



“CHILDREN”

THE ATTACK ON THE DONETSK REGIONAL ACADEMIC
DRAMA THEATRE IN MARIUPOL, UKRAINE

AMNESTY
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A satellite image of the destroyed Donetsk Regional Academic Drama Theatre on 26 March 2022. © 2022 CNES/Airbus

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EXECUTIVE SUMMARY

On 16 March 2022, shortly after 10am, a Russian air strike destroyed the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine. At the time of the attack, hundreds of civilians were in and around the theatre; many were killed. The theatre was clearly recognizable as a civilian object, perhaps more so than any other location in the city. *The evidence Amnesty International has gathered demonstrates that the attack was a war crime.*

Between 16 March and 21 June Amnesty International collected and analysed a range of evidence related to the attack on the theatre, including 53 first-hand testimonies from survivors and witnesses of the attack and its aftermath, 28 of whom were inside or adjacent to the theatre at the time of the attack; satellite imagery from immediately before and shortly after the attack; radar data from before and after the attack; authenticated photographic and video material provided by survivors and witnesses; two sets of architectural plans; and open-source information.

From the start of the war on 24 February until it was destroyed, the theatre served as a haven for civilians fleeing violence in other parts of the city; a hub for the distribution of food, water, and critical information about desperately awaited evacuation corridors; and a designated gathering point for the expected evacuations. More than a thousand people lived in the theatre between the start of the war and the time it was attacked.

The theatre's population grew substantially over time. Approximately one hundred people took shelter there between the start of the war and 4 March. These initial arrivals were primarily current and former theatre employees and their families and people who had fled violence at the start of the conflict. The number of people sheltering in the theatre increased dramatically on 5 March. The previous day, news had spread rapidly through the city that there was going to be an "official" humanitarian corridor on the 5th through which people could leave the city in buses or private cars. People were instructed to come to three gathering points, one of which was the drama theatre.

On the morning of 5 March, a large number of people – perhaps several thousand – showed up at the theatre. When the expected evacuations did not take place that day, several hundred people remained at the theatre.

From 5 March until 14 March, with fighting in the city drawing nearer, more people arrived at the theatre. As the number of people sheltering there increased, it became difficult for everyone to find safe places within the theatre to live. Certain parts of the building – those deemed the most secure – were packed so tightly that it was difficult for more people to be added. Conversely, certain areas, particularly the performance stage and the concert hall, were deemed to be the most vulnerable if the theatre was attacked. Volunteers tried to direct people not to stay in these areas.

On 14 March the number of people sheltering at the theatre decreased slightly, and on 15 March the number decreased dramatically. These decreases reflected the partial success of “unofficial” humanitarian convoys. On 14 March a convoy of cars managed to evacuate from the city. Many of these cars left from the theatre. This was reportedly the first large evacuation to take place since the city was encircled. News spread quickly that cars were able to reach either Russian-controlled territory or Ukrainian-held territory. The following day, 15 March, hundreds of cars – and thousands of people – followed suit and left the city. Hundreds of the people living in the theatre evacuated, using most of the cars that were in the theatre’s parking lot. The encroaching nature of the violence, and the awareness that evacuation was possible all caused more people to leave on the morning of 16 March.

The attack on the theatre occurred on 16 March, shortly after 10am. At the time of the attack, hundreds of civilians were still in and around the theatre.

It is unclear precisely how many people were killed, but it is likely that the count is much smaller than previously reported. In the immediate wake of the attack, the Mariupol City Council claimed that about 300 people were killed. A subsequent investigation by the Associated Press concluded that as many as 600 may have died.

Interviewees provided Amnesty International with the full names of four people who were killed by the air strike. Interviewees also provided Amnesty with the first names of three other people whom they knew and believed were killed by the explosion. Several survivors and other witnesses also reported seeing dead bodies of people whom they could not identify. Amnesty also did a comprehensive review of traditional and social media (in English, Ukrainian, and Russian) to see if any other fatalities had been publicly reported. Amnesty International found that traditional media outlets had reported three other fatalities and three additional fatalities had been reported by social media. Based on our review of witness accounts and these other sources, Amnesty International believes that at least a dozen people died in the attack, but also that it is likely that many additional fatalities remain unreported.

Fewer lives may have been lost because people were less inclined than usual to venture outside as a result of recent nearby attacks and the encroaching violence, and, perhaps most importantly, because with fewer people at the theatre, most of the remaining population could reposition themselves to parts of the theatre that were considered more secure.

The evidence indicates that the attack on the theatre was almost certainly an air strike carried out by the Russian military. Russian tactical fighter aircraft most likely attacked the theatre using two 500-kilogram bombs. Numerous survivors and witnesses reported hearing aircraft in the area immediately before the strike. The damage produced by the explosion is consistent with the detonation of two, but plausibly one, large aerial bombs, dropped at the same time, that struck close to one another within the envelope of the target. The simultaneous (or near simultaneous) detonation of two weapons within a structure would look and sound to witnesses like a single blast.

Amnesty International examined several alternative theories about who perpetrated the attack and which weapons were used. The evidence suggests that one of these theories – a Russian cruise missile attack – is plausible but unlikely. The investigation found no credible evidence to support other possible explanations, including an attack by Ukrainian forces using bombs or ballistic missiles, or by either party to the conflict using lighter weapons, such as rocket artillery. Moreover, the investigation found no convincing evidence to support the explanation put forward by the Russian Federation’s Ministry of Defence that the attack was a “false flag” operation by the Ukrainian forces’ Azov Regiment, which it claimed purposefully destroyed the building from within.

While the evidence shows that Russian forces attacked the drama theatre, Amnesty International cannot establish with certainty *why* the theatre was attacked, which is relevant for determining whether the attack is a war crime. Amnesty examined four possible explanations of why Russian forces attacked the theatre:

1. The theatre was targeted knowing it was a civilian object.
2. The theatre was targeted believing it was a valid military objective.
3. The theatre was not targeted but was struck in an indiscriminate attack.
4. The theatre was not targeted but was struck by mistake in an attack on a different location, believing that the intended location was a military objective.

The evidence strongly suggests that the drama theatre was the intended target of the attack. The theatre was a large distinctive building and a cultural landmark. It was also the lone large building in the centre of a big park, surrounded by approximately 100m of green space that is encircled by a wide road. The strike took place on a clear morning, and it landed inside the main structure of the theatre.

The civilian character of the theatre and the presence of numerous civilians were evident. There was a continuous and overt presence of civilians around the theatre with an easily recognizable “pattern of life”. For at least three days prior to the attack, “CHILDREN” was written in Russian on the ground outside the front and rear entrances to the theatre in letters that were large enough to be seen by aircraft.

The theatre was not a valid military objective. Despite the fighting taking place in other parts of the city near the theatre around the time of the attack, and the passing presence of very small numbers of soldiers around the theatre during the days prior to the attack – most of whom were helping to evacuate civilians,

delivering food or other humanitarian supplies, or sharing information about the evacuation – there is no evidence that the theatre ever lost its civilian character.

There was no legitimate military objective proximate to the theatre. There was no significant military presence inside or close to the theatre at the time of the attack, or during the days before the attack. Nothing about the nature, location, purpose, or use of the building should have caused either party in the conflict to believe the theatre was a military objective. None of the 28 survivors of the attack interviewed by Amnesty International, or any of the other witnesses present at or around the theatre on the day of the attack, provided any information indicating that the Ukrainian military was using the theatre as a base of operations, a place to store weapons, or a place from which to launch attacks.

The easily identifiable civilian activity at the theatre, combined with the absence of any significant military presence, suggests that Russian forces most likely intentionally targeted the theatre knowing it was a civilian object, which is a war crime. Any investigators examining the incident, including those with the Office of the Prosecutor of the International Criminal Court (ICC), should carefully consider this as the most likely explanation for the incident. The evidence also demonstrates, however, that under any reasonable interpretation of the other three less likely scenarios – that the theatre was targeted believing it was valid military objective, struck mistakenly during an attack on a different target, or struck as part of an indiscriminate attack – the attack would still amount to a war crime.

The seriousness of the violation and the human suffering it caused highlight the need to conduct further urgent and transparent investigations to determine the full extent of the casualties and to hold perpetrators criminally accountable for the loss of civilian life and serious injury and for the damage to civilian infrastructure.

METHODOLOGY

This report is a product of field and remote research carried out between 16 March and 21 June 2022. In its findings and conclusions, the report draws on several types of evidence, including first-hand testimony of survivors and witnesses of the attack on the Donetsk Regional Academic Drama Theatre, verified photographic and video material provided by survivors and witnesses, and official documents, including architectural plans. In addition, an open-source investigation analysed digital content, including videos, photos, and radio intercepts, and satellite imagery and radar data from immediately before and shortly after the attack.

Interviews were conducted in-person in Dnipro, Lviv, and Zaporizhzhia, and over the phone with people in several other locations in Ukraine, Russia, and other countries in Europe. Amnesty International did not have access to Mariupol, and during the time period of the research was unable to conduct remote interviews with survivors and witnesses inside Mariupol because the city's telecommunications network was down. Amnesty International researchers interviewed 53 people, including 28 survivors of the attack, 6 other witnesses present in the area at the time of the attack, 8 witnesses who visited the theatre shortly after the attack, and 4 people who lived in the theatre during the days prior to the attack. The briefing also draws on testimonial evidence gathered and analysed by journalists and other human rights organizations.

Amnesty International informed all interviewees about the nature and purpose of the research and about how the information they provided would be used. Oral consent was obtained from each interviewee before the interview. No incentives were provided to interviewees in exchange for their accounts. Interviews generally lasted between one and three hours. Most interviews were conducted using translators fluent in Ukrainian and Russian; several were conducted in English.

For reasons of privacy and security – especially the security of family members still living in Mariupol – 24 interviews were conducted on the condition that Amnesty International refrain from publishing the interviewee's name and any information that could identify the interviewee, the interviewee's family, or anyone else who might be at risk if they were identified.

To conduct an open-source investigation of the attack, Amnesty International's Crisis Evidence Lab examined and verified 46 photos and videos of the strike location that were pulled from social media, such as Twitter and Telegram. In addition, the lab verified an additional 99 photos and videos that were shared with researchers, but were private and had not been loaded publicly to social media. Amnesty International also gained access to three archives containing 268 radio recordings related to the activity of Russian forces in Ukraine on 16 March 2022.

On 27 June 2022, Amnesty International sent letters to the Russian Ministry of Foreign Affairs and the Russian Ministry of Defense. The letters requested specific information about the attack on the drama theatre. It also requested information about any criminal investigations related to the attack. The letter also provides a summary of Amnesty International's evidence related to the attack. At the time of publication, Amnesty International had not received any response from the civilian or military authorities.



Map of Mariupol, Ukraine © OpenStreetMap contributors

1. BACKGROUND

Mariupol is located in south-eastern Ukraine on the northern coast of the Sea of Azov, near the mouth of the Kalmius River. Before the current conflict it was home to approximately half a million people. Nearly half of the city identifies as ethnically Russian and nearly half identifies as ethnically Ukrainian; the city also has a significant ethnic Greek community. Mariupol was a major industrial hub and is home to two of Ukraine's largest iron and steel factories, the Illich Iron and Steel Works and the Azovstal Iron and Steel Works.

Mariupol is divided into four administrative districts:

- Prymorskyi district, often referred to as “the port”;
- Kalmiuskyi district, often called “the factory” and home to the Illich Iron and Steel Works;
- Livoberezhnyi district, often referred to as the “Left Bank” and home to the Azovstal Iron and Steel Works;
- Tsentralnyi district, often called the “the City Centre” and home to the Donetsk Regional Academic Drama Theatre.

Mariupol is widely perceived to be of strategic importance to the Russian Federation's military campaign in Ukraine: its capture is essential to controlling the entirety of the Sea of Azov and to establishing an uninterrupted land bridge between Russian forces in Russia and in Crimea, which was occupied and illegally annexed by Russia in 2014.¹ In 2014, Mariupol was the scene of significant fighting between Ukrainian forces and Russian and Russian-backed forces of the so-called Donetsk People's Republic.²

The Donetsk Regional Academic Drama Theatre – an arts education and performing arts centre built in 1960 – was one of the city's cultural landmarks.

1 BBC News, “Mariupol: Why Mariupol is so important to Russia's plan,” 21 March 2022, [bbc.com/news/world-europe-60825226](https://www.bbc.com/news/world-europe-60825226)

2 Reuters, “Ukrainian forces reclaim port city from rebels,” 13 June 2014, [reuters.com/article/us-ukraine-crisis-mariupol-idUSKBN0E00KP20140613](https://www.reuters.com/article/us-ukraine-crisis-mariupol-idUSKBN0E00KP20140613)

1.1 THE CURRENT CONFLICT

Russian Federation forces invaded Ukraine on 24 February 2022.³ On 28 February, the UN General Assembly resolved that the invasion was an illegal use of force in violation of the UN Charter.⁴ On 16 March, the International Court of Justice issued a provisional order for Russia to suspend its military operation.⁵

Fighting started in the vicinity of Mariupol on the first day of the war.⁶ The first part of the city itself to be attacked was the Skhidnyi neighbourhood in the Left Bank district. Fighting gradually spread to nearly all other parts of the city. During the first few days of the war, civilians were able to flee the city. Many did so, either in their own vehicles or in evacuation trains (reportedly only half full). In late February the railway tracks were attacked and became inoperable. By 2 March, Russian forces had encircled the city and residents were effectively living under siege.⁷ At this time, the roads were blocked and it became nearly impossible to leave the city by car. Since that time, much of the civilian population has been anxiously awaiting the possibility of so-called evacuations corridors, which promised safe passage out of the city for convoys of cars and evacuation buses.

Each day after the war started, the humanitarian situation in Mariupol worsened; armed conflict engulfed new parts of the city, and, owing to the near-total destruction of the city's telecommunications network, the city's residents became increasingly isolated from each other and from the outside world. Much of the population, being unwilling or unable to flee the city, took shelter in hallways, basements, and bomb shelters, sometimes in their own homes or in nearby buildings.

Those who did not have access to secure shelters in or near their residence, or who were in parts of the city where the fighting became too intense, fled to larger shelters, often in parts of the city – including the City Centre – they perceived to be safer. The drama theatre was one of the largest of these communal shelters.

As the fighting intensified and spread throughout the city, the humanitarian situation deteriorated dramatically. By 6 March none of the major utilities – electricity, heat, gas, and water – were functioning.⁸ Moreover, many of the city's grocery stores and pharmacies had been looted or destroyed. Much of the

3 Reuters, "Missiles rain down around Ukraine," 24 February 2022, [reuters.com/world/europe/putin-orders-military-operations-ukraine-demands-kyiv-forces-surrender-2022-02-24](https://www.reuters.com/world/europe/putin-orders-military-operations-ukraine-demands-kyiv-forces-surrender-2022-02-24)

4 UN General Assembly, Resolution adopted by the General Assembly on 2 March 2022, 18 March 2022, available at: documents-dds-ny.un.org/doc/UNDOC/GEN/N22/293/36/PDF/N2229336.pdf?OpenElement

5 International Court of Justice, "Allegations of Genocide Under the Convention of the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)," 16 March 2022, [icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf](https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf)

6 Reuters, Aleksandar Vasovic, "Port city of Mariupol comes under fire after Russia invades Ukraine," 24 February 2022, [reuters.com/world/europe/strategic-city-mariupol-wakes-blasts-russia-invades-ukraine-2022-02-24/](https://www.reuters.com/world/europe/strategic-city-mariupol-wakes-blasts-russia-invades-ukraine-2022-02-24/)

7 BBC News, "Mariupol: Key moments in the siege of the city," 17 May 2022, [bbc.com/news/world-europe-61179093](https://www.bbc.com/news/world-europe-61179093); Reuters, Max Hunder, "Timeline: Russia's siege of the Ukrainian city of Mariupol," 30 March 2022, [reuters.com/world/europe/russias-siege-ukrainian-city-mariupol-2022-03-30](https://www.reuters.com/world/europe/russias-siege-ukrainian-city-mariupol-2022-03-30)

8 Associated Press, Mstyslav Chernow, "20 days in Mariupol: The team that documented city's agony," 21 March 2022, apnews.com/article/russia-ukraine-europe-edf7240a9d990e7e3e32f82ca351dede

civilian population was feeding itself by collecting wood and cooking on open fires. The few remaining stores had extraordinarily long lines, which often came under attack from Russian rocket or artillery fire.⁹

The public transportation system ceased to operate after in early March. Electronic communications were also nearly impossible after this point, with sporadic reception in only a few locations. The lack of reception and of power to charge mobile devices meant that most of the population was left unable to communicate with the outside world.¹⁰

The fighting has resulted in widespread destruction of the city's infrastructure and the displacement of most of its civilian population.¹¹ Huge numbers of civilian casualties have been reported, with the mayor of Mariupol, Vadym Boichenko, estimating that at least 20,000 civilians have been killed.¹²

The City Centre district – where the theatre is located – was occupied by Russian troops on 17 March 2022. On 21 April, the Russian Federation formally declared victory in Mariupol; however, Ukrainian forces controlled parts of the Azovstal Steel Works until 17 May.¹³

9 Associated Press, “Why? Why? Why? Ukraine’s Mariupol descends into despair,” 16 March 2022, apnews.com/article/russia-ukraine-war-mariupol-descends-into-despair-708cb8f4a171ce3f1c1b0b8d090e38e3

10 Wired, “The Last Cell Tower in Mariupol,” 31 March 2022, [wired.com/story/mariupol-ukraine-war/](https://www.wired.com/story/mariupol-ukraine-war/); Forbes, Thomas Brewster, “The Last Days of Mariupol’s Internet”, 31 March 2022, forbes.com/sites/thomasbrewster/2022/03/31/the-last-days-of-mariupols-internet/?sh=64242cb65962

11 The Telegraph, “‘The destruction is enormous’: Thousands more flee Mariupol and 350,000 remain hidden in shelters,” 17 March 2022, [telegraph.co.uk/global-health/terror-and-security/destruction-enormous-thousands-flee-mariupol-350000-remain-hidden](https://www.telegraph.co.uk/global-health/terror-and-security/destruction-enormous-thousands-flee-mariupol-350000-remain-hidden/)

12 Al Jazeera, “Ukraine war latest updates: ‘20,000 civilians killed in Mariupol’”, 11 April 2022, [aljazeera.com/news/2022/4/11/three-killed-in-russian-attacks-ukraine-donetsk-liveblog](https://www.aljazeera.com/news/2022/4/11/three-killed-in-russian-attacks-ukraine-donetsk-liveblog)

13 Reuters, “Putin claims victory in Mariupol; Ukrainian fighters hold on,” 21 April 2022, [reuters.com/world/middle-east/leading-putin-ally-predicts-mariupol-victory-thursday-2022-04-20/](https://www.reuters.com/world/middle-east/leading-putin-ally-predicts-mariupol-victory-thursday-2022-04-20/); Reuters, “Hundreds of Ukrainians defending Azovstal plant surrender to uncertain fate,” 17 May 2022, [reuters.com/world/europe/russia-backed-separatists-say-256-ukrainian-fighters-surrendered-azovstal-2022-05-17](https://www.reuters.com/world/europe/russia-backed-separatists-say-256-ukrainian-fighters-surrendered-azovstal-2022-05-17)

UKRAINIAN AND RUSSIAN FORCES OPERATING IN MARIUPOL SINCE 24 FEBRUARY 2022

At the time of the attack on the Donetsk Regional Academic Drama Theatre, Ukrainian forces defending the city of Mariupol included the 12th Brigade and the 18th Operational Purpose Battalion of the National Guard, the 36th Separate Naval Infantry Brigade,¹⁴ and the 56th Separate Motorized Infantry Brigade.¹⁵ In media reports, the 18th Battalion is sometimes referred to as “Unit 3057”; it contains the Azov Regiment, which originally operated as a far-right nationalist volunteer battalion until being formally incorporated into the Ukrainian National Guard in 2014.¹⁶

According to a variety of open sources, including verified photos and reports by military analysts and social media reports by the Azov Regiment itself that were verified independently through geolocation,¹⁷ at the time of the attack on the theatre Azov fighters were based primarily on the Left Bank, or eastern side, of Mariupol, especially at the Azovstal Steel Works.¹⁸ The defence of the Tsentralnyi district, which includes the theatre, was the responsibility of the 56th Separate Motorized Infantry Brigade.

