attempt to reduce the size of or to be – or to – or to take – or to take a step towards the destruction of Ukrainian society.

We know from history that there are precedents for something like this. You kill some part of the population, most likely men of military age or civic activists or the people who you think somehow represent the nation or its political system, and then you take others – women/children, preponderantly – and you disperse them over some wide area on the assumption that they will then be assimilated.

There was an action just like this, actually, in communist Poland in 1947, as it happens against Ukrainians, where the explicit intention was to take people away from where they lived and to disperse them over areas where they would have to assimilate over time. Forcing people to assimilate, separating families from other family, separating children from parents, putting them in some place which they don't know like Siberia and expecting that they will assimilate, that is actually a textbook example of genocide. Genocide doesn't have to involve murder. You can eliminate a people, in whole or in part, without physically murdering them.

So I would submit that this is – we ought to be thinking about this. And the scale is quite considerable. I mean, as you say, we can't be sure about the numbers, but the Russians say I

million, which is, you know, if we just – that would be like deporting 8 (million) or 9 million Americans, if you take the share of the population. It's a very significant – it's a very significant percentage of the Ukrainian population already. And you know, the children, of course, are particularly vulnerable.

I should also mention that there's another historical example, which is that, historically, Ukrainians were overrepresented in deportations to the Soviet Gulag, which meant that there is a history of Ukrainians being deported to Siberia and not coming back, right? So there is – there are historical precedents in this in the 20th century and then there's an activity which I think in itself deserves our concern.

Thank you for the question.

CARDIN: Well, thank you for that. To me, this is an extremely important point.

I just really want to conclude by underscoring what Senator Wicker said. This has been an extremely educational hearing for all of us. I can assure you we are going to be following up. And what Senator Blumenthal said, we're going to do everything we can to support your efforts to hold those responsible accountable.

I'm going to go vote. Congressman Cohen is my co-chair. He's going to take the chair of the Commission. He'll be asking questions and he will conduct the remainder of the hearing. Thank you all again and I turn it over to Congressman Cohen.

COHEN: Thank you, Mr. Chair.

I have switched my position to an automobile and I'm on the way to a school where I need to make a presentation, so I'm not sure how long I can go. But as far as questions, is there anybody on our panel who does not believe that the facts have been established that there is a genocide going on in Ukraine?

(No audible response.)

COHEN: Excellent. I take your silence as –

SASSOLI: I'm not sure. Sorry.

COHEN: Excuse me, sir?

SASSOLI: But I'm not in the panel.

COHEN: Okay.

Professor Snyder, the biggest problem, if we've concluded, based on the five criterion which were established for what a genocide is – and to me, it's pretty obvious what's going on, and to you and others as well – but the key is – and I think one of the witnesses mentioned it – is:

How do you get the person before you? How do you get jurisdiction over a Putin or some of these other people? I heard – somebody I heard today – I might have been watching C-SPAN – CNN, I mean, and I think they said that they had found or discovered who one of the individuals was who killed four people at Bucha. Now, I don't know how they figured out who he was. Maybe he's a prisoner of war. Who knows? But how do you get jurisdiction over a Putin, Lavrov, general, prince, Darth Vader of Syria, or whoever?

SNYDER: Yeah. I mean, I appreciate – I appreciate the thrust of the question. And I would – I'd like to emphasize a point you made about the extraordinary amount of data that Ukrainian prosecutors and journalists and others have collected. I think, you know, one point which really bears mentioning is that these are – these are going to be the best-documented war crimes in the history of war thanks to the work mainly of Ukrainians on the ground.

But legal issues of venue and jurisdiction and standing, I'm a historian, so I've got to – I have to leave that to the people on the panel who are far more qualified than I to handle questions like that.

COHEN: Who wants to field that question on the panel?

VAN SCHAACK: Hi, Representative Cohen. This is Ambassador Van Schaack. I'd be happy to weigh in.

COHEN: Thank you.

VAN SCHAACK: It's going to be difficult, honestly. If they don't leave Russia, they may enjoy impunity for the ends of their days. And so, you know, that's the reality of the situation. There is no international police force who can go and cross sovereign territory and arrest them.

However, you know, those of us in this business are playing a long game, and there will be jurisdiction over these individuals virtually anywhere they would go because so many states have incorporated within their domestic penal codes the ability to prosecute war crimes and crimes against humanity regardless of the nationality of the perpetrator or the place of commission. This is this concept of we can call it universal jurisdiction or extraterritorial jurisdiction. But the Geneva Conventions, for example, oblige states to seek out individuals who have committed grave breaches of those treaties and exercise their jurisdiction over them or extradite them to a state that's willing to exercise that jurisdiction.

