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Transitional Justice During Ongoing
Conflicts: the Case of Donbas in Ukraine
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Abstract

Transitional justice (TJ) is a means for a state to address grave human rights violations that occurred in the past due to armed conflicts or oppressive regimes. Contrary to the traditional TJ theory, which anticipates the application of justice-restoration measures to a post-conflict environment, this paper seeks to analyze the transitional justice toolkit implementation against the backdrop of the ongoing war. The document analysis of the peace concords and provisional agreements, done with qualitative content analysis, showcased that various judicial, social, political, and international measures and mechanisms can and should be applied prior to war resolution in order to facilitate the pursuit of justice, accountability and conflict settlement. The attempt to practically operationalize the developed TJ tool-kit in the midst of the Russian war of aggression against Ukraine with a particular reference to the Donbas region (Donetsk and Luhansk oblasts) has proven that individual assessment of the local conflict peculiarities is crucial when it comes to such a complex phenomenon as transitional justice. Furthermore, some intricate nuances concerning TJ application to the given war, stemming from the current international settings, Russia's power position in the global arena as well as saturation on the battlefield in Ukraine have been disclosed.

Abstrakt

Sprawiedliwość okresu przejściowego (SOP) to sposób, w jaki państwo może zająć się poważnymi naruszeniami praw człowieka, które miały miejsce w przeszłości w wyniku konfliktów zbrojnych lub opresyjnych reżimów. W przeciwieństwie do tradycyjnej teorii SOP, która przewiduje zastosowanie środków przywracania sprawiedliwości w środowisku pokonfliktowym, niniejszy artykuł ma na celu analizę wdrożenia zestawu narzędzi sprawiedliwości okresu przejściowego na tle trwającej wojny. Analiza dokumentów porozumień pokojowych i porozumień tymczasowych, przeprowadzona wraz z jakościową analizą treści, wykazała, że różne środki i mechanizmy sądowe, społeczne, polityczne i międzynarodowe mogą i powinny być stosowane przed rozwiązaniem wojny w celu ułatwienia dochodzenia sprawiedliwości, odpowiedzialności i rozwiązywanie konfliktów. Próba praktycznej operacjonalizacji opracowanego zestawu narzędzi SOP w warunkach rosyjskiej agresji na Ukrainę ze szczególnym uwzględnieniem Donbasu (obwody Doniecki i Ługański)

dowodła, że indywidualna ocena specyfiki lokalnych konfliktów ma kluczowe znaczenie przy dochodzi do tak złożonego zjawiska, jak sprawiedliwość okresu przejściowego. Ponadto ujawniono pewne zawiłe niuanse dotyczące zastosowania SOP w danej wojnie, wynikające z aktualnych uwarunkowań międzynarodowych, mocarstwowej pozycji Rosji na arenie światowej oraz nasycenia polem bitwy na Ukrainie.

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List of Abbreviations

ATO	Anti-Terrorist Operation
DDR	Disarmament Demobilization and Reintegration
DPR	so-called 'Donetsk People's Republic'
GNR	Guarantees of Non-repetition
ICC	International Criminal Court
ICMP	International Commission on Missing People
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the Former Yugoslavia
LPR	so-called 'Luhansk People's Republic'
MA	Minsk Agreements
NGOs	Non-governmental organizations
ORDLO	acronym of окремі райони Донецької та Луганської областей (окремі rajóny Donéc'koji ta Luháns'koji oblastej, "separate districts of Donetsk and Luhansk regions"
OSCE	Organization for Security and Co-operation in Europe
PoWs	Prisoners of War
PR	Party of the Regions
QCA	Qualitative Content Analysis
RS	Rome Statute
RtP/ R2P	Responsibility to Protect
SBU	Security Service of Ukraine
TJ	Transitional Justice
UN	United Nations
UNSC	United Nations Security Council
UNTAES	The United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium

Introduction.

An important moral motivation informing transitional justice is to demonstrate, in the words of Vaclav Havel, that ‘We are not like them.’

Janna Thompson

In the 21st century, wars have become more irregular and hybrid: rarely can one witness direct interstate military interaction. Nevertheless, while in the early 20th century most of the war fatalities were among the military personnel, at the turn of our century, the majority of the war fatalities are civilians (Engstrom 2011). Compared to what existed before, the expansion of international legal architecture has also taken place, creating a higher presumption against impunity, favoring accountability, and going beyond of just conflict cessation: urging for sustainable peace and war incentives neutralization (Pham and Vinck 2007; Engstrom 2011). One of the approaches to achieve the abovementioned objectives is to apply **transitional justice (TJ) mechanisms** – a tool by which a state deals with atrocities that occurred in the past because of an armed conflict or authoritarian regime, responds to the legacies of massive and serious human rights breaches (Report of the UN Secretary-General, 2004). The TJ application is explicitly needed as it aims to promote the rule of law and human rights, enhance the trust in state institutions, provide recognition of victims, prevent new violations, and contribute to lasting peace in previously war-torn areas.

The Russian war against Ukraine started in 2014 as hybrid warfare and at first, with Donetsk and Luhansk occupation and Crimea peninsula annexation, seemed to follow suit of other frozen conflicts initiated by the Russian Federation to destabilize the region (Abkhazia and Ossetia in Georgia, Transnistria in Moldova). Yet, Russia’s full-scale invasion of the country on February 24, 2022, has once and forever changed the military landscape of the 21st century. Not only has the event become a tragedy for Ukrainian citizens and residents as well as a daunting task for politicians within and beyond the country, but also a challenge for European security and law architecture. This war has been recognized as illegal, unjustified, and unprovoked, in its nature constituting a gross violation of international law (“European Council Conclusions on Russia’s Unprovoked and Unjustified Military Aggression against Ukraine”, 2022). The establishment of accountability and justice, restoration of sovereignty and territorial integrity, as well as the reintegration of temporarily occupied territories, are,

thus, key strategic tasks. Although it is now obvious that a resolution of this war through purely diplomatic means is impossible, yet, together with the Ukrainian army advancement, the mechanism of liberated regions' reintegration should be developed. Reintegration is to include important policy measures, particularly, transitional justice mechanisms to ensure accountability, establish the rule of law, and promote trust in state institutions.

Despite Ukraine's armed forces' counter-offense, there is still uncertainty regarding *when* the final resolution of this war will be achieved and *what* it will look like. Contrary to the traditional theory of transitional justice, which anticipates the application of justice-restoration measures to a post-conflict environment, this paper seeks to analyze the transitional justice mechanism application to ongoing conflicts. Furthermore, this research aims to assess TJ's practical application to the Ukrainian settings, with special reference to the Donetsk and Luhansk regions. The case of Donbas was deliberately chosen as, unlike Crimea, which was illegally annexed by Russia in 2014, the armed phase of the conflict – military clashes and shellings – has been ongoing here since 2014 with further aggravation in February 2022. The liberation of recently occupied regions, e.g., Kherson, in its turn, demonstrates rather a war dynamic in a highly escalated environment, whereas the ambition of this paper is to design a TJ mechanism – a legal and political toolkit – which shall eventually become a part of the reintegration model and lead to the 'proto states' – in this case so-called “Donetsk People's Republic (DPR)” and “Luhansk People's Republic (LPR)” – products of the Russian aggression, final liquidation. Nevertheless, it is recognized that, depending on the situation on the battlefield in Ukraine, the findings of this research can be generalizable to Crimea and other Ukrainian territories temporarily occupied by Russian Federation, due to the probable transferability of constituents applicable in Donbas to these regions.

The relevance of this topic can be determined in different ways.

- *From the perspective of transitional justice importance per se*, it is worth noting that lack of TJ mechanisms (to foster reconciliation and mutual dialogue) can lead to the cultivation of hostile narratives between post-war divided societies and, by increasing the existing gap, further complicate the reintegration prospects, as for instance, in the case of others de facto Kremlin-backed regimes in the post-Soviet space (Transnistria, Abkhazia, and South Ossetia).
- *From the perspective of transitional justice mechanism application to evolving conflicts*, it is needed as not only have recent years seen an increase in conflicts and

violence, with 3.2 billion people currently living in war-affected regions (“PA-X: Peace Agreements Database - Site,” 2023), but also, taking into account the growing number of frozen and hybrid conflicts, the resolution of which is unlikely in the near future, certain transitional justice measures are needed to promote the rule of law and human rights in these territories.

- *From the perspective of the area chosen for the analysis of transitional justice application*, it is particularly pertinent as impunity for the war crimes in Donbas creates a harmful precedent that can be used to normalize the war crimes during ongoing conflicts in the other occupied territories of Ukraine as well as in different parts of the world. In addition, transitional justice measures in Donbas intend to potentially contribute to the establishment of peace and conflict settlement.

Thus, questions of the rule of law and transitional justice in conflict, as well as post-conflict societies, yield important lessons for future activities.

This paper intends to make a **contribution** to the debate by elaborating on the possible application of transitional justice tool-kit to ongoing conflict scenarios. Furthermore, it will add up to the literature on the Russian war in Ukraine, its recent developments, and the scenarios of its resolution.

The **research question** is framed in the following way: *How can the transitional justice mechanism be applied to the case of the Donbas in Ukraine?*

With regard to the **timing** of this research, it is acknowledged that the time frames remain unclear. Whereas the beginning of the war in 2014 can be chosen as a starting point, it is rather challenging to find an ending point. On the one hand, it can be considered as the limitation of this thesis. Nevertheless, on the other hand, taking into account the theoretical contribution this paper intends to make in developing the TJ framework for ongoing conflicts such as the one in Donbas, the ongoing nature of this war can be viewed as a beneficial backdrop for such research.

As per the formulation of the research question, the **subject** of this research is transitional justice, and the **object** of this thesis, hence, is Donbas region of Ukraine, so-called “DPR” and “LPR”.

In order to answer the research questions, several *objectives* have to be accomplished: (1) defining the concepts of transitional justice and elucidating its application to the ongoing conflicts; (2) analyzing the peace treaties and provisional agreements, and the role of transitional justice mechanism in them, its contribution to the possible shift from a conflict to the post-conflict environment that enables the further application of ‘proper’ transitional justice tools to deal with the legacy of war; (3) investigating the peculiar context of the Donbas case in order to determine the possible application of the transitional justice mechanism to it, however without an intention to provide a comprehensive analysis of every policy, since it goes beyond the principal goal of the paper.

Concerning the *methodology*, the thesis is a case study, thus it is based fundamentally on using qualitative research methods. Qualitative Content Analysis will be applied to analyze peace concords and provisional agreements. Based on this analysis, a set of TJ measures – a transitional justice toolkit that can be applied in the midst of the conflict – will be developed. Peace Agreements Database, which contains more than 2000 agreements, found in more than 150 peace processes between 1990 and 2023 (“PA-X: Peace Agreements Database,” 2023), has been used. The selection of documents for the analysis is principally literature-driven. Peace agreements that were primarily referred to with respect to (1) their relevance for the case of Donbas in Ukraine and (2) as a prominent example of the transitional justice application in the midst of the conflict, have been chosen for the analysis. The coding has been done with MAXQDA – a software program designed for computer-assisted qualitative data analysis (“MAXQDA | All-In-One Qualitative & Mixed Methods Data Analysis Tool,” 2022).

The goals and objectives of the research, influence the structure of the thesis. The first chapter: “*Transitional Justice: Theoretical Framework and Application*” draws on the concept of transitional justice, its measures and application to ongoing conflicts, as well as addresses possible criticism; and then performs an outline of the Ukrainian settings and the case of Donbas specifically. The second chapter is also divided into two parts where the first one discusses research design and methodology; the second one is dedicated to presenting the results of the peace agreements’ content analysis – a TJ toolkit that can be applied in the midst of conflict. The third chapter represents a case study, the practical goal of which is to show the possible application of an elaborated toolkit to the distinct case of Donbas in Ukraine.

1. Literature review

This chapter will develop in the following way. Firstly, the concepts of transitional justice will be defined, its application expansion as well as relevant measures, discussed. Secondly, Donbas' local settings will be outlined to see what are the peculiar features for further transitional justice tool-kit application.

1.1. Transitional Justice

In this section, the theoretical framework of transitional justice, which combines different streams of literature, will be developed.

1.1.1 The Development of the Concept of Transitional Justice.

Arguments on justice and injustice are at the core of contemporary political debates regarding the law, politics, social policy, and economic organization. As it has been challenging to define what exactly justice is, Campbell (1988) suggests that it is the sense of *injustice* that features centrally our perception of justice and explains its powerful emotional force. Eve Tuck and K. Wayne Yang (2016) agree that the concept of justice is broad and, in its connotations, takes various forms, yet predominantly concerned with holding power accountable for its abuses. Because of its complexity and wide use depending on the particular domain considered, this thesis will chiefly concentrate on the notion of *transitional justice (TJ)*, understood as a process by which a state deals with atrocities that occurred in the past because of an armed conflict or regime change (Report of the UN Secretary-General, 2004).

From the historical perspective, Elster (2004) suggests that TJ discourse can be traced back to the post-violence dilemmas, following chiefly the regime transitions, e.g. two restorations of democracy in Athens in the 5th century B. C., the English Restoration of monarchy in the 17th century, the transition to independence after the American Revolution 1783, restorations of the monarchy in France in 1814 and 1815 (before and after Napoleon's Hundred Days), etc. Thus, transitional justice cannot be limited to either solely modern or exclusively democratic regimes, though its current understanding is comparatively narrowed to liberal democracy transitions only. Reflecting on 20th-century cases, Elster (2004) refers to recent regime

transitions, for instance, Germany and Japan after 1945, the collapse of dictatorships in South Europe around 1975, the restoration of democracy in Latin America (in Argentina and Chile specifically), the fall of Communism in Eastern Europe after 1989, as well as developments in Africa from 1979 to 1994, particularly the defeat of apartheid in the Republic of South Africa (RSA). Thus, analyzing TJ discourse through the historical prism, Elster primarily addresses its application in the cases of the regime transition.

Par Engstrom (2011) in his fundamental work toward theoretical framing and practical implementation of the analyzed notion also builds up on the idea that TJ originally developed in response to political regime change as a field engaged with the question of truth, justice and reconciliation. It was later that TJ expanded in terms of its normative ambition to the conflict environment. Today TJ may be applied against the backdrop of civil wars, as it was done in Central America (Engstrom 2011) as well as, what is especially relevant for this thesis, in the light of external aggressions, e.g. the end of World War II and the legacy of the International Military Tribunal in Nuremberg, the establishment of which reaffirmed that atrocity crimes committed in the course of war are to be addressed by the domestic or international court (Lachowski 2017); the TJ tool-kit application after the occupation of Kuwait by Iraq in 1991, following brutal oppression, torture and murders of Kuwaitis (Hollywood 2007); several TJ mechanisms implementation during the war in Syria, which involves external intervention from various countries (Rostow 2013, Al Jazairi 2015), etc. Hence, the literature on transitional justice can be roughly divided into two categories with respect to TJ application:

- 1) in the context of political regime atrocities and subsequent regime change (Elster 2004; Hollywood 2007; Jongerden 2017; Lachowski 2017; Holl 2022, etc.) – this approach, although still relevant to a certain extent, lies outside of the scope of interest of this paper and thus will not be analyzed in detail in the frameworks of this research.
- 2) in the settings of war-torn areas (Hollywood 2007; Rzhavska 2021; Van Nievelt 2016; Lachowski 2017 and 2020; Calvet-Martínez 2022; Komarnytskyi 2020; etc.) – the particular examples of which will be examined to a greater extent in this chapter.

1.1.2 Transitional Justice Measures.

In the last three decades, 105 peace treaties have incorporated some aspects of transitional justice (“PA-X: Peace Agreements Database - Site”). It is yet necessary to spotlight that in academic writing there is no unified list of what TJ should consist of. Calvet-Martínez (2022)

argues that TJ measures have been outlined differently in various peace concords, incorporating primarily truth-seeking and accountability measures, reparations, and guarantees of non-repetition. In her research, she also examines several mechanisms and discusses their application. Weitekamp (2006) states that transitional justice is composed of four fundamental pillars: reparation, truth, accountability and reconciliation (See: Figure 1); Holl's (2022) definition resonates with it, yet, instead of reconciliation, he insists on the need of institutional reform; Leebaw B. A. (2008) highlights that the principal element of transitional justice is *the criminal prosecution* of people guilty of human rights abuses under the previous regime or during the armed conflict; Komarnytskyi et al. (2020) further develop this idea and concentrate on the main steps to the restoration of criminal justice in the reintegrated territories. Some of mostly discussed TJ measures will be elaborated on below.

