

Ukraine: Cluster Munitions Launched Into Kharkiv Neighborhoods (Human Rights Wat

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Russian forces fired cluster munitions into at least three residential areas in Kharkiv, Ukraine's second largest city, on February 28, 2022, Human Rights Watch said today. These attacks killed at least three civilians.

Interviews with 2 witnesses and an analysis of 40 videos and photographs reveal the use of submunitions delivered by Russian-made 9M55K Smerch cluster munition rockets. The United Nations reported nine civilian deaths and 37 injuries in attacks across the city that day.

"Kharkiv is under relentless attack from Russian forces and civilians are hiding in basements to evade explosions and debris," said Steve Goose, arms director at Human Rights Watch. "Using cluster munitions in populated areas shows a brazen and callous disregard for people's lives."

Cluster munitions open in the air and disperse dozens, or even hundreds, of small submunitions over a large area. They often fail to explode on initial impact, leaving unexploded submunition duds that act like landmines if they are touched.

The use of inherently indiscriminate weapons in populated areas is prohibited under international humanitarian law, the laws that govern the conduct of war. An international treaty bans cluster munitions because of their widespread indiscriminate effect and long-lasting danger to civilians. Russia and Ukraine are not state parties to this treaty.

Given the inherently indiscriminate nature of cluster munitions and their foreseeable effects on civilians, their use as documented in Kharkiv might constitute a war crime.

On March 2, a group of ICC member countries referred the situation in Ukraine to the court's prosecutor for investigation. The prosecutor subsequently stated that his office would immediately proceed with a Ukraine inquiry.

Human Rights Watch verified and analyzed 25 videos and photographs posted on social media showing the 3 attacks or their immediate aftermath in the north, northeast, and southeast areas of the city and another 15 images taken by 2 witnesses after one of the attacks in the Shevchenkivskyi district.

The two witnesses, interviewed separately, said that they were not aware of any Ukrainian military activity in the area prior to the attack. An open-source online map shows an area labeled as belonging to the military about 400 meters from where the cargo section of one of the rockets landed. Satellite imagery from February 20 shows a small compound at that location with about 20 military vehicles. Even if the site served a military function, the use of cluster munitions in a residential area with civilians violates the prohibition on indiscriminate attacks.

Under the laws of war, parties to the conflict must avoid locating military objectives near densely populated areas and endeavor to remove civilians from the vicinity of military activities. However, the attacking party is not relieved of its obligation to take into account the risk to civilians, nor of the

obligation not to use inherently indiscriminate weapons because it considers the defending party responsible for having located legitimate military targets within or near populated areas.

One of the videos analyzed, posted to Telegram at 11:29 a.m. local time on February 28, shows multiple explosions consistent with the use of cluster munitions in the northeastern Moskovskiy district. Two more videos, one posted to Telegram at 12:55 p.m. that day and one posted to Twitter at 2:23 p.m., recorded from the center of the city toward the Shevchenkivskiy district, show similar explosions.

The explosion signatures and rocket remnants found in the vicinity of the attacks confirm that the explosions were from submunitions delivered by 9M55K Smerch cluster munition rockets. The launcher for these rockets, a BM-30, has 12 barrels and the rockets are often fired in volleys. Each 9M55K cluster munition rocket contains 72 9N235 fragmentation submunitions.

Another video posted on Telegram, recorded by a security camera in the southeastern Industrialnyi district, shows at least 15 consecutive explosions in a residential street that are consistent with submunitions. The footage shows a time stamp of 10:42 a.m. on February 28. In the video, at least four people in civilian clothes can be seen on a path diving to take cover. Several cars are hit, setting one of them ablaze.

Human Rights Watch spoke by telephone with a man living in the Shevchenkivskiy district near where the attack took place, an area with at least three preschools, three schools, and a large hospital. He said that he was walking with his wife to a shop near his home on Balakiryeva Street at around 10 a.m. on February 28, when he saw what he believed to be a Grad rocket flying overhead from the north.

“My wife and I entered the basement of an apartment block and around 50 other people were sheltering there,” he said. “The whole building was shaking.”

A photograph that the man took and sent to Human Rights Watch shows the empty cargo section of a 9M55K Smerch cluster munition rocket on Balakiryeva Street.

Another man interviewed by phone said that he was in his apartment close to Serpnya 23 Street, about one kilometer from Balakiryeva Street, preparing food when he heard large detonations and went to the basement for cover. “The bangs lasted for about two minutes,” he said. “When I went out, I saw three covered bodies lying in the street and one wounded person being taken away by emergency services.”

The man said he saw many damaged cars, two or three of which were burned, and pockmarks on the street about 15 meters apart, as well as four small, unexploded bombs.

The man sent Human Rights Watch 13 photographs that he said he took, which showed unexploded submunitions and splattered impact patterns on the ground consistent with submunition detonations. Human Rights Watch determined that the photographs were taken between Serpnya 23 Lane and Serpnya 23 Street.

Human Rights Watch also verified three videos posted to Telegram that were recorded 150 meters east of the attack location on Serpnya 23 Lane. All the videos show four people lying on the ground, at least three of whom appear to be dead.

Human Rights Watch verified three other videos and a photograph posted on Telegram from Klochkivska Street, a main street in the Shevchenkivskyi district about 2.5 kilometers from Balakirjeva Street. The first video, recorded from outside a grocery store, shows a rocket hitting the street and people running away. The photograph posted later shows what appears to be the same rocket remnant embedded in the sidewalk.

The other two videos, recorded from the same location, show blood on the pavement and a woman lying on the ground with a makeshift tourniquet around her left leg. One of the videos also shows the expended propulsion section of a Smerch rocket and fragmentation damage consistent with that created by a 9N235 submunition.

Human Rights Watch collected and verified another four photographs and two videos from Telegram and Twitter showing explosions, damage to buildings, and cars on fire caused by the cluster munitions attack in the Industrialnyi District. Another four photos and four videos posted on the same platforms show damage to other buildings in the area.

On February 24, a Russian ballistic missile carrying a cluster munition struck just outside a hospital in Vuhledar, a town in the Ukrainian government-controlled Donetska region, killing four civilians and injuring another ten, six of them healthcare workers.

“We are seeing mounting evidence of indiscriminate attacks on Kharkiv and the price civilians are paying for these serious violations,” said Goose. “If these deadly acts were carried out either intentionally or recklessly, they would be war crimes.”