

Shelling of the town of Makeyevka using rifled artillery on October 27, 2016

Donetsk 15.11.2023

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ABBREVIATIONS

UAF - Ukrainian Armed Forces

UAF - Ukrainian Armed Formations

DPR - Donetsk People's Republic

OSCE - Organization for Security and Cooperation in Europe

SMM - Special Monitoring Mission

SMBr - Separate Mechanized Brigade

LoC – Line of Contact

PREAMBLE

After signing Package of Measures for the Implementation of the Minsk Agreements¹ in February 2015 the front line in the Donetsk People's Republic was stabilized. In October 2016, active negotiations took place between the conflicting parties. Despite this, Ukrainian armed formations (hereinafter referred to as UAF) continued shelling peaceful neighborhoods and infrastructure facilities of the Donetsk People's Republic (hereinafter referred to as DPR).

Thus, on October 26, according to information from the Donetsk Administration, the settlements of Trudovskiye and Aleksandrovka in the Petrovsky district came under fire from the UAF, one civilian was injured².

On the night of October 27–28, Organization for Security and Cooperation in Europe (OSCE) observers stationed in the center of Donetsk recorded 81 explosions 8–10 km northwest of their location³.

On October 28, according to a representative of the command of the DPR people's militia, the UAF *“are firing from mortars and artillery systems at the Yasinovataya checkpoint. Fire is also being conducted in the area of the village of Aleksandrovka on the outskirts of Donetsk. The enemy is using mortars there.”*⁴

However, the most egregious events that can be qualified as a war crime occurred on October 27, 2016 at about 19:00 Moscow time. The Kirovskiy district

¹ Package of Measures for the Implementation of the Minsk Agreements. Organization for Security and Co-operation in Europe. URL: <https://www.osce.org/files/f/documents/5/b/140221.pdf> (accessed on 20.11.2023)

² Information on the shelling of Donetsk (26.10.2016 (published on 26.10.2016) Administration of the city of Donetsk. URL: <http://gorod-donetsk.com/novosti/7510-informatsiya-ob-obstrelakh-donetska-26-10-2016> (accessed on 20.11.2023)

³ Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30, October 28, 2016 (published on 29.10.2016) Organization for Security and Co-operation in Europe. URL: <https://www.osce.org/ru/ukraine-smm/278056> (accessed on 20.11.2023)

⁴ The DPR claim security forces shelled the outskirts of Yasinovataya and Donetsk (published on 28.10.2016) Russian News Information Agency. URL: <https://ria.ru/20161028/1480263410.html?ysclid=lowny7dc65736953966> (accessed on 20.11.2023)

of Makeyevka was subjected to artillery shelling. At least four rifled artillery shells exploded and fell on the city, causing civilian casualties.

According to updated information, **3 people were killed** due to the shelling:

1. Vladimir Dmitrievich Fonarev, born in 1957,
2. Andrey Vladimirovich Zhurbin, born in 1976 (see Fig. 1),
3. Nikolay Nikolaevich Sadykov, born in 1985 (see Fig. 2).



Fig. 1 – The body of the deceased Zhurbin A.V.



Fig. 2 – The body of the deceased Sadykov N.N.

Ten people were injured:

1. Elena Vasilievna Gorlova, born in 1976,
2. Vladimir Mikhailovich Gorlov, born in 1978,
3. Nadezhda Dmitrievna Bukhtiyarova, born in 1949,
4. Eduard Vladimirovich Mishin, born in 1990,
5. Lyudmila Vasilievna Bondarenko, born 1946,
6. Elena Georgievna Boyko, born 1973,
7. Natalya Ivanovna Zemlyanaya, born in 1975,
8. Galina Ivanovna Stolpovaya, born 1938

Among them were **two children:**

9. Sofya Nikolaevna Sadykova, born 05/20/2010 (see Fig. 3),
10. Daniil Vladimirovich Gorlov, born in 2004,



Fig. 3 – Sofya Sadykova before and after injury.