Russian forces attacking Mariupol include the 810th Separate Naval Infantry Brigade¹⁹ and the 150th Motorized Rifle Division, as well as fighter aircraft from air bases in Crimea and Russia.²⁰ These forces have access to real-time intelligence, surveillance, and reconnaissance (ISR) – including persistent real-time overhead video of the type required to conduct a “pattern of life” analysis of a target – via drone platforms such as the Orlan-10.²¹

14 Holcomb, Franklin. “The Order of Battle of the Ukrainian Armed Forces: A Key Component in European Security,” Institute for the Study of War, December 2016. understandingwar.org/sites/default/files/ISW%20Ukrainian%20ORBAT%20Holcomb%202016_0.pdf; Associated Press, “EXPLAINER: Who were Mariupol’s Last Defenders?” 21 May 22, <https://apnews.com/article/russia-ukraine-government-and-politics-c5123a3bd2cca1de1a836670b278fba>

15 France 24, “In Mariupol, a war of images to prove who controls the city,” 30 March 22, observers.france24.com/en/europe/20220330-mariupol-war-images-propaganda-azov-chechen-soldiers

16 Washington Post, “Right-wing Azov Battalion emerges as a controversial defender of Ukraine,” 6 April 2022, [washingtonpost.com/world/2022/04/06/ukraine-military-right-wing-militias](https://www.washingtonpost.com/world/2022/04/06/ukraine-military-right-wing-militias)

17 For example, tweet by @jominiW, 27 March 22, twitter.com/JominiW/status/1508276407381762052

18 For example, Ukraine Weapons Tracker, 7 April 22 tweet, twitter.com/UAWeapons/status/1512060297607065602

19 Clark, Mason, et al. “Russian Offensive Campaign Assessment, March 16,” Institute for the Study of War, 16 March 2022, understandingwar.org/backgrounder/russian-offensive-campaign-assessment-march-16

20 The presence of the 150th MRD at Mariupol became clear when the death of its commander, Maj Gen Oleg Mityaev, was announced. BBC, “War in Ukraine: Fourth Russian general killed – Zelensky,” 16 March 22, [bbc.com/news/world-europe-60767664](https://www.bbc.com/news/world-europe-60767664)

21 Airforce Technology, “Orlan-10 Unmanned Aerial Vehicle (UAV), 15 Mar 21, airforce-technology.com/projects/orlan-10-unmanned-aerial-vehicle-uav

2. LIFE AT THE DRAMA THEATRE BEFORE THE ATTACK

During the war the Donetsk Regional Academic Drama Theatre became a haven for civilians fleeing violence in other parts of the city; a hub for the distribution of food, water, and critical information about desperately awaited evacuation corridors; and a designated gathering point for the expected evacuations.²² Many people fled to the theatre on foot. Others were evacuated in vehicles driven by volunteers or by members of the military, the police, or emergency services. Most of the people sheltering at the theatre were children, women, or older people. More than a thousand people lived in the theatre between the start of the war and the time it was attacked.

The theatre's population grew substantially over time. Approximately one hundred people took shelter there between the start of the war and 4 March. These initial arrivals were primarily current and former theatre employees and their families and people who had fled violence in the Left Bank at the start of the conflict. Yevheniia Zabohonska, a lighting artist, was the first to arrive, along with her daughter and another employee of the theatre.²³ Her husband Serhii Zabohonskyi, an actor, arrived a few days later. They became two of the theatre's unofficial administrators.²⁴

Nataliia Honcharova, a former speech coach at the theatre, her husband, Valeriy, and their children, fled to the theatre during the first few days of the war because it was no longer safe to live in their apartment. "At the start it was mostly colleagues [and their families]... but more people came each day," Nataliia said.²⁵ Anastasia Karpeeva, a 15-year-old student and aspiring boxer, arrived at the theatre with her brother on 27 February after fleeing violence in the Left Bank.²⁶ Ihor Matiushyn, a playwright

22 For more information about life in the drama theatre prior to the attack see: Wall Street Journal, "Ukrainians Who Sheltered in the Mariupol Theatre Made it a Thriving Village: For nearly three weeks before the Russian bombing, residents escaped the onslaught by working together," 31 March 2022, [wsj.com/articles/life-inside-the-mariupol-theater-before-the-russian-bombing-11648741948](https://www.wsj.com/articles/life-inside-the-mariupol-theater-before-the-russian-bombing-11648741948)

23 Amnesty International interview with Yevheniia Zabohonska, 20 June 2022.

24 Amnesty International interview with Serhii Zabohonskyi, 8 May 2022.

25 Amnesty International interview with Nataliia Honcharova, 22 April 2022.

26 Amnesty International interview with Anastasia Karpeeva, 19 April 2022.

and the former administrative director of the drama theatre (who also worked as a police officer), his wife, Olena Matiushyna, a doctor, and their child, arrived in late February or early March.²⁷

During the first three weeks of the war, many of the former theatre employees and the other people who arrived at the theatre in the initial days of the war co-ordinated an informal network of volunteers who delivered basic services for everyone living in the theatre (for more information see the text box below, “The Theatre as a Humanitarian Hub”).

The number of people sheltering in the theatre increased dramatically on 5 March. The previous day, news had spread rapidly through the city that there was going to be an “official” humanitarian corridor on the 5th through which people could leave the city in buses or private cars.²⁸ The information spread by text message and word of mouth. People were instructed to come to three gathering points in the city, one of which was the drama theatre.

On the morning of 5 March, a large number of people – perhaps several thousand – showed up at the theatre. Many arrived with their own vehicles, hoping to join a convoy of cars; many others arrived on foot, hoping to find space in evacuation buses. Ihor Navka who worked at the Illich Iron and Steel Works, his wife, and his mother, fled to the theatre on 5 March after the windows in their apartment were blown out by a nearby strike. “We decided it was safer to relocate to the drama theatre,” Ihor told Amnesty International.²⁹ Victoria Dubovytska and her children arrived at the theatre on 5 March. “A friend called someone they knew in the military who told us about the evacuation. A neighbour helped us get to the theatre,” she said.³⁰ Mariia Rodionova, a social worker, was living in an apartment with her grandmother when she was told that the theatre would be a gathering point for evacuation buses. “Since I didn’t have a car [the evacuation convoy] was my only hope... My granny refused to come,” she said.³¹

Mykhailo Hrebenetskyi, a taxi driver, and Nataliia Hrebenetska, an operator at the train station, lived in Volnovakha, a town near Mariupol, which was very close to Russian-controlled territory. “On 24 February we were woken up by explosions,” Nataliia told Amnesty. They decided to leave Volnovakha and head into the city with Mykhailo’s mother. They took shelter at their son Yevhen’s apartment on the west bank. “For three days it was relatively quiet but after the 28th every day was hell on earth,” Nataliia said.³² They sheltered in the building’s basement each night while fighting engulfed the neighbourhood around them. On 5 March the police told them to go to the theatre to be evacuated. “After they told us [about the

27 Amnesty International interview with Olena Matiushyna, 25 April 2022; Amnesty International interview with Ihor Matiushyn, 30 April 2022.

28 Reuters, “Russian forces to open Mariupol humanitarian corrido for 5 hours,” 5 March 2022, -reuters.com/world/europe/russian-forces-open-mariupol-humanitarian-corridor-5-hours-2022-03-05

29 Amnesty International interview with Ihor Navka, 22 April 2022.

30 Amnesty International interview with Victoria Dubovytska, 8 April 2022.

31 Amnesty International interview with Mariia Rodionova, 7 April 2022.

32 Amnesty International interview with Nataliia Hrebenetska and Yevhen Hrebenetskii, 16 April 2022.

evacuation] we packed in one minute... [later on] our neighbours told us that our apartment was hit by mortar fire ³⁰ minutes after we left... Our car had problems and it broke when we got to the theatre so we couldn't go anywhere else," Yevhen said.³³

A few hours after the large crowd had amassed at the theatre, police and military announced that the evacuation was not going to take place. The proposed safe corridors had reportedly not been negotiated, with both sides accusing the other of violating a ceasefire.³⁴ The crowd was also informed the evacuation would happen in the future. Many people who lived nearby went home; several hundred people decided to stay at the theatre.

Every day after 5 March, people would wait at or visit the theatre in hopes of evacuating or of obtaining information about the evacuation. Because the telecommunications network had largely been disabled, electronic communication was impossible for most of the population; information was primarily disseminated orally and via leaflets prepared by volunteers. Late each morning a small number of police or military – usually one or two people – would come and share information.

Ihor Moroz, an architect living near the theatre, told Amnesty he visited the theatre daily after 5 March to get information about the expected evacuation. "We got information about humanitarian corridors and Red Cross buses. People – the city council, the police – would come there and give information. There was no mobile reception, so the theatre was like an information headquarters," he said.³⁵ Grigoriy Golovniy, who lived just a few hundred metres from the theatre, told Amnesty he visited nearly every day:

From the 28th [of February] we would go [to the theatre] on a daily basis to check on information about evacuation corridors. I would come at about 8 or 9am and stay until 2 or 3pm... We would stay in the entrance hall. I would go with my wife and our daughter, and some of our neighbours were there... It was a place of gathering and communication. The police would come and share information. It was the only way to get information. Lots of cars were parked there. People were waiting for information about the evacuation.³⁶

From 5 March until 14 March the number of people living at and visiting the theatre continued to grow. As the fighting in the city drew closer and closer, more people arrived at the theatre. Nataliia Tkachenko, a 67-year-old retired engineer, arrived at the theatre on 12 March. She told Amnesty International how she resisted leaving her home when the war started, but then decided to flee after her apartment was severely damaged by the fighting in her neighbourhood:

33 Amnesty International interview with Nataliia Hrebenetska and Yevhen Hrebenetskii, 16 April 2022.

34 Guardian, "Mariupol evacuation postponed as Russia accused of breaking ceasefire: Local authorities in Ukrainian city ask resident to return to shelter and wait for further information," 5 March 2022, theguardian.com/world/2022/mar/05/zelenskiy-lashes-out-at-nato-over-no-fly-zone-as-russian-attacks-intensify

35 Amnesty International interview with Ihor Moroz, 20 April 2022.

36 Amnesty International interview with Grigoriy Golovniy 10 April 2022.



⤴ ↑ Volunteers prepare food for people sheltering at the theatre a few days before the attack. © Yevheniia Zabohonska



⤴ ↑ People, including children, sheltering in the front part of the theatre. © Igor Moroz

⤴ → People sheltering in the front of the theatre.
© Igor Moroz





☞ ↑ The front entrance to the drama theatre on 13 March 2022. Two large cisterns provide drinking water. The word “CHILDREN” is written in large letters on the ground. © Grigoriy Golovniy



☞ ↑ People outside the theatre in the vicinity of the field kitchen, which is protected by wooden pallets. © Igor Moroz

☞ → People, including children, sheltering in the basement near the front part of the theatre. © Anton Huz



I could not imagine leaving my home. This is my home. I have been here my whole life... There was fighting in the neighbourhood. We were low on food. People were talking about [evacuation] corridors. And then [on 11 March] there was a big explosion that blew the glass out in my windows... It was very cold. I was lying in bed, and the bed was covered in glass... I went to my neighbour's for the night, but the radiators were [frozen and split open]... So I went to the drama theatre on the 12th [of March].³⁷

After arriving Nataliia befriended Dmytro Symonenko, a psychologist who had also arrived on 12 March with his friend, after fleeing violence near their apartment. Nataliia, Dmytro, his friend, and another couple, Lubov Svyrydova and her husband, Anatoli, ended up living together and sleeping in the concert hall.³⁸

Many of the people who arrived at the theatre after 5 March had been evacuated by the military, police, emergency services, or volunteers from areas of the city that were being attacked. Amnesty interviewed several people who were evacuated to the theatre, including a senior member of Ukraine emergency services, who shared the records of 56 people – including 10 children – who were evacuated to the theatre on 8 March.³⁹ On 9 March, Mariupol maternity hospital was attacked; several pregnant women and new mothers were evacuated from that hospital to the theatre.⁴⁰

Amnesty interviewed a husband and wife who had been escorted by the military from Skhidnyi to Microrayon 23 in the Left Bank.⁴¹ They told Amnesty they fled their home when the area was attacked shortly after the war started; they then took shelter in Microrayon 23. On 8 March, fighting intensified in the area they had fled to, and the military began evacuating people. “[The military] told us to flee to a safer place... they were taking woman and children first... We sent our child and my mother [in a military vehicle]... [two hours] later we drove our car behind another military vehicle,” the husband told Amnesty. The military convoy they were following took them to the drama theatre. Their child and the grandmother were not brought to the theatre. They lost communication with them. Three days later, they found them in another shelter and brought them to the theatre.⁴²

As the number of people sheltering at the theatre increased, it became difficult for everyone to find safe places within the theatre to live. Certain parts of the building – those deemed the most secure – were packed so tightly that it was difficult for more people to be added. The thickness of the ceiling and the presence of multiple supporting walls were perceived to provide maximal protection. In particular, these areas were deemed safe:

37 Amnesty International interview with Nataliia Tkachenko, 6 April 2022.

38 Amnesty International interview with Nataliia Tkachenko, 6 April 2022; Amnesty International interview with Dmytro Symonenko, 4 April 2022.

39 Amnesty International interview (anonymous), 6 May 2022.

40 The Wall Street Journal, “Ukrainians Who Sheltered in the Mariupol Theatre Made it a Thriving Village: For nearly three weeks before the Russian bombing, residents escaped the onslaught by working together,” 31 March 2022, [wsj.com/articles/life-inside-the-mariupol-theater-before-the-russian-bombing-11648741948](https://www.wsj.com/articles/life-inside-the-mariupol-theater-before-the-russian-bombing-11648741948)

41 A microrayon or mircodistrict is a planned residential area.

42 Amnesty International interview (anonymous), 7 May 2022.

- The basement under the front part of the theatre;
- The area between the front entrance of the theatre and the wall to the concert hall, with the exception of the area directly beneath the large windows;
- The rooms and partial basement near the rear of the theatre.

Conversely, certain areas, particularly the performance stage and the concert hall, were deemed to be the most vulnerable if the theatre was attacked. This was because of the reported thinness of the roof and the presence of a massive chandelier above the centre of the concert hall. Volunteers tried to direct people not to stay in these areas.⁴³ “We tried to tell people not to sleep under the big windows [near the front of the theatre],” Yevheniia Zabohonska said.⁴⁴ Several people told Amnesty that volunteers told them not to stay in the concert hall.⁴⁵ “Initially the volunteers didn’t want people in the concert hall, because it was the most vulnerable place. It had a thin ceiling and a chandelier,” Dmytro Symonenko said.⁴⁶ “We forbade people to stay on the stage overnight,” Serhii Zabohonskyi told Amnesty International.⁴⁷

Those who had no choice but to stay in the concert hall tried to ensure they stayed on the balconies that encircled the hall, rather than the area where the seats were in front of the stage. Yevhen, Nataliia, and Mykhailo Hrebenetskyi were among those who did shelter in the concert hall. “We stayed in the concert hall [on the first-floor balcony to the side of the stage] because the basement was full of woman and children... People responsible were always worried that chandelier would kill people,” Yevhen told Amnesty.⁴⁸

43 Amnesty International interview with Dmytro Plaskin, 21 June 2022.

44 Amnesty International interview with Yevheniia Zabohonska, 20 June 2022.

45 Amnesty International interview with Mariia Rodionova, 7 April 2022; Amnesty International interview with Victoria Dubovytska, 6 April 2022.

46 Amnesty International interview with Mariia Rodionova, 7 April 2022.

47 Amnesty International interview with Serhii Zabohonskyi, 6 May 2022.

48 Amnesty International interview with Nataliia Hrebenetska and Yevhen Hrebenetskyi, 2022.16.04.

THE THEATRE AS A HUMANITARIAN HUB

For nearly three weeks, the Donetsk Regional Academic Drama Theatre was repurposed to offer shelter from the war. Volunteers – several of whom were current or former employees of the theatre – worked to protect and care for people sheltering at the theatre, and, to a lesser extent, for people sheltering in nearby areas. They organized to provide medical care, food, water, and essential goods.⁴⁹

Essential items such as clothing, blankets, and hygiene items were brought to the theatre by military, police, and volunteers and kept in and distributed from a “warehouse” located in the wings of the stage. The building had two small generators, located on the stage, which operated for a short period during the day.⁵⁰

Medicine was provided in a room at the rear of the theatre by one doctor, Olena Matiushyna, and two nurses. Volunteers brought medicine collected from pharmacies. Olena told Amnesty International about what it was like to deliver medical care in the theatre.

I had to work almost 24/7. Non-stop. It was below zero degrees [Celsius] outside. People were cold. There was still covid. There was also pneumonia and bronchitis. We had a large number of children, as young as a few months old. And there were a lot of elderly people...

I was faced with... many children with high fevers. Kids had diarrhoea and vomiting because of the quality of water and food. It was difficult to treat children under one year old, because of the severe fevers and dehydration...

And there were a large number of middle-aged and elderly people who had difficult psychological reactions. People were having panic attacks and other psychological disorders... we had some medicine for treating panic attacks... a second group were dehydrated and with low blood pressure... Before [Russian forces] destroyed the surgery unit in Regional Hospital #2 we could do some evacuation [to that hospital].⁵¹

In addition to medical care, volunteers helped to provide childcare for the many children in the theatre, many of whom spent the entire day inside. “I was volunteering. I spent a lot of time working with the kids,” Anastasia Karpeeva told Amnesty.⁵²

49 For more information about life in the drama theatre prior to the attack see: Wall Street Journal, “Ukrainians Who Sheltered in the Mariupol Theatre Made it a Thriving Village: For nearly three weeks before the Russian bombing, residents escaped the onslaught by working together,” 31 March 2022, [wsj.com/articles/life-inside-the-mariupol-theater-before-the-russian-bombing-11648741948](https://www.wsj.com/articles/life-inside-the-mariupol-theater-before-the-russian-bombing-11648741948)

50 Amnesty International interview with Dmytro Symonenko, 8 April 2022.

51 Amnesty International interview with Olena Matiushyna, 25 April 2022.

52 Amnesty International interview with Anastasia Karpeeva, 19 April 2022.

Volunteers also undertook activities to help protect the people sheltering at the theatre. In addition to directing people to the safest places to stay, volunteers helped to board up windows and stood guard at night, trying to prevent people from entering or leaving after curfew.⁵³ “People had shifts to guard doors to make sure no one leaves [after curfew], and to calm people down at night,” Ihor Navka told Amnesty.⁵⁴

The water pump systems in Mariupol are electric. On 3 March, when the electricity grid stopped functioning, the population no longer had access to running water. People throughout the city travelled – often at great risk – to streams and other natural water springs. The city water utility and private water companies dispensed drinking water from large cisterns on the backs of trucks to different areas. The theatre was one of these areas – a truck (or two) was parked out front each day, where people from the theatre and from the neighbourhood were given a ration of clean drinking water. Water for washing and for boiling was also available from two nearby reservoirs, which stored water for emergency services.

Volunteers also collected wood to be used as fuel and cooked food for people residing in the theatre. Residents of the theatre were given boiled water twice a day, in the morning and the evening, and one meal, around noon. Volunteers tried to give additional food to children. Foodstuffs were brought to the theatre periodically by police, military, and volunteers. The food was cooked outside, but distributed inside along with tea. Some of the food was prepared in a room inside the theatre, referred to as the kitchen.

Most of the food, however, was prepared in a “field kitchen” adjacent to the theatre. Ihor Matiushyn, a playwright and former administrator of the drama theatre who also served as a member of the police, told Amnesty he spoke with his boss at the police force to arrange the delivery of the field kitchen, which was brought by the military.⁵⁵ Some residents of the theatre also cooked their own food on open fires near the field kitchen. “Between 8 and 9am everyone was given hot water... Around midday we were fed soup... Around 4pm [we were given a snack]... around 5 or 6pm there was more hot water... Volunteers were constantly working to keep the water boiling,” Dmytro Symonenko said.⁵⁶

53 Amnesty International interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Yevheniia Zabohonska, 2 May 2022.

54 Amnesty International interview with Ihor Navka, 22 April 2022.

55 Amnesty international interview with Ihor Matiushyn, 30 April 2022.

56 Amnesty International interview with Dmytro Symonenko, 6 April 2022.

On 14 March the number of people sheltering at the theatre decreased slightly. On 15 March the number decreased dramatically. And on the morning of 16 March, during the few hours just before the attack, the number decreased further.

