

## Methodology

The dossier submitted to the Austrian prosecutors is based on meticulous evidence-gathering and analysis carried out according to international standards.

The Docket's team carried out several field visits to the villages where the violations took place and to nearby areas, where they conducted screening interviews with survivors, eyewitnesses, local officials, and law enforcement officials. The Docket also observed and photographed graffiti left by the Russian soldiers on the walls of a house they had occupied, as well as documents they had left behind when retreating in haste after Ukrainian forces liberated the area. Information contained in these documents and graffiti enabled identification of Russian units and commanders.

CEHRI and The Docket also transmitted to the prosecutors a list of witnesses and experts who have consented to participating in the proceedings.

The Docket's field work was supplemented with open-source research, carried out by The Docket's open-source intelligence (OSINT) experts. This included analysis of Russian and Ukrainian language traditional and social media, communication networks used by Russian military personnel, and leaked Russian documentation; satellite imagery analysis; review and authentication of photo and video materials; and other OSINT and digital forensics analysis. The OSINT analysis focused on:

- Establishing the timeline of the Russian military advances and the presence of individual units in locations where the crimes were committed;
- Collecting references to reported incidents in these locations in order to establish and analyze the patterns of violations;
- Collecting linkage evidence to identify Russian units involved in the violations and their respective command structures.

All evidence included in the dossier, such as documents, photographs, and videos from field work as well as digital evidence collected through OSINT methods, has been collected in compliance with international standards, including relevant consent and chain-of-custody documentation, and stored on secure servers.

The dossier also contains an analysis of applicable international and Austrian law, carried out by CEHRI's legal experts.

Additional support for the investigation was provided by experts from the Centre for Information Resilience (CIR), as well as analysts from the independent non-profit organization OSINT for Ukraine.

The Docket also shared the dossier with the Office of the Prosecutor of the International Criminal Court so that the evidence can be included in the ongoing investigation opened by the OTP into the situation of Ukraine.

The Docket continues its investigative work in Ukraine and is preparing additional cases that will be filed in European and other countries under the principle of universal jurisdiction. Equally, The Docket also collaborates closely with Ukraine's Office of the Prosecutor General and will continue to support the ICC's investigation.

CEHRI's approach to therapeutic justice is victim-centred and based on two pillars: legal and psychosocial support, which allows survivors to actively participate in legal decisions and testify, while their wellbeing is safeguarded. By integrating legal expertise with culturally sensitive, gender-sensitive and mother-tongue psychosocial support, CEHRI provides assistance that not only seeks justice but also fosters healing and empowerment for survivors of human rights violations.

### **Austria's jurisdiction over the case**

The case is filed in Austria under principles of extraterritorial jurisdiction, including *universal jurisdiction*.

Universal jurisdiction refers to a long-standing legal principle under international law that allows States to investigate and prosecute the most serious international crimes. These crimes include genocide, crimes against humanity, war crimes, and the crime of aggression. States may establish jurisdiction regardless of where the crimes were committed or the nationality of the perpetrator or victims.

The principle of universal jurisdiction applies to crimes under international law as defined in Section 25 of the Austrian Criminal Code, which include rape and murder as crimes against humanity and war crimes. Under Austrian law, the application of the principle is generally conditional on the presence of the suspect on Austrian territory. However, this restriction does not apply to sexual and gender-based crimes. In such cases, habitual residence of the survivors in Austria is sufficient to establish jurisdiction, and this applies to one of the survivors who has been living in Austria since fleeing Ukraine in 2022. With regard to the other survivor, who lives in Ukraine, Austria has jurisdiction because the crime committed against her was committed in temporal and geographical connection with the other crimes alleged in the case.

Also, on July 5, 2022, the Austrian Federal Ministry of Justice published a decree on the question of domestic jurisdiction for war crimes committed abroad and other crimes under Section 25 of the Criminal Code. The decree states that where survivors of crimes under Section 25 seek refuge in Austria, the commission of these crimes may be seen as a "violation of Austrian interests", thus providing additional jurisdictional grounds for investigation and prosecution in Austria.

In addition to direct perpetrators, Austrian law allows the prosecution of commanders under the principle of *command responsibility*, i.e. if the commanders knew or should have known about the crimes committed by their subordinates but failed to prevent, stop, or punish them.

While the alleged perpetrators are members of the Russian military and may in some circumstances be entitled to so-called *functional immunity* for acts committed in the exercise of their function, Austria's long-standing position is that the immunity does not apply before national courts in cases of crimes under international law.