Six buildings were also damaged, including a kindergarten⁵.

It is worth noting that observers from the OSCE Special Monitoring Mission (hereinafter SMM) arrived at the incident location and recorded what happened, subsequently reflecting it in their report⁶.

⁵Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30, October 28, 2016 (published on 29.10.2016) Organization for Security and Co-operation in Europe. URL: <https://www.osce.org/ru/ukraine-smm/278056> (accessed on 20.11.2023)

⁶ Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30, October 28, 2016 (published on 29.10.2016) Organization for Security and Co-operation in Europe. URL: <https://www.osce.org/ru/ukraine-smm/278056> (accessed on 20.11.2023)

INCIDENT LOCATION

On October 28, the author of the investigation, as part of the Public Commission for Recording War Crimes, went to inspect the incident location. Based on the results of recording what happened, a specialist report was drawn up and subsequently published⁷. The inspection was carried out by:

1. criminologist of the highest category A.M. Moiseev;
2. criminologist N.A. Panko;
3. criminologist D.G. Shumaev
4. attorney V.I. Galakhov;
5. legal expert I.A. Kopyl.

Inspection of the Incident Location

Information from witnesses, from open sources, and data revealed during personal inspection helped identify **four places** of damage of an explosion-fragmentation nature (see Fig. 4, Fig. 5), available on buildings located at the addresses: 40/73, Heroes of Stalingrad St., Makeyevka; 7, 50th Anniversary of the USSR Formation St., (7, Gazetny Lane), Makeyevka; in the territory of the Druzhba AGC in Makeyevka, and 10, the Stroitel residential quarter, Makeyevka.

According to witnesses, all projectiles exploded sequentially, one after another, with a difference between explosions of about a minute. The shelling began at approximately 19:00 and lasted no more than 5 minutes.

⁷SPECIALISTS ARRIVED AND INSPECTED THE AREA AFTER THE SHELLING OF THE TOWN OF MAKEYEVKA ON 27.10.2016 (published on 29.10.2016) "Fair Defense" Community in the VKontakte Social Network. URL: https://vk.com/war.crimes?w=wall-95389776_454 (accessed on 20.11.2023)