These decreases reflected the partial success of “unofficial” humanitarian convoys. On 14 March – as the humanitarian situation worsened and the fighting engulfed more of the city closer to the theatre – an “unofficial” convoy of cars managed to evacuate from the city.⁵⁷ Many of these cars left from the theatre. This event was reportedly the first large evacuation to take place since the city was encircled. News spread quickly that at least some of the cars that attempted to leave the city were successful in reaching either Russian-controlled territory or in transiting Russian-controlled territory to reach Ukrainian-held territory near Zaporizhzhia. The following day, 15 March, hundreds of cars – and thousands of people – followed suit and left the city.⁵⁸ Many of these cars left from the theatre. Hundreds of the people living in the theatre evacuated, including most of the cars that were in the theatre’s parking lot. Text messages also went out from emergency services giving advice about the routes to take to leave the city.

As knowledge that evacuation was possible began to percolate through the population at the theatre and around the city, the urgency felt by much of the population to leave increased because the location of the fighting moved. During the days before the attack, the area of the city that Ukrainian forces controlled was shrinking, and the violence and destruction was coming closer and closer to the City Centre, where the drama theatre was located. People in the theatre reported hearing weapons fire on the night of 14 March. “You could hear artillery on the night of the 14th... Then 100–200 cars – 95% [of those parked in front of the theatre] left [on 15 March]. People were panicking. Some drivers would offer empty seats in cars. Others would charge 6,000 hryvnas. We decided we weren’t going to leave because it wasn’t clear where to go. We were worried we would have to spend the night in the cold,” Dmytro Symonenko told Amnesty.⁵⁹

During the few days before the attack on the theatre, there were at least two small air strikes in the area around the theatre. It is unclear if any of the strike locations were specifically targeted or if they were misfires. No fatalities were reported; however, several people were injured by one of the strikes. These strikes reportedly caused people to become apprehensive about sheltering at the theatre. The first strike occurred a few days before the attack on the theatre – a pine tree adjacent to the field kitchen outside the theatre was struck. Several people were injured.⁶⁰ One survivor of the 16 March attack was in the field kitchen making food when the tree was hit. “I consider myself lucky; the shrapnel was close... After this explosion, a lot of people were afraid. And they started to leave in their cars... I think more people would

57 Al Jazeera, “First convoy of civilians escapes besieged Mariupol: More than 160 private cars manage to leave the Ukrainian city, the first evacuation in two weeks of Russian bombardment,” 14 March 2022, [aljazeera.com/news/2022/3/14/ukraine-russia-war-mariupol-evacuation-convoy](https://www.aljazeera.com/news/2022/3/14/ukraine-russia-war-mariupol-evacuation-convoy)

58 BBC News, “Mariupol theatre: ‘We knew something terrible would happen,’” 17 March 2022 [bbc.com/news/world-europe-60776929](https://www.bbc.com/news/world-europe-60776929)

59 Amnesty International interview with Dmytro Symonenko, 6 April 2022.

60 Amnesty International interview with Anastasia Karpeeva, 19 April 2022; Amnesty International interview (anonymous), 28 April 2022.

have been injured [by the 16 March strike on the theatre] if this strike [on the field kitchen] did not happen, because we were guaranteed by the police that [the drama theatre was the safest location],” he said.⁶¹

After the attack that hit the tree, volunteers boarded up the remaining windows in the theatre. The second nearby strike occurred at around 2am on 16 March. Several people in the theatre remembered a very loud explosion near the neighbouring intersection of Myru and Nilsen streets. It caused some of the windows in the theatre to shatter.⁶² “At night, between 2 and 3am, we heard a huge explosion. Some windows were blown out by the blast. The chandelier in the concert hall was swinging wildly,” Dmytro Symonenko told Amnesty.⁶³ “You could hear glass falling between the wood [that had been put up on the windows],” Victoria Dubovytska told Amnesty International.⁶⁴

The attack on the night of the 15th, the encroaching nature of the violence, and the awareness that evacuation was possible all caused many people to leave on the morning of 16 March. Andriy Hrishyn, a 19-year-old who was studying to be an actor, relocated from his dormitory to the theatre on 5 March, and then decided to leave on 15 March. “There were rumours that the front line was coming close to the City Centre, and we had the opportunity to leave via the seashore,” he told Amnesty International.⁶⁵ Another man who left on 15 March with four other people from the theatre also said he left because of the encroaching violence. “On the 14th tons [of people] started leaving the City Centre because of fires and the constant shelling... we had a feeling it was going to get worse... I got in a car [with other people from the theatre] and we self-organized into a convoy toward Melekyne.”⁶⁶

Amnesty International spoke with other people who tried to evacuate but could not. “We saw a car with two elderly people in it. We asked them if they would agree to take us. They refused. They said they had vegetables in the back. [We were angry],” one survivor said.⁶⁷ “Lots of people were evacuating [before the attack]; unfortunately, no one agreed to take us,” Victoria Dubovytska told Amnesty International.⁶⁸

The violence in the city was both a push and a pull factor with respect to the population at the theatre. While people were evacuating from the theatre, people were fleeing other parts of the city to come to the City Centre and the drama theatre for protection and for evacuation. “I came to the drama theatre on 15 March... I came to the drama theatre because I heard that there was [mobile phone] reception there, but there wasn’t any. I couldn’t go back [to where I was sheltering] because of shelling so I came

61 Amnesty International interview (anonymous), 28 April 2022.

62 Amnesty International interview with Victoria Dubovytska, 8 April 2022; Amnesty International Interview with Serhii Zabohonskyi, 18 June 2022.

63 Amnesty International interview with Dmytro Symonenko, 6 April 2022.

64 Amnesty International interview with Victoria Dubovytska, 8 April 2022.

65 Amnesty International interview with Andriy Hrishyn, 5 May 2022.

66 Amnesty International interview (anonymous), 17 April 2022.

67 Amnesty International interview (anonymous), 5 April 2022.

68 Amnesty International interview with Victoria Dubovytska, 8 April 2022.

the theatre.”⁶⁹ Mariia Kutniakova, her mother, Halyna, her sister, and their neighbours Lilia and Oleksii Mykhailiuk and their daughter, all arrived at the theatre on the morning of 16 March.⁷⁰ Fighting had engulfed the building they were staying in, and an attack on days prior had killed two of their neighbours. Mariia was able to get word from her father that they were evacuating people from the theatre, so they decided to head there on the morning of the attack.⁷¹

In total, hundreds more reportedly left on 15 March and the morning of 16 March than arrived at the theatre. Anton Huz, a PhD student who had been sheltering in the basement of the theatre with his mother and sister since 5 March, decided to leave on foot on the morning of 16 March, just before the attack. He provided Amnesty International with images of the theatre before the attack, as well as some showing, from a distance, the cloud of smoke and dust emerging from the theatre in the aftermath of the explosion.⁷²

As a result of the exodus of people from the theatre, space was freed up in several of the parts of the theatre that were viewed as more secure. This led a lot of people sheltering in the theatre to move location on 15 and 16 March to these safer places. “When we arrived, we were staying on the second floor, next to the right-most of the three huge windows [at the front of the theatre], close to the staircase. Then on the 15th, people left. I was looking for a safer place, so I moved to the first floor closer to the main entrance,” a man who had been living and volunteering at the theatre with his wife and children told Amnesty International.⁷³ The family who had been evacuated by the military from Microrayon 23 moved their location on 15 March. “We stayed on the third floor for seven days... Our friend [who was staying in the basement near the front of the theatre] left for Melekhyne[on 15 March]. He proposed to us to move to the basement. We stayed there one night,” the husband said.⁷⁴

Fewer lives may have been lost because there were many fewer people in the theatre on the day of the attack than previously, because people were less inclined than usual to venture outside as a result of the recent nearby attacks and the encroaching violence, and, perhaps most importantly, because with fewer people at the theatre, most of the remaining population could reposition themselves to parts of the theatre that were considered more secure.

69 Amnesty International interview (anonymous), 6 April 2022.

70 Amnesty International Interview with Mariia Kutniakova, 30 March 2022; Amnesty International interview with Halyna Kutniakova, 1 April 2022; Amnesty International interview with Lilia Mykhailiuk and Oleksii Mykhailiuk, 10 April 2022.

71 Amnesty International Interview with Mariia Kutniakova, 30 March 2022; See also CNN, “The thought they would be safe in the theatre. Then it was bombed,” 21 March 2022, [cnn.com/2022/03/21/europe/mariupol-theater-survivors-escape-ukraine-cmd-intl/index.html](https://www.cnn.com/2022/03/21/europe/mariupol-theater-survivors-escape-ukraine-cmd-intl/index.html)

72 Amnesty International interview with Anton Huz, 23 March 2022.

73 Amnesty International interview (anonymous), 19 April 2022.

74 Amnesty International interview (anonymous), 7 May 2022.

UKRAINIAN MILITARY PRESENCE BEFORE AND DURING THE ATTACK

The Donetsk Regional Academic Drama Theatre was not a valid military objective. There was no significant military presence inside or close to the theatre at the time of the attack or in the days before the attack. Nothing about the nature, location, purpose, or use of the building should have caused either party to the conflict to believe the theatre was a military objective.

None of 28 survivors of the attack whom Amnesty International interviewed, or any of the other witnesses present at or around the theatre on the day of the attack, provided any information to Amnesty indicating that the Ukrainian military was using the theatre as a base of operations, a place to store weapons, or a place from which to launch attacks.

This testimony is corroborated by satellite imagery taken minutes after the attack, which shows no visible large military presence around the theatre. (See satellite imagery on page 31). The testimony is also consistent with photographs provided to Amnesty International, or posted on social media and verified by Amnesty International, which show civilians freely moving around and living in the theatre during the days prior to the attack. None of the photographs or video show any military presence in or around the theatre.

Very few members of the military were ever inside or adjacent to the theatre. According to witnesses, there was a periodic presence of a very small number of soldiers – usually one or two – around the theatre for short periods during the days before the attack; most were delivering food, dropping off evacuees from other parts of the city, or disseminating information.

Soldiers in military or civilian vehicles would also regularly come to deliver food and other essential goods.⁷⁵ “Almost every day the police or military would come and give blankets and coats or food supplies,” one witness said. “They would come for 10-15 minutes. There was one military jeep with two or three people.”⁷⁶ These personnel would often drop the food and supplies outside, or would occasionally come inside briefly. Military personnel also supplied the infrastructure for the field kitchen used to cook meals for shelter residents.⁷⁷

75 Amnesty international interview with Ihor Matiushyn, 30 April 2022; Amnesty International interview with Ihor Navka, 22 April 2022; Amnesty international interviews (anonymous). 19 April 2022; Amnesty International interview (anonymous), 20 April 2022; Amnesty International interview (anonymous), 27 April 2022.

76 Amnesty International interview (anonymous), 27 April 2022.

77 Amnesty international interview with Ihor Matiushyn, 30 April 2022.

One or two members of the military, often with the police, would come to the theatre each day around midday to deliver information about the evacuation, often distributing information leaflets.⁷⁸

Military personnel (as well as police, emergency services, and volunteers) were regularly evacuating civilians from areas of active fighting and taking them to the theatre. “The military was bringing people from destroyed areas... Their cars had blue duct tape... They are dropping people off. It was women and children.”⁷⁹

A few soldiers reportedly visited family members staying at the theatre. Most witnesses told Amnesty International that those members of the military who did come stayed briefly and never overnight. “They would come inside, to be honest,” one witness said, “just one soldier at a time to look for family. There was no firing. No weapons anywhere.”⁸⁰ One witnesses, however, told investigators she saw four members of the military sleeping in the theatre several nights before the attack; another said she heard that a few members of the military were eating in the theatre one evening before the attack, but she never saw them herself.⁸¹

On one or two occasions, members of the military came to the theatre and asked to use civilians’ cars. When this happened, the request was denied and they left.⁸² “They came and [my wife] Yevheniia told them [they couldn’t have the cars] and they left,” Serhii told Amnesty International.

Two members of the Azov Regiment were at the theatre filming a video in early March. The video was later released by the Azov Regiment and posted online on 10 March. Serhii Zabohonskyi is on the video, showing the Azov Regiment member around the theatre. It shows that civilians were sheltering on multiple levels of the theatre.⁸³ The video is dark, and people use flashlights, indicating a lack of electrical power. The Azov camera crew then leaves the building to interview civilians outside, where they cook and gather water. While this video clearly indicates Azov members had access to the theatre, the only Azov soldiers it shows are a handful of members of the camera crew itself (and the person filming). Several people told Amnesty they saw this video being made.

During the days before the attack, people reported seeing or hearing about military vehicles driving on the roads by the theatre and soldiers firing from, or adjacent to, nearby buildings; however, these

78 Amnesty International interview (anonymous), 19 April 2022.

79 Amnesty International interview with Oleh Korinnyi, 3 April 2022.

80 Amnesty International interview (anonymous), 19 April 2022; Amnesty International interview (anonymous), 25 April 2022.

81 Amnesty International interviews (anonymous), 7 April 2022; Amnesty International interviews (anonymous), 22 April 2022.

82 Amnesty International interview with Yevheniia Zabohonska, 2 May 2022.

83 Azov Media, 10 March 2022, available at: youtu.be/Lg3JYn2JukA

buildings were all on the other side of the road encircling the park that surrounded the theatre.⁸⁴ On the day of the attack, there was military activity in the City Centre district – several people said they heard gunfire far away but that around the theatre there was no fighting. Four people said they were told (possibly from the same person) that the Ukrainian military was in the Taruta Centre – a group of buildings 100-150m away from the theatre – on the morning of the attack, but none saw any soldiers.⁸⁵ “[After we heard that soldiers might be nearby] we barricaded [some of] the doors in case the war came to us, but no soldiers came to the theatre before the attack,” Yevheniia Zabohonska told Amnesty International.⁸⁶

84 Amnesty International interviews (anonymous), 24 March 2022; Amnesty International interviews (anonymous), 19 April 2022.

85 Amnesty International Interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Yevheniia Zabogonskya, 2 May 2022; Amnesty International Interview with Dmytro Plasksin, 21 June 2021; Amnesty International interview (anonymous), 2 May 2022; The Taruta center is also referred to as the Azov Intex center ; Satellite imagery on file with Amnesty International shows smoke coming from the area of the Taruta center on 19 March 2022.

86 Amnesty International interview with Yevheniia Zabogonskya, 2 May 2022.

3. THE ATTACK

The attack on the Donetsk Regional Academic Drama Theatre occurred on 16 March 2022, shortly after 10am. At the time of the attack, hundreds of civilians were in and around the theatre. The theatre was clearly recognizable as a civilian object, perhaps more so than any other location in the city. There was no significant military presence in or near the building.

The attack was most likely carried out by Russian fighter aircraft employing two 500kg bombs that struck close to each other and detonated at the same time. It is plausible, though less likely, that only one bomb was used. It is also plausible, though much less likely, that one or two Russian cruise missiles were used.

An examination of satellite imagery and of photographs and videos taken after the strike reveals that explosive ordnance pierced the roof of the eastern side of the theatre and detonated in the performance space, most likely at stage level. Based on the testimony from one person who transited a corridor below the stage after the detonation (see below), it appears the ordnance detonated approximately at the surface of the frangible platform of the stage, rather than penetrating all the way into the lowest level of the theatre. A nose fuse set for impact, or with a slight delay, would produce this effect.⁸⁷

When the ordnance detonated, it destroyed the adjacent interior walls framing the wings of the performance space and then breached the exterior load-bearing walls, creating two main debris fields on the north-eastern and south-western sides of the building. Both debris fields are visible on satellite imagery taken minutes after the strike. (See satellite imagery on page 31.) The damage to these exterior walls – which does not extend completely to the base of the wall, and did not dig out a crater at the wall's foundation – is consistent with ordnance that detonated at stage level, rather than below ground. In addition, the larger debris field on the south-western side of the building, compared to that on the north-eastern side, indicates that the ordnance did not hit symmetrically or precisely in the centre of the performance space.

As seen in photos taken by witnesses immediately after the blast, a main section of the roof decking had dropped on the north-eastern side of the building. The main superstructure of the roof failed and then fell

⁸⁷ For example, Russian AVU-series fuzes, which are often used with FAB and OFAB bombs, have delay settings of instantaneous, short delay (0.025 seconds), and medium delay (0.075 seconds), see Collective Awareness to UXO (CAT-UXO), "AVU-ET Fuze", cat-uxo.com/explosive-hazards/fuzes/avu-et-fuze

into the performance space, covering the precise location where the blast occurred.⁸⁸

Amnesty International commissioned two independent external analyses of the incident, employing different methods and types of evidence, to quantify the explosive power of the ordnance likely used in the attack.

The first analysis built a mathematical model of the detonation – using standard satellite imagery taken before and after the incident, photos and videos of theatre immediately after the strike, and architectural plans of the theatre – to estimate the net explosive weight (NEW) of the blast required to cause the observed destruction.⁸⁹ Using a Jarret Curve analysis, a method routinely used in post-blast analyses, the expert's model found that “the minimum yield of the explosion ranges from about 400-800 kg TNT equivalent.”⁹⁰

The second analysis utilized threshold reflectance synthetic aperture radar (SAR) data from before and after the attack to map the debris field of the explosion, with the assumption that strong reflectors in the post-attack data, absent from the pre-attack data, within 25 m of the theatre correspond to exploded building fragments.⁹¹ Radial mapping of the debris field was used to locate the centre of the detonation and analyse the trajectory of debris ejecta. A dynamics-based model of projectile motion for a group of ejecta was used to estimate the explosive energy required to explain the initial velocities of the ejecta, accounting for atmospheric drag. It is important to note that the debris field defined quantitatively was modelled relative to the original, pre-exploded geometry of the theatre building (for example, the location of exterior walls) without any assumptions made about anisotropy and the strength of the building materials. This analysis estimates the TNT equivalent of the explosion to be, at minimum, 440kg and the likely range to be 600-1200Kg.⁹²

Both analytical methods, using independent lines of evidence, indicate broad agreement on the estimated explosive yield of the ordnance employed.

88 Subsurface detonations produce large craters, but even large quantities of explosives produce very shallow or no craters when they detonate at or above surface level. Army Field Manual 3-34.214 (FM 5-250), “Explosives and Demolitions,” July 2007, info.publicintelligence.net/USArmy-Explosives.pdf

89 “Memo: Investigating the Mariupol Drama Theatre Bombing,” Dr. F. Dalnoki-Veress, CNS/MIIS, 9 May 22, available at: oneamnesty.sharepoint.com/sites/app-secretariatopendsend/_layouts/15/guestaccess.aspx?docid=090c6a9dba4114d5d84c30ba95e15d9f1&authkey=AawCljSCxpBcuXAtfOolx_g&e=M1YvE3

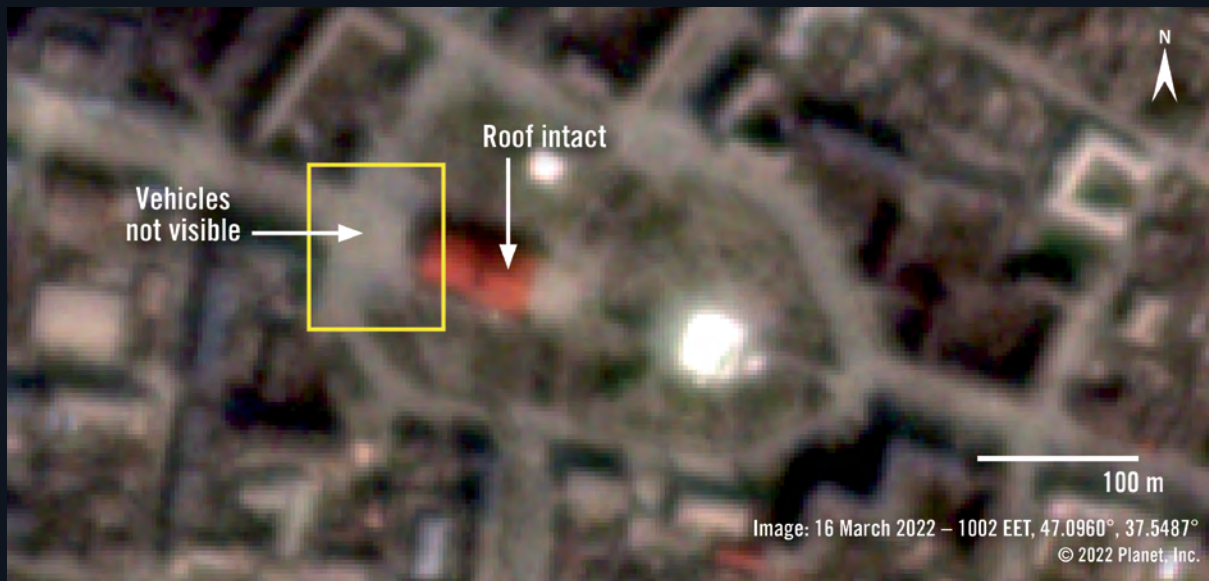
90 A Jarret Curve analysis is an empirical method that relates observed damage to the power of the explosion by accounting for the distance from the detonation to structures, the condition of those structures, and the general materials and construction practices that built those structures.

