



## LEGAL ANALYTICS

Indicators of the Existence of the Russian Federation's Overall Control over the Armed Forces of the So-Called "DPR" and "LPR" in the Armed Conflict in Eastern Ukraine in 2014-2022

**Cite as:** Koval D. (2024). Indicators of the Existence of the Russian Federation’s Overall Control over the Armed Forces of the So-Called “DPR” and “LPR” in the Armed Conflict in Eastern Ukraine in 2014-2022. Truth Hounds, [URL](#)

# Indicators of the Existence of the Russian Federation’s Overall Control over the Armed Forces of the So-Called “DPR” and “LPR” in the Armed Conflict in the East of Ukraine in 2014-2022

Author: Dmytro Koval Ph.D.  
Edited by: Vladyslav Levchuk

## LEGAL ANALYTICS

Small research publications by Truth Hounds that provide a brief overview of a selected issue and present the main findings, suggestions or recommendations.



Ukrainian civil society organization specializing in documenting and investigating international crimes and serious human rights violations in Ukraine and other conflict-affected regions of Eastern Europe, the Caucasus, and Central Asia.

## Problem Statement

1. International humanitarian law uses the effective control test and the overall control test to determine whether the actions of non-state armed groups can be attributed to a particular state. The latter test is used by international criminal courts to assess the internationalisation of non-international armed conflict (**NIAC**). Once the existence of the State's overall control over the formations under its *de facto* control is proved, it transforms an armed conflict from non-international<sup>1</sup> into international<sup>2</sup> and prevents the avoidance of criminal liability for war crimes. In the context of the armed conflict in the East of Ukraine in 2014-2022, it is important to establish the following:
  - what are the indicators of the existence of overall control of the State over non-state armed groups;
  - whether the indicators of Russia's overall control over non-state armed groups allow us to assert the internationalisation of the present armed conflict.
2. In order to frame a legal position on this issue, it is important to establish the following:
  - Indicators of the existence of overall control and their (non)cumulative nature;
  - Application of the indicators of the overall control to the armed conflict in the East of Ukraine;
  - Qualification of the armed conflict in the statements of international organisations and state leaders.

## Indicators of the existence of overall control

3. Commentaries on the Geneva Conventions and rulings by international criminal courts with jurisdiction recognised by Ukraine establish key indicators of overall control exerted over an armed group.

---

<sup>1</sup> Non-international armed conflict is defined as protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State.

<sup>2</sup> Between the State in whose territory the armed conflict has taken place and the state intervening in the conflict with "long arms" – through overall control over non-state armed groups

- a) organisation or planning of military operations of non-state armed groups;<sup>3</sup>
  - b) financing of non-state armed groups, provision of weapons and other equipment;<sup>4</sup>
  - c) training members and providing operational support to non-state armed groups;<sup>5</sup>
  - d) sharing a common border with the State where non-state armed groups operate;<sup>6</sup>
  - e) providing non-state armed groups with the State's own infrastructure (*e.g.*, detention centres and pre-trial detention facilities, access to the financial and judicial system, etc);<sup>7</sup>
  - f) direct participation of the armed forces of the State in the armed conflict;
  - g) recruitment and enlisting of persons to participate in the armed conflict;
  - h) direct attacks on the territory of the State concerned from the own territory of the State in control.
4. While no single indicator confirms overall control, a cumulative assessment based on these factors effectively determines whether a State exerts overall control over non-state armed groups.<sup>8</sup>

## **Application of indicators to the conflict in the East of Ukraine**

5. The proposed list of indicators allows us to organise the evidence of Russia's overall control over non-state armed groups in eastern Ukraine as follows.

