

INTERIM REPORT
of the Temporary Investigative Commission of the Verkhovna Rada of Ukraine for the investigation of possible illegal actions by representatives of public authorities and other persons who could facilitate violation of state sovereignty, territorial integrity, and inviolability of Ukraine, and constitute threat to national security of Ukraine

The Temporary Investigative Commission of the Verkhovna Rada of Ukraine for the investigation of possible illegal actions of representatives of public authorities and other persons who could facilitate violation of state sovereignty, territorial integrity and inviolability of Ukraine, and constitute threat to national security of Ukraine (“TIC” or “Commission”) was established by the Regulation of the Verkhovna Rada of Ukraine dated May 19, 2021 # 1454-IX.

Ms. Mariana Bezuhla, MP (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY) was elected the chair of the TIC. Mr. Renat Kuzmin, MP (parliamentary fraction of the OPPOSITION PLATFORM – FOR LIFE political party) was elected the deputy chair of the TIC.

The following MPs were elected to participate in the Commission: Mr. Vitaliy Bezhin (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY), Mr. Ihor Huz (MP group For the Future), Mr. Oleksiy Zhmerenetskyi (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY), Mr. Oleksandr Zavitnevych (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY), Mr. Mykola Liushniak (MP group TRUST), Mr. Oleksandr Merezhko (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY), Mr. Yurii Mysiahin (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY), Ms. Olena Khomenko (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY), Mr. Sviatoslav Yurash (parliamentary fraction of the SERVANT OF THE PEOPLE POLITICAL PARTY).

The investigation of possible illegal actions of representatives of public authorities and other persons who could facilitate violation of state sovereignty, territorial integrity, and inviolability of Ukraine, and constitute threat to national security of Ukraine is based on the following events and circumstances:

1. Information published in the media concerning possible illegal actions by public officials that could have resulted in the evasion of criminal responsibility by members of so-called Wagner private military company.
2. Information published in the media concerning possible facilitation of illegal activity against the foundations of national security of Ukraine provided to the aggressor state by representatives of public authorities of Ukraine and other participants of negotiations with public officials of the aggressor state and

representatives of the occupation administration of the Russian Federation in certain areas of the Donetsk and Luhansk regions (“CADLR”).

3. Events that took place near the town of Ilovaisk, Donetsk region, between July and August 2014, as well as events related to planning and conducting of the «Debaltseve operation» (during the withdrawal of the Ukrainian military units holding the so called Debaltseve salient launched on the night of 17th to 18th, February 2015). The subject-matter is possible facilitation of illegal activity against the foundations of national security of Ukraine provided to the aggressor state by representatives of public authorities of Ukraine and other persons, as well as threats to sovereignty, territorial integrity and inviolability, defence capability, and state economic security of Ukraine caused by such facilitation.
4. Conclusion and implementation of the *Minsk Agreements*, the agreements based on the three joint documents by the parties to settlement of the international armed conflict between the Russian Federation and Ukraine in the Normandy Format, including the Minsk Protocol dated September 5, 2014, Memorandum for the Implementation of the Protocol based on Consultations of the Trilateral Contact Group Concerning Measures Aimed at Implementing the Peaceful Plan by the President of Ukraine Petro Poroshenko and Initiatives by the President of the Russian Federation Volodymyr Putin dated September 19, 2014, and the List of Measures to Implement the Minsk Protocol dated February 11-12 , 2015; as well as possible facilitation of illegal activity against the foundations of national security of Ukraine provided to the aggressor state by representatives of public authorities of Ukraine and other persons, as well as threats to sovereignty, territorial integrity and inviolability, defence capability, and state economic security of Ukraine caused by such facilitation.

According to the Regulation of the Verkhovna Rada of Ukraine dated May 19, 2021 # 1454-IX, the key task of the Temporary Investigative Commission is to examine and investigate facts pertaining to possible facilitation of illegal activity against the foundations of national security of Ukraine provided to the aggressor state by representatives of public authorities of Ukraine and other persons, as well as to identify threats to sovereignty, territorial integrity and inviolability, defence capability, and state economic security of Ukraine, and take measures to prevent those threats.