91 The SAR dataset closest to the date of the attack on the Mariupol Municipal Theatre was acquired 2 days after the explosion under investigation. There are reports of artillery explosions near the theatre site in the intervening period, which may have resulted in mild disturbance to the site prior to the collection of the SAR data. Any disturbance is unlikely to change significantly the estimates of the explosions size using SAR analysis because the analysis focused on many large-scale debris pieces ejected from the theater a minimum of 10 m distance which would be unlikely to be disturbed by explosion from lighter weapons, such as rocket artillery

92 “Preliminary SAR report”, Prof. Manoochehr Shirzaei, Associate Professor of Geophysics and Remote Sensing, Virginia Tech, available at: oneamnesty.sharepoint.com/sites/app-secretariatopendsend/_layouts/15/guestaccess.aspx?docid=090c6a9dba4114d5d84c30ba95e15d9f1&authkey=AawCljSCxpBcuXAtfOolx_g&e=PI0eml



© ↑ Satellite imagery from 14 March 2022, shows the drama theatre in Mariupol, Ukraine. The performance space is located on the eastern side of the building. Many vehicles and a field kitchen are visible in the image. The word "CHILDREN" is written in large letters on the ground.
 Image: 14 March 2022, 47.0960°, 37.5487° © 2022 CNES/Airbus



Two satellite images from 16 March show the theatre before and after the strike. At 1002 EET, three metre resolution imagery shows the roof intact and vehicles no longer readily visible in the parking area. At 1020 EET, 60 centimetre resolution imagery shows the roof over the performance space is destroyed and two main debris fields are visible to the north and south of the space. Vehicles are not visible in the parking area.

📡 ↑↑ 16 March 2022 – 1020 EET, 47.0960°, 37.5487° © 2022 Planet Inc

📡 ↑ 16 March 2022 – 1020 EET, 47.0960°, 37.5487° © 2022 CNES/Airbus

3.1 MOST LIKELY WEAPON USED: RUSSIAN AIR-DROPPED BOMBS

The damage produced by the explosion is consistent with the detonation of two, but plausibly one, large aerial bombs, dropped at the same time, that struck close to one another within the envelope of the target. The simultaneous (or near simultaneous) detonation of two weapons within a structure would look and sound to witnesses, especially those outside the building, like a single blast.

Numerous survivors and witnesses reported hearing aircraft in the area immediately before the strike. A witness also reported seeing aircraft bombing the Azovstal Steel Works near the time of the theatre strike.⁹³

Amnesty International interviewed six people who saw the drama theatre from afar immediately or shortly after the explosion. Two witnesses, who observed the strike from locations about 50m away from each other, reported seeing the roof rise into the air when the blast occurred. Ihor Moroz was about 200-300m away when the strike occurred. “It all happened in front of our eyes. We were 200 or 300 metres away [when] the explosion happened... I didn’t see [anything hit the building]... I could hear a plane and the sound of bombs dropping... The bomb [made a sound like] a high-pitched whistle... Then we saw the roof [on the theatre] rise up 25, 30 metres.”⁹⁴ Grigoriy Golovniyov was also about 200m away from the theatre when the strike took place. He described what he saw:

I was walking down the street leading to the drama theatre... I could see the drama theatre in front of me... It was about 200 metres away... I could hear the noise of a plane... but at that time I didn’t really pay attention because [planes] were constantly flying around... Then I saw the roof of the building explode... It jumped 20 metres and then collapsed... and then I saw a lot of smoke and rubble... I couldn’t believe my eyes because the theatre was a sanctuary. There were two big “children” signs.⁹⁵

Vitaliy Kontarov, a 48-year-old truck driver, was walking to get water about 1km from the theatre at the time of the attack. He told Amnesty what he saw: “we heard planes... I saw two missiles fire from one plane towards the theatre.” And then he saw the smoke come from the theatre.⁹⁶

The most likely Russian aircraft to have conducted the strike on the theatre are multi-role fighters, such as the Su-25, Su-30, or Su-34, which are based at nearby Russian airfields and were frequently operating over southern Ukraine.⁹⁷ Other Russian aircraft capable of carrying the weapons likely used in this strike,

93 Amnesty International Interview with Mariia Kutniakova, 30 March 2022.

94 Amnesty International interview with Ihor Moroz, 20 April 2022.

95 Amnesty International interview with Grigoriy Golovniyov 10 April 2022.

96 Amnesty International interview with Vitaly Kontarov, 14 April 2022.

97 For example, Su-30 Flankers are based at Millerovo Air Base, near the Ukrainian border; Janes, “Ukraine reportedly strikes Russian airbase,” [janes.com/defence-news/news-detail/ukraine-reportedly-strikes-russian-airbase](https://www.janes.com/defence-news/news-detail/ukraine-reportedly-strikes-russian-airbase); Su-25 and Su-34 aircraft are based at Primorsko-Aktarsk airfield, across the Sea of Azov from Mariupol; tweet by Rob Lee, 14 February 2022, twitter.com/RALee85/status/1493423800259653637

such as high-altitude Tu-22 and Tu-95 strategic bombers, have reportedly been used exclusively to launch cruise missiles from well outside Ukrainian territory to avoid the threat of long-range surface-to-air missiles from Ukrainian forces, and so were very likely not involved in this attack (the scenario of a cruise missile strike is considered later in this briefing).⁹⁸

To determine what aerial bombs in the Russian arsenal contained 400-800kg NEW, as determined in the mathematical model, Amnesty International conducted an open-source analysis of digital content and found that the vast majority of weapons employed by Russian tactical fighter aircraft during the war in Ukraine were 500kg bombs. Significantly, no evidence of the actual employment (that is, duds or identified fragments) of aerial bombs over 500kg was found, making it unlikely that a single larger weapon was used.⁹⁹ In the current conflict, Russian has employed several varieties of 500kg aircraft bombs, including FAB-500 M54s (NEW of 220kg),¹⁰⁰ FAB-500 M62s (NEW of 300kg),¹⁰¹ and OFAB-500s (NEW of 230kg).¹⁰² The weapons used in this case are most likely two 500kg bombs, a pair of the same model, which would yield a total NEW of 440–600kg, within the scope of the mathematical model.¹⁰³

In addition, testimonial evidence of the significant thickness of the bomb fragments corroborates this finding. One person Amnesty interviewed had handled a munitions fragment, which he was given by people who he had seen at the theatre and who told him they found it at the theatre after the strike.¹⁰⁴ He described the piece as 40cm long, 10cm wide, 4cm thick, very heavy relative to its size, with one side finely machined and the scalloped edges so sharp that he feared cutting himself while holding it. This description of the fragment, especially the distinctive chiselled edges, is highly indicative of a bomb fragment.

In striking the drama theatre, the Russian Air Force likely achieved two direct hits, centre of mass, which is plausible, even with unguided bombs, because of the size of target. The 500kg bombs were likely unguided, based on reporting that Russia has almost entirely failed to deploy precision-guided bombs in the current conflict.¹⁰⁵ For unguided Russian aerial bombs, the circular error probable (CEP) – the radius of a

98 Business Insider, “Pentagon says some Russian jets are avoiding Ukraine’s airspace during sorties to avoid being shot down,” 11 March 22, [businessinsider.com/russian-jets-avoiding-ukraine-airspace-to-avoid-being-shot-down-2022-3](https://www.businessinsider.com/russian-jets-avoiding-ukraine-airspace-to-avoid-being-shot-down-2022-3)

99 Several photos of larger aerial bombs, such as the UPAB-1500, have appeared on anonymous social media accounts, but Amnesty International has found no evidence that these weapons have been employed in Ukraine. See, for example, deleted tweet by @dusics, web.archive.org/web/20220317153253/https://twitter.com/dusics/status/1504480668440416264

100 Tweet by @coupsure, 6 March 22, twitter.com/COUPSURE/status/1500389727035404289; Collective Awareness to UXO (CAT-UXO), “FAB-500 M54 Aircraft Bomb,” cat-uxo.com/explosive-hazards/aircraft-bombs/fab-500-m54-aircraft-bomb

101 Tweet by @war_noir, 3 March 22, 15 June 22, twitter.com/war_noir/status/1499503140554649603; Rosoboronexport, “FAB-500 M-62,” roe.ru/eng/catalog/aerospace-systems/air-bombs/fab-500-m-62

102 Rosoboronexport, “OFAB-500U,” roe.ru/eng/catalog/aerospace-systems/air-bombs/ofab-500u

103 500kg Russian aircraft bombs contain between 200 and 220 kg of explosives, on average. The remaining weight is made up of the metal casing of the weapon. For more information see: Collective Awareness to UXO (CAT-UXO), “OFAB-500 M54 Aircraft Bomb,” cat-uxo.com/explosive-hazards/aircraft-bombs/ofab-500-m54-aircraft-bomb; Collective Awareness to UXO (CAT-UXO), “FAB-500 M54 Aircraft Bomb,” cat-uxo.com/explosive-hazards/aircraft-bombs/fab-500-m54-aircraft-bomb

104 Amnesty International interview with Oleh Korinnyi, 10 April 2022.

105 New York Times, “Russian Guided Weapons Miss the Mark, U.S. Defense Officials Say,” 9 May 2022, [nytimes.com/2022/05/09/us/politics/russia-air-force-ukraine.html](https://www.nytimes.com/2022/05/09/us/politics/russia-air-force-ukraine.html)



↑ Smoke rising from the front entrance of the drama theatre shortly after the attack. The word “CHILDREN” is written in large letters on the ground. © Private



👁️ ↑↑ The rear entrance of the drama theatre shortly after the attack on 16 March 2022, shortly after the explosion. © Serhii Zabohonskyi

👁️ ↑ A man walks by a debris field to the side of the theatre shortly after the attack. © Private



← A debris field covers the area where the field kitchen was, on 16 March 2022, shortly after the attack.

© Serhii Zabohonskyi

↓ The side of the theatre a few hours after the attack.

© Private



circle within which one expects 50% of an aimed weapon to strike – is not completely clear.¹⁰⁶ The Russian Defence Ministry claims that upgrades to sighting and navigation systems have dropped the CEP of their unguided bombs to less than 15m.¹⁰⁷ This is unlikely. Unguided American Mk 82 bombs have a published CEP of 94.5m.¹⁰⁸ The drama theatre itself was 80m by 40m, and so while it may have been challenging for a pilot, aiming at the main portion of the building and striking the target twice precisely is highly plausible.

In addition, Amnesty International could not identify another possible target within the CEP of the 500kg bombs. In satellite imagery taken minutes after the strike, no large, armoured vehicles, artillery, or other large military objects are seen in the area surrounding the theatre. (See satellite imagery on page 31.) In addition, it is extremely unlikely that a building other than the drama theatre was the target because of the layout of the grounds and park surrounding the theatre – a wide-open area, with the closest large structure over 100m away.

3.2 PLAUSIBLE ALTERNATIVE THEORY: RUSSIAN CRUISE MISSILE

The most plausible alternative to a Russian aerial bomb strike is a Russian cruise missile strike. The submarine-launched Kalibr missile and the air-launched Kh-55, for example, carry warheads of approximately 500kg.¹⁰⁹ Russia has used cruise missiles regularly during the conflict. The weapons are also extremely accurate, with a CEP as small as 3m.¹¹⁰ The evidence presented below indicates that the use of cruise missiles is unlikely. However, if a cruise missile were in fact used, the high accuracy of the weapon means the theatre would necessarily have been the intended target.

Several pieces of evidence make it less likely that a cruise missile was used in this attack. In the opening month of the conflict, Russia did not display the ability to use cruise missile strikes in direct support of ground offensives in a combined armed fashion, meaning that Russian ground, air, and sea forces co-operated to attack specific tactical objectives. Rather, Kalibrs and other cruise missiles were used almost exclusively to target strategic military objectives, such as airfields, fuel depots, and ammunition dumps in cities across Ukraine, often hundreds of kilometres away from Russian ground attacks.¹¹¹ At the time of the strike on the theatre, witnesses described fighting occurring in the surrounding neighbourhood far closer than observed between ground forces and cruise missile attacks anywhere else in Ukraine.¹¹²

106 Geneva International Centre for Humanitarian Demining, “Explosive Weapon Effects,” February 2017, gichd.org/fileadmin/GICHD-resources/rec-documents/Explosive_weapon_effects_web.pdf

107 TASS Russian News Agency, “Russia’s Aerospace Forces can use standard air bombs as precision weapons,” 18 June 2019, tass.com/defense/1064347

108 Geneva International Centre for Humanitarian Demining, “Explosive Weapon Effects,” February 2017, gichd.org/fileadmin/GICHD-resources/rec-documents/Explosive_weapon_effects_web.pdf

109 Washington Post, “What to know about the long-range cruise missile Russia says it fired,” 24 March 2022, [washingtonpost.com/world/2022/03/24/russia-kalibr-cruise-missile-ukraine-weapons/](https://www.washingtonpost.com/world/2022/03/24/russia-kalibr-cruise-missile-ukraine-weapons/)

110 Missile Defense Advocacy Alliance, “3M-14 Kalibr,” May 2017, missiledefenseadvocacy.org/missile-threat-and-proliferation/todays-missile-threat/russia/ss-n-30a-kalibr

111 Remote interview with senior defense analyst (anonymous), 11 April 2022.

112 Though notably, this fighting occurred well outside of the CEP of a 500kg unguided bomb.

In addition, testimonial evidence of bomb fragments (discussed above) reportedly found at the scene of the drama theatre attack do not match fragments found at Russian cruise missile strikes.¹¹³ Verified photos and videos of fragments left behind at the sites of verified Russian cruise missile attacks show that large pieces of the motor conspicuously survive the strike,¹¹⁴ and an Amnesty International on-the-ground investigation of the 14 March 2022 cruise missile strike on the television tower in Rivne identified fragments of the weapons system (including a portion of the rocket motor of the missile) that are significantly dissimilar from aerial bomb fragments.¹¹⁵

In addition, pieces of signals intelligence point away from a cruise missile strike. Many such strikes are launched by strategic bomber aircraft.¹¹⁶ Amnesty International is aware of six radio frequencies that were likely used by Russian strategic bomber aircraft around 16 March 2022.¹¹⁷ (These are different frequencies, which are propagated and recorded by different methods, than those used by the tactical fighter aircraft that most likely carried out the strike.) Two of these frequencies, in the 5-8MHz bands, appear to have been allocated for voice communication during daylight hours. Amnesty International analysed activity on both frequencies between 7am and 12 noon EET. No activity was detected.¹¹⁸

Amnesty does not have access to recordings of a lower frequency reportedly used for voice communication during the evening and night. However, it is unlikely that this frequency was used between 7am and 12 noon EET because daytime ionospheric conditions would have limited its effectiveness. Sunrise was around 5:40am in Mariupol on 16 March.

Likewise, Amnesty was unable to check recordings of the three remaining frequencies that Russian strategic bombers allegedly used for Morse code. Past activity on these frequencies, however, has attracted attention online, and would likely to have been recorded and made public. Open-source research found no evidence of Morse code being transmitted on these frequencies on 16 March during the given time frame.

This analysis is based on high-frequency radio communications being intercepted outside Ukraine. It is possible that radio communications occurred but were not intercepted owing to propagation conditions and the positions of the receiving antennas. Russian strategic bomber aircraft also could have operated on frequencies unknown to Amnesty International or without using radio communications.¹¹⁹

113 Amnesty International interview with Oleh Korinnyi, 10 April 2022.

114 For example, tweet by @blueboy1969, 4 April 2022, twitter.com/blueboy1969/status/1511076014897733635

115 Tweet by @brian_castner, 11 April 2022, twitter.com/Brian_Castner/status/1513501250578526227

116 The Drive, "We May Have Our First Sight Of A Russian Bomber Launching Missiles At Ukraine," 11 May 2022, thedrive.com/the-war-zone/we-may-have-our-first-sight-of-a-russian-bomber-launching-missiles-at-ukraine

117 Multiple online radio watchers share real-time reports on these frequencies on social media. For example, see tweets by @te3ej, on 13 March 2022, twitter.com/te3ej/status/1503182068477485056; on 15 March 2022, twitter.com/te3ej/status/1503884701915832325, on 12 April 2022 twitter.com/te3ej/status/1514004032980934659; and on 17 April 2022 twitter.com/te3ej/status/1515849637118238726.

118 Source anonymised for security reasons.

119 Amnesty International consultation with a telecommunications systems expert (anonymous).

Furthermore, the Ukrainian civil defence air raid system did not sound an alert indicating a missile or strategic bomber threat anywhere in southern or eastern Ukraine that morning.¹²⁰ At the time of the theatre strike, three air raid warnings were active: a 9:51am alert in Vinnytsia, a 9:53am alert in Zhytomyr, and a 9:54am alert in Kyiv.¹²¹ These alerts are consistent with Ukrainian air defence systems detecting a localized ground launch targeting a specific area, in this case north-central Ukraine only. If Tu-22 or Tu-95 bombers, which carry air-launched cruise missiles, were airborne, one would expect both radio traffic and a general air raid across Ukraine, since those missiles are capable of striking across long distances. Likewise, if the Ukrainian air defence network detected a submarine-launched cruise missile from the Black Sea, a generalized air raid warning would have been implemented until the trajectory became clear.¹²²

3.3 IMPLAUSIBLE THEORIES

Amnesty International considered and rejected three other theories about who perpetrated the attacks and what weapons were used.

The first scenario is that it was an attack by either party to the conflict using lighter weapons. This is facially implausible. The theatre was destroyed in a single strike, and none of the lighter munitions employed by Ukrainian or Russian forces in and around Mariupol at the time of the attack – including mortars, artillery, tank rounds, multiple launch rocket systems, or shoulder-launched rockets and guided missiles, etc. – have anywhere near the explosive force required to cause the damage that was inflicted.

The second scenario is that it was an attack by Ukrainian forces using aircraft or a ballistic missile. A large aircraft bomb, or a missile's warhead, are the only weapons in the Ukrainian inventory of sufficient size to cause the damage observed at the theatre. Both options are extremely unlikely. At the time of the strike, the Russian Air Force was reportedly flying 200 to 300 sorties per day, while the Ukrainian Air Force was reportedly flying only five to 10 of them.¹²³ Of those few Ukrainian sorties, the majority were combat air patrols loaded with air-to-air weapons to attack Russian jets.¹²⁴ Additionally, the only ballistic missile reportedly fired by Ukraine in this conflict is the Tochka-U, with which it has conducted a very limited

120 This is a national air raid system to detect long range attacks, which would not be triggered by tactical fighter aircraft that most likely carried out the strike. At the time of the theatre attack, the local air raid system, to alert residents to ground attacks (such as rockets or artillery) or tactical air strikes (such as the tactical fighter aircraft), was no longer functional.

121 "AirAlert_UA" Telegram channel, t.me/air_alert_ua

122 Mechanics of Ukrainian air defense network and alert system because upon in-person interview with oblast-level information minister, (anonymous), 22 March 2022.

123 New York Times, "How Ukraine's Outgunned Air Force is Fighting Back Against Russian Jets," 22 March 2022, nytimes.com/2022/03/22/world/europe/ukraine-air-force-russia.html; tweet by @beverstine, 21 Mar 2022, twitter.com/beverstine/status/1505920628431462408

124 Drive, "Ukrainian MiG-29 Pilot's Front-line Account of the Air War Against Russia," 1 April 2022, thedrive.com/the-war-zone/45019/fighting-russia-in-the-sky-mig-29-pilots-in-depth-account-of-the-air-war-over-ukraine

number of strikes, each time using single weapons.¹²⁵ Moreover, the Tochka-U leaves behind a distinctive rocket motor, which was not found at the drama theatre. Moreover, no Ukrainian aircraft were reported in Mariupol at the time of the strike and no one, including Russia, has accused the Ukrainian military of attacking the theatre from the air.