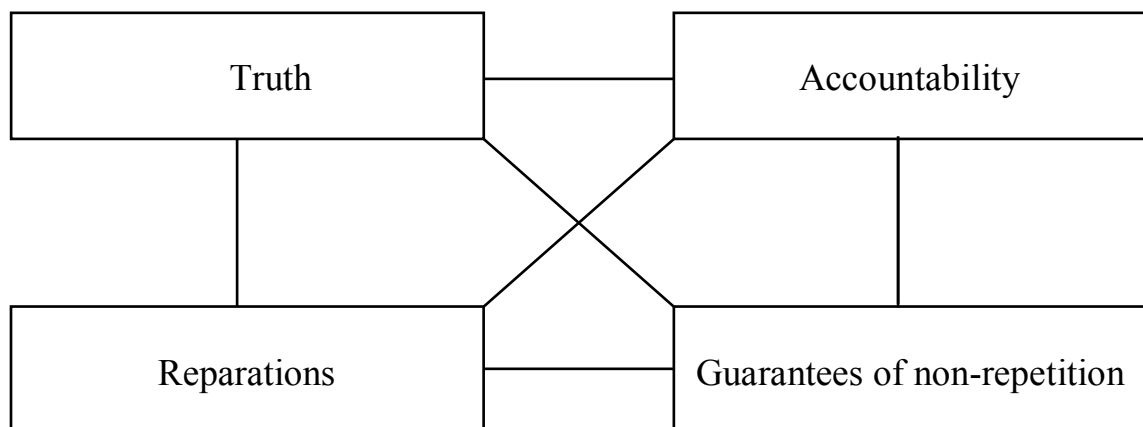


Figure 1: The building blocks of transitional justice (own representation based on Weitekamp (2006) and Calvet-Martínez (2022)).

Truth Commission. The right to truth is an independent and inherent right connected to the obligation of the state to safeguard and ensure fundamental human rights, conduct effective investigations, and guarantee satisfactory remedies and compensation (Calvet-Martínez 2022). A truth commission is one of the most common TJ mechanisms. Weitekamp (2006) underscores that while courts are predominantly involved in unveiling the factual or forensic

truth, truth commissions are rather engaged in uncovering the social truth, allowing for both perpetrators and victims to tell their stories. This body has varying mandates depending on the local circumstances (Sriram and Herman 2009). Key aspects of truth commission operations may involve the process of gathering testimonies on human rights violations; the exercise of subpoena powers; the utilization of search and seizure powers; the conduct of public hearings; the disclosure of its findings and individual accountability in the final report; providing recommendations for justice, reparations, and institutional reforms; promotion of reconciliation, etc. (Freeman 2006).

Special Unit for Disappeared Persons. The suffering of the family members who remain unaware of the fate and location of their loved ones is estimated as inhumane treatment by international human rights bodies (“European Court of Human Rights Kurt v. Turkey (15/1997/799/1002) Judgment” 1998). The creation of special units for missing persons can contribute to peace as it helps to alleviate these sufferings, ensuring the right to truth and reparations (Calvet-Martínez 2022).

Amnesty. The inclusion of amnesty provisions within a peace settlement is a highly contentious matter. Granting amnesties, though, is not prohibited by international law and is often helpful to bring peace, but should not prevent the prosecution of severe human rights violations (Calvet-Martínez 2022). Đukić (2007) highlights that granting amnesties can serve as the only motivation for wrongdoers to come forward and reveal the truth to a truth commission. He exemplifies that amnesties can be granted in various ways: directly by the truth commission itself (as seen in South Africa), by the state after the conclusion of a truth commission's work (as seen in El Salvador), or they can be the result of political agreements reached before the establishment of the truth commission (as seen in Sierra Leone).

Accountability: Documenting and Prosecuting War Crimes. The establishment of a coordination mechanism to document war crimes is an essential precondition to further prosecution, which stems from the states' obligation under international law to investigate serious violations of human rights effectively and promptly (Calvet-Martínez 2022). Sriram and Herman (2009) state that trials are often seen as an integral part of retributive justice and can occur in international, domestic, or hybrid forums. Some countries have conducted criminal prosecutions in their own courts, like the Supreme Iraqi Criminal Tribunal. However, in situations where the domestic justice system lacks the capacity or there are concerns about government interference, hybrid tribunals (or hybrid prosecutor office, Calvet-Martínez

(2022)) can be considered a more feasible alternative. Such tribunals combine international and domestic elements and have been established in various locations such as Sierra Leone, Bosnia, Cambodia, Kosovo, and East Timor (Sriram and Herman 2009). The role of the International Criminal Court (ICC) as a key institution in ensuring accountability is often underlined in the literature (Weitekamp 2006, Sriram and Herman 2009, Engstrom 2011, Lachowski 2017, Calvet-Martínez 2022, etc.). Nonetheless, domestic and international efforts are usually combined as, while national criminal courts often have limited ability, international courts remain necessarily subsidiary and can deal with a small number of significant cases only (Weitekamp 2006).

Reparations. The framework for compensation measures might be pursued within the state's responsibility to repair the damage when they commit an internationally wrongful act (Crawford 2002) or as victim-oriented reparations, including not only material reparations but also other forms such as symbolic collective reparations (Sriram and Herman 2009) or restitution, rehabilitation, and satisfaction (Calvet-Martínez 2022). Sriram and Herman (2009) emphasize the interdependency of the TJ measures, underlining that reparations can be linked with a prosecution process, for instance, the Extraordinary Chambers in the Courts of Cambodia have the authority to grant moral and collective reparations. Besides, the International Criminal Court has the ability to impose monetary penalties and incarceration as forms of punishment, with any fines being allocated to a fund dedicated to victims' compensations, e.g. the Trust Fund (Weitekamp 2006). Alternatively, reparations can be connected to or suggested by a truth commission (Sriram and Herman 2009).

Non-recurrence measures. Guarantees of non-repetition (GNR) combine various measures the state may adopt to ensure non-recurrence such as vetting processes, institutional reforms, reintegration initiatives, measures aimed at preserving territorial integrity and sovereignty, etc. (Calvet-Martínez 2022). The primary focus of these measures usually lies with the security forces, in the context of reducing arms and selecting former combatants (both from state and non-state actors) for inclusion in newly established or restructured security forces (Sriram and Herman 2009), which brings GNR closer to the Disarmament Demobilization and Reintegration (DDR) programs, aimed to decrease the number of weapons as well as to assist ex-combatants to reinsert into society. Lachowski (2017), for instance, includes DDR, together with the state's Responsibility to Protect (RtP) and International transitional administrations as integral components of the various TJ strategies. Yet, Sriram and Herman

(2009), in their turn, highlight that cease-fire and DDR measures are not typically considered part of the TJ toolkit themselves, and, although often operate complementarily to transitional justice, may sometimes have contradictory goals, particularly on behalf of DDR urging for bringing conflict settlement and TJ for establishing accountability, which may as a result hinder the peace-building process. Furthermore, it is recognized by the authors that a general sequencing concerning what should be implemented first DDR or TJ measures is impossible because these matters will be highly dependent on the local conditions of the conflict. Nonetheless, when it comes to GNR, not only does their operationalization overlap with DDR, but also certain order may be adopted, as some activities in the area of GNR require hospitable/cease-fire settings for their proper implementation. For instance, security sector reform and reintegration of armed groups into society cannot be implemented amid the backdrop of the active phase of the military conflict and human rights violations being committed by those armed groups. Thus, GNR measures cannot be applied in the midst of the conflict to the full extent and, consequently, appear to be less relevant for this thesis.

To sum up, transitional justice itself may comprise retributive (judicial) and restorative (non-judicial) justice mechanisms, covering legal, political, sociological, economic, and ethical aspects, with the involvement of domestic, hybrid, and international components. Additionally, there is a consensus in the literature regarding the fact that TJ measures are extremely complex, tailored to the local context of the conflict, and often implemented in a complementary to each other manner (Freeman (2006), Sriram and Herman (2009), Calvet-Martínez (2022), etc.).

1.1.3 Transitional Justice during Ongoing Conflicts. Theoretical Overlap with Peace-Building.

In terms of transitional justice implementation in the midst of conflicts, rather limited research is available. Engstrom (2011) emphasizes a visible switch in the apprehension of this concept – from an exclusively backward-looking justice to the instrument of forward-looking justice also applied in continuous conflicts. He refers to the example of the International Criminal Tribunal for the former Yugoslavia (ICTY) establishment in 1993 during the ongoing conflict in Bosnia and before the start of peace negotiations in Dayton as well as a more particular case of TJ measures application in the midst of conflict – the indictment of Slobodan Milosevic during the NATO bombing of Kosovo. He accentuates that with the adoption of the Rome Statute (RS) and the formation of the International Criminal Court (ICC), the issue of TJ application to lasting conflict scenarios has been broadly discussed. For instance, the growing number of ICC indictments and investigations has led to the intervention of the

international criminal justice system in ongoing conflicts in Uganda, the Democratic Republic of the Congo, Sudan, Kenya, Colombia, and Libya. Moreno Ocampo – a prosecutor at the ICC – emphasized that “*working in these circumstances [red. ongoing conflict] can mean conducting investigations in situations where physical access is sometimes impossible or where there is a total collapse of functioning institutions*”. Nevertheless, with the ICC mandate to deal with the most serious crimes committed after July 1, 2002, engagement in judicial proceedings before the end of the conflict became essential (Ocampo, 2007). Furthermore, Evans (2009) refers to the Responsibility to Protect (R2P) – a principle in international relations that emerged from a United Nations (UN) World Summit in 2005, emphasizing the state’s responsibility to protect their own population from genocide, war crimes, ethnic cleansing, and crimes against humanity. If a state fails to protect its citizens from mass atrocities, the international community has a responsibility to intervene and protect those populations, using political, economic, judicial, or military means (Evans and Sahnoun 2002). Hereby, under international law, both states and the international community are to react promptly and effectively, including the need to intervene in ongoing conflicts, if severe human rights violations take place.

As TJ measures application to ongoing conflicts often exemplifies in so-called transitional justice interventions, Engstrom (2011) highlights that this approach thus indeed has established the domain of TJ in much closer contact with the related, but distinct, domains of conflict resolution and peacebuilding. Colombian Legal Framework for Peace is described by Van Nievelt (2016) as an innovative effort to make «*transitional jurisprudence and conflict resolution complementary rather than competitive ventures*», placing transitional justice at the heart of peace-making efforts. It is worth noting that the case of Colombia is also often regarded as a pioneer in the deployment of TJ tools in the midst of conflict, where ongoing negotiations for peace with the Marxist guerrillas were facilitated by a package of TJ measures enclosed into the Colombian constitution through the adoption of the Legal Framework for Peace in July 2012. It enabled and supported a transition toward peace. Yet, the balance between peace and justice might lead to some sacrifice on the part of justice and, hence, legitimize impunity. Lachowski (2017) reckons that this dilemma of justice versus peace can be resolved, first of all, by means of international law, implying, that all perpetrators of international core crimes (genocide, crimes against humanity and war crimes) shall be held accountable, while other ex-militants may be subjected to the reintegration tool-kit (drew, for example, on amnesty provisions). Both Lachowski (2017) and Rozumyuk (2020) refer to the case of Eastern

Slavonia where amnesty was applied to political crimes only such as treason and incitement to rebellion. Hence, transitional justice measures, implemented against the backdrop of the ongoing conflict, are often viewed in the context of peace-building efforts.

1.1.4 Criticism.

The application of TJ instruments to ongoing conflict scenarios is not without its critics. Diaz (2018) refers to the transitional justice traditional understanding as an instrument dealing with past rather than ongoing abuses. Figari Layús (2022) questions the “over-ambitiousness of justice-seeking in the absence of peace”, specifically when it comes to TJ implementation in inhospitable conditions. Van Nievelt (2016) underlines the need, expressed by the former Colombian president Álvaro Uribe, to bring “peace without impunity”. This mirrors the concern that the simultaneous use of transitional justice and peacemaking fuels the tension between the demands of peace and those of justice. Yet, Đukić (2007), in this respect, highlights that TJ seeks a holistic sense of justice, contrary to relying exclusively upon a classical, retributive understanding of justice. Engstrom (2011) underpins the belief that the motivation to apply TJ measures during ongoing conflicts can indeed be contentious: whereas proponents argue that a credible threat of punishment deters further rights-violating behavior and encourage engagement with peace processes; the skeptics insist that an attempt to hold perpetrators of serious violations accountable and the looming threat of prosecution can damage peace negotiation prospects and provoke intensification of political and societal divisions. Thus, although TJ implementation during ongoing conflicts is quite complex and, contrary to expectations, may have a deleterious impact on peace negotiations, yet, the application of transitional justice measures in the midst of war may yield beneficial results and pave the way for peace-building process and, subsequently, ‘proper’ TJ mechanism application (Lachowski 2017).

1.1.5. Conclusion

In conclusion, transitional justice has been originally discussed as a field of theory and practice predominantly engaged with the question of justice, truth and reconciliation in response to political regime change. Nevertheless, with the expansion of its normative ambition, it is now widely applicable to the post-conflict environment and more recently – in the midst of conflicts, quite often in the form of judicial interventions. In this respect,

transitional justice is often agreed on within the framework of peace agreements and as a part of provisional negotiations in war settings. This contemporary TJ application against the backdrop of ongoing conflict, although assessed differently by scholars due to limitations such implementation anticipates, yet is gathering more and more supporters among TJ academics and practitioners. Nevertheless, the transitional justice measures, outlined in the literature, are local-context-tailored and cannot be generalized. Thus, there is an acute need to take into account the conditions on the ground, e.g., Ukrainian ones, which will be done in the next part of this chapter.

1.2. Donbas local setting for the transitional justice application.

In this part, Donbas local settings will be outlined and, what might be important for the broader picture, Ukraine's previous experience with TJ application analyzed.

1.2.1 Previous experience with TJ application in Ukraine.

Earlier in this chapter two approaches of TJ application were discussed, namely to the post-conflict and post-regime environment. Lachowski (2017) argues that Ukraine can be considered a quite unique example among the states implementing transitional justice, as two of these scenarios are relevant. From one perspective, Ukraine is willing to enact *backward-looking justice* dealing with ancient régime structures (the communist heritage, similar to other countries in Central and Eastern Europe like Poland, Czechoslovakia (at that time), Hungary and others; or Yanukovich regime atrocities that followed Euromaidan revolution), while from the other one, Ukraine is being bound to execute *forward-looking justice*, adjusted to the cases of ongoing conflicts and war-torn societies (the cases of Donets and Luhansk regions as well as the Autonomous Republic of Crimea). When it comes to the first approach, both basic transitional policies, i.e. decommunization needed after the Soviet Union collapse as well as lustration, required in the light of the Yanucowich regime atrocities, are criticized externally and internally for their insufficiency, inadequacy and superficiality¹ (Lachowski (2017), Bachmann and Lyubashenko 2017). The second approach, although less discussed in the literature, lies within the scope of interest of this thesis and thus will be examined further.

¹ It is worth noting that this assessment took place before the full-scale invasion and thus does not take into account the recent progress in decommunization and governmental purges.

1.2.2 War in Donbas.

To start, some context is needed. Donbas is a historically formed region of Ukraine, one of the most developed industrial and energy complexes of the country with significant natural resources and powerful production potential. It is located in the east of Ukraine and administratively covers Donetsk and Luhansk regions. Donbas can be considered a "melting pot" in which linguistic, religious, and cultural phenomena were mixed for centuries, with settlers from all over the former Russian Empire and Soviet Union (Пахоменко, 2015). Мацієвський (2019) argues that since Ukraine regained its independence in 1991, the residents of Donbas have had a pronounced regional identity, built on the narratives of the region's uniqueness, its economic power, and achievements, criticism of attempts to spread the Ukrainian-centric cultural matrix here. Although for many years local Donbas elites were promoting this regional identity or separateness in their political interests, mostly as an argument in the election campaigns, it never posed a threat to the integrity of Ukraine prior to direct Russia's involvement (Пахоменко, 2015).