Unfortunately, U.S. law does not – is not in keeping with the Geneva Conventions in this regard. We have a more limited war crimes statute. But most of our friends and allies around the world have incorporated a very broad reach for their national courts when it comes to the commission of international crimes. So the minute one of these potential perpetrators steps foot outside of Russia, they could be subject to investigation, to being taken into custody, to being extradited to a court that's willing to exercise jurisdiction over them, and then subject to justice. So that's the short answer.

COHEN: Is there anybody else that would like to add anything to that?

BENEDEK: Yes, if you'll allow me.

COHEN: Please.

BENEDEK: I would just like to say that on Saturday it becomes exactly 30 years that Russia has applied for membership in the Council of Europe. And its application, it said that it wants now to join the democratic values of Europe for which the Russian people has been longing for some time.

Now, who knows when there will be a time again when a different Russian government will come back to Europe and say we would like to join these values again. And then the question will be, what are they going to do with those who have misled them, who are responsible for these crimes we are just discussing? And I always argue that never in the past it was maybe expected that Milosevic will end up in front of the Yugoslav tribunal, but in the end that has happened. And also, there is a Sudanese president who is being indicted and now might also be charged in front of the ICC. So one should never exclude any future course to come back to stop impunity and to provide accountability in the long term.

COHEN: Thank you, sir.

VENEDIKTOVA: If you'll let me, if possible.

COHEN: Please, please.

VENEDIKTOVA: I'll try to be very short.

Actually, for us, very important to have practical steps. When we started our own investigations, crime against – aggression crime, it is our anchor crime now – anchor case. And we have, in this case, now more than 600 suspects. We have, for example, defensive, you know, ministry, Ministry of – (inaudible). We have speaker of parliament. We have the head of the council of defense and others, more than 600 persons. But we don't have the main war criminal of the 21st century, the president of Russian Federation and the minister of foreign affairs, because these persons have functional immunity.

I understand if we will have our decisions in Ukrainian jurisdictions in first instance and then in appeal instance, I can ask about the arrest these persons who now are suspects in war – in crime against Ukraine as a crime of aggression, and we will ask to take these persons on the border if they decide to go out of Russia and give us our Ukrainian sovereignty. But what we can do with the big fish – with the minister of foreign affairs and president of state aggression? I think the key is International Criminal Court. And if the prosecutor of international court will have enough evidences of concrete crimes against humanity, he has competence in four crimes: war crimes, crimes against humanity, crime of aggression, and genocide.



I understand everything, that it will be very difficult with genocide in the platform of ICC. I understand that crime against – aggression crime is impossible because no Russia neither Ukraine ratified Rome statute. But if we speak about crime against humanity, we can speak about common responsibility. And if we understand that soldiers/commanders killed civilians, tortured them, raped them, and after that their president, their commander-in-chief gave their brigade – I mean now 64th Motor Rifle Brigade – gave them the honor to be awarded, it means that he knew, he ordered, and he accepted all these war crimes. And I think it could be a roadmap.

COHEN: I thank each of the witnesses and I agree. And it's going to be difficult to get jurisdiction over the big fish, as you refer to him, but there is the court of public opinion. And while we might not have an opportunity to try him at The Hague or at a(n) international court and a conviction, he will be convicted with the data that has been collected in Ukraine by so many people and others in Ukraine of the war crimes, the genocide, the inhumanity, and he will be a marked man until he dies as an evil man. And that's important.

Are there – I can't – I don't know how to control my panel here to see if there's any other members on here. Are there any other members with us at this time? If not – and I'm about to go into the school – but before I do that, does any member – panelist have anything they'd like to add for the record?

If not, I thank each of the panelists for their time, for their work overall in their lives, the cumulative work you've done and the specific work that you have done today in contributing to our knowledge of the situation in Ukraine and war crimes and genocide and what we have to do and what we can do. Look, so nice to meet each of you. Mr. Snyder, Professor Snyder, I'm well aware of your work. And for those from Ukraine, you have my heart. I'm with you every day and I will be with you as I'm the co-chair of this group. And we'll chase Putin to the ends of the Earth.

With that, I would adjourn this – (off mic).

[Whereupon, at 3:27 p.m., the hearing ended.]