The third scenario is that the attack was a “false flag” operation by the Ukrainian forces’ Azov Regiment, purposefully destroying the building from within. The Russian Ministry of Defence and official Russian media outlets and have claimed that Ukraine’s Azov Regiment blew up the theatre in an act of sabotage.¹²⁶ On 16 March, the Russian Foreign Ministry accused Ukraine of trying to frame it for bombing the theatre.¹²⁷ A spokesperson for the ministry denied that Russia was responsible, accusing Ukrainian forces of perpetrating the attack. “During daylight on March 16, Russian aviation carried out no missions involving strikes on ground targets within Mariupol limits. According to the verified information, militants of the Azov nationalist battalion carried out another bloody provocation by blowing up the rigged theatre building,” the ministry said.¹²⁸

For this claim to be accurate, Azov fighters would have had to place and detonate at least 400–800kg of explosives within the theatre. TNT of this mass would occupy a space of approximately one cubic meter. Moreover, given the nature of the damage to the theatre, these explosives would need to have been placed on or above the performance stage. This would need to have been done without the knowledge of the civilians sheltering in the theatre, including those inside the concert hall. External vehicle-borne improvised explosive devices, even large trucks, would not have produced the observed effects: the debris field and failure of the roof system indicate that the blast occurred inside the building. And not a single witness or person who was sheltering at the theatre reported any such military activity in the performance area or any other area of the theatre.

Four days before the attack, a number of pro-Russian Telegram channels and Twitter accounts warned that Azov was planning to conduct a “false flag” operation at the Mariupol Drama Theatre and blame Russia for it.¹²⁹ There are only a few possible explanations for the accuracy of these predictions of an attack on the theatre: one, a Russian official informed the initial source of the coming attack; two, the initial

125 For further information, see Euromaidan Press, “Ukrainian forces launch missile attack on Russia’s military airfield,” 25 February 2022, euromaidanpress.com/2022/02/25/ukrainian-forces-launch-missile-attack-on-russias-military-airfield/; See also Republic World, “Ukraine Fires OTR-21 Tochka Ballistic Missile Again in Berdyansk; Russia Intercepts Strike,” 20 March 2022 (an intercepted missile in Berdyansk on 19 March 2022), republicworld.com/world-news/russia-ukraine-crisis/ukraine-fires-otr-21-tochka-ballistic-missile-again-in-berdyansk-russia-intercepts-strike-articleshow.html; CNN, “Ukrainians claim to have destroyed large Russian warship in Berdyansk,” 25 March 2022 (a strike on the Russian naval ship Saratov on 24 March 2022); Guardian, “Russia accuses Kyiv of deadly missile attack in Donetsk,” 14 March 2022 (a strike that reportedly killed civilians in Donetsk on 14 March 2022), theguardian.com/world/2022/mar/14/russia-accuses-kyiv-of-deadly-missile-attack-on-donetsk

126 TASS Russian News Agency, “Azov battalion militants blow up Mariupol theatre building – Defense Ministry,” 16 March 2022, tass.com/world/1423275

127 Reuters, “Russia accuses Ukraine of trying to frame it over Mariupol theatre attack,” 17 March 2022, reuters.com/article/ukraine-crisis-mariupol-theatre-russia/russia-accuses-ukraine-of-trying-to-frame-it-over-mariupol-theatre-attack-idINL2N2VKOSL

128 TASS: Russian News Agency, “Azov battalion militant blow up Mariupol theatre building – Defense Ministry,” 16 March 2022, tass.com/world/1423275

129 Telegram post, 12 Mar 22, t.me/DmitriySteshin/4246; tweet by @elenaevdokimov7, 13 Mar 2022, twitter.com/elenaevdokimov7/status/1502875319170387968

source actually did get wind of a planned Azov operation, which then did in fact take place; or three, it was a coincidence.

The partisan nature of the initial source of these messages raises obvious questions about its veracity and purpose. The messages on the Telegram channels were repeated verbatim often, clearly cut and pasted, so determining the origin of the post is challenging. However, it appears that the original poster of the message was Dmitry Steshin, who is described by the opposition-aligned Free Russia Forum as a propagandist at the tabloid KP who has been sanctioned by Ukraine. His post was then cited by the Twitter account @elenaevdokimov7 in a widely circulated tweet.¹³⁰ The @elenaevdokimov7 account in particular has promoted a number of “false flag” conspiracy theories that either proved to be completely false (a Ukrainian attack on a chemical plant in Horlivka) or involved blaming Ukrainian forces for actions taken by Russian or Russian-backed forces (the staged detonation of the police chief’s jeep in Donetsk, as a provocation for the invasion to begin).¹³¹ The @elenaevdokimov7 Twitter account has also promoted videos by Bonanza Media – a disinformation project organized by the Main Directorate of the General Staff of the Armed forces (commonly known as the GRU), Russia’s military intelligence – but Amnesty International was not able to establish a direct tie between the @elenaevdokimov7 account and the intelligence services.¹³² If a future investigation were able to establish a direct link between these accounts and the Russian government, it would provide evidence of premeditation and pre-planning by the Russian armed forces to carry out the drama theatre strike.

3.4 THE CASUALTIES

Many people were killed by the strike. Many others were seriously injured. The precise number of casualties is not known. Citing eyewitnesses, the Mariupol City Council announced on its Telegram channel nine days after the strike on the theatre that about 300 people had been killed.¹³³ An investigation by the Associated Press, published in May, concluded that as many as 600 may have died.¹³⁴ Amnesty International was not able to make a precise estimate of fatalities; the evidence indicates, however, that the count is much smaller than previously reported.

130 Tweet by @elenaevdokimov7, 17 March 2022, twitter.com/elenaevdokimov7/status/1504343197379874816;

Tweet by @elenaevdokimov7, 13 March 2022, twitter.com/elenaevdokimov7/status/1502875319170387968

131 Tweet by @elenaevdokimov7, 18 February 2022, twitter.com/elenaevdokimov7/status/1494678321833328640; tweet by @elenaevdokimov7, 19 February 2022, twitter.com/elenaevdokimov7/status/1495250807981109257

132 Tweet by @elenaevdokimov7, 15 July 2020, twitter.com/elenaevdokimov7/status/1283267799117258752; tweet by @elenaevdokimov7, 30 August 2020, twitter.com/elenaevdokimov7/status/1299992105935228928; tweet by @elenaevdokimov7, 30 October 2022, <https://twitter.com/elenaevdokimov7/status/1322356998864662528>; Bellingcat, “The GRU’s MH17 Disinformation Operations Part 1: The Bonanza Media Project,” 12 November 2020, [bellingcat.com/news/uk-and-europe/2020/11/12/the-grus-mh17-disinformation-operations-part-1-the-bonanza-media-project](https://www.bellingcat.com/news/uk-and-europe/2020/11/12/the-grus-mh17-disinformation-operations-part-1-the-bonanza-media-project)

133 Associated Press, “Ukraine reports 300 dead in airstrike on Mariupol theatre,” 26 March 2022, apnews.com/article/russia-ukraine-zelenskyy-kyiv-europe-moscow-b56759e5d40db18e94bef8e42db23e47

134 Associated Press, “AP evidence points to 600 dead in Mariupol theatre airstrike,” 4 May 2022, apnews.com/article/Russia-ukraine-war-mariupol-theater-c321a196fbd568899841b506afcac7a1; Associated Press, “AP Methodology: Calculating Mariupol theatre airstrike dead,” 4 May 2022, apnews.com/article/russia-ukraine-business-europe-donetsk-0e361756c6acc287e8974103913abfc6

Amnesty International interviewed 28 people present in the theatre at the time of the attack, including six who witnessed the attack or the explosion from afar, and eight who came to the theatre after the strike. Amnesty International asked each interviewee if they knew of anyone who was killed or seriously injured by the strike. In total, interviewees provided Amnesty International with the full names of four people who were killed by the air strike: Mykhailo Hrebenetskyi, Lubov Svrydova, Olena Kuznetsova, and Ihor Chystiakov.¹³⁵ Interviewees also provided Amnesty International with the first names of three other people whom they knew and believed were killed by the strike.¹³⁶ Several survivors and other witnesses also reported seeing dead bodies of people they could not identify. (For details about these fatalities and other casualties, see Section 3.6 “First-hand accounts of casualties” below.)

Amnesty International also did a comprehensive review of traditional and social media (in English, Ukrainian, and Russian) to determine whether any other fatalities had been publicly reported. In total, Amnesty found that traditional media outlets had reported three additional fatalities: Anastasia Khadjava, Carolina Khadjava, and Oleksandr Khadjava.¹³⁷ Three other fatalities were reported using social media: Maksym Portasov, Lubov Hvozdeliuk, Oleksandr Shevchenko.¹³⁸

Amnesty International also contacted the National Police, the prosecutor general’s office, and the Mariupol City Council, requesting the names of confirmed or reported fatalities. The National Police confirmed it had received a report about one of the fatalities that Amnesty International had already learned of.¹³⁹

Based on our review of witness accounts and these other sources, Amnesty International believes that at least a dozen people died in the attack, but also that it is likely that many additional fatalities remain unreported. Given the situation, even a crude approximation of the number of casualties – especially the fatalities – is difficult to compile. In normal circumstances, police and emergency services would have had secure access to the theatre and would have been able to excavate bodies and attempt to identify them. Such work was impossible after the attack on the theatre, however. While a few people were able to remain at or return to the theatre after the attack to search for survivors and to exhume victims, they did so at great risk to their safety, had only a short amount of time, and were only able to move debris by hand. Proper excavation requires heavy machinery. Moreover, since Russian forces took control of the area around the theatre, they reportedly prevented independent journalists and civilians from freely accessing

135 Amnesty International interview with Nataliia Tkachenko, 6 April 2022; Amnesty International interview with Dmytro Symonenko, 4 April 2022; Amnesty International interview with Olena Matiushyna, 25 April 2022; Amnesty international interview with Ihor Matiushyn, 30 April 2022; Amnesty International interview with Nataliia Hrebenetska and Yevhen Hrebenetskyi, 16 April 2022; Amnesty International interview (anonymous), 28 April 2022.

136 Amnesty International interview with Dmytro Plaskin, 21 June 2022; Amnesty International interview with Anastasia Karpeeva, 19 April 2022; Amnesty International interview with Serhii Zabohonskyi, 8 May 2022; Amnesty International interview with Nataliia Honcharova, 2 April 2022; Amnesty International interview (anonymous) 28 April 2022.

137 BBC News Ukraine, “‘I dug up my daughter in the fire.’ Stories from the Mariupol Drama theatre,” Diana Kurysho, 8 April 2022.

138 These fatalities were reported on the Telegram channel “Fatalities, Remembrance Mariupol,” t.me/mariupolRIP/18136, t.me/mariupolRIP/22797, t.me/mariupolRIP/16596; two were also reported on Facebook, facebook.com/photo.php?fbid=5117351998329895&set=a.292400204158456&type=3, facebook.com/100025173259444/posts/1096787414503690/?d=n

139 Amnesty International correspondence with the National Police, 21 May 2022.

the damaged site.¹⁴⁰ And once DPR and Russian emergency services accessed the site they reportedly bulldozed the area and removed bodies without registering the identities of any of the corpses.¹⁴¹ According to Dmytro Plaskin, who visited the theatre about a week after the attack, and spoke with an employee of DPR emergency services, who told him that they were excavating about 3-4 bodies each day.¹⁴²

The fact that the telecommunications network was down in Mariupol has also made locating and communicating with survivors extraordinarily difficult. Many people who were sheltering at the drama theatre may never have had the opportunity to tell their friends or family they were there. Although volunteers at the theatre registered people who were sheltering there, none of these records are believed to have survived the attack. After the attack, survivors dispersed rapidly in many directions. Many survivors who spoke with Amnesty are only aware of the situations of the people they left with or were with at the moment of the attack.

3.5 ASSESSING THE DAMAGE AND THE UNREPORTED CASUALTIES

To better understand the extent of the unreported casualties caused by the attack, Amnesty International gathered information about the number and locations of people in the theatre at the time of the attack, as well as information about the places in the theatre that people visited after the attack. Amnesty International also gathered photographic and video evidence of the aftermath of the strike. Amnesty International then compared this testimonial and visual evidence with expert assessments of the size and location of the explosion, and its likely effects on the building and the people inside.

As detailed above, the number of people living in the theatre increased between 24 February and 14 March, and then decreased significantly between 14 March, when people began to evacuate, and the morning of 16 March, when the strike occurred. Estimates of the total number of people in and around the theatre at the time of the attack vary considerably; survivors and witnesses provided approximations ranging from 300 or 400 on the low end to over 1,000 on the high end. Several volunteers, who were involved in organizing where people lived in the theatre, estimated about 600-800 people were in the theatre at the time of the attack.¹⁴³ A man who volunteered in the field kitchen said that they were still cooking for 800 people on the day of the attack.¹⁴⁴

While Amnesty does not have a precise understanding of the numbers of people or their locations, testimony from survivors has broadly indicated where people were concentrated and what, in a very general sense,

140 Amnesty International interviews (anonymous). Even access to the whole of Mariupol is quite restricted.

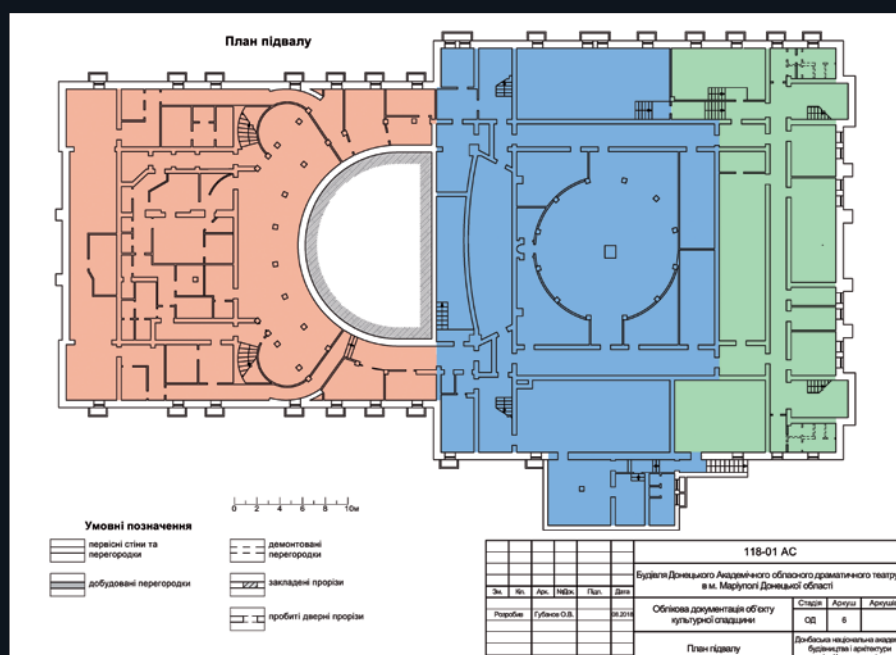
141 Washington Post, “At the scene of Mariupol theater tragedy, Russia prepares for a parade,” 5 May 2022, [washingtonpost.com/world/2022/05/05/ukraine-mariupol-theater-russia-military-parade/](https://www.washingtonpost.com/world/2022/05/05/ukraine-mariupol-theater-russia-military-parade/); Note that at least one body in the rubble is visible in media reports of debris clearance by Russian emergency services: tweet by @jack_mrgln, 21 April 2022, twitter.com/Jack_Mrgln/status/1517194773559402496

142 Amnesty International interview with Dmytro Plaskin, 21 June 2022.

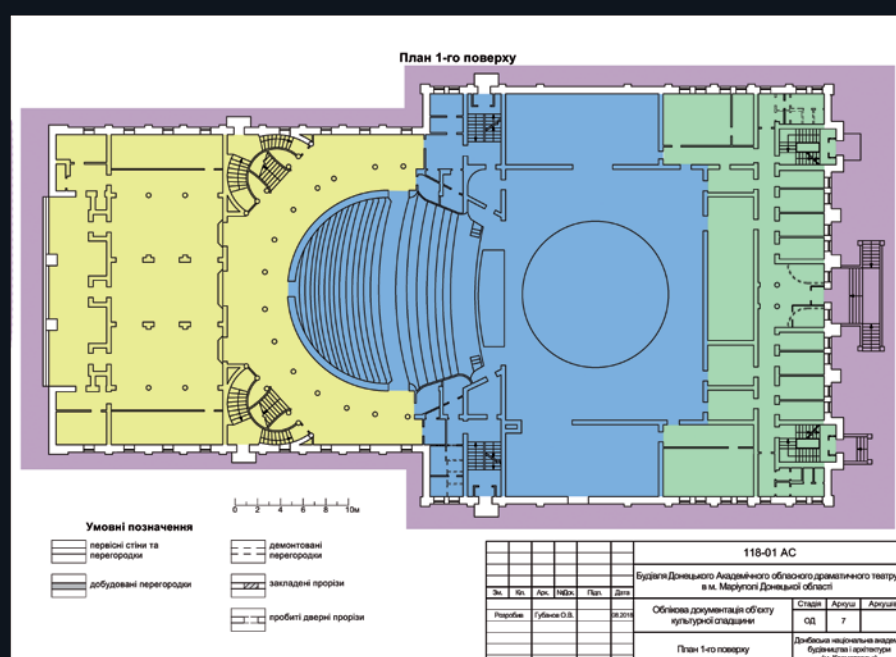
143 Amnesty International interview with Serhii Zabohonskyi, 6 May 2022; Amnesty international interviews (anonymous).

144 Amnesty International interview (anonymous), 20 June 2022.

FLOOR PLANS OF THE DONETSK REGIONAL ACADEMIC DRAMA THEATRE IN MARIUPOL.



Basement.



Ground floor.