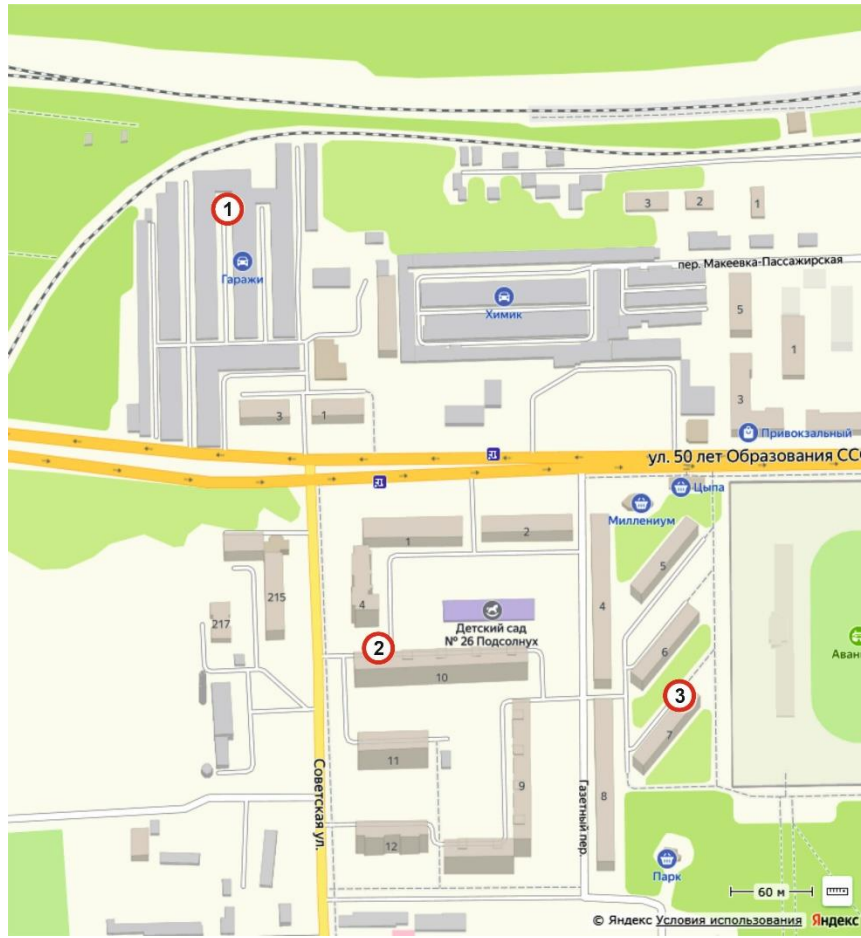


Fig. 4 – Scheme of shell hits 1, 2, 3.

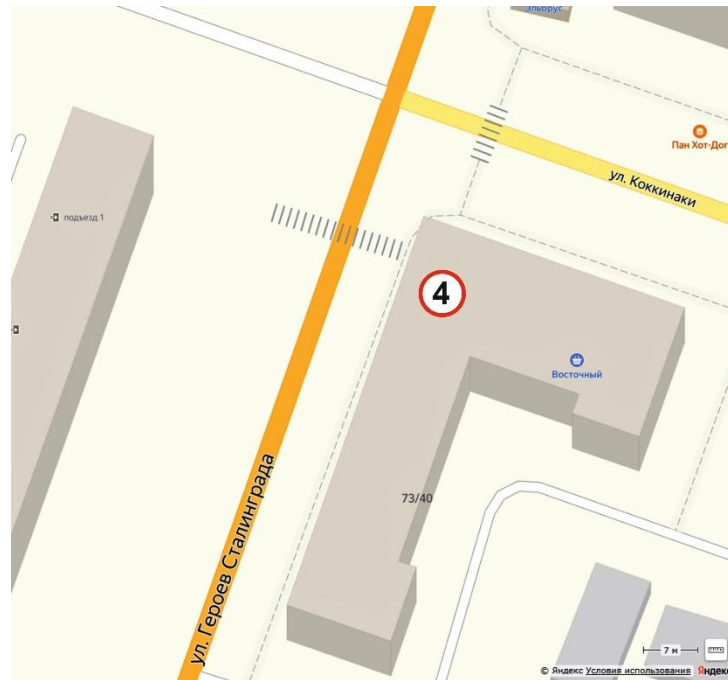


Fig. 5 – Scheme of shell hit 4.

Shell hit 1 (see Fig. 6).

The shell hit the *Druzhba* auto-garage cooperative in the Cheryomushki microdistrict of Makeyevka. In the area near garage box No. 201 there is a crater from an artillery shell explosion up to 30 cm deep, of a round oblong shape measuring 70 x 20 cm. The gates of adjacent garage boxes and other surrounding objects bear numerous round and oblong holes measuring up to 2-6 cm of a dynamic relief, in the radial direction relative to the shell crater.



Fig. 6 – Traces from the shell hit in the territory of the Druzhba garage cooperative.

Shell hit 2 (see Fig. 7).

Housing construction at the address 10, Stroitel residential quarter, Makeyevka, is a nine-story, panel apartment building.

In the wall of this residential building, in the area under the staircase, located between the fourth and fifth floors, there is an explosion-fragmentation damage in the form of a hole with a diameter of about 0.5 m; and numerous round and oblong potholes measuring 5-10 cm, located on the outer part of the wall.



Fig. 7 – Traces from the shell hit in the residential building at 10, Stroitel residential quarter.

Shell hit 3 (see Fig. 8).

Housing construction at the address 7, 50th anniversary of the USSR formation Str. (Gazetny Lane, 7), Makeyevka is a five-story, panel apartment building.