In the course of the investigation of the matters of public interest, the Commission has adopted an agenda and a work plan and also has prepared and submitted written requests.

The TIC has also analyzed information from public sources as well as materials by *Bellingcat*, an independent international team of investigators and civil journalists.

Materials prepared by the Temporary Investigative Commission established by the Resolution of the Verkhovna Rada of Ukraine dated September 4, 2014 # 1676-VII

for the investigation of tragic events resulting in deaths and capturing of fighters from voluntary battalions as well as servicemen of the Armed Forces of Ukraine and the National Guard of Ukraine near the town of Ilovaisk, Donetsk region, were retrieved from the archives of the Office of the Verkhovna Rada of Ukraine.

Most materials collected by the Commission had been provided by authorized representatives of public authorities in the form of recorded testimony, including testimony behind the closed doors in accordance with the provisions of the Law of Ukraine «On State Secrets» entailing personal liability for those giving the testimony. The Commission was able to hear from representatives of the Office of the Prosecutor General and investigative divisions of the State Security Service (“SBU”) and the State Bureau of Investigation (“SBI”) concerning progress in the investigation of proceedings related to the issues at stake.

The Commission has also invited and heard from public activists and individuals who could have had access to information relating to activity of the intelligence services.

During its work, the Commission has acquired access to secret and top-secret information unprecedented for the Ukrainian Parliament and thoroughly examined the activity of the intelligence community for the first time in the country’s history.

As a result, at the current stage of the investigation the following was established

1. On verification of the information published in the media concerning possible illegal actions by public officials that could have resulted in the evasion of criminal responsibility by members of so-called Wagner private military company.

1.1. On intelligence measures in relation to the so-called Wagner members

It was established by the TIC that the notion of *special operation* mentioned in numerous media materials in the context of the so-called Wagner case is not a part of terminology employed by the intelligence agencies of Ukraine. It is an exclusive competence of law enforcement authorities governed by relevant legislation. Instead, the intelligence agencies employ the term of *special (active) measure*.

The TIC confirms that since 2014, intelligence agencies of Ukraine and the SBU have been working to record participation of Russian and Ukrainian military and mercenaries in the war against Ukraine. This measure does not require any political approval, being a part of standard responsibilities borne by these agencies and it is exercised on a permanent basis without being interrupted by any political decision or change in the government.

The TIC conforms that as a part of this activity, intelligence measures are taken to obtain evidence against individuals, including foreign nationals, who participated in the war against Ukraine in the temporarily occupied territories of Donetsk and Luhansk regions. Here, the key task is to record information proving such individuals

guilty and to obtain documents, facts, and evidence for concrete places, links, and actions of the Russian military and mercenaries. Such active measures also include various elements of operative play.

The TIC has established that it was confirmed through intelligence measures by the Defence Intelligence of the Ministry of Defence of Ukraine (“GUR MOU”) that since 2014, several Russian private military companies (“PMC”), including Wagner and MAR, were present in certain areas of Donetsk and Luhansk regions.

General information, in particular, relevant analytical reports on the abovementioned companies, is available in public domain and it was also provided by the GUR MOU in their response and testimony of their representatives.

The TIC finds that Wagner PMC is an organization (unit) existing and acting, including by exercising so-called private orders in various parts of the Globe, with the support and under the control of the supreme military and political leadership of the Russian Federation.

The TIC has established the fact of intelligence measures being implemented in relation to these companies between 2018 and 2020.

In particular, the TIC has established that an intelligence measure was pending from the first half of 2018 till the beginning of July 2020 aimed at recording individuals who could possibly be related to Russian private military companies and participate in armed activities in the East of Ukraine. Instruments similar to those employed by MAR PMC were used, e.g. website, symbols etc., as well as a legend implying that MAR PMC was to recruit a group of persons for security jobs at oil facilities in the Syrian Arab Republic and the Republic of Lebanon.