---

<sup>3</sup> *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, ICC, 14 March 2012, para. 541

<sup>4</sup> *Ibid.*

<sup>5</sup> *Prosecutor v. Delalic et al. (Appeals Judgement)*, IT-96-21-A, ICTY, 20 February 2001, para. 15

<sup>6</sup> *Ibid.*, para 47

<sup>7</sup> Carron D., (2016). *When is a conflict international? Time for new control tests in IHL*. International Review of the Red Cross, p. 1030

<sup>8</sup> *Prosecutor v. Delalic et al. (Appeals Judgement)*, IT-96-21-A, ICTY, 20 February 2001, para. 42

## **(a) Organisation or planning of military operations of non-state armed groups**

6. The organisation and planning of operations of non-state armed groups (NSAGs) in Ukraine by the Russian Federation may be evidenced, in particular, by the participation of Russian citizens – representatives of Russian law enforcement agencies and special services – in pro-Russian movements in the eastern regions of Ukraine to spread separatist sentiment. For example, the organisation of rallies under the slogan 'Donbas is Russia' in Donetsk in April 2014 by Russian citizen Alexander Boroday, who was associated with the Russian Federal Security Service (**FSS**), and his subsequent appointment as 'prime minister' of the so-called 'DPR', indicates Russian interference.<sup>9</sup>
7. Another indication of the organisation of the activities of non-state armed groups is the invasion of the 'Strelkov group' from the territory of the Russian Federation into Donetsk region in April 2014, led by former FSB colonel Igor Girkin (Strelkov), which led to the capture of Sloviansk. The participation of the Russian military in this group was personally confirmed by Girkin himself in an interview.<sup>10</sup> Another proof of Russia's assistance in organising the activities of armed groups in eastern Ukraine is the presence of organised groups from Russia that supported local separatist groups in the Luhansk and Donetsk regions.<sup>11</sup> This is confirmed by the recording of intercepted negotiations between representatives of the sabotage group of the Main Directorate of the General Staff of the Armed Forces of the Russian Federation (*i.e.* Russian foreign military intelligence agency) of 14 April 2014.<sup>12</sup>
8. In addition, indirect evidence of assistance to non-state actors in planning military operations could be found in the concentration of military equipment and the deployment of relevant infrastructure and logistics hubs of the Russian Federation near the border with Ukraine in the spring of 2014. Photos dated late March-April 2014, released by the Supreme NATO Allied Command in Europe,

---

<sup>9</sup> *Where are they now? Five years ago, the bloodiest European war of the 21st century began in eastern Ukraine. Here's what's become of those early separatist leaders*, (2019). Meduza, [URL](#).

<sup>10</sup> ICTV TV channel, (2016). *Novorossiia. The price of the project - a documentary film about the war in Donbass*. YouTube, timecode: 00:21:30, [URL](#), (Accessed 19.08.2024)

<sup>11</sup> *GRU of the Russian General Staff in Donbas: The story of my business trip*, (2019). Chorne Sontse, [URL](#);

<sup>12</sup> *SSU: Russian special forces conduct reconnaissance and sabotage in Donbas*, (2015). *Nastoyaschee Vremya*, [URL](#); *SSU: conversations between GRU fighters intercepted in Sloviansk*, (2014). LB.ua., [URL](#).

confirm these actions.<sup>13</sup> Similar evidence was provided by Ukraine in support of its lawsuit in the International Court of Justice against Russia in the case of the latter's violation of the International Convention for the Suppression of the Financing of Terrorism.<sup>14</sup>

## **(b) Providing financial aid to non-state armed groups, and supplying weapons and other equipment**

9. Provision of financial support involves not only monetary support, but also other types of material support, *i.e.*, weapons, equipment, and related goods, such as fuel, spare parts, consumables, *etc.*