At the beginning of April 2014, an armed conflict erupted in Eastern Ukraine following the Russian annexation of Crimea. Явір (2017) and Мацієвський (2019) emphasize that in the case of Crimea, Russia *officially* supported and encouraged the annexation of the peninsula at the top management level, whereas, in the case of mainland Ukraine, the neighboring state acted *covertly* at first – through groups of saboteurs without identification marks, using the mechanisms of hybrid warfare (omnipresent propaganda spread through Russian media and media controlled by pro-Russian elites, particularly members of the Regional Party², armed terrorist activities, illegal supply of weapons through the border, etc.). This resulted in the occupation of Ukrainian territory – Donetsk and Luhansk provinces – and the establishment of the unrecognized 'Donetsk People's Republic' (DPR) and 'Luhansk People's Republic' (LPR) by pro-Russian separatists (Lachowski 2017). Ukraine launched the Anti-Terrorist Operation (ATO) on April 13, 2014, aiming to regain control over the regions. Due to direct military and financial support from Russia, as well as the involvement of Russian troops and generals in combat, even at that time, this conflict had characteristics of an international armed conflict, with the Russian Federation as an external aggressor (Lachowski 2017). Rzhavska (2021)

² "Party of Regions" (PR) is a pro-Russian political party created in 1997. In response to the Orange Revolution of 2004, PR deputies made an unsuccessful attempt to separate the southern and eastern regions and form the separatist South-Eastern Ukrainian Autonomous Republic. During the 2014 Revolution of Dignity, which culminated in the removal of then-President Viktor Yanukovich (Honorary Chairman of the Party of Regions) from power, the party lost much of its political influence and, by the end of 2014, ceased operations.

suggests that separatism in Donbas may be framed as political, fueled, and supported by another state. Thus, she accentuates, the reintegration of Donbas should be accompanied by both transitional justice measures and DDR programs.

1.2.6 Transitional Justice: Key Mechanisms.

The discussion of the TJ mechanisms such as the truth commission, reparations, or amnesties in the case of war in Donbas has rather a limited place in scholarly literature due to the nature of this conflict, and thus can be considered as a knowledge gap this thesis tries to fill. TJ's application to this war is mainly centered around the establishment of accountability, in particular, the ICC's involvement concerning TJ measures implementation against the backdrop of the war in Donbas is often examined. Although the obligation to ratify the Rome Statute was part of the Ukraine–European Union Association Agreement, Ukraine is not a state party to the treaty (Bachmann and Lyubashenko 2017). The country referred to Article 12(3) of the document twice, accepting the special jurisdiction of the International Criminal Court over the Maidan events (Referral I) in November 2013, and the alleged war crimes and crimes against humanity committed on the territory of Eastern Ukraine and Crimea (Referral II) in February, 2015 (Korynevych 2017). The ICC Prosecutor then made a decision to expand the temporal scope of the ongoing preliminary examination, which initially focused on "Maidan crimes" as per the first ad hoc resolution, to encompass any alleged crimes falling within the parameters of the Rome Statute that were committed on the whole Ukrainian territory, starting from February 20, 2014, without a specific end date (Lachowski 2017). The prosecutions of war crimes by domestic courts have also taken place and, following the full-scale invasion, more than 16,000 investigations of alleged war crimes have been opened (Calvet-Martínez 2022). Bachmann and Lyubashenko (2017) highlight that the reliance on international rather than domestic criminal justice in Ukraine is not solely due to the weakness of its domestic judiciary and the intention to internationalize the conflict in the east of the country, but also an outcome of Ukraine's shift towards a pro-western foreign policy, which emerged as a consequence of the transition. Nevertheless, Lachowski (2017) as well as Bachmann and Lyubashenko (2017) spotlighted that to enhance the criminal justice aspect, Ukraine needs to ratify the Rome Statute (which was expected to happen in 2019 but never did) and ensure effective collaboration with the ICC in order to bring to trial and impose penalties on individuals responsible for serious international crimes committed in Ukraine. Additionally, as neither Russia nor Ukraine ratified the Rome Statute, the ICC does not have jurisdiction over

this crime of aggression in the situation of Ukraine (Calvet-Martínez 2022), which further complicates the establishment of justice and accountability.

1.2.5 Transitional Justice: Peace-building in Donbas.

As the war in Donbas has been ongoing since 2014, there were early attempts to bring the conflict to a settlement through the combination of DDP and TJ. In June 2014, the former President of Ukraine Petro Poroshenko proposed a peace plan for Eastern Ukraine. The document anticipated several TJ and DDR measures, such as exemption from criminal accountability for those who surrendered their weapons and did not commit serious crimes; disarmament of illegally armed groups; withdrawal of troops and heavy weaponry; early local and parliamentary elections; etc. Nevertheless, Kyiv was insisting on negotiations with the official representatives of the Luhansk and Donetsk regions (oblasts), whereas the leadership of the self-proclaimed republics was rejecting peaceful dialogue with the Ukrainian authorities (Явiр 2017). Thus, this plan has never come to life.

The significant attempt to end the armed phase of the conflict which constitutes the combination of DDP and TJ measures, are so-called Minsk Agreements (Явiр 2017, Lachowski 2017, Мацiєвський 2019, Calvet-Martínez 2022, Powirska 2022). On September 5, 2014, at the negotiations of Trilateral Contact Group in Minsk, consisting of Ukraine, Russia, the Organization for Security and Co-operation in Europe (OSCE), and representatives of the self-proclaimed republics, the Ceasefire Protocol, or Minsk-1, was signed (Явiр 2017). As this agreement failed to achieve a lasting ceasefire and the conflict continued to escalate, on February 12, 2015, Minsk II, or Package of Measures for the Implementation of the Minsk Agreements, was signed. Both treaties are being criticized today for various reasons. To begin with, Russia, which at the time of signing presented itself as a mediator to the conflict, despite being an aggressor itself, maintained its insistence on the inclusion of representatives from the self-proclaimed republics in the Trilateral Contact Group. This demand, in essence, constituted a step toward recognition of the legitimacy of these entities, despite the fact that the creation of these republics was a severe infringement of Ukraine's territorial integrity (Powirska 2022). Further clause, imposed on the Ukrainian government, was an obligation to change its constitution to decentralize and adopt a 'special status' for the republics. Another point spotlighted by this author is that provisions of the Minsk agreements were too general and broad, not only making it difficult to determine the actual resolution of the conflict but also granting considerable latitude to each party in interpreting its individual clauses (Powirska

2022). Calvet-Martínez (2022), for instance, underscores that the Minsk Agreement of 2014 incorporated a provision that called for the implementation of a “law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and the Lugansk regions of Ukraine”. The Minsk Agreement of 2015 contained a similar clause. These provisions were constantly interpreted by Russia as a full amnesty for all combatants involved in fightings (Rzhevskaya 2021). Calvet-Martínez (2022) argues that in case of a future peace settlement, explicit exclusion from any type of pardon for people guilty of heinous crimes is needed. Regarding amnesties as a part of TJ tool-kit, it is worth noting that whereas the Minsk-shaped peace process aimed to put an end to violence and prioritized the policy of disarmament, a rather limited room was left for the implementation of proper transitional justice mechanisms overall (Lachowski 2017). It appears that the pursuit of truth and the establishment of truth-seeking mechanisms has been partially reinforced through the process of reconciliation, aligning with the principles of restorative justice. Another contested point is that Minsk I and Minsk II refer to local elections, which the signatories were to organize. The official position of Ukraine in this regard is that it is necessary to achieve de-escalation, the withdrawal of Russian troops and weapons in Donbas, and only then proceed to a political settlement in the form of fair and free local elections (Явир 2017). Nonetheless, on November 2, 2014, just two months after the signing of the Minsk Protocol, “national” elections were held in the self-proclaimed republics. These elections, conducted by separatists and Russia, demonstrated their disregard for the peace process in eastern Ukraine. And last but not least, as neither of the agreements has actually led to a permanent cease-fire, and taking into account the Russian full-scale invasion of Ukraine in February 2022, Minsk agreements as a peace-building mechanism have also failed in their original objectives. Powirska (2022) states that “Ukraine signed the Minsk agreements under pressure from the West, which saw them as a means to end the open military conflict, but did nothing to resolve the overarching disagreement between Russia and Ukraine”. Hereby, Minsk agreements cannot be viewed as either an effective DDR program or a relevant transitional justice mechanism to establish justice and reconciliation.

1.2.4 Transitional Justice: Prospects of Reintegration of Donbas.

The application of transitional justice measures to Donbas is often discussed in the literature in the context of its reintegration (Lachowski 2017 and 2020; Rozumyuk 2020; Rzhevskaya 2021, etc). Lachowski (2017) strongly promotes the potential application of transitional justice to the

ongoing conflict in Donbas and seeks to explore how TJ tools can potentially facilitate the shift to a post-war setting. In his later paper, Lachowski (2020) describes the possibility of a successful establishment of the UN peacekeeping mission, serving as a legal and political framework for the full implementation of those contested Minsk agreements. This, to a large extent, is the experience of the UN mission in Eastern Slavonia aimed at facilitating the peaceful reintegration of the region into Croatia following the Croatian War of Independence. Nevertheless, the question is: will it be possible to adopt all measures undertaken by UNTAES in the Ukrainian scenario? UNTAES was established in 1996 under the UNSC resolution but double legitimized by the agreement signed by the Croatian government and the local Serb leadership. In the Donbas case, not only is Kyiv reluctant to enter into any official relations with the representatives of self-proclaimed 'republics', but also under no circumstances would Russia as a party to this conflict and a member of the UN Security Council, allow for such an option. Rozumyuk (2020) also calls to bear in mind that the Croatian scenario cannot be completely reproduced in modern Ukrainian conditions, since the international situation and domestic political settings in Croatia at the end of the 20th century and Ukraine at the beginning of the XXI century have more differences than similarities: the power potential of Yugoslavia under S. Milosevic and Putin's Russia seems disproportionate, and the conflict in Croatia had obvious signs of inter-ethnic (Serbs versus Croats) and inter-religious (Orthodox versus Catholic) confrontation, while the war in Donbas – an existential value-worldview clash. Therefore, Lachowski (2020) summarizes that the withdrawal of Russian troops and military equipment is necessary for the possible implementation of the Slavonia peace scenario in Donbas. Rzhavska (2021) in her research also refers to the Minsk Agreements but compares them to the Dayton Agreement, which contributed to the end of the 3-year war in Bosnia and Herzegovina. She highlights shortcomings of Minsk treaties, such as blanket amnesties and difficulties with the introduction of the international peacekeeping mission. The scholar tries to propose solutions to the war in the East of Ukraine, based on the evaluation made with the Pareto optimality principle, taking into consideration the interests of all the participants of the studied conflict, whom she defined as (1) Ukraine, (2) the Russian Federation, (3) the European Union, (4) the Self-proclaimed Republics, the so-called LPR and the DPR. Having calculated the minimum guaranteed result for each participant, the author stated, that the optimal solution to the investigated conflict cannot be found because of the impossibility of reaching an agreement between the parties concerned.

1.2.7 Conclusion and Contribution.

Having compiled the two-fold literature review with respect to the concept of transitional justice and its practical application to the case of Donbas, several judgments might be made. Firstly, rather limited research on the practical TJ application to ongoing conflicts is available. Furthermore, the existing literature mostly discusses frozen or semi-frozen conflicts and civil wars, rarely referring to the direct aggression of one state against another due to the widely-spread conviction that traditional interstate warfare remains the relic of the past. Secondly, many of the Donbas' local settings previously outlined deem to be no longer valid, e.g. conflict is not frozen and should now be viewed in the context of the Russian full-scale war against Ukraine; no doubts are left that ICC can be regarded as a suitable institution applied in this case similarly as it was done before in other conflict scenarios because Russia is not a state party to the Rome Statute and does not recognize its jurisdiction, unlike Ukraine; Minsk agreements referred to as an instrument to resolve the war in Donbas by, Lachowski (2017), Yavir (2017) and Rzevska (2020) failed to deescalate the conflict³; etc. Thirdly, newly emerging details such as the recent debate on establishing a special tribunal to make Russian leadership accountable for the crime of aggression, have to be taken into consideration to address the current situation, so the complexity of events happening after February 24, 2022 will be reflected upon. And last but not least, although a combination of the international criminal justice (the ICC), domestic justice efforts, disarmament, demobilization and reintegration (DDR) programs, facilitated by international assistance, are often discussed as a crucial precondition for the Donbas reintegration into Ukraine (Lachowski (2017), Rzevska (2020), however neither Ukrainian government nor the scientific expert community has established a clear systematic understanding of the application of transitional measures to Donbas region and their role in peace-building. This concerns the strategy, tactics, and basic principles of both. Hereby, this paper will contribute to the aforementioned debate and is devoted to understanding the role played by the transitional justice toolkit in ongoing conflicts, likewise, its practical application to the Ukrainian case, with particular reference to the Donbas region. Its overarching objective is to answer the research question:

How can the transitional justice mechanism be applied to the case of the Donbas in Ukraine?

³ This has been underscored in some post-February 24, 2022 scholarly works, e.g. Powirska (2022).

Nevertheless, the author of this thesis acknowledges possible limitations of the TJ paradigm when applied in the midst of the conflict, recognizes that the consensus on the proper TJ mechanism is highly unlikely and probably undesirable, taking into account the diversity of the actors involved and the moral ‘thorniness’ of the issue at stake, and manages their expectations regarding the possible future outcomes. As a strong proponent of transitional justice, the author still admits the fact that accountability measures may complicate the pursuit of peace. Yet, without any type of accountability, serious doubts are to be cast on the character of *peace* attained. Thus, the author will strive for the highest level of objectivity possible to make their contribution to the continually evolving practice and application of transitional justice to ongoing conflict scenarios.

Key concepts: transitional justice, reintegration, ongoing armed conflict; Donbas region, Russian war in Ukraine.

2. Transitional Justice Toolkit.

This thesis uses Qualitative Content Analysis (QCA) to develop a transitional justice toolkit that can be applied to ongoing conflicts, for what peace treaties, which include various TJ measures, have been analyzed. This chapter unfolds in the following way: in the first part, research design and methodology will be discussed; in the second part, the transitional justice toolkit, developed with QCA, will be presented.

2.1 Research Design and Methodology

The research project will employ a qualitative approach and focus on a single case to investigate the posed question. Case study research may be particularly useful to focus on the complexity and unique characteristics of something (Stake 1995), and, if associated with the location, intensively examine its settings (Bryman 2012). With regard to the inquiry of when the case study approach is applicable, Yin (2003) highlights various reasons, among all, are the study's focus to answer *how* and *why* research questions and the need to cover the contextual conditions as particularly pertinent for the investigated phenomenon, which highly resonates with this thesis.

Taking into account the nature of the phenomenon under analysis, Pham and Vinck (2007), as well as Bunselmeyer and Schulz (2019), highlight there is an emerging consensus that transitional justice measures should consider the unique local settings, as dissimilar TJ mechanisms have been implemented in such countries as South Africa, the states of the former Yugoslavia, Rwanda, Iraq, Argentina, Colombia and Syria among others. This agreement is manifested in the prevalence of the qualitative single case studies describing and analyzing transitional justice mechanisms in one country throughout existing TJ scholarship (Hollywood 2007; Rostow 2013; Al Jazairi 2015; Jongerden 2017; Diaz 2018; Holl 2022; Figari Layús 2022). Nonetheless, Bunselmeyer and Schulz (2019), suggest applying the quasi-experimental research designs as a tool for evaluating the influence of transitional justice instruments. Yet, such an approach, although may yield particular advantages in the form of TJ impact assessment and identification of causal relationship, is not relevant to this thesis research question.

A common critique of case studies stems from the issue of external validity (Bryman 2012). The author of this thesis argues that the purpose of this research design is not to draw generalizations to other cases, which is also possible to a narrow extent, accounting for the phenomenon analyzed. The type of case study used in this research falls under Stake's (1995) definition of an instrumental case study, where the case, typical or not typical in its nature, is often examined in depth, its context scrutinized and its ordinary activities closely detailed with the aim to pursue researcher's external interest of honing the theory. In this respect, the case of Donbas will be used in order to illustrate the possible application of the transitional justice toolkit applicable to ongoing conflict scenarios. Thus, this research design is influenced by this thesis' specific research question that arises from theoretical considerations (Bryman 2012).

2.1.1 Case Selection.

Taking into consideration the direct Russian aggression against Ukraine it is necessary to accentuate that there are various reasons why this thesis primarily concentrates on Donbas. From one perspective, when it comes to the cases of the Donetsk and Luhansk oblasts and the Autonomous Republic of Crimea, Явір (2017) and Мартиненко (2021) stress that it is necessary to differentiate between the sets of measures relevant to the entities' reintegration. They base such an argument on the different legal status of both territories: the Autonomous Republic of Crimea was annexed – illegally incorporated into another state, and became part of it in the political and economic sense. The occupied territories of Donbas, backed by Russian military and financial assistance, illegally left the composition of the independent state, turning into self-proclaimed entities that are yet, similarly to Crimea, not recognized and not supported by the international community. Moreover, though the war in Donbas was deemed to be frozen until February 2022, unlike in Crimea, the military operations were still ongoing here, which further complicates several transitional justice measures' applications. And last but not least, in the case of Donbas the ethnic component is not applicable (Rzhevskaya 2021), whereas in the case of Crimea, this one requires a separate examination and adds up complexity to the research. From the other perspective, taking into account post-February 2022 developments, the liberation of recently occupied regions, e.g., Kherson, in its turn, demonstrates rather a war dynamic in a highly escalated environment, whereas the ambition of this paper is to design a TJ mechanism – a legal and political toolkit – which shall eventually pave the way for the peace process and LPR-DPR reintegration (Lachowski 2017).