The measure was completed and it can be regarded a success, with around 2,000 “job interviews” conducted by the GUR MOU with potential (alleged) participants of armed activities, around 500 individuals of operative interest selected, of whom 396 individuals identified. It should be noted that discussing of their transfer with the mercenaries was a part of the legend under the intelligence measure employed to lure information and documents and it was not meant to be implemented at the time.

Indirect evidence to the effect that the intelligence measure was completed is the data that a legend was implemented suggesting that the so-called mercenaries’ recruiter had died in Syria by July 2020, resulting in termination of the recruitment.

The TIC emphasizes that witness testimony does not run contrary to the established circumstances within the time period before summer 2020.

According to data obtained by the TIC, the information concerning the intelligence measure of 2018–2020 was provided by the GUR MOU to the SBU at the beginning of July 2020.

According to data obtained by the TIC, during an operative meeting between the GUR MOU and the SBU it was suggested to organize a controlled transfer of 33 individuals selected out of the 396 identified individuals from the territory of the Russian Federation to the country where it would be possible to exercise their official apprehension and it was decided to launch a separate special active measure.

The TIC has established that the joint active measure by the SBU and the GUR MOU was launched in July 2020 (therefore, information published by some media that it was being planned for years should be dismissed), namely, after successful completion of the intelligence measure to collect information prior to the active measure. The active measure implied luring of the 33 selected mercenaries from the territory of the Russian Federation to travel, according to the legend, to the Bolivarian Republic of Venezuela. For this purpose, a new so-called recruiter for the group was introduced.

The TIC has established that the fifth President of Ukraine could not have authorized this active measure as it was launched at the end of June 2020.

The TIC finds that the active measure was conducted exclusively by the Ukrainian intelligence and counterintelligence. Intelligence services of the USA, Turkish Republic, Great Britain, State of Israel, or any other services had not been involved in the measure.

The TIC has obtained information on several possible scenarios of the measure, in particular:

1. Luring of the abovementioned group of individuals along the route *Moscow (the Russian Federation) – Istanbul (Turkey)* accompanied by further application of international legal cooperation mechanisms to prosecute the individuals.
2. Luring of the abovementioned group of individuals along the route *Moscow (the Russian Federation) – Minsk (the Republic of Belarus)* accompanied by further application of international legal cooperation mechanisms to prosecute the individuals.
3. Luring of the abovementioned group of individuals along the route *Moscow (the Russian Federation) – Minsk (the Republic of Belarus)*. In case of apprehension of the group in the Republic of Belarus, it should have been followed by the application of international legal cooperation mechanisms to prosecute the individuals.
4. Luring of the abovementioned group of individuals along the route *Moscow (the Russian Federation) – Minsk (the Republic of Belarus) – Istanbul (Turkey)* accompanied by the following scenarios during passage of the airplane over the territory of Ukraine: 1) one of the passengers gets sick and requires urgent

medical assistance; 2) threat of terrorist attack; 3) forcible landing of the plane.

1.2. On cancelling/postponing the active measure

Based on the data available it is possible to indirectly conclude that the active measure was postponed by moving it from the 25th to 30th of July 2020. The TIC was unable to clearly establish by whom and at what level in Ukraine the decision to postpone was adopted.

However, the TIC has established that there was no documented official instruction to postpone issued by any public official. Furthermore, the TIC has not found any proof to the effect that the President of Ukraine had provided any personal instructions to the GUR MOU leadership to postpone the active measure which is attested by all available testimony of the individuals who spoke.

It was also established that the Head of the Office of the President is not competent to instruct the GUR MOU leadership on postponing of any intelligence measures.

It was established that the Minister of Defence of Ukraine can authorize certain actions within active measure framework only in part related to additional involvement of the Armed Forces of Ukraine and he cannot authorize or manage progress of an active measure in general, especially if the measure is conducted jointly with other subjects of the intelligence community.