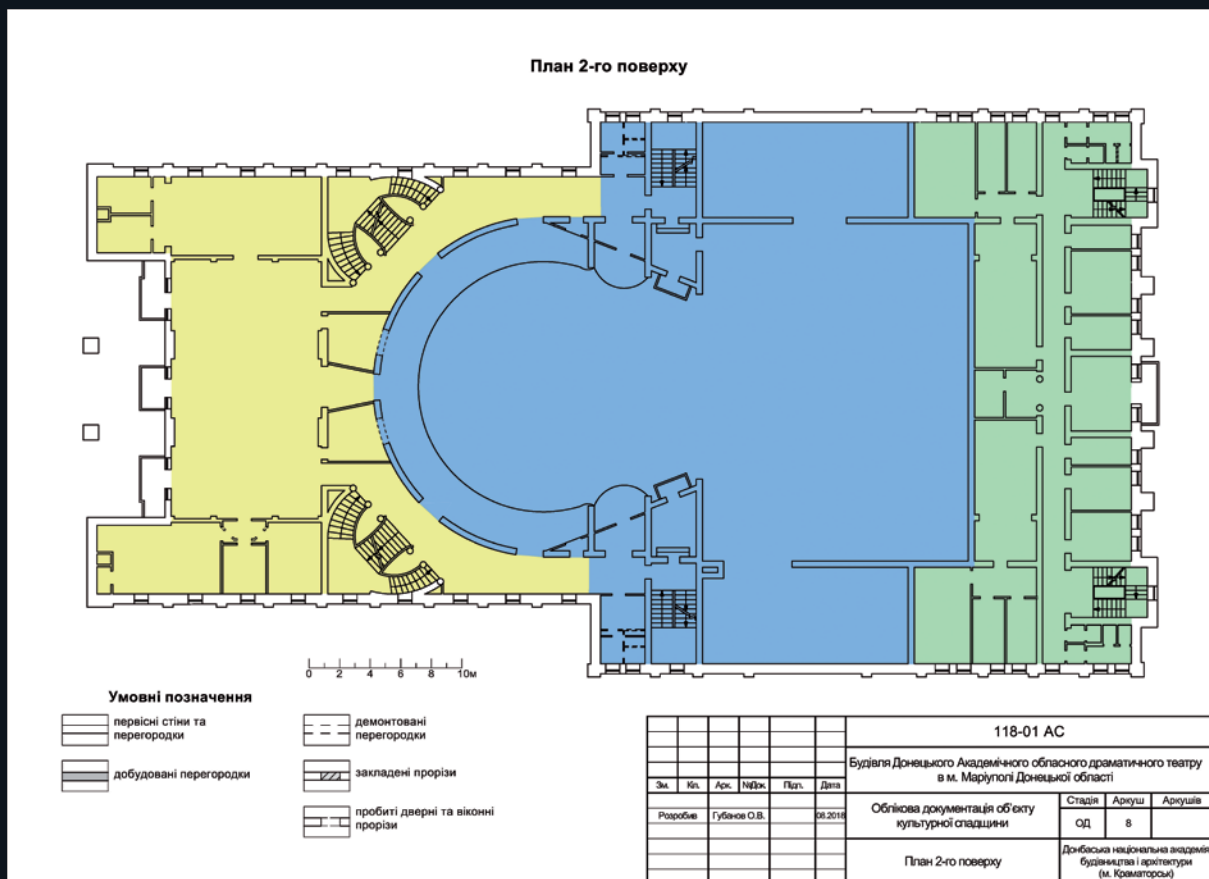
- FRONT BASEMENT
- CONCERT HALL, WINGS, STAGE AND BASEMENT
- THE REAR
- FRONT ABOVE GROUND
- OUTSIDE

The front basement includes all the underground rooms below the front of the theatre and entrance to the concert hall

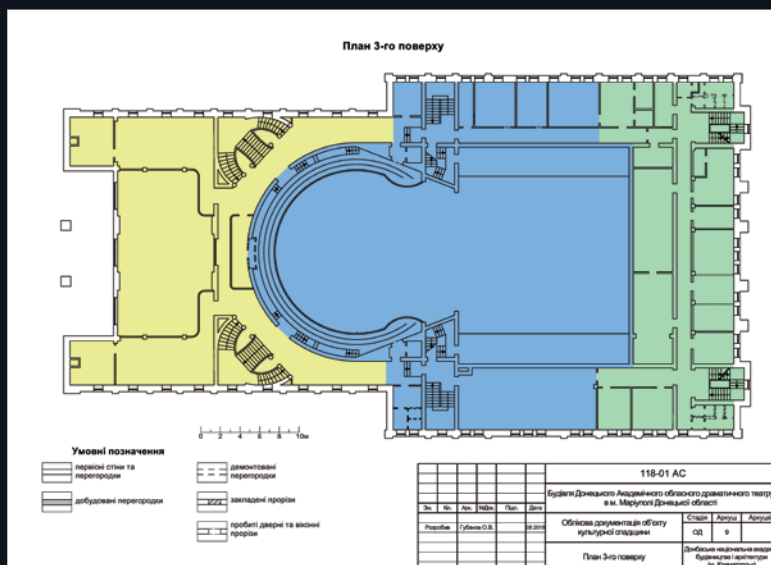
The front above ground includes the entire area above ground between the front entrance and the concert hall, including the corridors on the first, second, and third floors that wrap around the concert hall.

The rear of the theatre includes all the rooms above and below ground between the rear entrance and the performance stage.

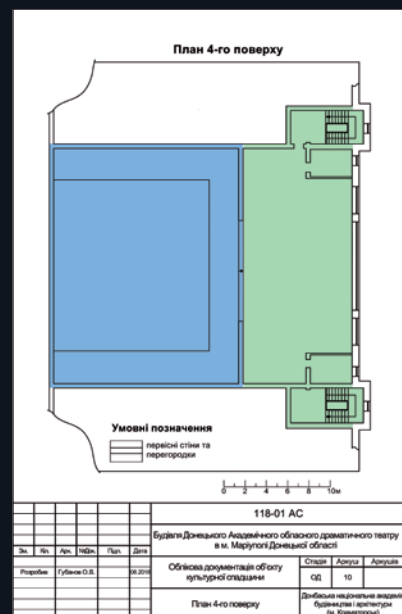
The concert hall includes the ground-floor seating area, the balconies inside the theatre, and the stage (including the wings on either side of the stage), as well as the area under the stage.



Second floor



Third floor



Fourth floor

happened to people in different parts of the theatre. Moreover, although testimony does indicate where some people were killed or seriously injured and suggests areas of the theatre where people were generally not killed or seriously injured, it is plausible that the over-pressure of the blast wave, fragmentation, or other blast effects could have caused serious injury or death in portions of the theatre that remained intact.¹⁴⁵

For explanatory purposes, the theatre can be divided into five areas:

FRONT BASEMENT

The “front basement” includes all the underground rooms below the front of the theatre and entrance to the concert hall, including the large room (a former restaurant) that extends to (and curves around) an area underneath a portion of the concert hall. It is often referred to as “the bomb shelter”.

Amnesty International interviewed four survivors who were in the front basement at the time of the attack and several others who went into the basement immediately after the attack.¹⁴⁶ Amnesty International also interviewed one person who left the basement on the morning of 16 March,¹⁴⁷ and several volunteers who visited the basement the day before the attack.¹⁴⁸ According to their testimony, a significant portion of the theatre population – perhaps one-third or more, or 200–300 people – was there at the time of the attack.

Because of the load-bearing walls and poured concrete floors between this area and the blast, the front basement was the area most protected from the explosion. It would have experienced the least over-pressure and would not have received ordnance fragments.

The witnesses we interviewed indicated that everyone or nearly everyone in the basement is believed to have survived; however, some people were injured. A woman in her late teens was sheltering in the basement with her boyfriend and her mother at the time of the strike. “In a second everything changed. Everything jumped up... People started screaming. It was full of dust. ... I saw people bleeding. We grabbed our documents and left... Some people were not as lucky,” she said.¹⁴⁹ “There was a big clap and then a cloud of dust... There were a lot of badly injured people. People were screaming... We stayed in the basement for about 15 minutes. We wanted to stay longer but people said that the theatre was on fire,” the father from the family who was evacuated from Microrayon 23 told Amnesty International.¹⁵⁰

145 Four separate mechanisms cause blast injuries. Primary injuries are related to the explosive itself, and the over-pressure wave that harms human tissues. Secondary injuries result from fragments from the weapon or other flying objects moved by the blast. Tertiary injuries relate to individuals being thrown themselves by the blast. Quaternary injuries result from burns and toxic gases; see Centers for Disease Control and Prevention, “Explosions and Blast Injuries,” [cdc.gov/masstrauma/preparedness/primer.pdf](https://www.cdc.gov/masstrauma/preparedness/primer.pdf)

146 Amnesty International interview with Serhii Zabohonskyi, 6 May 2022; Amnesty International interview with Nataliia Honcharova, 22 April 2022; Amnesty International interview (anonymous) 22 March 2022; Amnesty international Interview (anonymous), 22 April 2022; Amnesty International interview (anonymous), 7 May 2022.

147 Amnesty International interview with Anton Huz, 23 March 2022.

148 Amnesty International interview with Serhii Zabohonskyi, 6 May 2022; Amnesty International interview with Yevheniia Zabohonska, 2 May 2022; Amnesty International interview with Nataliia Honcharova, 22 April 2022.

149 Amnesty International interview (anonymous), 22 March 2022.

150 Amnesty International interview (anonymous), 7 May 2022.

Nataliia Honcharova, who was injured by the blast while in a stairwell towards the side of the theatre between the first and second floors, told Amnesty International that she reunited with her family in the basement shortly after the blast. “We stayed in the basement for about 20 minutes... we didn’t know what to do because the basement had proven itself [by withstanding the attack], but then other people said that the building was on fire. We packed the minimum and left,” she said.¹⁵¹ “Everyone in the basement under the main lobby survived. [Many people from other parts of the theatre] went down to the basement [to shelter] for some time after the explosion,” Serhii Zabohonskyi told Amnesty International.¹⁵²

Several survivors who returned to the basement after the attack said they saw no bodies there. Reinforcing these accounts, video footage taken weeks after the attack by a self-styled independent journalist, to whom Russian forces grant privileged access, shows a portion of the front basement that is fully intact.¹⁵³

THE FRONT ABOVE GROUND

The “front above ground” includes the entire area above ground between the front entrance and the concert hall, including the corridors on the first, second, and third floors that wrap around the concert hall.

Amnesty International interviewed 14 survivors who were in the front part of the theatre in the area between the entrance and the concert hall or immediately outside the front of the theatre,¹⁵⁴ as well as several other people who were in that part of the theatre after the attack.¹⁵⁵ According to their testimony, a significant portion of the theatre’s population – perhaps one-third – was taking shelter in this area.

The heavy curved wall that separates the performance space from the entrance to the theatre provided some protection for the people sheltering in this area. The blast over-pressure would have been more significant than in the front basement, but people would still have been protected from ordnance fragments.

According to the survivors Amnesty International interviewed and videos of parts of this area, everyone or nearly everyone in this area survived; however, many people were injured. Amnesty International interviewed a woman who was in the cloak room at the front of the theatre when the explosion happened.

¹⁵¹ Amnesty International interview with Nataliia Honcharova, 2 April 2022.

¹⁵² Amnesty International interview with Serhii Zabohonskyi, 18 June 2022.

¹⁵³ Patrick Lancaster, “Inside Mariupol Drama Theatre Where 300+ Were Killed in Russian-Ukraine War,” 22 April 2022, www.youtube.com/watch?v=GVlu6XsLKM

¹⁵⁴ Amnesty International interview with Nataliia Tkachenko, 6 April 2022; Amnesty International interview with Dmytro Symonenko, 4 April 2022; Amnesty International interview with Nataliia Honcharova and Valeri Honcharova, 22 April 2022; Amnesty International interview with Lilia Mykhailiuk and Oleksii Mykhailiuk, 10 April 2022; Amnesty International interview with Mariia Rodionova, 7 April 2022; Amnesty International interview with Victoria Dubovytska, 6 April 2022; Amnesty International interview with Olena Matiushyna, 25 April 2022; Amnesty International interview with Anastasia Karpeeva, 19 April 2022; Amnesty International interviews (anonymous), 5 April 2022; Amnesty International interviews (anonymous), 6 April 2022; Amnesty International interview (anonymous), 23 April 2022.

¹⁵⁵ Amnesty International interview with Ihor Navka, 22 April 2022; Amnesty International interview with Ihor Matiushyn, 30 April 2022; Amnesty International interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Yevheniia Zabohonska, 2 May 2022; Amnesty International interview with Oleh Korinnyi, 10 April 2022; Amnesty International interviews (anonymous), 22 May 2022; Amnesty International interview (anonymous), 28 May 2022.

“I went there to help give out food,” she said. “A boy next to me was seriously injured by glass... he shouted at me that we need to leave [the cloakroom]... we went to the lobby. We couldn’t see anything. It was a cloud of dust... people were shouting,” she said.¹⁵⁶ Victoria Dubovytska was in the projector room at the rear of the concert hall with her two children and another child when the explosion occurred. She described her very young daughter being covered by rubble.¹⁵⁷

A video of the immediate aftermath of the explosion was taken by a person who spoke with Amnesty. The video shows large number of people covered in dust on the stairwells near the front entrance.¹⁵⁸ The man who took the video told Amnesty about some of the things he saw that were not on the video. “There were lots of injured people, lots were covered in blood. There was an elderly woman in the foetal position clutching the stairs,” he said.¹⁵⁹

Amnesty interviewed several people who walked through different parts of the corridors on the first, second, and third floors after the blast. They saw injured people, some of whom had gotten out of the concert hall, but none of them saw any dead bodies.¹⁶⁰

THE REAR

The rear of the theatre includes all the rooms above and below ground between the rear entrance and the performance stage. This included the “kitchen”, the “medical room”, the “radio room”, and numerous rooms and corridors where people were sleeping.

Amnesty interviewed five people who were in the rooms between the back of the stage and the rear entrance of the theatre,¹⁶¹ one who was in the partially underground basement towards the rear of the theatre,¹⁶² and several who went to the rear of the theatre after the strike.¹⁶³ According to their testimony, about 100 people were in the rear of the theatre in the rooms between the stage and the rear entrance and roughly 20 were reportedly in the rear basement.

The rear section of the theatre received extensive blast and fragment damage from the explosion. High over-pressure and failing structural parts of the building caused many serious injuries. A woman, her

156 Amnesty International interview (anonymous), 25 April 2022.

157 Amnesty International interview with Victoria Dubovytska, 8 April 2022; for more information about Viktoria’s story see: Associated Press, “AP evidence points to 600 dead in Mariupol theatre airstrike,” 4 May 2022, apnews.com/article/Russia-ukraine-war-mariupol-theater-c321a196fbd568899841b506afcac7a1

158 Videos posted by Guardian, “Inside Mariupol theatre after deadly bombing,” available at www.youtube.com/watch?v=AToLpVOTIjU

159 Amnesty International interview (anonymous), 5 April 2022.

160 Amnesty International interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Dmytro Symonenko, 12 June 2022; Amnesty International interview with Oleh Korinnyi, 10 April 2022; Amnesty International interview with Ihor Navka, 13 June 2022; Amnesty International interviews (anonymous), 25 April 2022.

161 Amnesty International interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Halyna Kutniakova, 1 April 2022; Amnesty International interview with Ihor Navka, 22 April 2022; Amnesty international interview with (anonymous), 22 April 2022; Amnesty International interview with Yevheniia Zabohonska, 2 May 2022.

162 Amnesty International interview (anonymous), 28 April 2022.

163 Amnesty International interviews (anonymous), 19 April 2022; Amnesty International interviews (anonymous), 3 May 2022, Amnesty International interviews (anonymous), 4 May 2022.

mother, and her grandmother were in the room on the second floor of the rear of the theatre. All three were seriously injured by the explosions (see section 3.6 below).¹⁶⁴ Serhii Zabohonskyi and Yevheniia Zabohonska were in a room just to the rear of the stage when the blast occurred. Serhii told Amnesty International that the door to the room where they were staying was destroyed by the blast; however, the walls of the room, including the one at the back of the performance stage, were not destroyed.¹⁶⁵ Serhii also told Amnesty that there was a group of pregnant woman and mothers of newborn who were staying in the room next to his and Yevheniia's, which also backed onto the performance stage. He told Amnesty International that the wall to this room also held and that the woman in the room survived.¹⁶⁶

Ihor Navka; his wife, Nadiiejda; and Nadiiejda's friend were in the indoor kitchen towards the rear of the theatre when the explosion occurred. He told Amnesty how part of the ceiling in the kitchen caved in. "My wife and I found ourselves under rubble," he said. "She managed to get out of the kitchen without help. She brought [two people, a man and the nephew of the friend] to help me... they made a hole in the wall."¹⁶⁷

Amnesty International also interviewed the husband and wife who helped to dig Ihor from the rubble. The wife, who was in the cloak room at the front of the theatre at the time of the attack, told Amnesty International how she left from the front of the theatre, walked around, went in the rear entrance, and went to the rear basement, where she found her husband and children and several other people, including Rita, the wife of Ihor Chystiakov who was killed by the blast. Rita and her sons were living in the basement nearby. She recalled:

I saw my husband; he was covered in blood. Rita had injured her chest... we helped everyone get out from the rubble... we managed to get Rita and three generations of women who were also staying in the basement [out safely]... we left with just our kids and our documents... on the way out we heard a boy calling for help... he was trying to dig his aunt out from the kitchen... my husband went to help... and they managed to get [the boy's aunt] and [Ihor Navka] from the kitchen.¹⁶⁸

CONCERT HALL/STAGE/WINGS AND BASEMENT

The concert hall includes the ground-floor seating area, the balconies inside the theatre, and the stage (including the wings on either side of the stage), as well as the area under the stage.

Amnesty International interviewed two people who were in the concert hall at the time of the explosion, Nataliia Hrebenetska and Yevhen Hrebenetskyi. They were, specifically, on a first-floor balcony near the stage during the explosion.¹⁶⁹ Nataliia was injured. Amnesty International also interviewed five people who

¹⁶⁴ Amnesty international interview with (anonymous), 22 April 2022.

¹⁶⁵ Amnesty International interview with Serhii Zabohonskyi, 18 June 2022.

¹⁶⁶ Amnesty International interview with Serhii Zabohonskyi, 18 June 2022.

¹⁶⁷ Amnesty International interview (anonymous), 28 April 2022.

¹⁶⁸ Amnesty International interview (anonymous), 25 April 2022.

¹⁶⁹ Amnesty International interview with Nataliia Hrebenetska and Yevhen Hrebenetskyi, 16 April 2022.

present in the concert hall very shortly before the attack,¹⁷⁰ two of whom returned to the balconies after the attack.¹⁷¹ Amnesty International also interviewed a man who helped to dig out two people who were buried by debris in the concert hall.¹⁷²

The concert hall/stage portion of the theatre received the most severe damage, including the collapse of the roof. Immense blast over-pressure filled the main cavern of the theatre, and ordnance fragments were thrown in all directions. People on the stage, in the wings, and in the ground-floor seats would have been most affected. People in the upper balconies, the furthest from the stage, would have experienced 4psi of over-pressure, a level sufficient to cause widespread injuries and possibly death.¹⁷³ It is unclear how many people here survived. Anyone in this area would have been extraordinarily close to the blast and would likely have been killed or seriously injured.

Amnesty International received estimates ranging from 20 to 50 for the number of people in this area around the time of the attack, many of whom were on the second floor balcony, or on the first floor under the balconies. According to testimony, most of the people on the balconies survived. Dmytro Symonenko visited a second-floor balcony after the attack and told Amnesty International he believed the people on the balcony survived. “They should be alive, because I was there after and didn’t see any blood or bodies, just dust and construction parts.”¹⁷⁴ He also saw the seats on the third-floor balcony and did not see any bodies.

Dmytro was also in the area behind the stage curtain about a half hour or so before the attack. He said he saw about 10 people, including children, in the area.¹⁷⁵ Serhii Zabohonskyi, who was on the stage a few moments before the attack said that he didn’t see any people other than the guards to the warehouse of supplies, which was in the wing. “The generator [which was on the stage] was not operating at this time,” he said.¹⁷⁶ Very few people were believed to be in wings adjacent to the stage, or in the basement directly below the stage; however, there were reportedly almost always a few people congregating near the exit to the field kitchen, which was near to the warehouse.¹⁷⁷ The staircase near the exit to the field kitchen was reportedly intact after the explosion.¹⁷⁸

170 Amnesty International interview with Nataliia Tkachenko, 6 April 2022; Amnesty International interview with Dmytro Symonenko, 4 April 2022; Amnesty International interview with Mariia Rodionova, 7 April 2022; Amnesty International interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Yevheniia Zabohonska, 2 May 2022.

171 Amnesty International interview with Dmytro Symonenko, 4 April 2022; Amnesty International interview with Serhii Zabohonskyi, 18 June 2022.

172 Amnesty International interview with Oleh Korinnyi, 10 April 2022.

173 Using the Kingery-Bulmash Blast Parameter Calculator of the UN’s SaferGuard program, at a distance of 50m, a 500kg TNT equivalent blast produces 4.2 psi of incident pressure, this psi level causes significant injuries, unsafeguard.org/un-safeguard/kingery-bulmash; Zipf and Cashdollar, “Effects of blast pressure on structures and the human body,” [cdc.gov/niosh/docket/archive/pdfs/niosh-125/125-explosionsandrefugechambers.pdf](https://www.cdc.gov/niosh/docket/archive/pdfs/niosh-125/125-explosionsandrefugechambers.pdf)

174 Amnesty International interview with Dmytro Symonenko, 12 June 2022.

175 Amnesty International interview with Dmytro Symonenko, 21 June 2022.

176 Amnesty International interview with Serhii Zabohonskyi, 18 June 2022.

177 Amnesty International interview with Yevheniia Zabohonska, 20 June 2022.

178 Amnesty International interview with Yevheniia Zabohonska, 20 June 2022.

One fatality (Lubov Syvyrydova) has been recorded who was in the concert hall at the time of the attack. She was able to get out but died of her injuries (see section 3.6 below). Amnesty International has heard testimony about one unidentified dead body near the corridor in the area under the stage.¹⁷⁹ Oleh Korinnyi also said that was able to help dig two severely injured people out from under the rubble in the concert hall (see section 3.6 below).

OUTSIDE, ESPECIALLY THE FIELD KITCHEN

People were around the theatre at the time of the attack, especially in the front (near the water truck) and in the field kitchen, where they were cooking food that had been distributed inside. At the time of the attack, the field kitchen was enclosed by wooden pallets. A small number of people were also cooking on smaller fires in the area around the field kitchen further from the building.