With regard to methodological requirements, the need to bind the case so the study remains reasonable in scope (Stake 1995; Yin 2003; Baxter and Jack 2008) is acknowledged. Narrowing the focus to Donbas, instead of concentrating on Ukraine as a whole, can help to delve deeper into those unique regional dynamics, as separatist movements, involvement of external actors, the establishment of self-proclaimed entities, etc. have significantly shaped the conflict development. Concerning the timing of the research which is seen as a significant case-binding clause (Stake 1995), it is yet acknowledged that the time frames of this thesis remain unclear. Whereas the beginning of the war in 2014 is seen as a starting point, it is rather challenging to define an ending point. On the one hand, it can be considered as the limitation of this thesis. Nevertheless, on the other hand, taking into account the theoretical contribution this paper intends to make in developing the TJ framework for ongoing conflicts such as the one in Donbas, the ongoing nature of this war can be viewed as a beneficial backdrop for such research. To conclude, the reasons to concentrate on the case of Donbas stem from empirical, methodological, and feasibility considerations. Nevertheless, it is recognized that amid the Russian full-scale aggression against Ukraine, certain TJ measures, applicable in Donbas, may be relevant not only to Crimea but also to Ukraine in general, whereas researching and analyzing transitional justice in the whole of Ukraine would be an ambitious and extensive undertaking for future research endeavors.

2.1.2 Methodological Approach: Qualitative Content Analysis

In recent years, there has been a notable rise in the number of research that mention document analysis – a structured process of examining and assessing various types of printed and electronic materials – as a research methodology (Bowen 2009). This, similarly to other methods in qualitative research, involves carefully reviewing and interpreting data to extract significance and meanings, enhance understanding, and develop empirical knowledge (Corbin & Strauss 2008). As documents constitute a very heterogeneous set of data, Bryman (2012) defines them as materials that can be read (or interpreted when it comes to visual items), have not been created particularly for the purpose of social research, are preserved and available for analysis, and are relevant to the researcher's inquiry. This thesis relies on a particular type of documents – peace treaties and provisional agreements. Whereas very limited research on peace agreements qualitative analysis is available, the general characteristics of this approach

may be discerned from the broader debate around the rationale and operationalization of document analysis.

Bowen (2009) claims that as a research method document analysis is especially pertinent for qualitative case studies and can serve supplementarily to others or be used as a stand-alone research method. He discusses several advantages of using document analysis such as a source of background information, context and historical insight that can be a valuable addition to the knowledge base; means of tracking the development and change; a way to verify findings or evidence from other sources, etc. In this research, the analysis of documents (peace treaties and provisional agreements that include transitional justice measures) aims to provide a more profound insight into diverse TJ measures, applicable to ongoing conflicts, while assessing various local contexts and conflicts' peculiarities, outlined in the agreements.

Interpreting the documents may involve such approaches as qualitative content analysis, semiotics, and hermeneutics (Bryman 2012). As the two last are not relevant to this thesis' research question, qualitative content analysis (QCA) as the most prevalent approach in the analysis of the documents (Bowen 2009; Bryman 2012) will be used. QCA is a systematic and flexible method, that helps to reduce data (Schreier 2012), which is essential for the analysis of the lengthy document as peace concords, and equally practicable for the development of the TJ toolkit.

2.1.3 Data

Both Stake (1995) and Yin (2003) acknowledge the significance of efficiently arranging information. Employing a database to fulfill this objective offers the advantage of making raw data accessible for independent examination. By utilizing a database, the reliability of the case study is enhanced since the researcher can effectively monitor and organize data sources. In this thesis Peace Agreements Database, which contains more than 2000 agreements, found in more than 150 peace processes between 1990 and 2023 ("PA-X: Peace Agreements Database," 2023), has been used. This is how the potential shortcoming of the limited access to some documents, raised by Bowen (2009), has been dealt with. The list of agreements that include transitional justice measures was generated using the database. As this document sample included 996 agreements with more than 50 country cases, feasibility concerns were raised. The list of cases was firstly narrowed down by excluding TJ application in the situation of the

regime atrocities as this approach lies outside of this thesis' theoretical framework. Then, the set of documents was established with purposive sampling (Bryman 2012): cases that are pertinent to this thesis' research question and those referred to in the literature were primarily chosen for the analysis. Still, to ensure the robustness of the established categories and subcategories, randomly selected from the list cases had been being analyzed until the theoretical saturation (Glaser 1965) was achieved: no new insights were produced from the material, generated toolkit was deemed rigorous. A complete list of all coded documents and the code system may be found in the appendix.

2.2 Transitional Justice Toolkit applied in the midst of the conflict.

Following the preliminary qualitative content analysis of the relevant peace treaties and provisional agreements, a coding frame of medium complexity was built, comprising 4 categories, each with its own subcategories. Categories and subcategories were generated by combining inductive and deductive strategies, with them being concept- and data-driven. Categories are predominantly influenced by the literature, and gave way to the approach of subsumption – generating data-driven subcategories to an already existing main category (Schreier 2012). Data-driven subcategories were created through the progressive summarizing of the material. After the coding frame was finalized, the process of defining categories took place, by assigning the final names and descriptions to those. Then, the revision of the coding frame occurred, where categories and subcategories were examined in structural terms. The coding was done with MAXQDA – a software program designed for computer-assisted qualitative data analysis (“MAXQDA | All-In-One Qualitative & Mixed Methods Data Analysis Tool,” 2022). In order to achieve the validity of the findings, two rounds of coding took place: part of the material was re-coded after 2 weeks and similar results were yielded.

In the next part, the transitional justice toolkit with the measures that can be applied to the ongoing conflicts will be presented.

2.2.1 Transitional Justice Measures Applicable in the Midst of the Conflict – Analysis.

The judicial sector, international sector, social sector, and political sector were chosen as the main categories to provide a comprehensive analysis of different aspects of transitional justice.

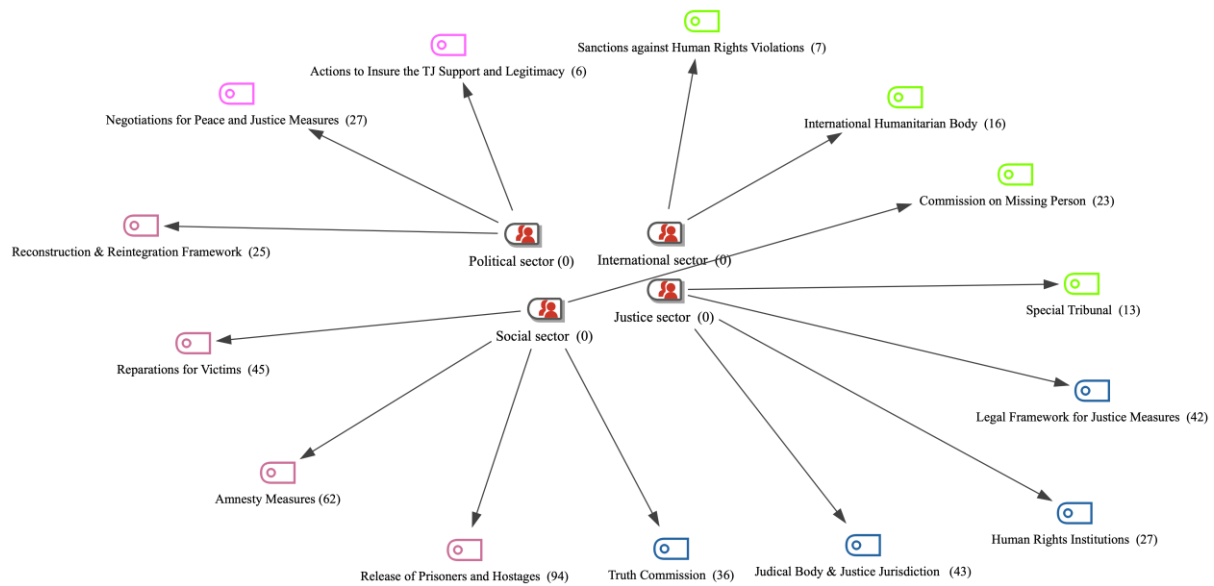


Figure 2: Subcategories within peace agreements with their respective Categories (own representation). *Transitional Justice Toolkit Applicable to Ongoing Conflicts*

Justice sector.

The Judicial Sector category is centered around the establishment and functioning of judicial mechanisms within the transitional justice toolkit.

Legal framework for TJ application. The need to establish a legal framework for effective TJ measures implementation has been mentioned in numerous treaties. For instance, in Guatemalan Agreement on firm and lasting peace, it is highlighted that “*The constitutional reforms set out in the Peace Agreements provide the fundamental substantive basis for the reconciliation of Guatemalan society within the framework of the rule of law, democratic coexistence, and the full observance of and strict respect for human rights*”. Constitutional reforms designed to safeguard human rights and develop new mechanisms for TJ application were also foreseen in El Salvador, Bosnia and Herzegovina, Colombia, etc. In some cases such as the Democratic Republic of Kongo, Cote d'Ivoire, Central African Republic etc., the government was bound to promulgate an amnesty law that the signatories of the agreements could benefit from. These measures are deemed necessary in order “*to offer full legal certainty to those who participated directly or indirectly in the armed conflict*” (Colombia 2016, Final

Agreement to End Armed Conflict and Build a Stable and Lasting Peace); “*to ensure a more effective and integrated justice and accountability response*” (Uganda 2007, Agreement on Accountability and Reconciliation); to establish several transitional justice institutions, as it was done in South Sudan with “*The Commission for Truth, Reconciliation and Healing (CTRH), An independent hybrid judicial body, to be known as the Hybrid Court for South Sudan (HCSS); Compensation and Reparation Authority (CRA)*”. When it comes to ongoing conflicts, the establishment of a legal framework for TJ measures before the end of a war may be essential to ensure timely justice, deterrence, protection of victims, strengthening of the rule of law, and facilitating peacebuilding and reconciliation.

Human Rights institution. Calvet-Martínez (2022) discusses the *coordination mechanism to document war crimes* as a part of the accountability dimension of TJ. Such institutions have been framed differently in the analyzed peace treaties, for instance, National Counsel for the Defence of Human Rights in El Salvador; the Human Rights Commission in Sierra Leone, Uganda, and Bosnia and Herzegovina; Counsel for Human Rights with the Verification Mission on Human Rights in Guatemala, etc. In some cases the role of civil society organizations is underscored with, for instance, the engagement of the NGO Elimination of Violence Against Women Law in Afghanistan. Although so-called Human Rights institutions quite often come into force at the end of the conflict and function as the observing body, yet, referring to the Guatemalan case and Comprehensive Agreement on Human Rights, 1994, the scope of the TJ application was expanded as the International Verification Mission on Human Rights was “*to begin its functions prior to the end of the armed confrontation*” due to the need to start collecting evidence as early as possible and prevent new violations.

Judicial Body and Justice Jurisdiction. Application of the TJ accountability measures during the ongoing conflicts stems from the states’ obligation under international law to investigate serious breaches of human rights effectively and promptly (Calvet-Martínez 2022). It has been highlighted by Sriram and Herman (2009) or Weitekamp (2006) these investigations may happen under domestic (e.g. Gacaca courts in Rwanda), hybrid (e.g. the Hybrid Court for South Sudan) or international judicial umbrellas. With regard to acts of genocide, crimes against humanity, and war crimes, the International Criminal Court is often referred to as a part of the transitional justice project (Uganda, Democratic Republic of Congo, Sudan, etc). Its objective is to redefine the standards of human behavior even in the midst of ongoing violence, with the ultimate aim of deterring future crimes (Ocampo, 2007). It is worth noting, that hybrid

and international courts are more common when it comes to external aggressions of one state against another.

Special tribunal. Due to the complex nature of investigating and prosecuting atrocity crimes, which are frequently committed in a systematic way, it is crucial to establish a distinct mechanism for transitional justice, supported by the international community – a hybrid criminal tribunal (Calvet-Martínez 2022). The creation of a criminal tribunal with the purpose of prosecuting atrocity crimes took place under several peace agreements analyzed. For instance, the International Criminal Tribunal for the Former Yugoslavia in the contexts of Bosnia and Herzegovina and Kosovo; the Extraordinary Chambers in the Court of Colombia within the Tribunal for Peace; etc. The establishment of such tribunals before the actual end of the conflict may be essential to preserve evidence, prevent impunity and prioritize victims.

Social Sector.

The Social Sector category acknowledges the significance of addressing social dimensions of transitional justice.

Truth commission. The creation of truth commissions to collect evidence of heinous crimes, preserve collective memory, and contribute to reconciliation between parties of the conflict has been discussed in the literature (Freeman 2006; Weitekamp 2006; Sriram and Herman 2009; Calvet-Martínez 2022). The requirements and responsibilities of this institution are often outlined within the peace agreement, similarly to what happened in El Salvador, Colombia, Burundi etc. Conversely, the treaty might only provide a broad description of the mechanism's terms, leaving the specific details of its implementation to be determined later through the enactment of domestic laws, as observed in Sierra Leone, Guatemala, Uganda, the Democratic Republic of the Congo, etc. Although the truth commission is usually referred to as a non-judicial instrument (e.g. in El Salvador Mexico Agreement, 1991, where it was emphasized that “*the Commission shall not function in the manner of a judicial body*”; or in the Colombian Agreement on Victims of the Conflict, 2015, where it is framed as ‘an extra-judicial body’) with different from the court functions, yet, some TJ strategies have involved criminal trials based on the evidence collected by truth commissions: in Peru (Đukić 2007) or El Salvador. Additionally, in Guatemala Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements, 1996 the compensation program for victims

of human rights violations was to be established based on the recommendations of the Clarification Commission (Truth Commission). Thus, the truth commission constitutes one of the essential TJ tools, often executes its functions in synergy with other bodies such as a court or commission on reparations, and should be established prior to the end of military confrontation, particularly concerning its involvement in collecting testimonies regarding human rights abuses.

Release of prisoners and hostages. This subcategory was established based on the document analysis. The inclusion of the release of prisoners and hostages as a transitional justice measure is motivated by humanitarian concerns, the need to restore dignity and rebuild trust within the parties involved, its contribution to truth, peacebuilding and the rule of law. Under some agreements, there were special bodies established in this regard (Committee for the Release of Prisoners of War in Sierra Leone; Joint Oversight Committee as a subject to the submission of war prisoners and political detainees' lists in South Sudan; Special Detainee Release Committee in Afghanistan, etc.) or an international mediator, such the International Committee of the Red Cross (ICRC). The most discussed format for these exchanges is “all for all”, witnessed among all in Bosnia and Herzegovina, Kosovo, Croatia, Georgia and Sierra Leone, in some cases with the exclusion of people accused of or sentenced for grave breaches of International Humanitarian Law. Partial releases of prisoners of war, political detainees and non-combatants are common during and following the conflict. High frequency in this category can be explained by the overlap of prisoner release measures under the theoretical framework of both TJ and DDR programs.

Amnesty. As was mentioned in the literature, the inclusion of amnesty laws within a peace settlement is always controversial because of the dilemma between justice and peace it entails (Calvet-Martínez 2022). Amnesty measures are often used in the midst of the conflict. In the cases of Sierra Leone, South Sudan, and Uganda, Angola, Djibouti, Burundi⁴ for instance, pardon measures were used to facilitate the ending of the military confrontation, by granting blanket amnesties to all perpetrators. In the realm of international law, although amnesty laws are not explicitly forbidden, they still should not serve as a barrier to the examination and legal pursuit of severe human rights offenses like war crimes, crimes against humanity, or genocide (Calvet-Martínez 2022). Consequently, the universal or unconditional amnesties are not

⁴ Here amnesty had been granted to all leaders and combatants and was framed as “temporary impunity” until the investigation of the Joint Commission intended to take place.

recognized as they contribute to the evasion of accountability for atrocious crimes⁵. For instance, in Guatemala, the Comprehensive Agreement on Human Rights of 1994 contains a dedicated section on impunity that “*prohibits the government from enacting legislation that obstructs the investigation and prosecution of human rights violations*”; in the Framework Agreement for Peace in Bosnia and Herzegovina, 1995 it was stressed that serious violations of international humanitarian law, that made a militant ineligible for amnesty, were to be defined in the Statute of the International Tribunal for the Former Yugoslavia; in Political Negotiations on the Peace Process and on Transition in the Democratic Republic of Congo, 2002 the exemption of war crimes, genocide and crimes against humanity was underscored in the amnesty conditions; in addition to this, Colombian Final Agreement to End the Armed Conflict, 2016 enacts an obligation “*to provide the full truth, reparations for the victims and guarantees of non-recurrence*” to be eligible for amnesty.