1.3. On possible leakage/derailing of the active measure

The TIC finds that isolated processes taking place in the course of implementation of the first intelligence measure and the second active measure could have been known to the Russian Federation and the Republic of Belarus. In particular, the TIC has obtained materials from the intelligence community to the effect that one of the 33 mercenaries had first filed a request with the Federal Security Service of the Russian Federation and later, at the beginning of July 2020, had shared similar information with the Intelligence of the General Staff of the Armed Forces of the Russian Federation providing details of his contacts with the so called recruiters from MAR PMC, further recruitment steps and concrete actions by the recruiters.

In his requests, he asked to verify the facts provided as to possible offence committed by the so-called recruiters from MAR PMC under Article 359 of the Criminal Code of the Russian Federation (“Mercenarism”).

The TIC has not found any proof to the effect that there was a leakage on the Ukrainian side concerning the first intelligence measure or the second active measure at any stages thereof. In particular, no individual heard by the TIC had not stated that they knew about the fact of any such leakage.

The TIC has established that all the materials published on the Internet are dated

starting from July 13, 2020, and that they are coming from the SBU and the Office of the Prosecutor General. No document by the intelligence agencies is available in the public domain.

The TIC was unable to establish whether there was any cooperation between the intelligence services of the Russian Federation and the Republic of Belarus in the exercise of their own active measures at the material time or they were acting within the framework of their own measures directed against one another. However, considering prolonged presence of the mercenaries in the territory of the Republic of Belarus, established specifics of work of the Belarusian intelligence, and public statements of the President of the Republic of Belarus at the time, the TIC considers that the apprehension of the 33 mercenaries was a foreseeable result coming from activity of the Belarusian intelligence in the context of heavy counter-intelligence regime introduced shortly before the presidential elections. The fact should be noted that one of the individuals from the group of mercenaries had not been extradited to the Russian Federation together with other members of the group.

It was confirmed by the TIC that a conversation between the President of Ukraine and the Head of the Republic of Belarus Oleksandr Lukashenko took place after the apprehension of the 33 mercenaries by the Belarusian intelligence, namely, on August 5, 2020.

1.4. On the issue of special disinformation operation by the Russian Federation

The TIC finds that upon the apprehension of the group of mercenaries, the intelligence of the Russian Federation had launched a special disinformation operation against Ukraine aimed at presenting the Ukrainian intelligence and public authorities in the negative light, degrading their results and presenting them as unsuccessful, causing internal destabilization, and provoking distrust in public institutions.

The TIC has established that the key informational role in fueling of the internal socio-political conflict around the matter was played by Russian informational sources.

The TIC does not exclude that it was a combination of isolated elements of the Russian special operation against Ukraine and isolated elements of political campaign in Ukraine around these events.

1.5. Preliminary conclusions and recommendations by the TIC

The TIC has found that law enforcement and prosecution authorities of Ukraine took all necessary steps to ensure extradition of the apprehended mercenaries from the territory of the Republic of Belarus. However, relevant extradition paperwork was started only after their apprehension in the Republic of Belarus, that had resulted in loss of time and could have caused a negative impact on the results of the extradition

efforts within the framework of international legal cooperation mechanisms aimed at prosecuting the individuals.

The TIC finds that investigation of criminal proceedings by law enforcement authorities is unsatisfactory.

Criminal proceeding by the State Bureau of Investigation

6202000000000665 dated August 19, 2020, under Article 382(2) of the Criminal Code of Ukraine comprising the following criminal proceedings:

- # 2202000000000213 dated August 8, 2020, under Article 387(2) of the Criminal Code of Ukraine, introduced by the SBU
- # 2202000000000250 dated October 29, 2020, under Article 111(1) of the Criminal Code of Ukraine, introduced by the SBU
- # 6202000000000945 dated November 20, 2020, under Article 396(1) of the Criminal Code of Ukraine, introduced by the SBI
- # 6202000000000946 dated November 20, 2020, under Article 364(2) of the Criminal Code of Ukraine, introduced by the SBI
- # 6202000000000990 dated December 14, 2020, under Article 328(1) of the Criminal Code of Ukraine, introduced by the SBI
- # 6202000000001026 dated December 30, 2020, under Article 328(1) of the Criminal Code of Ukraine, introduced by the SBI

The TIC recommends the Office of the Prosecutor General exercising special scrutiny over investigation of the said criminal proceedings and providing monthly reports on their results at the TIC meetings.