Along the front wall of the house, in the area of the kitchen window of apartment No. 16 on the ground floor, there is explosion-fragmentation damage in the form of significant destruction of the window opening, the canopy of the entrance, the domestic gas supply pipe, and the ceiling, walls and furniture inside the apartment. The elements of the wall panel (fittings, trim) in the upper left corner of the window (relative to the front side of the building) are shifted inward and from

right to left by up to 0.5 m. The internal walls of the apartment and other furnishings bear numerous holes of round and oblong shape measuring up to 5-10 cm of a dynamic relief, in the radial direction from the center. These holes correspond to fragmentation damage resulting from the explosion of an artillery shell.



Fig. 8 – Traces from the shell hit in the residential building at 7, 50th anniversary of the USSR formation Str.

Shell hit 4 (see Fig. 9).

Housing construction at the address 40/73, Heroes of Stalingrad St., Makeyevka, is a three-story, brick apartment building, the gable roof is covered with asbestos-cement roofing material (slate).

The roof of the residential building in 40/73, Heroes of Stalingrad St., on the section of the outer corner of the roof facing the intersection of Heroes of Stalingrad

St., and Kokkinaki St., has explosion-fragmentation damage in the form of significant destruction of the roof, beams, chimney pipes, rafters, brick lining of the roof, pipelines, and communication lines. Parts of the roof structure and other furnishings bear numerous round and oblong holes measuring 1.5 x 2.5 cm, with a dynamic relief, in the radial direction from the center – these holes correspond to fragmentation damage resulting from the explosion of an artillery shell.



Fig. 9 – Damaged roof of the residential building in 40/73, Heroes of Stalingrad St., Makeyevka.

WEAPON TYPE

Projectile debris

Traces of the projectile detonation allow us to draw an unambiguous conclusion: high-explosive fragmentation ammunition was used. During this period in Donbass, both sides used only Soviet-style artillery, and aviation was not used at all.

No remnants of MLRS rocket engines, mortar shell tails, or remains of tank ammunition tails were found at the incident location. However, we discovered many irregularly shaped metal fragments with sharp edges, formed as a result of crushing the metal body of the projectile during its detonation. The largest fragments are up to 10 cm long, 7 cm wide, and at least 1 cm thick. Some of them have threaded grooves.

Thus, nearby 10, Stroitel residential quarter, Makeyevka, fragments (see Fig.10, Fig.11) more than 10 cm long, at least 1 cm thick and 2 cm wide were found. Similar fragments were also found nearby the residential building in 7, Gazetny Lane.

The above debris of shell parts indicate the use of at least 122mm rifled artillery.

OSCE SMM observers came to the same conclusion. In their report dated October 29, 2016, they wrote that damage from the explosions in Makeyevka “was caused by artillery shells with a caliber of at least 122 mm, which were fired from a northwestern direction”⁸.

⁸ Latest from OSCE Special Monitoring Mission (SMM) to Ukraine based on information received as of 19:30, October 28, 2016 (published on 29.10.2016) Organization for Security and Co-operation in Europe. URL: <https://www.osce.org/ru/ukraine-smm/278056> (accessed on 20.11.2023)



Fig.10 - Projectile debris found near the residential building in 10, Stroitel residential quarter, Makeyevka⁹



Fig.11 – Projectile debris found near the residential building in 10, Stroitel residential quarter, Makeyevka¹⁰

⁹ Night shelling of Makeyevka by the Armed Forces of Ukraine on 27.10.2016_ two people were killed, five were injured. “Kharkov News Agency” YouTube Video hosting. URL: <https://youtu.be/xZ3Aw1YVX9Q> (accessed on 20.11.2023)

¹⁰ Night shelling of Makeyevka by the Armed Forces of Ukraine on 27.10.2016_ two people were killed, five were injured. “Kharkov News Agency” YouTube channel. URL: <https://youtu.be/xZ3Aw1YVX9Q> (accessed on 20.11.2023)



Fig. 23 - Projectile debris found near the residential building in 7, Gazetny Lane.