### **(b)(i) Evidence of financial (monetary) and other intangible support:**

10. The militants of the so-called 'DPR' and 'LPR' were financed by Russian political parties – the Liberal Democratic Party of Russia and the Communist Party of Russia – and their leaders personally. <sup>15</sup>In July 2014, the Main Investigation Department of the Ministry of Internal Affairs of Ukraine opened a case to investigate these actions.<sup>16</sup> As of 2021, the share of Russian state funding in the revenues of the LDPR was 97%.<sup>17</sup> In the first quarter of 2023, according to the Central Election Committee of Russia, the Communist Party of the Russian Federation took second place in the total state budget allocation with 1.6 billion rubles, while the Liberal Democratic Party of the Russian Federation with 661 million rubles.<sup>18</sup> It's widely acknowledged that Russian oligarchs have consistently aligned themselves with the Russian government, irrespective of

---

<sup>13</sup> *NATO satellites spotted Russian troops near Ukraine's borders*, (2014). BBC News Russian Service, [URL](#).

<sup>14</sup> *Case concerning application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v Russian Federation)*, Memorial of Ukraine, ICJ, 12 June 2018, para. 170

<sup>15</sup> *LPR reveals one of its sources of funding - Communist Party of Russia*, (2014). InfoResist, [URL](#); Polishchuk, M., (2016). *The Prosecutor General's Office is trying the Ukrainian who overtook Zhirinovskiy's Tiger to Luhansk*. KP.UA, [URL](#).

<sup>16</sup> *The Ministry of Internal Affairs has opened criminal proceedings against Zyuganov and Zhirinovskiy*, (2014). LB.ua, [URL](#).

<sup>17</sup> Lyapunov K., (2021). *Flight of vultures. How the Liberal Democratic Party of Russia makes money*. LENTA.RU, [URL](#).

<sup>18</sup> Mukhametshina E., (2023). *Political parties have received 8.3 billion rubles in funding since the beginning of the year*. Vedomosti, [URL](#).

the specific individuals in power.<sup>19</sup> Russian oligarch Konstantin Malofeev, who is considered one of the biggest supporters of Russian intervention in Ukraine, also participated in the financing of the armed groups.<sup>20</sup>

11. Igor Girkin (Strelkov) himself confirms some of the above facts in an interview:

“00:28:24 – He [Konstantin Malofeev] financed my activities [in Crimea], and not only mine. I do not consider it possible to talk about the rest in this case;

02:09:45 – Surkov, at least, contributed to the appointment of people in the “DPR” [...] from the local elites”.<sup>21</sup>

### **(b)(ii) Evidence of material support:**

12. In June and July of 2014, in response to Ukraine's efforts to regain control of territory held by armed separatists through an Anti-terrorist operation, Russia supplied heavy weapons to the self-declared “DPR” and “LPR”. For example, in June, OSCE monitors reported a military convoy, including tanks and armoured personnel carriers, travelling from Russia to Luhansk and Donetsk. This is stated in the report of the OSCE Monitoring Mission to Ukraine – based on information received as of 20 June 2014, 18:00.<sup>22</sup> Over the following month, the OSCE reported “there was a reported movement of a significant amount of military hardware across the Russian-Ukrainian border”, including a convoy of tanks and artillery pieces.<sup>23</sup> Later, the Ministry of Foreign Affairs of Ukraine confirmed and demonstrated evidence of Russia transferring from Yeysk the portable anti-aircraft missile systems to separatist groups, which was used by these groups in battles in Luhansk and Donetsk regions, particularly during the storming of the “Marynivka” checkpoint in Donetsk region.<sup>24</sup>

---

<sup>19</sup> Markus S., (2022). *Meet Russia's Oligarchs, a Group of Men Who Won't Be Toppling Putin Anytime Soon*. Harvard University, [URL](#).

<sup>20</sup> Stoks T., (2023). *A Cypriot firm helped Konstantin Malofeev transfer money after sanctions were imposed on him*. OCCRP, [URL](#).

<sup>21</sup> Dmytro Hordon, (2020). *Hyrkin (Strelkov). Donbass, MH17, The Hague, FSB, half-dead Putin, Surkov, God's judgement*. YouTube, timecode: 00:28:24, 02:09:45, [URL](#), (Accessed 19.08.2024)

<sup>22</sup> *Latest from the Special Monitoring Mission (SMM) in Ukraine*, (2014). OSCE, [URL](#).