People outside the rear of the building, especially adjacent to the theatre's wings, were shielded from ordnance fragments, but still would have been affected by the blast. According to the mathematical model created for Amnesty, even immediately outside the theatre the blast over-pressure reached 2.6psi, a level sufficient to cause significant injuries, especially related to falling debris from the structure.¹⁸⁰

Amnesty International spoke with four people who were in the field kitchen moments before the attack,¹⁸¹ and two people who in the field kitchen about 30 minutes before the attack.¹⁸² They estimated there were five to 20 people in the area, some of whom are known to have been killed.¹⁸³

One man who used to volunteer in the kitchen told Amnesty that he left just moments before the attack to go eat with his family. "I was in the field kitchen five or seven minutes before the attack. Then I went to eat [in the basement at the rear of the theatre]... unfortunately there were a lot of people [in the field kitchen when I left] because people were cooking," he told Amnesty International.¹⁸⁴

179 Amnesty International interview with Yevheniia Zabohonska, 2 May 2022.

180 Dr. F. Dalnoki-Veress, CNS/MIIS, "Memo: Investigating the Mariupol Drama Theatre Bombing," 9 May 2022, available at: oneamnesty.sharepoint.com/sites/app-secretariatopendsend/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2Fapp%2Dsecretariatopendsend%2FShared%20Documents%2FResearch%2FMariupol%20%2D%20Ukraine%20EMBARGOED%2030%20JUNE%202022%2FInvestigation%20into%20the%20Mariupol%20Theatre%20Bombing%2FMemo%20%2D%20Investigating%20the%20Mariupol%20theater%20bombing%2Epdf&parent=%2Fsites%2Fapp%2Dsecretariatopendsend%2FShared%20Documents%2FResearch%2FMariupol%20%2D%20Ukraine%20EMBARGOED%2030%20JUNE%202022%2FInvestigation%20into%20the%20Mariupol%20Theatre%20Bombing&p=true&ga=1;

Zipf and Cashdollar, "Effects of blast pressure on structures and the human body," cdc.gov/niosh/docket/archive/pdfs/niosh-125/125-explosionsandrefugechambers.pdf

181 Amnesty International interview with Serhii Zabohonskyi, 18 June 2022; Amnesty International interview with Nataliia Honcharova and Valeri Honcharova, 22 April 2022; Amnesty international Interviews (anonymous), 19 April 2022; Amnesty International interview (anonymous), 20 June 2022.

182 Amnesty International interview with Ihor Navka, 13 June 2022; Amnesty International interview with Yevheniia Zabohonska, 20 June 2022.

183 According to the Associated Press, there were 100 people in the field kitchen; however, the testimony that Amnesty International gathered does not support this figure. See Associated Press, "AP evidence points to 600 dead in Mariupol theatre airstrike," 4 May 2022, apnews.com/article/Russia-ukraine-war-mariupol-theater-c321a196fbd568899841b506afc7a1

184 Amnesty International interview (anonymous), 19 April 2022.

Amnesty International has confirmed three confirmed fatalities in the area of the field kitchen: Mykhailo Hrebenetskyi, Olena Kuznetsova, and Ihor Chystiakov. Interviewees also provided Amnesty International with the first names of three other people they believe were killed in the attack, including two who died in the field kitchen and one who was likely killed on or near the stage.¹⁸⁵

3.6 FIRST-HAND ACCOUNTS OF CASUALTIES

Interviewees provided Amnesty with testimony about four people who were killed by the air strike.

Nataliia Hrebenetska and Yevhen Hrebenetskyi were in the concert hall at the time of the explosion. Mykhailo Hrebenetskyi, Nataliia's husband and Yevhen's father, was outside in the field kitchen. He was killed by the attack. After the explosion, Yevhen told Amnesty he went to search for his father and found his body covered in debris:

I went back to look for my dad... There were many injured people. I remember one woman who had metal sticking out of her leg. She called for help... There were police trying to pull people out of the rubble... At first, I saw his arm. First, I saw a familiar hand. You know the hand of your loved ones. His face was covered with blood. His body was covered with bricks... I didn't want my mom to see.¹⁸⁶

Dmytro Symonenko and Nataliia Tkachenko had been living in the concert with Lubov Svyrydova and her partner, Anatoli.¹⁸⁷ Luba was killed by the attack. Nataliia and Dmytro both told Amnesty International that a few moments before the attack, they left the concert hall and went to the cistern in front of the theatre to get water. They were just inside the front entrance at the moment of the attack. Dmytro recounted to Amnesty International how he saw Luba, after the explosion, before she died: "I saw Luba. She was severely injured. She managed to crawl from the rubble... someone put improvised bandages on her thigh... she died in some time... she asked us to remember her name because she felt she was dying."¹⁸⁸

Olena Matiushyna provided Amnesty International with the name of her friend Olena Kuznetsova, who was born in 1976 and was killed by the strike. "I was taking care of her son Sasha when the bomb hit the theatre. She died in the field kitchen," Olena told Amnesty International. The Ukrainian National Police also provided Amnesty International with the notice of Olena Kuznetsova's death.¹⁸⁹

A survivor of the theatre attack provided Amnesty International with the name of his friend Ihor Chystiakov, who he said was killed in the attack. Ihor was in the field kitchen at the time of the attack. Igor's wife,

¹⁸⁵ Amnesty International interview with Anastasia Karpeeva, 20 April 2022; Amnesty International interview (anonymous), 20 June 2022.

¹⁸⁶ Amnesty International interview with Yevhen Hrebenetskyi, 16 April 2022.

¹⁸⁷ Amnesty International interview with Dmytro Symonenko, 8 April 2022; Amnesty International interview with Nataliia Tkachenko, 6 April 2022.

¹⁸⁸ Amnesty International interview with Dmytro Symonenko, 8 April 2022.

¹⁸⁹ Amnesty International correspondence with the National Police, 21 May 2022.



© ↑ Nataliia Hrebenetska and Yevhen Hrebenetskyi in Zaporizhzhia, Ukraine on 16 April 2022. Mykhailo Hrebenetskyi, Nataliia's husband and Yevhen's father was killed by the attack on the drama theatre.
© Olga Ivashchenko

Rita, and his sons, David and Timur, were in the basement towards the rear of the theatre when the attack happened. They survived.¹⁹⁰

Survivors and witnesses also described fatalities they could not identify. “[After the strike,] while digging into the rubble [near the field kitchen] to [look for the chef who was working in the field kitchen] I could see different arms and legs, but we weren’t sure whose they were,” Dmytro Symonenko told Amnesty International.¹⁹¹ One man, who had left the field kitchen moments before the attack and was just inside the front entrance of the theatre when it occurred, told Amnesty he fled from the theatre with his family minutes after the attack, but then returned to get his family’s documents from the first floor near the main entrance. He recalled seeing several dead bodies as he went to recover the documents. “I saw people bringing bodies outside. Lots of bodies covered with blankets. I tried not to see them. I saw legs and hands inside the drama theatre.”¹⁹² Mariia Rodionova left the concert hall moments before the attack to get water. She was just outside the main entrance to the theatre when the explosion occurred. “I saw a person lying face down in a [pool] of blood near the entrance,” she said.¹⁹³

Survivors and witnesses provided accounts of people who were seriously injured by the strike. A woman was in the rear of the theatre with her 57-year-old mother and her 86-year-old grandmother when the explosion happened. She told Amnesty International both her mother and grandmother were unconscious and covered with debris when she found them:

Because of me, [my mom and grandmother survived]. But my mom is in terrible condition, the ceiling fell on her head... I pulled them out of the fire. I was the only one who didn’t lose consciousness. There was black smoke and the walls and the ceiling were falling away... it took some time to find the bodies of my mom and grandmother. The blast wave moved them... I was able to find them because of their shoes... I was pulling my mom... her teeth were blown out... her leg was turned in an unnatural way... no one could help us because everyone was screaming the names of their family... My mom said she wanted to die... When we got outside the theatre, we begged a car to stop and take us.¹⁹⁴

She then described a harrowing experience in the hospital in Mariupol, and then a difficult journey out of Mariupol to a hospital in Ukrainian-controlled territory, where the doctor informed her that her mother’s pelvis, leg, arm, knee, and collar bone were broken and that she had suffered severe brain trauma.¹⁹⁵

Lilia Mykhailiuk told Amnesty International how she was injured by the attack and about the chaos and horror she observed in its aftermath:

190 Amnesty International interview (anonymous), 28 April 2022.

191 Amnesty International interview with Dmytro Symonenko, 8 April 2022.

192 Amnesty International interview (anonymous), 28 April 2022.

193 Amnesty International interview with Mariia Rodionova, 7 April 2022.

194 Amnesty international interview with (anonymous), 22 April 2022.

195 Amnesty international interview with (anonymous), 22 April 2022.

I was standing outside [the theatre], right next to the central entrance to check for evacuation buses. Husband was on the other side of the wall in the main entrance of the theatre. Before we had been discussing hearing a plane... then there was an explosion. I was thrown by the blast onto my stomach... I thought of my daughter...

I checked my head for an injury... I had hit my head. I thought I was going to die. I had a huge wound in my head... I ran inside. I couldn't see anything. There was lots of dust and smoke. People were screaming names. Kids were screaming names. I heard my husband scream my name... we touch and without saying anything ran to the third floor to check on our daughter... there were a lot of injured people moaning and crying... we ran to the third floor... we found our daughter and our neighbour's daughter... we told them to take belongings... then we went to the basement... my husband stayed outside [the basement] to shout Mariia [Kutnokova's] name.¹⁹⁶

After he got out of the kitchen, Ihor Navka went to look for his mother and saw many severely injured people while he looked for her. "I saw a man with a leg almost separated. Another man was cutting his leg off with a regular knife so he could put a tourniquet on... I saw a lot of people with broken limbs... I helped take two injured people from the theatre [to a nearby apartment]," he told Amnesty.¹⁹⁷

Amnesty spoke with several other people who also helped to look for people who were buried under the rubble. Oleh Korinnyi, who was trained as a military medic but had worked as a journalist for the past two years, was on his way to the theatre to get water at the time of the attack. He ran into a friend who was at the theatre at the time of the attack. "[My friend] was covered in dust," Oleh said. He helped his friend, and then decided to go to the theatre to look for survivors. Working with another man, he managed to dig two people out from under the rubble inside the concert hall:

I went back to apartment to get medical kit... Then I ran into the central entrance of theatre. I saw dust and smoke. I went with my neighbour... We managed to get into the concert hall. We went to the stage area... We entered the concert hall. It was a pile of rubble, concrete, and wood... We started digging. We found a man's body. It was an elderly person. He was unconscious. I found his pulse. But he didn't have either of his legs... I poured medicine on his wounds. We put him on a blanket [as an improvised stretcher] and got him out of the drama theatre.

Outside we saw our neighbours putting [other injured] people into car – a white Nissan... [They didn't have any more room in the car so] we brought the injured man to area [in the park] by the washrooms where some other injured people had been placed... We took another blanket and went back inside the drama theatre by the same route... We could hear planes flying and bombing in the City Centre...

We continued digging into the rubble. We heard someone moaning... The person we found was covered in concrete. Both legs were injured. He had two openly broken legs... I still had one tourniquet. He was moaning and

196 Amnesty International interview with Lilia Mykhailiuk and Oleksii Mykhailiuk, 10 April 2022.

197 Amnesty International interview with Ihor Navka, 22 April 2022.

we couldn't understand what he was saying... We pulled him by his clothes and put him on the blanket... I used my tourniquet because he was losing a lot of blood. We put bandages on him... He was heavily injured. Tried to stop blood flow... We brought him back to the area where we put the first person...

We started to go back for the third time but explosions were getting very close. We could feel [the vibrations from the explosions] with our bodies.¹⁹⁸

Ihor Matiushyn told Amnesty International he helped to put several injured people in cars after the explosion.¹⁹⁹ Another man told Amnesty International he went to the rear basement shortly after the attack. "We found a man and a woman. The woman was in shock and the man was covered in rubble. I helped to carry him out."²⁰⁰ Another man said he pulled a young woman and a boy from underneath rubble.²⁰¹ Serhii Zabohonskyi said that he helped to pull three injured people from the rubble in the area of the field kitchen.²⁰²

198 Amnesty International interview with Oleh Korinnyi, 10 April 2022.

199 Amnesty International interview with Ihor Matiushyn, 30 April 2022.

200 Amnesty International interview with (anonymous), 3 May 2022.

201 Amnesty International interview with (anonymous), 4 May 2022.

202 Amnesty International interview with Serhii Zabohonskyi, 18 June 2022.

4. INTERNATIONAL LEGAL FRAMEWORK

The primary sources of international law are treaties and customary law.²⁰³ International law permits the use of force by states only in limited circumstances; notably, in self-defence and if authorized by the UN Security Council to maintain or restore international peace or security.²⁰⁴

The unlawful use of force constitutes the crime of aggression.²⁰⁵ On 28 February, the UN General Assembly resolved that the Russian Federation's invasion of Ukraine was an illegal use of force in violation of the UN Charter.²⁰⁶ On 16 March 2022, the International Court of Justice issued a provisional order for Russia to suspend the military operation in Ukraine.²⁰⁷

INTERNATIONAL HUMANITARIAN LAW

International humanitarian law (IHL) – also referred to as the law of armed conflict or the laws of war – is the body of law that principally governs armed conflict. All parties to a conflict are bound by the same rules of IHL regardless of whether they are engaged in a lawful use of force, such as self-defence, or an unlawful use of force, such as aggression.²⁰⁸

Different IHL treaties and customs govern depending on whether a conflict is an international armed conflict (IAC) or a non-international armed conflict (NIAC). An IAC arises when two states engage in armed

203 United Nations, Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, 12 March 1986, available at: refworld.org/docid/3ae6b3924.html; According to Article 2(1)(a) of the Vienna Convention on the Law of Treaties, 1969, a treaty is “an international agreement concluded between states in written form and governed by international law[.]”; Customary international law refers to international legal obligations that arise from established international practices, as opposed to written conventions and treaties – for a form definition see: Legal Information Institute, “Customary International Law, [law.cornell.edu/wex/customary_international_law](https://www.law.cornell.edu/wex/customary_international_law)

204 United Nations, United Nations Charter and the Statute of the International Court of Justice (UN Charter), 24 October 1945, Article 51, available at: refworld.org/docid/3ae6b3930.html; UN Charter, Article 39 (previously cited).

205 UN General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, Article 8 bis, available at: refworld.org/docid/3ae6b3a84.html

206 UN General Assembly, Resolution adopted by the General Assembly on 2 March 2022, 18 March 2022, available at: documents-dds-ny.un.org/doc/UNDOC/GEN/N22/293/36/PDF/N2229336.pdf?OpenElement

207 International Court of Justice, “Allegations of Genocide Under the Convention of the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation),” 16 March 2022, [icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf](https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf)

208 International Review of the Red Cross, Adam Robert, The equal application of the laws of war: a principle under pressure, Volume 90 Number 872 December 2008, [international-review.icrc.org/sites/default/files/irrc-872-6.pdf](https://www.international-review.icrc.org/sites/default/files/irrc-872-6.pdf)

conflict with each other.²⁰⁹ The conflict between the Russian Federation and Ukraine is an IAC.²¹⁰ The principal treaties that govern IACs are the Hague Regulations, the four Geneva Conventions (GCI-IV), and Additional Protocol I to the Geneva Conventions (API), all of which are considered customary international law and are thus binding on all parties to the conflict, including the government of Russia and the government of Ukraine. The Russian Federation and Ukraine have ratified the Hague Regulations, GCI-IV, and API.²¹¹

The rules of IHL limit the methods and means of warfare and aim to minimize human suffering and ensure protection of civilians and those who are not directly participating in hostilities. IHL has several interconnected core principles. Of particular relevance to the attack on the Donetsk Regional Academic Drama Theatre in Mariupol are the principles of military necessity, distinction, proportionality, and precaution.

The principle of *military necessity* asserts that states are permitted to use force only if it is “necessary to accomplish a legitimate military purpose and [is] not otherwise prohibited by international humanitarian law.”²¹² The only legitimate military purpose in an armed conflict is to destroy or weaken the military capability of another party to the conflict.²¹³

The principle of *distinction* – a cardinal principle of IHL – is that parties to the conflict must at all times distinguish between civilians and civilian objects on the one hand and members of the military and military objectives on the other hand. Military objectives can be targeted; it is illegal to target civilians or civilian objects.²¹⁴

Whereas the civilian population is protected from direct attack, members of the armed forces (other than religious and medical personnel and those rendered *hors de combat* through injury, sickness, or capture) and individuals directly participating in hostilities may be lawfully targeted for attack. Individual civilians may lose their immunity from attack for such a time as they are directly participating in hostilities. In cases of doubt, individuals should be presumed to be civilians and immune from direct attack.²¹⁵ Members of law enforcement agencies, such as police, are not considered combatants unless they are integrated into

209 Prosecutor v. Dusko Tadic aka “Dule” (Opinion and Judgment), IT-94-1-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 7 May 1997, p. 561, refworld.org/cases,ICTY,4027812b4.html

210 International Court of Justice, “Allegations of Genocide Under the Convention of the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation),” 16 March 2022, icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf

211 ICRC, Treaties, States Parties, and Commentaries: Ukraine, ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=UA; ICRC, Treaties, States Parties, and Commentaries: Russian Federation, ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=RU

212 ICRC, “Military Necessity”, casebook.icrc.org/glossary/military-necessity

213 ICRC, “Military Necessity”, casebook.icrc.org/glossary/military-necessity

214 ICRC, Customary IHL, Rules 1 and 7, available at: ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1 and; ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule7 and; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 UNTS 609, available at: refworld.org/docid/3ae6b37f40.htm

215 Protocol I, Article 50(1).

the armed forces or take part in hostilities.²¹⁶ Direct attacks against the civilian population and individual civilians not directly participating in hostilities are prohibited and constitute war crimes.²¹⁷

In addition to distinguishing between civilians and combatants, an attack must “distinguish between civilian objects and military objectives”.²¹⁸ Civilian objects are protected against attack, unless and for such time as they are used for military purposes. Military objectives are “objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage”.²¹⁹ Making civilian objects the object of attack is a war crime.²²⁰

Flowing from the principle of distinction is the prohibition of indiscriminate attacks.²²¹ Indiscriminate attacks are those “(a) which are not directed at a specific military objective; (b) which employ a method or means of combat which cannot be directed at a specific military objective; or (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.”²²² Indiscriminate attacks “resulting in loss of life or injury to civilians or damage to civilian objects” are war crimes under customary international law, and case law supports the argument that they may also be war crimes under the Rome Statute where they amount to attacks directed at civilians.²²³

The principle of *proportionality* asserts that attacks must not be disproportionate. An attack would be disproportionate if it “may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”²²⁴ Launching an attack in the knowledge that it will cause excessive incidental civilian loss, injury, or damage is a war crime.²²⁵

Prior to any attack, members of the military are required to take precautionary steps to ensure that they are reasonably certain they are not targeting civilians or civilian objects. In the conduct of military operations, “constant care must be taken to spare the civilian population, civilians and civilian objects”; “all feasible precautions” must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.²²⁶

216 ICRC, Customary IHL, Practice Relating to Rule 4.

217 ICRC, Customary IHL, Rule 156, p 591; Rome Statute of the ICC, Art 8 (2) (e) (i).

218 ICRC, Customary IHL, Rule 7.

219 ICRC, Customary IHL, Rules 8 and 10.

220 ICRC, Customary IHL, Rule 156, p. 597.

221 ICRC, Customary IHL, Rule 11; AP 54(1).

222 ICRC, Customary IHL, Rule 12.

223 ICRC, Customary IHL, Rule 156.

224 ICRC, Customary IHL, Rule 14.

225 Additional Protocol I, Article 85(3)(b).

226 ICRC, Customary IHL, Rule 15; For more on precautionary steps in targeting see William H. Boothby, *The Law of Targeting*, Oxford University Press, 2012, Chapter 5.

Those who plan and decide on attacks must also do everything feasible to verify that targets are military objectives, to choose means and methods of attack that minimize incidental civilian casualties and damage, to assess the proportionality of attacks, and to cancel or suspend attacks if it becomes apparent they are wrongly directed or disproportionate.²²⁷ Where circumstances permit, parties must give effective advance warning of attacks that may affect the civilian population.²²⁸ Taking all feasible precautions is a legal obligation under international humanitarian law and is essential to ensuring that attacks are not indiscriminate or disproportionate.