At the same time, the DPR prosecutor's office announced the initiation of a criminal case "on the fact of artillery shelling on October 27, 2016 by military personnel of the Ukrainian Armed Forces of the territory of the Kirovskiy district of the town of Makeyevka, on the grounds of an offence under clauses "a", "c" part 2, clause "b" part 3 of Article 229 and part 2 of Article 423 of the Criminal Code of the DPR." According to investigators, the shelling was carried out "from a 152mm artillery gun"¹¹.

In 2016, both sides of the conflict in Donbass used only Soviet-style artillery systems. Thus, it can be argued that the shelling in question was carried out from 122mm or 152mm rifled artillery.

¹¹ URL: <http://gpdnr.su/news/515-generalnoy-prokuraturyoy-doneckoy-narodnoy-respubliki-vozbuzhdено-ugolovnoe-delo-po-faktu-artilleriyskogo-obstrela-goroda-makeevki-27-oktyabrya-2016-goda.html> (accessed on 20.11.2023)

122 and 152mm Artillery

The minimum firing range for 122 mm or 152 mm rifled artillery is 4,200 m, while the maximum range for 122 mm is 15,400 m, and for 152 mm it makes 28,400 m.

Table 1 – Summary table of the firing range of 122mm and 152mm Ukrainian artillery

Name	Description	HES gunnery range, meters	
		minimum	maximum
2C19 “Msta-S” ¹²	152 mm self-propelled artillery gun	6,500	24,700
2A65 Msta-B ¹³	152mm howitzer	6,500	24,700
2C5 Giatsint-S ¹⁴	152 mm self-propelled artillery gun	8,600	28,400
2A36 Giatsint-B ¹⁵	152mm howitzer	8,600	27,000
2C3 Akatsiya ¹⁶	152 mm self-propelled artillery gun	4,200	17,400
D-20 ¹⁷	152mm howitzer	4,600	17,410
2S1 “Gvozdika” ¹⁸	122mm self-propelled artillery gun	4,200	15,200
D-30 ¹⁹	122mm howitzer	4,200	15,400

It is worth noting that the shelling we are considering was carried out along a high-arch trajectory. This can be most clearly determined in the case of shell hit 2.

¹² Msta-S SAU. Militaryarms.ru website. URL: <https://militaryarms.ru/voennaya-texnika/artilleriya/sau-msta-s/> (accessed on 01.09.2021).

¹³ 152mm Msta-B Howitzer (2A65). Gunnery range. Dimensions. Weight. Ammunition. Oruzhie.info website. URL: <http://oruzhie.info/artilleriya/583-msta-b> (accessed on 04.09.2021).

¹⁴ Artillery. Large caliber. Giatsints. Top War Military Review website. URL: <https://topwar.ru/143897-artilleriya-krupnyy-kalibr-giacinty.html> (accessed on 01.09.2021).

¹⁵ The 1976 Soviet 2A36 Giatsint-B 152mm gun - the world’s most powerful wheeled, towed artillery system. Gunsfriend.ru website. URL: <https://gunsfriend.ru/152-mm-puska-2a36-giacint-b-1976-goda/> (accessed on 04.09. 2021).

¹⁶ 2S3 Akatsiya Self-propelled Howitzer. Military-informant website. URL: <https://military-informant.com/art/2s3-sp-1538262475.html> (accessed on 04.09. 2021).

¹⁷ Soviet 152mm Towed Howitzer Cannon D-20. The Third World War (Politico-Military Review). URL: https://3mv.ru/publ/vooruzhenie/sovetskaja_152_mm_buksiruemaja_pushka_gaubica_d_20/21-1-0-12462 (accessed on 04.09.2021).

¹⁸ “Gvozdika” Military equipment: history, characteristics, use of self-propelled guns. Arsenal. URL: <https://metarsenal.ru/artilleriya/gvozdika-tank.html> (accessed on 11.09.2021).

¹⁹ 122-mm. Firing tables for the D-30 122-mm howitzer. TC No.145. Booksee.org website. URL: <https://booksee.org/book/539323> (accessed on 11.09.2021).