Reparations. Addressing the needs of individuals who have suffered severe human rights abuses is one of the central pillars of TJ measures (Sriram and Herman 2009; Calvet-Martínez 2022). In this respect, quite often both courts and truth commissions play crucial roles in acknowledging victims' right to compensation and guiding reparation efforts, e.g. the role of the Clarification Commission in Guatemala with respect to recommendations on compensations. For this purpose, special bodies, such as the Compensation and Reparation Fund (Agreement on the Resolution of the Conflict in the Republic of South Sudan, 2015) might be established. Compensation framework can be developed by the government (Uganda, Agreement on Accountability and Reconciliation 2008), or established jointly by the government and international community (Peace Agreement between the Government of Sierra-Leone and the Revolutionary United Front of Sierra Leone, 1999). The obligation to compensate, particularly if satisfied by the government, or tied to the amnesty provisions for militants may be applied in the midst of the conflict. In the case of external aggression, the reparations could be imposed by the UN Security Council as it was done in the case of Iraq's aggression against Kuwait.

⁵ The Lord's Resistance Army (LRA) has been causing havoc in northern Uganda, with displacement, violence, massacres, and forced conscription of children. Following the unsuccessful military campaign, the government enacted an Amnesty Act in 2000, guaranteeing the freedom from prosecution and punishment to anybody who agrees to lay down the weapons, despite the severity of the crimes earlier committed.) In 2003, Ugandan government referred the situation to the International Criminal Court, subsequently trying to amend the Amnesty Act to exclude LRA leadership. The ICC issued arrest warrants for Joseph Kony and four other LRA leaders. As a result, peace talks stalled due to this amnesty issue. The rebels demanded revocation of the warrants, while the ICC was determined to prosecute the leaders. Justice and peace measures appeared to be at odds once again.

International Sector.

The International Sector category focuses on the role of the international community in facilitating transitional justice processes.

Sanctions against human rights violations. Sanctions, imposed by the international community is a relatively new mechanism in the TJ toolkit. During the Balkan wars in the 1990s, several sanctions were enacted in response to the conflict, aimed to exert diplomatic, economic, and political pressure on the warring parties to cease hostilities, comply with international law, and facilitate a peaceful resolution (the Agreement Relating to Bosnia and Herzegovina, 1993 (Owen-Stoltenberg Plan)). The sanctions can be subsequently removed when certain obligations are met by the sanctioned party, as was intended to be done in the case of US sanctions against the Taliban at the beginning of intra-Afghan negotiations; in Cote d'Ivoire under the Ouagadougou Political Agreement, 2007.

International humanitarian body. Three institutions were chiefly mentioned in this regard: ICRC, UNHCR, and OSCE. In Kosovo, Croatia, Bosnian and Herzegovina, Afghanistan, Armenia-Azerbaijan, Cote d'Ivoire, Eritrea, etc. parties were to cooperate with the ICRC on some transitional justice or related matters such as the exchange of prisoners and hostages. Several agreements between the parties were even initiated by the International Committee of the Red Cross, e.g. Geneva Agreement, Bosnia and Herzegovina, 1992. The mediation of the ICRC may ensure neutrality and impartiality, provide international oversight and support, and facilitate dialog and peace processes.

Commission on Missing People. Special units on missing people have recently been viewed as a part of the TJ toolkit, as it alleviates relatives' suffering, and contributes to fulfilling the rights to truth and compensation (Calvet-Martínez 2022). These units or commissions have been implemented in different peace processes. For instance, in Colombia, the Comprehensive Peace Agreement of 2016 led to the creation of the Search Unit for the Persons deemed as Missing, which coordinated humanitarian efforts for over 99,000 individuals who had disappeared. Additionally, in 1996, during the initial year of implementing the Dayton Agreement, the International Commission on Missing Persons was formed to locate nearly 40,000 individuals who had gone missing in connection with the armed conflict in Bosnia and Herzegovina. It was also outlined that international organizations, such the International

Committee of the Red Cross could mediate in this respect. The primary objectives of such a body are humanitarian and extra-judicial and may involve ascertaining the fate and whereabouts of those who have disappeared, and in case of death, repatriation of their remains to their families.

Political Sector.

The Political Sector category recognizes the role of political processes to reinforce the transitional justice toolkit.

Negotiations for peace and justice measures. This subcategory was influenced by the analysis of agreements. For instance, the need for negotiations was deemed essential in order “*to establish peace as a supreme good for democracy, put an end to the armed conflict, eradicate political violence, center the treatment of victims as well as advance toward reconciliation*” in the Agreement between the National Government and the National Liberation Army in Colombia, 2016. A similar motivation was also conveyed in the Framework Agreement for Democratization in Guatemala, 1991. The need for peace talks was also underlined in provisional agreements in Croatia, Bosnia and Herzegovina, El Salvador, etc. Additionally, some TJ measures as the release of detainees and amnesties might be outlined in the provisional treaties agreed through the negotiations in the midst of the conflict. Thus, negotiations might broaden the scope of the TJ mechanism and ensure its smooth application.

Reconstruction and reintegration framework. Although reconstruction and reintegration themselves cannot be applied to the ongoing conflict scenario, the analysis of the agreements proved the necessity to start developing the framework of those, when the conflict is still ongoing. It might motivate the ex-combatants to lay down the weapons (as was aimed in the Peace Agreement between the Government of the Republic of Uganda and the Uganda National Rescue Front, 2002), encourage militants to cooperate on justice measures (as was intended in the Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca, Guatemala, 1996). Similar objectives were also traced in El Salvador, the Democratic Republic of Kongo, Sierra Leone, Algeria, Angola etc. The reconstruction framework often includes the component of international assistance, particularly if the conflict involves various parties, as was demonstrated during the International Conference on Reconstruction and Assistance to Afghanistan in 2002.

Actions to Ensure the TJ Legitimacy and Support. These actions may take various forms. For instance, the establishment of national and international verification mechanisms (Comprehensive Agreement Human Rights, Guatemala, 1994); the promotion of the accountability and reconciliation processes through existing national institutions and mechanisms (Agreement on Accountability and Reconciliation, Uganda, 2007); implementation of the communication strategy for disseminating information of progress and ensuring transparency of TJ mechanisms (Final Agreement to End the Armed Conflict, Colombia, 2016). Thus, ensuring the legitimacy and support of transitional justice measures in particular cases is essential for the success of the process as it contributes to a more inclusive, effective, and widely accepted transitional justice process.

Other measures that will not be covered by this thesis due to their inapplicability in the midst of conflict are, among all, the following: the return of governmental representatives and internally displaced persons; vetting procedures and new democratic elections; transitional administration and transitional period; reconciliation, co-existence and non-recurrence measures; reintegration measures; comprehensive institutional reforms in judicial, political, and military spheres, etc.

2.2.2. Conclusions and Remarks.

Several conclusions might be drawn based on the analyses. *Firstly*, despite the original goal of this analysis to concentrate solely on the measures that can be operationalized in the midst of the conflict, it is worth noting that the implementation of several mechanisms included in this toolkit is still dependent on major factors, such as the intensity of the conflict; the willingness of parties to allow for certain developments; the role of international actors, etc. *Secondly*, not only do certain tools seem to be interwoven, e.g. Comprehensive System for Truth, Justice, Reparations and Non-Recurrence (Colombia, 2016 Final Agreement to End the Armed Conflict), but also sometimes contradictory in their direct applicability (domestic court granting amnesty to all perpetrators in Uganda and ICC trying to prosecute core crimes). *Thirdly*, the analysis of the previous peace-building efforts highlights that more comprehensive implementation of the transitional justice measures in the midst of conflict is still preconditioned by the preliminary cease-fire agreements and DDR programs (Kosovo Interim Agreement 1999), which themselves do not constitute a tool under the TJ umbrella. *Fourthly*, as each transitional situation is different, each established mechanism itself and its connection

to others will thus vary in practice too. Therefore, having created a transitional justice toolkit through the qualitative content analysis of peace treaties and provisional agreements, it is worth noting that its full application to an ongoing conflict taken is irrelevant as it has to be local-peculiarities-tailored. Hence, the application of the developed one to the case of Donbas in Ukraine will be discussed in the following chapter.

2.3 Limitations.

It is recognized that this research design has certain limitations, which the author will attempt to approach in this part. Firstly, a possible shortcoming is entrenched in qualitative content analysis as an interpretation of qualitative data in QCA is inherently subjective and can be influenced by the researcher's preconceptions, beliefs, and biases (Schreier 2012). Secondly, Bowen (2009) discusses the limitations entrenched in document analysis, arguing that documents are not intended for research purposes and are created independently of any research agenda, subsequently they typically lack the necessary level of detail to address research questions. With the development of this research, it has been acknowledged that the analysis of the peace concords does not take into consideration the enforcement of TJ mechanisms that took place in practice, but is constrained to comprising the general tool-kit of possible measures based on the treaties. In this respect, however, there is still a theoretical contribution to the development of the TJ toolkit applicable to ongoing conflicts. The empirical application, although is not discussed in relation to every case mentioned, is expected to be assessed in the next part, taking into account the contextual settings of the war given. Thirdly, the document sample may not be exhaustive, as the field of TJ application to post- and particularly ongoing conflict environments is still developing. Yet, the robustness of the developed tool-kit, its categories and subcategories, was attempted to be reached with the theoretical saturation (Glaser 1965). Fourthly, as has been outlined in the literature, TJ measures are included in more than 100 peace agreements (Calvet-Martínez 2022). Nevertheless, this research has also encountered cases when TJ activities have been agreed upon or imposed outside of the framework of the peace treaty or the detailed mechanisms were elaborated on by the governments or other bodies. Additionally, accounting for the sensitivity issue some information on TJ measures and mechanisms may not be accessible. Fifthly, the relation between DDR programs and TJ measures outlined in the literature has not been fully addressed. For instance, the prisoners' release was often mentioned in the cease-fire agreements as a part

of DDR, which also complicated the coding. Notwithstanding, as this thesis concentrates on the TJ measures that can be implemented in the midst of the conflict, including those where DDR programs may not yet have been agreed on, this limitation can be relegated to a certain degree.

3. The application of the Transitional Justice Toolkit to the Case of Donbas.

In order to achieve the pivotal objectives of establishing peace and fostering a sense of unity within Ukraine, the implementation of transitional justice mechanisms is needed. Having developed the transitional justice toolkit applied to ongoing conflict scenarios, it is now time to operationalize it and see how it can be implemented in the case of Donbas.

3.1 Transitional Justice Measures Application in Donbas.

Justice sector.

Legal framework for TJ application. The introduction of transitional justice by law contributes to a stronger rooting of this concept in the legal landscape of Ukraine and strengthens the basis for the further work of lawmakers and other policymakers (Busol, 2022). On August 9, 2021, the Verkhovna Rada registered the Draft Law *On the Basics of State Policy of the Transition Period* — a set of measures to counter the armed aggression of the Russian Federation against Ukraine, restore the territorial integrity of Ukraine within the internationally recognized state border and ensure the state sovereignty of Ukraine, resume the activities of state authorities and of local self-government bodies in temporarily occupied territories of Donbas and Crimea, overcoming the consequences of the armed aggression of the Russian Federation against Ukraine, reintegrating temporarily occupied (de-occupied) territories and their residents, building sustainable peace and ensuring non-repetition of war. Nevertheless, this Draft law received significant criticism from the human rights community of Ukraine, as well as international actors such as the UN and the Venice Commission. The bill was intended to cover a wide variety of issues, yet, did not go into much detail on any of them. The approach to transitional justice in the draft law was rather limited and one-sided, as attention was focused exclusively on the consequences of Russian aggression and occupation, and therefore there was a risk of inaction in case of possible violations by Ukrainian subjects, even if such violations were less common. This revealed a deeper flaw in the tool: the lack of a victim-centered approach (Busol, 2022).

It is worth noting that Russia has consistently denied the need for transitional justice for Ukraine. Foreign Minister Serhii Lavrov explained that Russia would interpret Ukraine's adoption of the draft Law on the Transition Period as Kyiv's rejection of the Minsk Agreements. On January 25, 2022, after several stages of consideration, the draft law was withdrawn from Parliament (Official Portal of the Verkhovna Rada, 2023). While the Ministry of Reintegration said they wanted to improve the tool, the withdrawal could also be a response to the threat, posed by Russia's unprecedented military build-up along the Ukrainian border and an attempt to prevent further escalation – an attempt that, given current events, has proved futile. Thus, at the moment there is no recognized legal framework under which the transitional justice measures should be implemented and subsequent reintegration of occupied territories achieved. Additionally, although with the full-scale war, it is deemed essential to view this measure in the context of the whole territory of Ukraine rather than just the Donbas, the peculiarities of the Donetsk and Luhansk region's occupation may be discussed separately in the future bill as it was done with Eastern Slavonia, Baranja and Western Sirmium in Croatia, particularly when it comes to the reintegration of the entities and separatists.

Human Rights institution. The recording of war crimes, which is taking place in the Donbas region since 2014, and has been extended to the whole territory of Ukraine after February 24, 2022, is of particular significance in preventing the destruction of evidence and ensuring accountability. According to the Office of the Prosecutor General of Ukraine, more than 80,000 Russian war crimes were registered only during one year of the full-scale war (Бурдига 2023). Non-governmental organizations focused on human rights, such as the *Human Rights Watch*, *Center for Civil Liberties* or *Ukraine. 5 AM Coalition*, are also collaborating with civil society groups to gather information regarding war crimes and human rights violations. On an international scale, the UN Human Rights Council has established an *Independent International Commission of Inquiry on Ukraine* with the purpose to investigate human rights violations, breaches of international humanitarian law, and related offenses within the context of the Russian Federation's aggression against Ukraine (Calvet-Martínez 2022). Nonetheless, as the documentation of war crimes is particularly difficult in the temporarily occupied territories such as Donetsk and Luhansk oblasts due to limited physical access, some technological devices, for instance, the *eyeWitness to Atrocities* mobile application, developed in 2016 by the International Association of Lawyers, has been applied. It allows for documenting war crimes by civilian witnesses and has already been used in the Democratic Republic of Congo, Iraq and Syria, with already first prosecutions of persons guilty

(Лобанюк 2023). Thus, the war crimes are now being documented in Donbas, with obvious limitations, and in other parts of Ukraine, whereas their prosecution, in the case of the so-called 'DPR' and 'LPR' may either take place in absentia or upon the restoration of the Ukrainian jurisdiction over the entities.

Judicial Body and Justice Jurisdiction. Although it is primarily the responsibility of individual nations to prosecute those accountable for severe crimes, the involvement and backing of the international community play a crucial role in preventing impunity. As was shown during the peace treaties' analysis, domestic, hybrid, and international jurisdiction may take place. In the case of Ukraine, there is a coordinated effort across various jurisdictions to investigate these crimes (Calvet-Martínez 2022).

Domestic Jurisdiction. Ukrainian authorities have initiated more than 16,000 inquiries into alleged war crimes all over the territory of Ukraine, mostly those happening after February 24, 2022 (Reuters 2022). Komarnytskyi et al. (2020) highlight that with Donbas the most likely scenario for the restoration of criminal justice in the region is possible in the conditions of restoration of the territorial integrity of Ukraine and reintegration of Donbas. They, among all, discuss such steps as the resumption of criminal proceedings for crimes that, due to various reasons, were not completed and remained in the temporarily occupied territories; organization of the investigation of crimes committed during the occupation; identification and systematization of information about crimes that fall under the jurisdiction of the international criminal court; carrying out checks on the causes of death of people who died in territories temporarily not controlled by Ukraine, etc. Nevertheless, Korynevych (2017), Bachmann and Lyubashenko (2017), Прихно (2023) highlight that the Ukrainian judicial system is not entirely equipped to prosecute such crimes. For instance, crimes against humanity are yet to be explicitly classified as criminal offenses in Ukraine's Criminal Code, while Article 438 pertaining to war crimes lacks precise specifications. Consequently, necessary amendments should be made to the Criminal Code of Ukraine, aligning it with the highest international standards, in order to criminalize international crimes.