<sup>23</sup> *Latest from the Special Monitoring Mission (SMM) in Ukraine*, (2014). OSCE, [URL](#).

<sup>24</sup> *Ukraine's Foreign Ministry unveils evidence of Russia's transfer of weapons to Donbas*, (2014). Radio Svoboda, [URL](#).

13. Through open data intelligence and monitoring, the international community of InformNapalm was able to identify more than 40 types of weapons and specialised equipment in the possession of the Russian Armed Forces in eastern Ukraine. This equipment is of a new model – it entered service with the Russian Armed Forces in 2014 and 2015 – and the nature of its arrival in the East and use by militants is not massive, but rather experimental. Thus, the separatists were armed with at least 7 types of Russian armoured vehicles, 5 types of tanks, 4 types of trucks, 3 types of mobile radio stations, 2 types of self-propelled artillery systems, 4 types of air defence systems, more than 7 types of UAVs, 2 types of MLRS, SNA and EW systems.<sup>25</sup>
14. Interview with Igor Girkin (Strelkov) “The Moment of Truth for Dmitry Gordon: “Igor Strelkov is a terrorist!” How it really happened” of 22 May 2020 generally confirms the facts of the supply of goods from the Russian Federation:

“00:06:23 – we got access to the border [of Ukraine with the Russian Federation], although it was under constant shelling, we were constantly losing both cargo and people, but nevertheless, some supplies had been coming through this corridor for two weeks”.<sup>26</sup>

### **(c) Training of members of non-state armed groups, and provision of operational support to non-state armed groups**

15. Among other things, the Russian Federation has also trained and provided its proxies in the eastern part of Ukraine with critical support for attacks on Ukrainian territory. The Russian Federation has set up training camps for its proxies in the Belgorod and Tambov regions of the Russian Federation and in the temporarily occupied Crimea. This was stated by the leaders of the unrecognised republics and illegal armed groups themselves. For example, Aleksandr Zakharchenko, the self-proclaimed leader of the “DPR”, publicly acknowledged in August 2014 that “there are 1,200 individuals who have gone through training over a four-month period on the territory of the Russian Federation and who have been introduced here at the most decisive moment”.<sup>27</sup>

---

<sup>25</sup> *Database and video graphics of new weapons of the Russian Armed Forces in Donbas*, (2016). InformNapalm, [URL](#).

<sup>26</sup> Dmytro Hordon, (2020). *Hyrkin (Strelkov). Donbass, MH17, The Hague, FSB, half-dead Putin, Surkov, God's judgement*. YouTube, timecode: 00:06:23, [URL](#), (Accessed 19.08.2024)

<sup>27</sup> Walker S., (2014). *Ukraine rebel says he has 1,200 fighters 'trained in Russia' under his command*. The Guardian, [URL](#).

#### **(d) The existence of a common border with a State where non-state armed groups operate**

16. In May and June 2014, Russia-backed illegal armed groups, together with Russian troops, seized control of a part of the Ukrainian-Russian border. Given Ukraine's temporary inability to control its part of the border, Russia began to openly send weapons and personnel to its proxies in the "DPR" and the "LPR". For example, on 17 May 2014, six KamAZ heavy trucks loaded with firearms crossed the border from the Russian Federation towards Kulnikovo. On 29 May 2014, the Russian Federation sent the Chechen 'Vostochny' battalion to support the "DPR" operations. On 30 May 2014, the Dyakove border guard unit in Luhansk stopped a group of people, including Russian and Ukrainian citizens, who were unloading 43 firearms, 74 boxes of ammunition and grenades with the intention of transferring them to illegal armed groups affiliated with the 'LPR'.<sup>28</sup>
17. According to Igor Strelkov (Girkin) in a video on the ATO Donetsk channel:

"00:19:14 – Now many [...] don't really know that the entire border line [between Ukraine and Russia], except for the tiny Izvaryn corridor, which was also held by the 205th group, which was not subordinate to Luhansk or Donetsk, but to me [...], was in the hands of the Ukrainian military".<sup>29</sup>

#### **(e) Providing non-state armed groups with their own infrastructure**

18. It is well known that the so-called "DPR" and "LPR" use Russian currency, which indicates, among other things, that so-called "republics" have access to Russian financial infrastructure.<sup>30</sup> Furthermore, on the territory of the self-proclaimed "LPR", the Russian 'ruble' officially became the main currency on 1 March 2017.<sup>31</sup>
19. Criminal proceedings in Ukraine have repeatedly cited evidence that wounded fighters of the so-called "DPR" and "LPR" were treated in Russia.<sup>32</sup> Likewise, Ukrainian soldiers detained during the armed conflict often end up in pre-trial

---

<sup>28</sup> Chronicles of the Eastern Ukrainian Republics in 2014, (2014). LiveJournal, [URL](#).

<sup>29</sup> ATO Donetsk, (2020). *Ihor Vsevolodovych Hirkin (Ihor Ivanovych Strelkov) on ATO Donetsk*. YouTube, timecode: 00:19:14, [URL](#), (Accessed: 19.08.2024)

<sup>30</sup> *The DPR has established the Russian ruble as the only accounting currency*, (2015). RBC-Ukraine, [URL](#).

<sup>31</sup> *LPR says Russian ruble will become its 'official' currency* (2017). UNIAN, [URL](#).

<sup>32</sup> *A private classified hospital was discovered in Rostov-on-Don*, (2015). Phrase.ua, [URL](#).

detention centres in Russia. In some cases, even the prosecution of individual Ukrainian servicemen is carried out on the territory of Russia. These facts suggest that Russia extends its medical, penitentiary and judicial infrastructure for the utilisation by representatives of the so-called "DPR" and "LPR".

### **(f) Direct involvement of the armed forces of the state in the armed conflict**

20. The documented facts of military participation in the conflict in Donbas date back to mid-August 2014. There is a lot of research and data in open sources and even databases on Russian troops who fought in Donbas.<sup>33</sup>

### **(g) Recruitment and enlistment of persons to participate in the armed conflict**

21. There have been repeated reports on the Internet about the recruitment of fighters to non-state armed groups directly on the territory of the Russian Federation<sup>34</sup> The issue of military recruitment in Rostov-on-Don on 4 July 2014 is partially addressed in the film 'Novorossiya. The Price of the Project – a documentary about the war in Donbas'.<sup>35</sup>

### **(h) Direct attacks on the territory of the State concerned from its own territory**

22. Cases of cross-border attacks on Ukraine by Russia are mentioned in the reports of several NGOs that documented the armed hostilities and their consequences in 2014-2015, *e.g.*, the report of the NGO "Truth Hounds".<sup>36</sup>

---

<sup>33</sup> *Interactive database of Russian aggression against Ukraine, Georgia and Syria*. InformNapal, [URL](#).

<sup>34</sup> *10 Years Later, Russian Volunteer Fighters Recall Fueling the War in Donbas*, (2024). The Moscow Times, [URL](#).

<sup>35</sup> ICTV TV channel, (2016). *Novorossiya. The price of the project - a documentary film about the war in Donbass*. YouTube, timecode: 00:44:30, [URL](#) (Accessed: 19.08.2024)

<sup>36</sup> *Where did the shells come from? Investigating cross-border attacks in eastern Ukraine*, (2017). Truth Hounds, [URL](#).