The TIC recommends sharing with INTERPOL and relevant agencies of partner states of any new data on Russian military, mercenaries, special service and intelligence officers who had been/are participating in active measures and/or war against Ukraine and other states.

The TIC recommends law enforcement authorities of Ukraine analyzing, within the limits of their competence, available facts attesting to disinformation activities of the Russian Federation and their coordination with actions of certain subjects in Ukraine.

The TIC recommends improving Ukrainian laws and system of subordinate and institutional legislation governing activity of the intelligence agencies and counter-intelligence measures, as well as activity of temporary investigative commissions of the Verkhovna Rada of Ukraine.

The TIC finds it necessary to ensure reinforcing of the parliamentary oversight and control over the intelligence, in particular, establishing a committee of the Verkhovna Rada of Ukraine responsible for the exercise of control functions of the Verkhovna Rada of Ukraine over the intelligence in accordance with the Law of Ukraine On Intelligence.

The TIC recommends increasing spending from the State Budget of Ukraine for the development of the security sector and modernization of the intelligence.

The TIC will continue examining the events and circumstances giving rise to the investigation.

2. On comprehensive analysis of issues related to the events that took place near the town of Ilovaisk, Donetsk region, between July and August 2014, as well as events related to planning and conducting of the Debaltseve operation during the withdrawal of the Ukrainian military units holding the so called Debaltseve salient launched on the night of 17th to 18th, February 2015. Subject-matter: possible facilitation of illegal activity against the foundations of national security of Ukraine provided to the aggressor state by representatives of public authorities of Ukraine and other persons, facilitation of illegal activity against the foundations of national security of Ukraine, as well as threats to sovereignty, territorial integrity, and inviolability, defence capability, and state economic security of Ukraine caused by such facilitation.

The TIC has established that the Ilovaisk tragedy had created not only serious military consequences, but also very serious political consequences for the country. It has become the background for the meeting between the Presidents of Ukraine and the Russian Federation in Minsk on August 26, 2014. To a big extent, it has prompted signing of the Minsk Agreements on September 5, 2014, that have received controversial feedback from both population of the temporarily occupied territories of the Donetsk and Luhansk regions and population all over Ukraine, as well adoption of no less controversial Law of Ukraine on Special Regime of Local Self-Governance in Certain Areas of the Donetsk and Luhansk Regions dated September 16 of the same year.

The TIC considers that the key reason leading to the Ilovaisk tragedy was about inadequate organization of the country's defence as the system of political, economic, social, military, informational, legal, organizational, and other measures for the protection of the State in the context of armed aggression.

The TIC has established the following factors that have significantly contributed to the Ilovaisk tragedy:

- a) Failure to declare martial law, resulting in disorganized management of military action.
- b) Wrong personnel decisions and actions by the political and military leadership.
- c) Failure by the political and military leadership to take exhaustive measures to ensure unblocking of the Ilovaisk grouping and to organize a corridor bringing the Ukrainian military out of the encirclement resulting in loss of hundreds of human lives.

The TIC has established that the leadership of the Ministry of Defence of Ukraine and the General Staff of the Armed Forces of Ukraine incumbent at the time of the Ilovaisk tragedy had systematically resisted and blocked the activity of the previous commission of the Verkhovna Rada of Ukraine on the matter despite numerous requests by the previous TIC addressed to the ex-President of Ukraine.

The TIC will continue examining events and circumstances giving rise to the investigation.

Upon commencement of the work by the TIC, proposals for legislation, opinions, and other materials will be prepared for the Verkhovna Rada of Ukraine and presented to the Ukrainian MPs.