International Jurisdiction. Since March 2022, the International Criminal Court (ICC) has been conducting investigations into past and ongoing allegations of war crimes, crimes against humanity, and genocide committed on Ukrainian soil from 21 November 2013 onwards. Yet, there are various limitations concerning such international jurisdiction. Firstly, as ICC operates according to the principle of complementarity, it will only be able to handle a limited number

of cases involving the most significant alleged perpetrators as was done with ('MH17') shooting down in eastern Ukraine (Yanev 2022)⁶, whereas the main share of the atrocity crimes shall be dealt with by the national courts (Korynevych 2017). Secondly, despite the fact that Ukraine has recognized the ICC's jurisdiction over acts of war crimes and crimes against humanity, the country has not ratified the Rome Statute. Ratification is necessary in order for Ukraine to have all the rights stipulated by this treaty, particularly, the ability to propose changes to the Statute, effectively cooperate with other states, delegate its own nominations of judges and prosecutors, etc. (Ліскович 2023).⁷ Furthermore, the ratification of the document is a mandatory condition for further European Union integration (Bachmann and Lyubashenko 2017), which was already done by Moldova and Georgia. Nonetheless, according to the Minister of Justice, Denys Malyuska, Ukraine may ratify the Rome Statute only after the war, because as a result of internal communication issues and false reservations, the opposition to RS ratification have been formed among the Ukrainian military, which cannot be changed in the condition of martial law (Радіо Свобода 2022).⁸

Hybrid Jurisdiction. Korynevych (2017) underscores that hybrid mechanisms are of paramount importance to make trials on war crimes in Donbas independent, fair, and professional. With the full-scale war, hybrid war crimes investigation is now discussed in the context of the whole territory of Ukraine. Approximately 18 countries have commenced criminal investigations in Ukraine, based on the principle of universal jurisdiction. The European Union, the United States, and the United Kingdom have established the Atrocity Crimes Advisory Group for Ukraine to provide support to the War Crimes Unit of the Office of the Prosecutor General of Ukraine. Concurrently, EU member states, third countries, and the ICC have joined the EU Joint Investigation Team, which is coordinated by Eurojust (Calvet-Martínez 2022).

⁶ On 17 November 2022, some 8 years after Malaysia Airlines Flight 17 ('MH17') was shot down over Donbas, the Hague District Court issued its verdict and found Igor Girkin, Sergey Dubinskiy, and Leonid Kharchenko guilty as co-perpetrators of the crimes of murdering 298 people and intentionally causing the plane to crash. Each of them received a life sentence. Although it is unlikely that Russia, where the convicted individuals are believed to be, will cooperate in enforcing these sentences, yet the verdict holds great significance for the victims, their families, the Dutch state, and the international community.

⁷ For instance, prosecutor of the International Criminal Court Karim Khan does not support the special tribunal on aggression, offering to find another way. So, this other way can be in changes to the RS of the ISS, which can only be proposed by a country that is a party to the treaty.

⁸ According to the Minister of Justice Denys Malyuska, for a long time, there was a strange communication campaign around the Rome Statute, which allegedly "hits the Ukrainian military, and volunteers", that they will start to be arrested abroad. Nevertheless, Malyuska states although ratification is needed, the process is complicated and is not a priority at the moment.

Thus, with various mechanisms involved, the investigations of the war crimes committed in Donbas and Ukraine overall are currently ongoing.

Special tribunal. Although Russian aggression against Ukraine, in fact, started in 2014 with Crimea and Donbas, talks about prosecuting this crime have been launched only following a full-scale invasion in 2022. When it comes to the investigation of the crime of aggression against Ukraine, there is a need to create an ad hoc criminal tribunal because the International Criminal Court, competent in this regard international body, does not have the power to prosecute this crime unless the countries, in relation to which it is discussed, have accepted ICC jurisdiction over the crime of aggression, e.g. Russia (Calvet-Martínez 2022). Addressing the necessity to avoid a dangerous precedent of this crime being unpunished, the Parliamentary Assembly of the Council of Europe and the European Parliament have both expressed their will to create an ad hoc international criminal tribunal to ensure that those responsible for the crime of aggression against Ukraine are held accountable. Nevertheless, this idea has also been met with criticism by some opponents due to the high cost and time-consuming procedures of such mechanism establishment, the low chance of Russian leadership cooperating on this issue, and, taking into account the Russian veto in the UNSC, the impossibility of UNSC leading role in this respect (Heller 2022), as it was previously done in Yugoslavia or Rwanda. Although as of now there is no unambiguous answer concerning how the future tribunal will look like and the conviction of criminals will most likely take place in absentia, this body's prompt establishment stems not only from the motivation to prevent a risky precedent but also as a form of symbolic reparations to the victims and the need to have mechanisms to arrest Putin and/or his accomplices when the political conditions allow for such development (Кучеренко and Волошин 2023).

Social Sector.

Truth commission. In the Ukrainian context, particularly when it comes to the prospects of future reintegration of Donbas into Ukraine, the truth commission is mentioned as a body to offer amnesty to ex-militants in exchange for confessions, and to decrease post-war tension among societies (Buitelaar et al. 2022). Calvet-Martínez (2022) suggests that in order to have a constructive impact and promote reconciliation, it is imperative for the truth commission to encompass all parties involved in the armed conflict: Ukrainians and Russians. Furthermore, the truth commission should possess the necessary resources to guarantee its autonomy to carry

out its assigned responsibilities. By the time of this thesis writing, no such body has been established. Nonetheless, the existing institutions such as the Ukrainian Institute of National Remembrance have the potential to engage in endeavors aimed at safeguarding the collective memory and countering attempts to distort or deny historical events (Busol 2022).

The release of prisoners and hostages was one of the biggest subcategories in the developed TJ toolkit. Indeed, such exchanges have been ongoing since the beginning of the war in Donbas and continue with the Russian full-scale invasion of Ukraine. During the first year and a half of the war, more than 2957 detainees have been released from captivity (Жуков 2015). To a large extent, this was achieved due to the increased pressure of the international coalition, as well as the Minsk agreements, which obliged the Ukrainian and Russian sides to engage in the exchange of prisoners. The Ukrainian military also managed to detain a large number of Russians who allegedly were not supposed to be fighting in Donbas. It can be assumed that the Kremlin was also interested in the quick return of living "evidence" of the war back to the Russian Federation. The "quietness" in 2016-2017 ended with the "big" exchange on December 27, 2017 (Удовенко 2020). In the period from September 2019 to the present days, particularly with the current escalation of the war, considerable intensification of prisoner exchanges has taken place.

Amnesty. The program of the Security Service of Ukraine (SBU) *We Are Waiting for You at Home*, launched in August 2015, can be considered a predecessor of transitional justice in Donbas. Under this program, ORDLO militants could surrender to the authorities and receive an exemption from criminal accountability, unless guilty of any serious crimes. Reportedly more than 400 militants used the program over five years (Черниш, 2020). Nevertheless, the project has been criticized due to several reasons: it does not have a clear list of articles of the Criminal Code of Ukraine concerning the exhaustive definition of the 'serious crime'; no reparations are imposed on the amnestied; lack of the obligation for the amnestied to revealing the truth, providing evidence, making a public apology; no public consultations, in which interested persons (victims, their relatives and others) should participate; no procedure for verifying the testimonies of the amnestied and establishing the objective circumstances of their participation on the side of the separatists.; and last but not least, amnesty within the framework of transitional justice should always be regulated by a special law, which Ukraine does not have today (Філатов, 2021). Concerning the contested amnesty measures under the Minsk Agreements, Calvet-Martínez (2022) highlights that those provisions may not directly infringe

upon international law. However, any future peace settlement, particularly if facilitated by the United Nations, ought to explicitly exclude any form of amnesty for genocide, war crimes, or crimes against humanity as such measures may impede the investigation and prosecution of those responsible for atrocities.

Reparations. In the case of the Russian war in Donbas as well as its full-scale invasion of Ukraine the question of reparations, though deemed essential in theory, is extremely difficult in practice (Шепелева 2022). Reparations are today primarily discussed within the framework of state (Russia's) responsibility (Calvet-Martínez 2022). The UN General Assembly, at an emergency meeting on November 14, 2022, adopted a resolution that finds Russia guilty of causing damages to Ukraine and calls on the country to compensate them. It is worth noting that a permanent representative of Ukraine at the UN General Assembly referred to the precedent of Iraq's aggression against Kuwait, and the obligation to repair the damage imposed on the first one by the UNSC (Барановська 2022), which was mentioned during the analysis of the peace agreements. Nonetheless, Resolutions of the UN General Assembly have rather a recommendatory nature, that is, they are not binding from the point of view of international law. Furthermore, Барановська (2022) states that using the existing international mechanism in the case of Russia is barely possible: firstly, the UN International Court of Justice has limited jurisdiction and can hear cases only with the consent of both states, including the Russian one; secondly, as was also accentuated in the literature review, a legally binding decision on the payment of reparations could be adopted by the ICC: the crime of aggression can be prosecuted with subsequent obligation concerning the reparations imposed on Russia. Yet, prosecuting crimes of aggression requires a UN Security Council resolution, which Russia, as a permanent member of the Security Council, can block; thirdly, Russia has also withdrawn from the Council of Europe, which means that decisions of the European Court of Human Rights have no legal effect on Kremlin either. Thus, as of now, the most likely scenarios are either the confiscation of the frozen Russian assets, which is very problematic and intricate itself; or an option that provides for the lifting of sanctions from Russia in exchange for its agreement to pay reparations; or Russia's defeat in the war.

International Sector.

Sanctions against human rights violations. Моцик (2020) argues that sanctions are applied to ensure international legal norms when all other non-coercive measures to resolve the

conflict have been exhausted. When it comes to Russia, sanctions have been originally imposed in response to its occupation of Luhansk and Donetsk, the annexation of Crimea in 2014, and the non-implementation of the Minsk agreements (European Council 2023). Sanctions often have practical (to degrade the regime's ability to wage a war by crippling the Russian economy and energy sector, enacting individual restrictions) and symbolic (to punish violators for war crimes and atrocities, give recognition to victims) objectives (Demarais 2022). Although the efficiency of such a tool is contested, particularly when it is sometimes expected that sanctions will lead to regime change, yet, as a TJ mechanism in Donbas they can be considered a means to establish accountability, serve as a deterrence, constitute symbolic value, pursue long-term goals of accountability and reparations, e.g. by freezing the assets of the perpetrators that can be used later for compensations.

International humanitarian body. In the analysis of peace agreements, the International Committee of Red Cross has often served as a humanitarian body to mediate some other TJ measures implementation. Nevertheless, in Ukraine, numerous doubts have been expressed regarding the legitimacy and moral authority of the ICRC in upholding international humanitarian law. It was predominantly influenced by the institution's inability to fulfill its duties among all, to access Olenivka, a camp in the Donetsk region where dozens of Ukrainian PoWs died/were killed in an explosion and fire in July, 2022; to assist forcibly deported to Russia children and adults; to provide help against the backdrop of humanitarian and ecological disaster caused by the explosion of the Kakhovka hydroelectric dam. Furthermore, despair expressed by Ukrainian authorities is that, being inactive itself, “the Red Cross has a monopoly and does not allow other organizations to appear” (Wintour 2023).

Commission on Missing People. Before the full-scale invasion, there were more than 1800 persons registered as disappeared (ICRC 2020). With a full-scale invasion, the numbers of those missing are growing rapidly, with more than 23,000 people being entered into the Unified Register of Missing Persons as of May 2023 (Marusyak 2023). International Commission on Missing People (ICMP) has deployed its personnel in Ukraine upon the authorities' urgent request for assistance. Nonetheless, as with the investigation of the shooting down of a Malaysian airliner over Eastern Ukraine in July 2014, ICMP efforts to locate and identify victims are often hampered by security concerns. Thus, the ICMP, supported by the Office of the Prosecutor General of Ukraine, is working predominantly on the excavation of sites with forensic significance, identifying missing persons, and supporting the families of those (ICMP

Ukraine 2022). Calvet-Martínez (2022) suggests that a specialized unit or commission could be established jointly by Ukraine and Russia as part of a final peace agreement for the conflict. The analysis of the peace treaties has also shown that a certain level of communication between the parties in war is needed to facilitate the search of persons deemed missing. As of now, there is no particular body established, furthermore very limited cooperation exists between the Russian and Ukrainian sides.

Political Sector.

Negotiations for peace and justice measures appear to be imperative in order not only to bring the conflict to a settlement but also to negotiate some provisional TJ measures. Since the outbreak of war in Donbas, Minsk Agreements have had such a purpose. Yet, due to numerous limitations and shortcomings, this framework can no longer be regarded as legitimate (Powirska 2022). The futile and harmful attempt to establish peace through the MA, the full-scale invasion and so-called annexation of new regions of Kherson, Zaporizhzhia, Donetsk, and Luhansk, the growing number of atrocities, the ICC warrant for Putin as a war criminal, etc. made the Ukrainian government convinced that Russia's military defeat on the battlefield should precede any negotiations (Подольяк 2023).

Reconstruction and reintegration framework.

Reconstruction of Ukraine, which is still involved in the interstate conflict, is being discussed prior to the war resolution as it demonstrates the commitment of the international community to support a post-conflict recovery and serves as a diplomatic effort to incentivize peace negotiations; addresses the humanitarian need to alleviate human suffering and provide essential services to affected populations; allows for timely mobilize of resources needed. During the Ukraine Recovery Conference held in Lugano, Switzerland, in July 2022, Ukraine and its allies presented the Lugano Principles as the fundamental basis for the reconstruction efforts of all affected Ukrainian regions. The next meeting was convened in London on 21-22 June 2023, where the delegates were discussing the integration of a distinct "human security" perspective in the reconstruction process (Greminger and Lunding 2023). The reconstruction framework is now being developed, whereas the roles of Ukraine, Russia (or Russia's frozen assets) and the international community in it are being discussed (Amaro 2023).

Reintegration. At present, there is no clear vision in Ukraine of how the reintegration of Donetsk and Luhansk regions, as well as Crimea, should happen. Nevertheless, in 2016 the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine was created with the aim to implement state policy on reintegration issues. Its functionality is not limited to the development of a reintegration framework, but also involves matters pertinent to the ongoing conflicts such as the evacuation of civilians from danger zones; humanitarian aid and social protection of internally displaced persons and residents of frontline territories; integration of internally displaced persons into host communities; keeping registers of prisoners of war, civilian hostages, deportees and forcibly displaced persons; assistance to those released from captivity; return of deported citizens and the bodies of the fallen defenders, search for missing persons (Кецмур 2022), which also explains the Ministry's necessity amid the backdrop of the ongoing war.

Actions to Ensure the TJ Legitimacy and Support. There are various ways Ukraine tries to legitimize its approach to transitional justice in Donbas and overall. First of all, there is a significant international component that can be seen in the involvement of ICC, ICRC and partners: European Union, the United States, and the United Kingdom. Secondly, the process has been quite transparent and open to public scrutiny when it comes to the legal framework for TJ measures and different bodies' establishment. Thirdly, Kyiv has pledged to investigate the war crimes of not only Russians, but also allegations against Ukrainian soldiers, which adheres to non-discriminatory responses to violence that are inherent within the TJ theory (Louise Mallinder 2022). Notwithstanding, Korynevych (2017) accentuates the difficulties in Ukraine's TJ communication campaign when it comes to the temporarily occupied territories, including relevant for this thesis Donetsk and Luhansk regions, due to the omnipresence of the Russian media there. Moreover, due to the sensitivity of some TJ measures, especially when discussed against the backdrop of ongoing conflict, certain discreetness is imperative, which may hinder the legitimization efforts.

3.3.1 Conclusions and Remarks.

Having tried to operationalize the developed toolkit for transitional justice application amidst the ongoing war, in the case of Ukraine and Donbas particularly, several conclusions can be drawn. *Firstly*, the logic to apply the TJ mechanism solely to the case of Donbas, although stems from empirical, methodological, and feasibility considerations, is possible to a

narrow extent in practice as several measures deem to be interwoven and, with the full-scale invasion of the country, may rather be discussed in the context of the whole country, not just Donetsk and Luhansk regions. *Secondly*, in the case of Ukrainian Donbas – interstate, not intrastate conflict, with the instance of the Russian Federation external aggression – the involvement of the international component deems essential. It stems from the need to establish mediators and ensure respect for international law. *Thirdly*, the unwillingness of the Kremlin to cooperate on TJ matters as well as limited access to the territory of Donbas complicates the implementation of certain measures such as the involvement of international humanitarian mediators e.g. ICRC or ICMP, reparations for victims, the establishment of joint mechanisms e.g. the Commission for Missing Persons, etc. *Fourthly*, the concept of transitional justice is legal but also political in its nature, thus, a lot of TJ tools application as well as the TJ project itself are preconditioned by the political agreements between and decisions of the parties concerned, which was witnessed by, for instance, the withdrawal of the bill on the transitional justice on the eve of the Russian full-scale invasion. Furthermore, the situation on the battlefield may have an impact on the peace negotiations and TJ mechanism in provisional agreements as was manifested by the Minsk Agreements, signed while the separatists were seizing the important railway town of Debaltseve (Powirska, 2022). *Fifthly*, when it comes to the TJ application to ongoing conflicts, the role of TJ measures in further reintegration of temporarily occupied entities, e.g. so-called DPR and LPR, can be outlined to a limited extent as the measures connected with post-conflict reconciliation, reconstruction, and reintegration cannot be applied against the backdrop of war. Nevertheless, the development of reconstruction and reintegration frameworks, and the establishment of bodies, such as the Commission of Missing Persons, can contribute to the peace process and pave the way for proper TJ application at the end of the conflict.