## **Qualification of the armed conflict in the decisions of international organisations and in statements by foreign states**

23. Although the qualification of the armed conflict by international organisations and other states does not necessarily indicate the existence of the overall control by the Russian Federation over non-state armed groups in the East of Ukraine, it is illustrative and authoritatively reinforces previous conclusions drawn on the basis of other evidence.
24. On 30 June 2014, Supreme Allied Commander Europe, Philip Breedlove, acknowledged that Russia was not only financially and materially supporting the separatists, but was also using mercenary killers against Ukraine while regular Russian Armed Forces were facilitating the movement of fighters, equipment and funds across the Ukrainian border.<sup>37</sup>
25. One of the first political statements at the international level to recognise Russia's actions in Donbas as aggressive was made by NATO Secretary General A. Rasmussen in August 2014. After an emergency meeting of the NATO-Ukraine Commission in connection with the escalation of Russia's armed attack in the East of Ukraine, he assessed the invasion of the Russian Armed Forces across the eastern Russian-Ukrainian state border as "a serious escalation of Russia's armed aggression against Ukraine".<sup>38</sup>
26. Ukraine recognised Russia as an aggressor state at the official political level only in January 2015 through the adoption by the Verkhovna Rada of Ukraine of the Resolution "On the Appeal of the Verkhovna Rada of Ukraine to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, the GUAM Parliamentary Assembly, and the Parliaments of the World on Recognition of the Russian Federation as an Aggressor State".<sup>39</sup>

---

<sup>37</sup> Croft A., Brunstrom D., (2014). *NATO commander accuses Russia of destabilizing eastern Ukraine*. Reuters, [URL](#).

<sup>38</sup> *International Legal Classification of the Russian Federation's Actions in the East of Ukraine as an Act of Aggression*, (2015). Borysfen Intel, [URL](#).

<sup>39</sup> *The Law of Ukraine 'On the Appeal of the Verkhovna Rada of Ukraine to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, the GUAM Parliamentary Assembly, and the national parliaments of the world on the recognition of the Russian Federation as an aggressor state'*. Official web portal of the Verkhovna Rada of Ukraine, [URL](#).

27. In June 2015, the PACE adopted a resolution on missing persons in Crimea and during the Ukrainian-Russian conflict, which recognised Russia as the aggressor and occupier.<sup>40</sup>
28. In June 2015, the OSCE Parliamentary Assembly adopted the Resolution on the “Continuation of Clear, Gross and Uncorrected Violations of OSCE Commitments and International Norms by the Russian Federation”. It clearly states that Russia’s actions in Crimea and Donbas are acts of military aggression against Ukraine.<sup>41</sup>
29. In its judgement in the case of *Ukraine and the Netherlands v. Russia*, the ECtHR found that from 11 May 2014 until at least 26 January 2022, the Russian military was widely present on the territory of the so-called DPR and LPR.

«There was compelling evidence that the Russian Federation had provided political, military and economic support to the separatists and later to the “DPR”, including through the deployment of members of the Russian armed forces, artillery support, influence over military strategy of the separatists and the training and equipping of separatists. This support had been crucial for the establishment and survival of the “DPR”».<sup>42</sup>

## Conclusion

30. The above review of indicators shows that Russia has had overall control over non-state armed groups in eastern Ukraine since at least mid-May 2014. In particular, this is evidenced by Russia's organisation of military operations of these groups, their financing and provision of weapons and related equipment, the direct participation of the Russian military in the armed conflict on the side of these groups, as well as other indicators that, taken together, allow us to conclude that there is overall control. All these factors are important arguments for classifying the conflict as international, which has already been recognised by a number of international organisations, national courts and the ECtHR.

---

<sup>40</sup> *Missing persons during the conflict in Ukraine*. Council of Europe: Parliamentary Assembly, [URL](#).

<sup>41</sup> *Resolution on the continuation of clear, gross and uncorrected violations of OSCE commitments and international norms by the Russian Federation*. Council of Europe: Parliamentary Assembly, [URL](#).

<sup>42</sup> *Case of Ukraine and the Netherlands v Russia*, No. 8019/16, 43800/14, 28525/20, ECtHR, 30 November 2022, par. 532