The main scatter of fragments left a clear mark on the wall of the building, while the joints between the slabs make it possible to see the horizon level.

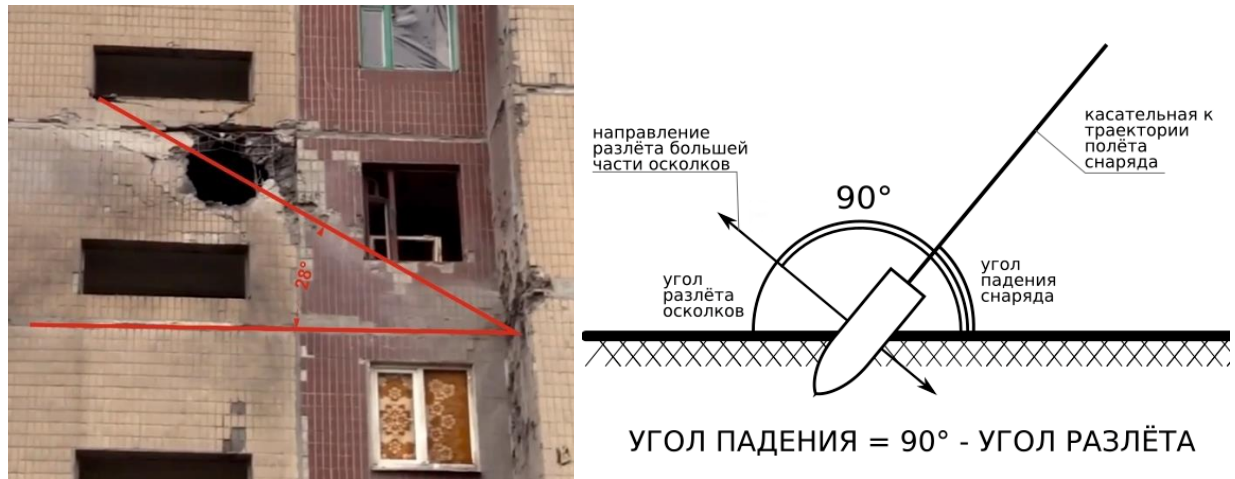


Fig. 12 – Determination of the fragmentation scattering angle based on marks in shell hit ²⁰.

After taking measurements, we determined the fragmentation scattering angle to be 28 degrees, which gives us a projectile grazing angle of 62 degrees.

Noteworthy, grazing angles close to 60° correspond to an ammunition exit angle of 45°, which indicates firing at the maximum possible distance for this weapon.

In the firing tables of the D-30 howitzer, a range of 6,350 m corresponds to a projectile grazing angle equal to 60 degrees (using a minimum powder charge). And for the 2S3 Akatsiya self-propelled howitzer (having characteristics similar to the D-20 howitzer), the firing range at these indicators makes 6,751 m²¹. Considering the possible measurement error, we will accept a minimum firing range of 6,000 m.

²⁰ Consequences of the shelling of Makeyevka by Ukrainian militants (published on 2016) “Donetsk for victory” community in the Vkontakte Social Network. URL https://vk.com/video-69169744_456242158 (accessed on 20.11.2023)

²¹ Collection of shooting tables: initial guide. V.M. Petrenko, V.E. Zhytnyk, V.I. Makeev et al. Sumy: Sumy State University, 2011 300 p.

DETERMINATION OF THE SHELLING SECTOR

All the shell hits were investigated for the shelling direction. The BG-1 azimuth compass was used to determine the direction of the trajectory of the projectiles fired during the shelling in question.



Fig. 14 – Determining the direction of an artillery projectile trajectory.

In all cases, the direction of flight of the main scatter of fragments and the azimuth of the shelling direction were determined based on the shape of the crater and damage to the surrounding objects. At the same time, in all cases, the angle between the direction to the north and the direction of the projectile trajectory, measured clockwise (azimuth of the projectile movement direction) was approximately 320-330°.



Fig. 15 –Projectile explosion diagram in case of shell hit 1.

