50 hospitals were not hit at random

OSCE expert Marco Sassoli speaks about the bombing of civilian targets in Ukraine

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**VASSILIS KOSTOULAS** The expert of the OSCE mission within the Moscow Mechanism, Marco Sassoli, speaks to the newspaper “K” about recurring events that violate humanitarian law and have similarities with Russia's military operation in Syria. “It is not possible to have destroyed 50 hospitals by mistake,” he says, explaining, however, that human rights violations do not automatically imply a war crime, as “you have to identify the person who gave the order or knew and did not prevent the event,” whether it is a military commander or Putin himself. He describes what evidence, in his opinion, deconstructs the Kremlin's narrative about the attacks on the maternity hospital and the Mariupol theatre. Furthermore, he points out that Ukraine has not yet allowed the Red Cross to visit Russian prisoners of war.

**- A few days ago, the OSCE spoke of “clear patterns” of violations of international humanitarian law by the Russian army in Ukraine. Shall we explain what this means?**

- When we talk about “clear patterns,” we are referring in principle to hostilities—aerial bombardments, artillery attacks, missile attacks—that have destroyed many civilian homes, schools, police stations and even hospitals. But you cannot analyse violations on an individual level, as in most cases you cannot know the exact circumstances under which an incident occurred. It is possible that there were also cases of defence against an attack by Ukrainian forces. Or maybe the Russians made some mistakes, which is what happens in wars. We can recall the American bombing of a hospital in Afghanistan as one such example. But it is impossible to have so many incidents by mistake, which is why we speak of “clear patterns.” This discussion is not about acts such as executions or rape, because in these cases you can know de facto that there has been a violation of humanitarian rights. The same holds true for the displacement of mayors from occupied areas.

(*Below the professor’s photo)*

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“NOT ALL VIOLATIONS OF HUMANITARIAN LAW CONSTITUTE WAR CRIMES. A WAR CRIME IS COMMITTED BY AN INDIVIDUAL. YOU HAVE TO IDENTIFY THE PERSON WHO HAD THE KNOWLEDGE AND INTENT TO ATTACK CIVILIANS.”

**- At the same time, there is a debate about whether certain actions by Russia constitute war crimes. What is your assessment?**

- It is important to make this distinction because it is important to know that not all violations of humanitarian law constitute war crimes. A war crime is committed by an individual. So, you have to identify the person who had the knowledge and intent to attack civilians. Also, if something happened accidentally, it is not a war crime. But if you manage to identify the person behind incidents such as the attacks on the maternity hospital and theatre in Mariupol or the torture of a French journalist, then you have “tied up” a war crime. War crimes are not committed by countries, but by individuals.

**- But the President of Russia, Vladimir Putin, is also a person. What applies in this case?**

- There is the question of command responsibility. If it turns out that a president of a country orders an attack on a hospital that is not used for military purposes, then you do indeed have a war crime by the president of that country. But it is very difficult to establish that. In Nuremberg it helped that the Germans had a record of everything. I don't imagine Putin gave the order to attack a hospital and commit rape. Another dimension is that he knew that the Russian army's attacks would include such actions and did not take steps to prevent them. But this presupposes that we know that he knew. It's not simple.

**- Which events would you single out as the most serious so far on the Ukrainian front?**

- A very serious incident was the attack on the Mariupol theatre, where civilians and children were present. There we know that it was a clear violation of humanitarian law. Russia claimed that the Ukrainians themselves blew up the theatre. However, this cannot be true, as experts have explained to us that such a hole cannot be caused by a bomb planted from the ground. Such a blow can only come from aerial bombardment or a missile. And also, the installation was not near a military target, so it cannot have been done by accident. Similarly, for the attack on the Mariupol maternity hospital, Russia claimed that it was now being used for military purposes by Ukraine. However, the photos they showed as evidence were taken at least a kilometre away from the maternity hospital.

**- I read in an OSCE report: “Although it may indeed be that a hospital was used by the defender for military purposes or was destroyed by mistake, it is difficult to claim this since 50 hospitals were destroyed.” To what do you attribute the Russian attacks on hospitals? Is the fact that the Russian military is trying to hurt the morale of Ukrainians an explanation?**

- That is indeed one version. Many non-governmental organisations claim that and we have seen such a pattern in Russia's attacks in Syria. I cannot be sure. But what I can say for sure is that these attacks did not happen by chance.

**- Are there humanitarian violations on behalf of Ukraine as well?**

- We have seen problems with the treatment of prisoners of war, which is understandable, but not justifiable. It is obviously Russia that attacked Ukraine. But not every Russian soldier is responsible for that. And having an army across the street in which some people are committing war crimes does not mean that all soldiers are war criminals. It should be noted that Ukraine has not yet allowed the International Committee of the Red Cross to visit prisoners of war, although the organisation has this right under the 3rd Geneva Convention.

- **Would you say that the evidence available so far potentially creates the conditions for referring the Russian leadership to the ICC?**

- This is a process that takes time. Let's remember that concerning Russia's war with Georgia in 2008, the International Criminal Court indicted the first three individuals just two weeks ago. That is after 14 years. And if you don't have access to the secret discussions between the leadership and the military of Russia, it will be very difficult to establish command responsibility.