3.3.2 Recommendations for the TJ Mechanism in Ukraine.

The following recommendations might be offered based on the analysis of the existing TJ mechanism in Ukraine:

1. Overarching single policy or umbrella law for needed clarification of several TJ measures as well as the establishment of fruitful synergy among bodies.
2. Judicial reform for the domestic judiciary system to be able to effectively prosecute war crimes.

3. Ratification of the Rome Statute for more comprehensive cooperation on the relevant TJ measures.
4. More attention to the truth-seeking mechanism and preservation of memory.
5. The adoption of a victim-centered approach in several areas such as reparations, amnesties, etc.
6. Increase in the TJ mechanisms' legitimization practices, if possible, not only among the international community but also in temporarily occupied areas.
7. Search for reliable counterparts to genuinely fulfill their commitments in the justice, humanitarian and peacebuilding dimensions.

Conclusion.

This Master's thesis has attempted to address a complex phenomenon of transitional justice – a set of measures by which the states deal with the atrocities that occurred in the past due to a war or a regime change. So far, the academic literature is predominantly concerned with the TJ application to the post-conflict environment as a theoretical and practical approach to holding the perpetrators of severe crimes accountable and providing amnesties for others, compensating and repairing the damage for victims, as well as establishing truth and reconciliation in the war-torn societies. Such application of TJ measures has proven useful in the post-conflict reconstruction and reintegration of Bosnia and Herzegovina, Rwanda, Sierra Leone, Colombia, the South African Republic, etc. Nonetheless, ensuring justice for all at the same time is an extremely daunting task, which is why each country that has survived an armed conflict or a regime change tailors its own model of transitional justice, taking into account the settings of the conflict, the peculiarities of law enforcement practice, the political situation, and even national culture and mentality.

At the turn of our century, when warfare became more irregular, conflicts are often protracted or frozen, and civilians appear to constitute the highest numbers among the war fatalities, the expansion of transitional justice normative ambition has taken place and its application in the midst of the conflict is now being discussed. As stated in the Rome Statute, which established the International Criminal Court, reshaping the norms of human conduct while violence is still ongoing is necessary in order to contribute to the prevention of future crimes (UN General Assembly 1998). The document analysis of the peace concords and provisional agreements, done with qualitative content analysis, supports the assumptions that various TJ measures in **judicial** (*justice jurisdiction, human rights institution, legal framework for TJ measures, special tribunal*), **social** (*reparations, amnesties, release of prisoners, truth commission*), **political** (*reconstruction and reintegration framework, peace negotiations, actions to ensure TJ legitimacy*) and **international** domains (*sanctions against human rights violations, international humanitarian body, commission on missing persons*) can and, taking into account RtP, should be applied prior to the end of military fighting.

Nevertheless, the limitation of the TJ paradigm overall, and while implemented against the backdrop of war in particular, have to be acknowledged by academics, practitioners, and politicians. The complexity of TJ implementation to ongoing conflict scenarios stems from the facts that while there is, from one perspective, a legal and moral obligation to investigate and prosecute atrocities and abuses of human rights, yet, from the other one, a need to *negotiate* peace/an end to the conflict. Some TJ measures can indeed contribute to the peace process and conflict resolution. For instance, amnesty provisions often serve as the motivation for combatants to lay down their weapons; or political measures such as negotiations and actions to ensure the TJ project's legitimacy may facilitate the implementation of other mechanisms e.g. the release of prisoners or establishment of the commission for missing persons. However, the threat of prosecution and other punishments, such as sanctions or reparations, can decrease the wrongdoers' willingness to enter the negotiations. This manifests the notorious dilemma of peace versus justice in the notion of transitional justice, and once again underscores the acute necessity to assess thoroughly every particular setting of possible TJ application.

With this in mind, the case of Donbas in Ukraine was chosen in order to see how the TJ toolkit, developed for the ongoing conflict scenarios, could be operationalized in the midst of the Russian Federation's war of aggression against Ukraine. Although this case study design has limited external validity due to the nature of the phenomenon taken, the analysis actually showed that a lot of TJ measures can be generalized to Crimea and, with the Russian full-scale invasion of Ukraine in February 2022, to the whole country. For instance, the legal framework of the future TJ project will most likely have jurisdiction over the whole legally recognized territory of the state; human rights institutions have also been documenting war crimes and violations since 2014 and on throughout the whole country, yet, with evident difficulties in the areas temporarily occupied by Russia; the future reconstruction, though will differ in practice depending on the region, is now being discussed in the context of all war-affected areas under one umbrella, etc. Dissimilarities are more outspoken when it comes to the questions of possible amnesties for combatants from the Donetsk and Luhansk oblasts and regular Russian troops, or in the situation of so-called DPR and LPR reintegration as separatism in Donbas is political in its nature, and an ethnic component is not present, unlike in Crimea, which should be thoroughly assessed separately.

Addressing the application of the TJ toolkit in the midst of Russian aggression, several characteristics ought to be emphasized. Firstly, the current conditions for TJ measures

implementation are extremely inhospitable as the conflict environment is highly escalated, which limits the extent to which the elaborated toolkit could be put into practice. Furthermore, the Kremlin's rejection of the idea of a TJ project itself, makes any cooperation in this domain barely possible. This, in its turn, can serve as a justification for a stronger actorness on behalf of the international community to ensure the rule of law and avoid a dangerous precedent of the crime of aggression being unpunished. Secondly, the involvement of Russia as a party to this conflict complicates the TJ process in a lot of respects due to the country's seat in the UN Security Council, withdrawal from the Rome Statute and the Council of Europe as well as its military power and the ability to influence world politics with gas or nuclear blackmailing. All these features combined foster the necessity to develop new mechanisms, such as Special Tribunal for the Russian leadership or frameworks e.g. in order to seize frozen Russian assets and use them for reconstruction and reparation purposes. Thirdly, the conducted research has vividly manifested that despite TJ's universal goals of bringing justice and accountability as well as ensuring compensation and reparations for victims, the final TJ project applicable to the case given will most probably be shaped and influenced by political decisions and the situation on the battlefield. Hereby, to establish accountability and bring justice, it is crucial to ensure that the conditions are as much favorable for Ukraine – a country against whom the war of aggression is being waged – as possible.

Thus, this thesis has reaffirmed that the concept of transitional justice can and, according to international law, should be applied against the backdrop of the ongoing war in Donbas, Ukraine as a whole, and other parts of the world. In addition, the threat of prosecution can restrain human rights-violating behavior, whereas the development of pertinent in this respect mechanisms, will equip the judicial, political, social, and international sectors with relevant tools to act when conditions allow. The measures and extent to which they can be implemented will depend on the local peculiarities. The analysis of the case study, yet, showed that evidence concerning how TJ application in the midst of the war can contribute to its resolution or reintegration of the occupied entities is rather limited and requires a deeper examination of the nature of the conflict given.

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Afghanistan

08/07/2012

[Tokyo Declaration Partnership for Self-Reliance in Afghanistan from Transition to Transformation \(Tokyo Conference\)](#)

Afghanistan

22/07/2010

[Renewed Commitment by the Afghan Government to the Afghan People and the International Community to Afghanistan \(Kabul Conference Communique\)](#)

Afghanistan

06/06/2010

[The Resolution Adopted at the Conclusion of the National Consultative Peace Jirga](#)

Afghanistan

22/01/2002

[Communiqué of the International Conference on Reconstruction Assistance to Afghanistan \(Tokyo Conference\)](#)

Afghanistan

05/12/2001

[Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions \('Bonn Agreement'\)](#)

Afghanistan

19/07/1999

[Tashkent Declaration on Fundamental Principles for a Peaceful Settlement of the Conflict in Afghanistan \[](#)

Afghanistan

07/03/1993

[Afghan Peace Accord \(Islamabad Accord\)](#)

Afghanistan

United States of America

29/02/2020

[Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban and the United States of America](#) [

Afghanistan

United States of America

29/02/2020

[Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for Bringing Peace to Afghanistan](#)

Algeria

Algeria

14/08/2005

[Project de charte pour la paix et la réconciliation nationale](#)

Algeria

20/07/1999

[Texts for Implementing Acts relating to the Restoration of Civil Harmony](#)

Algeria

13/07/1999

[Civil Harmony Act](#)

Algeria

13/01/1995

[Plate-forme pour une solution politique et pacifique de la crise algérienne \(Plate-forme de Rome\)](#)

Angola

Angola

04/04/2002

[Luena Memorandum of Understanding \(Addendum to the Lusaka Protocol for the Cessation of Hostilities and the Resolution of the Outstanding Military Issues under the Lusaka Protocol\)](#)

Angola

13/03/2002

[Angolan Government's Peace Plan](#)

Angola

15/11/1994

[Lusaka Protocol](#)

Angola

Cabinda

01/08/2006

[Memorandum of Peace and Understanding in Cabinda Province](#)

Armenia

Armenia

Azerbaijan

(Nagorno-Karabakh)

10/11/2020

[Statement by President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation](#)

Armenia

Azerbaijan

(Nagorno-Karabakh)

05/03/2011

[Joint Statement by the Presidents of the Republic of Azerbaijan, The Republic of Armenia and the Russian Federation on the Nagorno-Karabakh settlement](#)

Armenia

Azerbaijan

Nagorno-Karabakh

13/09/1993

[Joint Communique Regarding the Results of the Negotiations between the Representatives of the Azerbaijan and Nagorno-Karabakh Leaderships](#)

Armenia

Azerbaijan

Russia

(Nagorno-Karabakh)

27/10/2010

[Joint Statement of the Presidents of Azerbaijan, Armenia and the Russian Federation on the settlement of the Nagorno Karabakh conflict](#)

Bangladesh

Bangladesh

Chittagong Hill Tracts

02/12/1997

[Agreement between the National Committee on Chittagong Hill Tracts Constituted by the Government and The Parbattya Chattagram Janasanghati Samity](#)

Bosnia and Herzegovina

Bosnia and Herzegovina

Yugoslavia (former)

06/08/1997

[Joint Statement, Split, Croatia](#)

Bosnia and Herzegovina

Yugoslavia (former)

12/02/1997

[Decisions on Mostar of 12 February 1997](#)

Bosnia and Herzegovina

Yugoslavia (former)

12/12/1996

[UN Security Council Resolution 1088](#)

Bosnia and Herzegovina

Yugoslavia (former)

15/12/1995

[UN Security Council Resolution 1031](#)

Bosnia and Herzegovina

Yugoslavia (former)

09/12/1995

[Conclusions of the Peace Implementation Conference held at Lancaster House \(London Conference\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

21/12/1994

[Comprehensive Peace Agreement \(Carter Agreement\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

21/11/1995

[General Framework Agreement for Peace in Bosnia and Herzegovina \(Dayton Peace Agreement\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

08/06/1994

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Bosnia and Herzegovina

Yugoslavia (former)

11/05/1994

[Vienna Agreements](#)

Bosnia and Herzegovina

Yugoslavia (former)

19/10/1992

[Joint statement issued at Geneva on 19 October 1992 by the President of Yugoslavia and the President of Bosnia and Herzegovina](#)

Bosnia and Herzegovina

Yugoslavia (former)

01/10/1994

[Agreement on Prisoner Releases](#)

Bosnia and Herzegovina

Yugoslavia (former)

23/02/1994

[Peace Accord \(Ceasefire at Camp Pleso\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

08/02/1994

[Prisoner exchange agreement](#)

Bosnia and Herzegovina

Yugoslavia (former)

16/09/1993

[Agreement relating to Bosnia and Herzegovina \(Owen-Stoltenberg Peace Plan, or 'Invincible plan'\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

23/06/1993

[Croat-Serb Constitutional Principles for Bosnia-Herzegovina](#)

Bosnia and Herzegovina

Yugoslavia (former)

25/05/1993

[Negotiating team for the realisation of the cease fire agreement in Bosnia and Herzegovina](#)

Bosnia and Herzegovina

Yugoslavia (former)

22/05/1993

[Text of US/Russia/UK/France/Spain Joint Action Programme \(JAP\) on Bosnia](#)

Bosnia and Herzegovina

Yugoslavia (former)

18/05/1993

[Medjugorje Agreement](#)

Bosnia and Herzegovina

Yugoslavia (former)

29/04/1993

[Release of all civilian prisoners and cleaning up of the battle field](#)

Bosnia and Herzegovina

Yugoslavia (former)

03/03/1993

[Agreement](#)

Bosnia and Herzegovina

Yugoslavia (former)

01/10/1992

[Agreement on the release and transfer of prisoners](#)

Bosnia and Herzegovina

Yugoslavia (former)

23/09/1992

[Addendum to the Agreement on the Friendship and Cooperation between the Republic of Bosnia and Herzegovina and the Republic of Croatia](#)

Bosnia and Herzegovina

Yugoslavia (former)

05/07/1992

[Agreement on mutual release of the prisoners along the line “all for all” \[\]](#)

Bosnia and Herzegovina

Yugoslavia (former)

06/06/1992

[Agreement \(ICRC Humanitarian Principles\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

23/05/1992

[Agreement No. 2 \(ICRC Geneva\)](#)

Bosnia and Herzegovina

Yugoslavia (former)

22/05/1992

[Geneva Agreement on humanitarian principles](#)

Central African Republic

Central African Republic

05/02/2019

[Political Agreement for Peace and Reconciliation in the Central African Republic \(Khartoum Accord\)](#)

Central African Republic

19/06/2017

[Political Agreement for Peace in the Central African Republic](#)

Central African Republic

11/05/2015

[Pacte Républicain pour la paix, la réconciliation nationale et la reconstruction en la République Centrafricaine](#)

Central African Republic

25/08/2012

[Acte d'Adhésion de la Convention des Patriotes pour la Justice et la Paix \(CPJP\) à l'Accord de Paix Global de Libreville](#)

Central African Republic

21/06/2008

[Accord de Paix Global entre le Gouvernement de la République Centrafricaine et les Mouvements Politico-Militaires Centrafricains désignés ci après : Armée Populaire pour la Restauration de la Démocratie \(APRD\), Front Démocratique du Peuple Centrafricain \(FDPC\), Union des Forces Démocratique pour le Rassemblement \(UFDR\)](#)

Central African Republic

02/02/2007

[Accord de Paix entre le Gouvernement de la République Centrafricaine et les Mouvements Politico-Militaires ci-après désignés: FDPC et UFDR \(Syrte Agreement\)](#)

Chad

Chad

25/07/2009

[Accord de paix entre le gouvernement de la République du Tchad et le Mouvement National \(MN\)](#)

Chad

14/12/2003

[Peace Agreement between the Government of Chad and the Movement pur la démocratie et la justice au Tchad \(MDJT\)](#)

Chad

07/01/2002

[Peace Agreement between the Government of the Republic of Chad and the Movement for Democracy and justice in Chad \(MDJT\) \(Tripoli Agreement\)](#)

Colombia

Colombia

24/11/2016

[Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#)

Colombia

30/03/2016

[Agreement between National Government and ELN to establish peace talks in Colombia \[\]](#)

Colombia

15/12/2015

[Agreement on the Victims of Conflict, 'Comprehensive System for Truth, Justice, Reparation and Non-repetition, including the Special Jurisdiction for Peace; and Commitment on Human Rights](#)

Colombia

26/08/2012

[General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace](#)

Colombia

29/10/2016

[FARC Letter To Christians and Anyone Who Professes a Religion](#)

Colombia

23/06/2016

[Agreement on security guarantees and the fight against criminal organisations responsible for killings and massacres, or that infringe against defenders of human rights, social movements or political movements, including the criminal organisations that have been named successors to paramilitary groups and their support networks, and the persecution of criminal behavior that threatens the implementation of the agreements and the building of peace](#)

Colombia

15/05/2016

[Joint Communique #70](#)

Colombia

30/03/2016

[Agreement between National Government and ELN to establish peace talks in Colombia](#)

Colombia

17/10/2015

[Joint Communiqué #62, Havana](#)