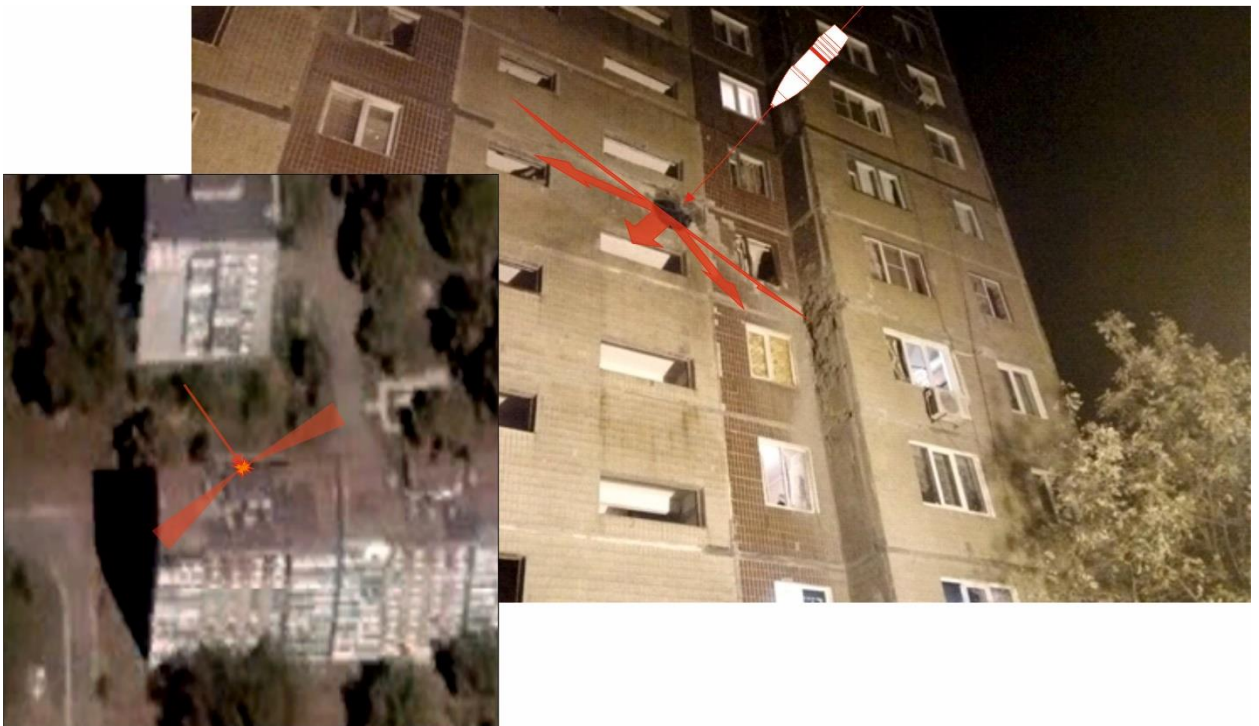


Fig. 16 –Projectile explosion diagram in case of shell hit 2.

In addition, in the cases of shell hits 1, 2 and 3, it can be argued that projectiles were fired from one gun without significant correction of fire. Thus, the hit data can be inscribed in an ellipse stretched along the shelling direction. The longitudinal axis of this ellipse also coincides with the azimuth of 320-330°.