Parties to conflict must take all feasible defence precautions to protect civilians and civilian objects under their control against the effects of attacks by the adversary.²²⁹ In particular, each party must, to the extent feasible, avoid locating military objectives within or near densely populated areas and must remove civilian persons and objects under its control from the vicinity of military objectives.²³⁰ It is strictly prohibited to use “human shields”; that is, using the presence (or movements) of civilians or other protected persons to render certain points or areas (or military forces) immune from military operations.²³¹ Use of human shields is a war crime.²³²

In cases of doubt, parties to conflict are required to presume that a traditionally civilian object retains its civilian nature. Cultural property is afforded special protections under IHL.²³³ Intentionally directing attacks against cultural objects is a war crime.²³⁴

Violations of IHL by one party to the conflict do not in any way lessen the obligation of other forces fighting in the conflict to select lawful targets, to strike them in a way that is neither indiscriminate nor disproportionate, and to take all feasible measures to minimize harm to civilians.²³⁵

227 ICRC, Customary IHL, Rules 16-19.

228 ICRC, Customary IHL, Rule 20;

229 ICRC, Customary IHL, Rule 22.

230 ICRC, Customary IHL, Rules 23 and 24.

231 ICRC, Customary IHL, Rule 97.

232 ICRC, Customary IHL, Rule 156.

233 Protocol II to the Hague Convention on Cultural Property. ICRC, Customary IHL, Rule 40.

234 Rome Statute article 8(2)(b)(ix): “Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives[.]”

235 Protocol I, article 51(8): “Any violation of these prohibitions shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligations to take the precautionary measures provided for in Article 57.”

INTERNATIONAL HUMAN RIGHTS LAW

International human rights law applies to all states at all times, including during IACs.²³⁶ Article 6(1) of the International Covenant on Civil and Political Rights states that “every human being has the inherent right to life. No one shall be arbitrarily deprived of his life.” This right is a peremptory norm of international law and can never be suspended or otherwise derogated from, be it in times of peace or times of war.²³⁷ A state party’s obligation to respect the right to life extends to “persons located outside of any territory effectively controlled by the state, whose right to life is nonetheless impacted by military or other activities in a direct and reasonably foreseeable manner.”²³⁸ In situations of armed conflict – such as the war in Ukraine – where IHL as well as human rights law applies, violations of IHL that cause the death of civilians and other protected person also constitute arbitrary deprivation of life, and thus violate the right to life.²³⁹

INTERNATIONAL CRIMINAL LAW

International criminal law (ICL) is a body of law that contains rules that proscribe certain acts as war crimes. Individuals who commit war crimes are criminally liable. Not all violations of IHL are war crimes; however, serious violations of treaty or customary rules of IHL, particularly those that endanger civilians or other protected persons or objects, are war crimes.²⁴⁰ The Rome Statute is the legal instrument that contains a list of crimes that are subject to the jurisdiction of the International Criminal Court (ICC).²⁴¹ Certain violations of IHL may be war crimes under customary international law, but not war crimes under the Rome Statute.

As in domestic criminal systems, crimes under ICL require prohibited conduct (the *actus reus*) to be done with a particular state of mind (the mental element, or *mens rea*). States of mind relevant to ICL include *intent*, which requires awareness that an act will cause a result and the will to cause that result; *recklessness* (also known as indirect intent), which involves deliberately taking a risk known to likely bring about a result (i.e., consciously disregarding the likelihood of the result) without actually willing the result to take place; and *gross negligence*, which involves disregarding certain precautions that are expected of a reasonable person in a similar position. The requisite mental element for the same crime can vary between customary international law, individual treaties (such as the Rome Statute), and state courts.²⁴²

236 International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996, ICJ Reports 1996; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, ICJ Reports 2004, paragraph 106 and; Amnesty International, *Deadly Assistance: The role of European States in US drone strikes*, April 2018, p. 22, [amnesty.org/en/documents/act30/8151/2018/en/](https://www.amnesty.org/en/documents/act30/8151/2018/en/) .and; International Review of the Red Cross, Louise Doswald-Beck, *The right to life in armed conflict: does international humanitarian law provide all the answers?* Volume 88, Number 864, December 2006, available at: [icrc.org/en/doc/assets/files/other/irrc_864_doswald-beck.pdf](https://www.icrc.org/en/doc/assets/files/other/irrc_864_doswald-beck.pdf) and; Columbia Law School Human Rights Clinic and Sana’a Center for Strategic Studies, *Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force*, June 2017, outoftheshadowsreport.com/

237 UN Human Rights Committee, General Comment 36 on Art 6: The Right to Life (2018), CCPR/C/GC/36, para. 2.

238 General Comment 36, para. 63.

239 General Comment 36, para. 64.

240 ICRC, Customary IHL, Rule 156.

241 UN General Assembly, Rome Statute of the International Criminal Court, Article 8 (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6, available at: refworld.org/docid/3ae6b3a84.html

242 A Cassese, “Cassese’s International Criminal Law,” Oxford University Press, 2008, chapter, Chapter 3.2.

Individuals who commit or order war crimes bear individual criminal responsibility.²⁴³ Military commanders and civilian superiors may also be responsible for the acts of their subordinates if they knew, or had reason to know, such crimes were about to be committed or were being committed and they did not take the necessary measures to prevent them or to punish those responsible for crimes that had already been committed.²⁴⁴

THE OBLIGATION TO INVESTIGATE AND PROSECUTE

The Russian authorities are required under international law to conduct prompt, thorough, independent, impartial, transparent, and effective investigations into allegations of arbitrary deprivation of life and of violations of international humanitarian law (IHL), such as the acts described in this report.²⁴⁵ The government of Ukraine also has a duty to investigate potentially unlawful killings, as part of its obligation to protect the right to life of everyone under its jurisdiction.²⁴⁶ Moreover, the government of Russia must provide full reparation for victims of violations of IHL and for victims of violations of the right to life.²⁴⁷

All states have the right to vest universal jurisdiction in their national courts over war crimes committed in other states.²⁴⁸ They must investigate war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects or extradite them to another state able to prosecute them.²⁴⁹

243 ICRC, Customary IHL, Rule 151.

244 ICRC, Customary IHL, Rules 152 and 153.

245 ICRC, Customary IHL, Rule 158; Article 2(3) ICCPR. See Human Rights Committee, General Comment 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, paras 15, 16 and 18; General Comment 36 on Art 6: The Right to Life (2018), CCPR/C/GC/36, para. 27-28; See also UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9 to 20; UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para. 3; Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) (published by OHCHR in 2017), para. 20.

246 Human Rights Committee, General Comment 36, para. 27.

247 ICRC, Customary IHL, Rule 150, available at: ihl-databases.icrc.org/customary-ihl/eng/docs/home; UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: resolution / adopted by the General Assembly, 21 March 2006, A/RES/60/147, refworld.org/docid/4721cb942.html; Human Rights Committee, General Comment 36, paras. 19 and 28.

248 ICRC, Customary IHL, Rule 157.

249 ICRC, Customary IHL, Rule 158.

4.1 THE ATTACK ON THE THEATRE UNDER INTERNATIONAL LAW

The evidence presented in this report demonstrates that Russian forces attacked the drama theatre, likely using two 500kg bombs. The evidence does not establish with certainty *why* the theatre was attacked, which is relevant for determining whether the attack is a war crime; however, an examination of possible explanations for the attack reveals that *all* the plausible scenarios are war crimes.

Amnesty International posited four possible explanations of why Russian forces attacked the theatre:

1. The theatre was targeted knowing it was a civilian object.
2. The theatre was targeted believing it was a valid military objective.
3. The theatre was not targeted but was struck in an indiscriminate attack.
4. The theatre was not targeted but was struck by mistake in an attack on a different location, believing that the intended location was a military objective.

Evidence strongly suggests that the theatre was the intended target of the attack. The theatre was a distinctive large building and a cultural landmark. It was also the lone large building in the centre of a big park, surrounded by approximately 100m of green space encircled by a wide road. The strike took place on a clear morning. The bomb landed inside the main structure of the theatre. There was no legitimate military objective proximate to the theatre.

If the theatre was the target, then considering the first possible explanation, there is significant reason to believe Russian forces knew it was a civilian object. The civilian character of the theatre was clearly and easily knowable to all parties to the conflict. For at least three days before the attack “CHILDREN” was written in Russian on the ground outside the front and rear entrances to the theatre in letters large enough to be easily seen from passing aircraft.

Moreover, between the start of the war and the time of the attack, the large-scale civilian presence in and around the theatre was abundantly clear: hundreds of civilians were living in the theatre and many more were visiting daily to receive water and to obtain information about evacuation corridors. Even though many of the civilians were taking shelter inside the theatre, their presence – their “pattern of life” – would have been readily identifiable to Russian forces. People were regularly lined up to get water from a large water truck parked at the front of the theatre; civilians were cooking in the field kitchen and on small fires in the areas outside the field kitchen; civilians – including children – were coming and going at the theatre.

In addition to the demonstrated presence of civilians, evidence also shows that the theatre was not a valid military objective. According to witness testimony and satellite imagery, there was no military equipment in or near the theatre, no members of the military were firing from the theatre, and no members of the military were regularly sheltering in the theatre. Moreover, satellite imagery shows no large-scale military presence at the theatre days before and minutes after the attack. The military presence in and around the theatre in

the days leading up to the attack was, at most, minor and sporadic, and it may have been nonexistent at the time of the attack. The small number of military personnel who visited were either delivering food, disseminating information, dropping off civilian evacuees from other parts of the city, or, in a small number of cases, visiting family members. None of this activity comes remotely close to causing the theatre to lose its civilian character.

These facts and others laid out in this report detailing the evidently civilian character of the theatre and the absence of any legitimate military objective in or near the theatre (particularly one requiring such a large payload) indicate that Russian forces most likely intentionally targeted the theatre knowing it was a civilian object. If this is the case, the attack violated the cardinal principle of distinction under IHL and would be a war crime as an attack against civilians.²⁵⁰

If the theatre was the intended target, then (considering the second possibility) there is no reason to believe Russian forces credibly fulfilled their obligations under international humanitarian law, especially related to precautionary measures, and honestly believed it was a valid military objective.

If Russian forces targeted the theatre believing it was a military objective, the legality of the strike would be contingent on whether this was a lawfully held belief (i.e., they consistently held this belief *after* fulfilling their obligations under international humanitarian law to take precautionary measures to ensure that civilians and civilian objects were not targeted). Evidence demonstrates this cannot be the case. The civilian character of the theatre was readily knowable and must have been known by Russian forces operating in the area. There is no reasonable interpretation of the facts under which Russian forces complied with their obligations to take precautionary steps and nevertheless mistakenly believed the theatre to be a legitimate military objective at the time of the attack.

On the evidence Amnesty International has considered, any conclusion that the theatre was a valid military objective would require mistakes that were not merely the product of negligence (or even gross negligence), which, while still a violation of IHL, would arguably not amount to a war crime;²⁵¹ rather, the perpetrators would have to have acted recklessly with conscious disregard for the likely consequences of their action, which was a strike on a civilian target and the death of civilians. Such a reckless strike would be a war crime under customary international law and would arguably also be a war crime under the Rome Statute.²⁵²

250 ICRC, Customary IHL, Rule 1, ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1; Rome statute article 8(2)(b)(i) “Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities” and 8(2)(b)(i) “Intentionally directing attacks against civilian objects, that is, objects which are not military objectives”

251 A Cassese, “Cassese’s International Criminal Law,” Oxford University Press, 2008, chapter, Chapter 3.2.

252 For law case supporting the conclusion that recklessness is a sufficient mens rea for a war crimes in situations of targeting civilians see International Criminal Tribunal for the Former Yugoslavia (ICTY), *Prosecutor v. Galic*, Case No. IT-98-29-T, Trial Chamber Judgement, 5 December 5, 2003. For information about the debate surrounding recklessness as mens rea for war crimes under customary international law see: Brian L. Cox, “Recklessness, intent, and war crimes: refining the legal standard and clarifying the role of international criminal tribunals as a source of customary international law,” *Cornell Law Faculty Publications*, 23 June 2022; While the Rome Statute does not explicitly include recklessness, scholars have argued that it is implied with the statute’s definition of intent. This view is advanced by Antonio Cassese in “Cassese’s International Criminal Law”, where recklessness (or so-called *dolus eventualis* or indirect intent), where recklessness is defined “[A] state of mind where a person foresees that his or her action is likely to produce its prohibited consequences, and nevertheless willingly takes the risk.” For more on the debate around recklessness as mens rea for war crimes under the Rome Statute see, Gerhard Werle and Florian Jessberger, ‘Unless Otherwise Provided’: Article 30 of the ICC Statute and the Mental Element of Crimes under International Criminal Law, *Journal of International Criminal Justice*, Volume 3, 2005.

Although the above examination illustrates why Russian forces could not have credibly, lawfully believed the theatre was a valid military target, it is theoretically possible that they could have been targeting members of the military. For example, Russian forces could have attacked the theatre on the (likely mistaken) belief that a small number of soldiers were inside. If this was the case, the attack would be disproportionate. To target a facility housing such a large number of civilians – using a weapon with a payload large enough to cause destructive wide-area effects in a populated area – would be disproportionate unless there were an extraordinarily high-value military objective that could not be destroyed or neutralized by other means and without warning to the civilian population. Given the evidence, the presence of such a military objective – or anything that could lawfully be misinterpreted as such – inside the theatre is not plausible. Such a disproportionate attack would be a war crime.²⁵³

If the theatre was not the target of the attack and, considering the third possibility, it was struck during an indiscriminate attack, the attack would be a war crime – an indiscriminate attack killing civilians – under customary international law.²⁵⁴ Indiscriminate attacks by Russian forces have been committed across Ukraine and have been reported in Mariupol.²⁵⁵ There is, however, little reason to believe that the air strike on the theatre was indiscriminate, however, given the building's isolated location.

If the theatre was not the target of the attack and, considering the fourth possibility, it was struck mistakenly in an attempt to hit a different target believed to be a military objective, the attack's legality would be contingent upon whether the mistaken strike was lawful. International law does allow for missed strikes, assuming the commander's intent was to target a valid objective and the means and methods pursued were appropriate for the intended target.

In this case, for the mistaken strike to be lawful, there would need to be a military objective within or very close to the CEP of the weapon used, either a 500kg bomb or a cruise missile. As mentioned, the centre of mass strike on a geographically isolated target makes such a miss extraordinarily unlikely. And the distinctive and isolated nature of the theatre makes pilot error extremely implausible. Moreover, the satellite imagery and testimonial evidence demonstrating that there was no military activity in the areas adjacent to the theatre at the time of the attack further indicates the attack was not a missed strike. And while there was reportedly fighting in the general neighbourhood of the theatre around the time of the attack, it was not proximate enough to justify a miss that hit the theatre.

253 Rome Statute, article 8(2)(b)(iv) "Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated"

254 ICRC, Customary IHL, Rule 11; ICRC, Customary IHL, Practice Relating to Rule 11.

255 See Amnesty International, 'Anyone Can die at any time': Indiscriminate attacks by Russian forces in Kharkiv, Ukraine, 113 June 2022, [amnesty.org/en/documents/eur50/5682/2022/en/](https://www.amnesty.org/en/documents/eur50/5682/2022/en/); Amnesty International, "Ukraine: Russia's cruel siege warfare tactics unlawfully killing civilians – new testimony and investigation," 1 April 2021, www.amnesty.org/en/latest/news/2022/04/ukraine-russias-cruel-siege-warfare-tactics-unlawfully-killing-civilians-new-testimony-and-investigation/; Amnesty International, 'He's Not Coming Back': War Crimes in Northwest Areas of Kyiv Oblast," 6 May 2022, [amnesty.org/en/documents/eur50/5561/2022/en/](https://www.amnesty.org/en/documents/eur50/5561/2022/en/)

Further, even if there had been a military objective nearby, Russian forces would still have had to take precautionary measures to “avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.”²⁵⁶ As described above, in this attack there appear to have been no feasible precautions taken to avoid hitting an easily identifiable civilian object with large numbers of civilians around it. As a result, hitting the theatre while targeting a different object would necessarily involve a failure to take feasible precautionary measures to ensure that they were, in fact, targeting a valid military objective and not at risk of striking civilians and/or a civilian object. Such a reckless strike would be a war crime under customary international law and would arguably also be a war crime under the Rome Statute.

²⁵⁶ ICRC, Customary IHL, Rule 151.

5. CONCLUSION AND RECOMMENDATIONS

The attack on the Donetsk Regional Academic Drama Theatre in Mariupol was a tragedy. It was also tragically emblematic of the plight of civilians living in Mariupol during the current conflict. Despite civilians' efforts to escape the conflict by sheltering at the theatre, the war came to them, and many civilians were killed and horribly injured.

Why these civilians were attacked is not known, but it is clear the attack lacked military necessity. The easily identifiable civilian activity at the Donetsk Regional Academic Drama Theatre, combined with the absence of any significant military presence, suggests that Russian forces most likely intentionally targeted the theatre knowing it was a civilian object, which is a war crime. The evidence also demonstrates that under any reasonable interpretation of the other three less likely scenarios – that the theatre was targeted believing it was a valid military objective, it was struck mistakenly during an attack on a different target, or it was struck as part of an indiscriminate attack – the attack would still amount to a war crime.

Any investigators examining the incident, including those with the Office of the Prosecutor of the ICC should carefully consider the most likely explanation for the incident, as well as the other plausible explanations, and investigate accordingly. The survivors of the attack, the families of the victims, and the population of Mariupol deserve this, at the very least.

RECOMMENDATIONS

TO THE GOVERNMENT OF THE RUSSIAN FEDERATION

- End all direct attacks on civilians, indiscriminate attacks, and other serious violations of international humanitarian law.
- Fully comply with the rules of international humanitarian law in the planning and execution of all attacks, including by reviewing the criteria for selecting targets, to ensure they do not lead to targeting of civilians and by taking all feasible precautions in planning and execution of attacks,

including cancelling strikes when there is doubt that the target is a military objective or when strikes are likely to be disproportionate or indiscriminate.

- Conduct an independent, impartial, thorough, and transparent investigation into the attack on the Donetsk Regional Academic Drama Theatre.
- Where there is sufficient admissible evidence of crimes, bring suspected perpetrators to justice in fair trials without recourse to the death penalty.
- Co-operate with international investigations into the attack on the drama theatre, including by allowing independent investigators such as criminal investigators, human rights researchers, and journalists unfettered access to the site of the attack.
- Acknowledge civilian casualties caused by the attack on the theatre and offer compensation and explanation to survivors and families of civilians killed.
- Provide victims of the attack on the theatre, and their families, with access to justice and to full reparation, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

TO THE GOVERNMENT OF UKRAINE AND THE UKRAINIAN PROSECUTOR GENERAL'S OFFICE

- Conduct an independent, impartial, thorough, and transparent investigation into the attack on the Donetsk Regional Academic Drama Theatre.
- Where there is sufficient admissible evidence of crimes, bring suspected perpetrators to justice in fair trials without recourse to the death penalty.

TO THE INTERNATIONAL CRIMINAL COURT

- Investigate the attack on the Donetsk Regional Academic Drama Theatre.

TO OTHER GOVERNMENTS

- Under the principle of universal jurisdiction, investigate and prosecute people responsible for the attack on the Donetsk Regional Academic Drama Theatre.

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to one person, it
matters to us all.**

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“CHILDREN”

THE ATTACK ON THE DONETSK REGIONAL ACADEMIC DRAMA THEATRE IN MARIUPOL, UKRAINE

© ↑ Serhii Zabohonskyi, an actor who used to perform at the theatre and a survivor of the attack, stands outside the rear of the theatre moments after the explosion.
© Serhii Zabohonskyi

On 16 March 2022, shortly after 10am, a Russian air strike destroyed the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine. At the time of the attack, hundreds of civilians were in and around the theatre; many were killed. The theatre was clearly recognizable as a civilian object, perhaps more so than any other location in the city. The evidence Amnesty International has gathered demonstrates that the attack was a war crime.

Between 16 March and 21 June Amnesty International collected and analysed a range of evidence related to the attack on the theatre, including 53 first-hand testimonies from survivors and witnesses of the attack and its aftermath, 28 of whom were inside or adjacent to the theatre at the time of the attack.

The seriousness of the violation and the human suffering it caused highlight the need to conduct further urgent and transparent investigations to determine the full extent of the casualties and to hold perpetrators criminally accountable for the loss of civilian life and serious injury and for the damage to civilian infrastructure.

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