Colombia

23/09/2015

[Joint Communiqué # 60 regarding the Agreement of the Creation of a Special Jurisdiction for Peace](#)

Colombia

05/08/2014

[Joint Communiqué, Havana, August 5, 2014](#)

Cote d'Ivoire

Cote d'Ivoire

22/12/2008

[Fourth supplementary agreement to the Ouagadougou Political Agreement](#)

Cote d'Ivoire

28/11/2007

[Troisième Accord Complémentaire à l'Accord Politique de Ouagadougou](#)

Cote d'Ivoire

04/03/2007

[Ouagadougou Political Agreement](#)

Cote d'Ivoire

30/07/2004

[Accra III Agreement on Cote d'Ivoire](#)

Cote d'Ivoire

04/07/2003

[Joint Declaration of the Defence and Security Forces of Côte D'Ivoire and the armed Forces of the Forces
Nouvelles](#)

Cote d'Ivoire

07/03/2003

[Accord Accra II \(Ghana\) sur la Crise en Côte d'Ivoire](#)

Cote d'Ivoire

23/01/2003

[Linas-Marcoussis Agreement](#)

Cote d'Ivoire

01/11/2002

[Accords de Lomé](#)

Croatia

Croatia

Slovenia

Yugoslavia (former)

13/07/1991

[Memorandum of Understanding on the Monitor Mission to Yugoslavia](#)

Croatia

Slovenia

Yugoslavia (former)

07/07/1991

[Joint Declaration of the EC Troika and the Parties directly concerned with the Yugoslav Crisis \(Brioni Agreement\)](#)

Croatia

Yugoslavia (former)

03/10/1997

[Programme of the Government of the Republic of Croatia for the Establishment of Trust, Accelerated Return, and Normalization of Living Conditions in the War-affected Regions of the Republic of Croatia](#)

Croatia

Yugoslavia (former)

15/01/1996

[UN Security Council Resolution 1037](#)

Croatia

Yugoslavia (former)

03/10/1995

[Guiding Basic Principles for Negotiations on a Settlement of Eastern Slavonia, Baranja and Western Sirmium](#)

Croatia

Yugoslavia (former)

11/09/1992

[Belgrade Joint Communiqué of 11 September 1992 issued by Federal Republic of Yugoslavia President Cosić and Federal Republic of Yugoslavia Prime Minister Panić and witnessed by the Co-Chairmen \(The London Conference\)](#)

Croatia

Yugoslavia (former)

30/09/1992

[Joint Declaration \(International Conference on the Former Yugoslavia\)](#)

Croatia

Yugoslavia (former)

20/10/1992

[Joint Declaration made at Geneva on 20 October 1992 by the President of Croatia and the President of Yugoslavia \(Geneva\)](#)

Croatia

Yugoslavia (former)

16/12/1991

[Joint Commission to Trace Missing Persons and Mortal Remains](#)

Croatia

Yugoslavia (former)

27/11/1991

[Memorandum of Understanding \(Geneva\)](#)

Croatia

Yugoslavia (former)

12/11/1995

[Basic Agreement on the Region of Eastern Slavonia, Baranja, and Western Sirmium \('The Erdut Agreement'\)](#)

Croatia

Yugoslavia (former)

06/08/1995

[Agreement between the Government of the Republic of Croatia and the United Nations Peace Forces \(UNPF\) - United Nations Confidence Restoration Operation \(UNCRO\) on temporary measures in the areas formerly known as 'Sector North' and 'Sector South'](#)

Croatia

Yugoslavia (former)

02/12/1994

[Agreement \(Economic Agreement\)](#)

Croatia

Yugoslavia (former)

29/07/1992

[Agreement reached in Geneva under ICRC auspices on 28 and 29 July 1992](#) []

Croatia

Yugoslavia (former)

06/11/1991

[Prisoner Exchange Agreement](#)

The Democratic Republic of the Congo

Democratic Republic of Congo

18/04/1999

[Sirte Peace Agreement](#)

Democratic Republic of Congo

16/12/2002

[Global and Inclusive Agreement on Transition in the Democratic Republic of Congo \('The Pretoria Agreement'\)](#)

Democratic Republic of Congo

29/11/2006

[Accord Cadre pour la Paix en Ituri entre le Gouvernement de la Republique Democratique du Congo et les Groupes Armes de l'Ituri \(MRC, FNI, et FRPI\)](#)

Democratic Republic of Congo

23/03/2009

[Peace Agreement between the Government and Le Congres National pour la Défense du Peuple \(CNDP\)](#)

Democratic Republic of Congo

28/02/2020

[Accord entre le Gouvernement de la Republique Domocratique du Congo et la Force de Resistance Patriotique de l'Ituri \(FRPI\)](#)

Djibouti

Djibouti

12/05/2001

[Accord de Réforme et de Concorde Civile](#)

Djibouti

07/02/2000

[Accord cadre de réforme et de concorde civile](#)

Djibouti

Eritrea

06/06/2010

[Agreement between the State of Eritrea and the Republic of Djibouti \(concerning peaceful settlement of the border dispute\)](#)

Djibouti

26/12/1994

[Accord de Paix et de reconciliation nationale](#)

El Salvador

El Salvador

16/01/1992

[Chapultepec Agreement](#)

El Salvador

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[Mexico Agreements](#)

El Salvador

26/07/1990

[Agreement on Human Rights](#)

Eritrea

Eritrea

Ethiopia

12/12/2000

[Agreement between the Government of the State of Eritrea and the Government of the Federal Democratic Republic of Ethiopia \(Algiers Agreement\)](#)

Ethiopia

Ethiopia

Kenya

31/08/2017

[Validation of the Reviews and Amendments on Dukana-Dillo-Maikona Declaration](#)

Ethiopia

Ogaden

12/10/2010

[Agreement between the Government of the Federal Democratic Republic of Ethiopia and the Ogaden National Liberation Front \(ONLF\) on the Termination of the State of Insurgency](#)

Ethiopia

Somalia

Ogaden

Puntland

06/05/2007

[Burtinle Peace Agreement](#)

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10/03/2007

[Adadda Peace Agreement](#)

Ethiopia

Tigray

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[Agreement for Lasting Peace through the Permanent Cessation of Hostilities Between the Government of the Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front \(TPLF\)](#)

East Timor

East Timor

21/04/1999

[Dili Peace Accord](#)

Georgia

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Abkhazia

08/10/2003

[Gali Protocol of 8th October 2003 on reducing the tension and improving the mechanisms for security in the conflict zone](#)

Georgia

Abkhazia

09/06/1999

[Istanbul Statement of the Georgian and Abkhaz sides on confidence-building measures](#)

Georgia

Abkhazia

18/10/1998

[Athens Meeting of the Georgian and Abkhaz sides on confidence-building measures](#)

Georgia

Abkhazia

24/09/1998

[Minutes of the meeting between the Georgian and Abkhaz sides on stabilization of the situation along the line separating the sides](#)

Georgia

Abkhazia

04/04/1994

[Declaration on Measures of a Political Settlement of the Georgia-Abkhaz Conflict](#)

Georgia

Abkhazia

01/12/1993

[Memorandum of understanding between the Georgian and Abkhaz sides at the negotiations held in Geneva](#)

Georgia

Abkhazia

28/08/1992

[Protocol of Consultations on the Regulation of the Conflict between Georgia and Abkhazia](#)

Georgia

Russia

Abkhazia

14/08/2001

[Protocol of the Gali Meeting between the Georgian and Abkhaz Sides](#)

Georgia

Russia

Abkhazia

11/07/2000

[Statement of the State Commissions of Abkhazia and Georgia on Search for the Persons Missing without Trace](#)

Georgia

Russia

Abkhazia

29/04/1999

[Protocol of the Eighth Session of the Coordinating Council of the Georgian and Abkhaz Sides](#)

Georgia

Russia

Abkhazia

03/09/1992

[Final Document of the Moscow Meeting \(Moscow Ceasefire\)](#)

Georgia

Russia

Ossetia

17/11/2000

[Protocol 'On the activities of the sides' Law Enforcement Bodies against Criminality in the Zone of the Georgian-Ossetian Conflict](#)

Guatemala

Guatemala

29/12/1996

[Agreement on a Firm and Lasting Peace](#)

Guatemala

29/12/1996

[Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements](#)

Guatemala

12/12/1996

[Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca](#)

Guatemala

19/09/1996

[Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society](#)

Guatemala

23/06/1994

[Agreement to establish Commission to clarify past human rights violations and acts of violence that caused the Guatemalan population to suffer](#)

Guatemala

29/03/1994

[Comprehensive Agreement on Human Rights](#)

Guatemala

10/01/1994

[Framework Agreement for the Resumption of the Negotiating Process between the Govt of Guatemala and the 'Unidad Revolucionaria Nacional Guatemalteca' \(URNG\)](#)

Guatemala

25/07/1991

[Framework Agreement on Democratization in the Search for Peace by Political Means \('The Queretaro Agreement'\)](#)

Iraq

Iraq

Kuwait

03/04/1991

[UN Security Council Resolution 687](#)

Israel

Israel

Lebanon

11/08/2006

[UN Security Council Resolution 1701](#)

Israel

Palestine

04/09/1999

[Sharm El Sheikh Memorandum: Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations](#)

Israel

Palestine

28/09/1995

[Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip \('Oslo II'\)](#)

Israel

Palestine

28/09/1995

[Annex I, Protocol Concerning Redeployment and Security Arrangements, Israeli Palestinian Interim Agreement on The West Bank and the Gaza Strip \(Oslo II\)](#)

Israel

Palestine

04/05/1994

[Agreement on the Gaza Strip and the Jericho Area \('Cairo Agreement'\)](#)

Kosovo

Kosovo

Serbia

Yugoslavia (former)

10/06/1999

[UN Security Council Resolution 1244](#)

Kosovo

Serbia

Yugoslavia (former)

23/02/1999

[Interim Agreement for Peace and Self-Government in Kosovo \(Rambouillet Accord\)](#) []

Moldova

Moldova

Russia

(Transnistria)

21/10/1994

[Agreement between the Russian Federation and the Republic of Moldova on Matters Related to Jurisdiction and Mutual Legal Assistance on Issues Regarding the Russian Federation Military Formations Temporarily Situated in the Territory of the Republic of Moldova \(Agreed in Moscow 21.10.1994\)](#)

Moldova

Russia

(Transnistria)

21/10/1994

[Agreement between the Russian Federation and the Republic of Moldova regarding the legal status, procedure and period for the withdrawal of the Russian Federation Military Units/Formations, temporarily situated in the territory of the Republic of Moldova](#)

Russia

Russia

Chechnya

23/11/1996

[Russian-Chechen Agreement](#)

Russia

Chechnya

04/06/1996

[Protocol on the results of the negotiations by representatives of the federal and Chechen sides](#)

Russia

Chechnya

28/05/1996

[Protocol of the Meeting of the Working Groups on the Question of a Settlement of the Armed Conflict on the Territory of the Chechen Republic](#)

Rwanda

Rwanda

04/08/1993

[Peace Agreement between the Government of the Republic of Rwanda and the Rwandese Patriotic Front \('Arusha Agreement'\)](#)

Rwanda

03/08/1993

[Protocol of Agreement between the Government of the Republic of Rwanda and the Rwandese Patriotic Front on Miscellaneous Issues and Final Provisions](#)

Rwanda

18/08/1992

[Protocol of Agreement between the Government of the Republic of Rwanda and the RPF on the Rule of Law –](#)

Rwanda

03/08/1993

[Protocol of Agreement between the Government of the Republic of Rwanda and the Rwandese Patriotic Front on the Integration of the Armed Forces of the Two Parties](#)

Senegal

Senegal

Casamance

30/12/2004

[General Peace Agreement Between the Government of the Republic of Senegal and Le Mouvement des Forces Démocratiques de la Casamance \(MFDC\) \(Ziguinchor Agreement\)](#)

Sierra-Leone

Sierra Leone

07/07/1999

[Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone \(RUF/SL\) \(Lome Agreement\)](#)

Sierra Leone

30/11/1996

[Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone, signed at Abidjan \('Abidjan Accord'\)](#)

South Sudan

South Sudan

Sudan

09/01/2005

[Comprehensive Peace Agreement between the Government of the Republic of Sudan and the Sudan People's Liberation Army/Sudan People's Liberation Movement \(Naivasha Agreement\)](#)

South Sudan

17/08/2015

[Agreement on the Resolution of the Conflict in the Republic of South Sudan \(ARCSS\)](#)

South Sudan

27/02/2012

[Agreement between the Government of the Republic of South Sudan \(GRSS\) and the South Sudan Democratic Movement/Army \(SSDM/A\)](#)

South Sudan

Sudan

31/03/2002

[Agreement between the Government of the Republic of Sudan and the Sudan People's Liberation Movement to Protect Non-Combatant Civilians and Civilian Facilities from Military Attack](#)

South Sudan

Sudan

21/04/1997

[Sudan Peace Agreement](#)

Syria

Syria

31/10/2018

[Agreement between the National Liberation Front and Tahrir al-Sham in the countryside of Aleppo](#) [

Syria

06/10/2018

[Agreement between National Front for Liberation and the Hayat Tahir al-Sham \(HTS\)](#)

Syria

24/09/2018

[Idlib Agreement between Hayat Tahrir al-Sham \(HTS\), the National Front for Liberation, and Jabhat Ansar al-Din](#)

Syria

27/11/2017

[Agreement between Syrian Defence Forces \(SDF\) and the Islamic State \(IS\)](#)

Syria

27/11/2017

[Agreement between Syrian Defence Forces \(SDF\) and the Islamic State \(IS\)](#)

Syria

16/11/2017

[Agreement between Hayat Tahrir al-Sham \(HTS\) and Nour al-Din al-Zenki, Aleppo Countryside](#)

Syria

31/10/2017

[Joint Statement by Iran, Russia, and Turkey on the International Meeting on Syria in Astana, 30-31 October 2017](#)

Syria

15/09/2017

[Joint Statement by Iran, Russia, and Turkey on the International Meeting on Syria in Astana](#)

Syria

16/08/2017

[Agreement in East Ghouta and Jubar between the Free Syrian Army \(FSA\) and Russia](#)

Syria

19/07/2017

[Agreement between Hayat Tahrir al-Sham \(HTS\) and Ahrar al-Sham \(AAS\), Badia, Idlib](#) [

Syria

06/04/2017

[Agreement between Hayat Tahrir al-Sham \(HTS\) and Free Idlib Army on the issue of Col. Ali Al Samahi](#)

Syria

22/01/2017

[Agreement between Ahrar al-Sham \(AAS\) and Jund al-Aqsa, al-Fua'a, Idlib](#)

Syria

31/08/2016

[Follow up on the implementation of the Previous Agreement in al-Waer, Homs](#)

Syria

22/04/2016

[Qamishlo Agreement](#)

Syria

22/01/2016

[Agreement Document \[between Jaysh al-Thawra, Northern Countryside Committee, and the Northern Operations Room\]](#)

Syria

18/12/2015

[UN Security Council Resolution 2254](#)

Syria

20/09/2015

['Hudna' \(truce\) of al-Zabadani, Kefriyya and al-Fu'aa](#)

Syria

11/10/2014

[Untitled Agreement \[between al-Nusra Front and Free Syrian Army, Mara al-Hurma, Idlib\]](#)

Syria

07/01/2014

[Agreement between Islamic State in Iraq and the Levant and Ahrar al-Sham, Aleppo](#)

Syria

25/09/2013

[Agreement on Jandaires \(Aleppo\) between the People's Defence Forces \(YPG\) and the Free Syrian Army \(FSA\)](#)

Syria

19/09/2013

[Untitled Agreement \[between Islamic State in Iraq and the Levant and Northern Storm Brigade](#)

Syria

30/06/2012

[Final Communiqué of the Action Group for Syria \(Geneva Communiqué\)](#)

Uganda

Uganda

19/02/2008

[Annexure to the Agreement on Accountability and Reconciliation](#)

Uganda

29/06/2007

[Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement](#)

Uganda

24/12/2002

[Peace Agreement between the Government of the Republic of Uganda and the National Rescue Front II \(Yumbe Peace Agreement\)](#)

Ukraine

Ukraine

12/02/2015

[Package of Measures for the Implementation of the Minsk Agreements \(Minsk II\)](#)

Ukraine

05/09/2014

[Protocol on the results of consultations of the Trilateral Contact Group with respect to the joint steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and the initiatives of the President of Russia, V. Putin \(Minsk Protocol, or Minsk I Agreement\)](#)

Ukraine

20/06/2014

[On Peaceful Settlement of Situation in the Eastern Regions of Ukraine](#)