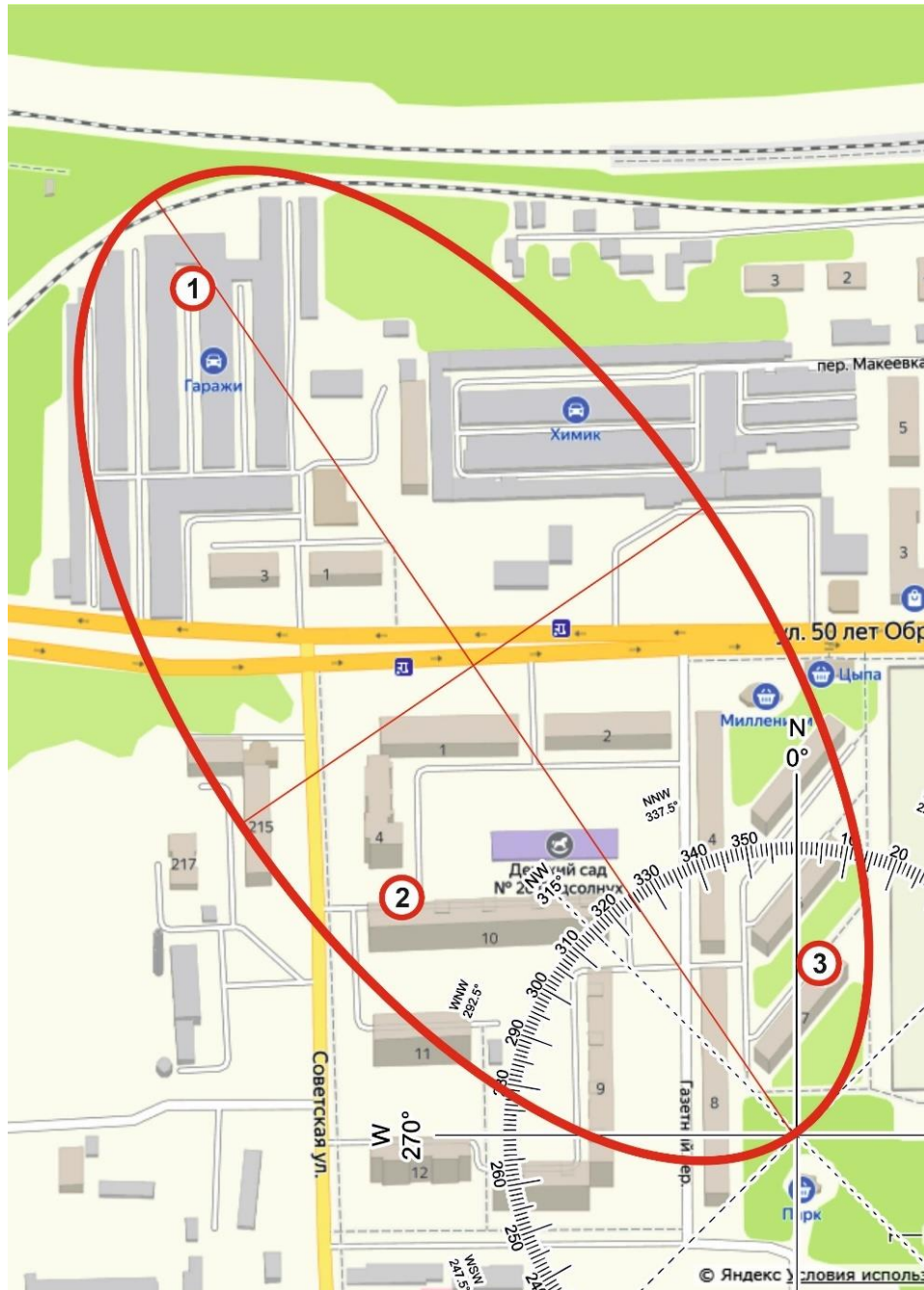


Fig. 17 – Determination of the direction from which the shell hit group was fired.

The analysis and generalization of the investigation results, considering the explanations provided by citizens regarding the mechanism of the above damage formation, give grounds for the following conclusions:

- damage of an explosive-fragmentation nature, which occurred on residential buildings at the addresses: 40/73, Heroes of Stalingrad St., Makeyevka, 7, The 50th Anniversary of the USSR Formation St., (7, Gazetny Lane) Makeyevka, and in the territory of *Druzhba* AGC were formed as a result of the explosion of artillery shells;

- damage of an explosive-fragmentation nature, which occurred on residential buildings at the addresses: 40/73, Heroes of Stalingrad St., Makeyevka, 7, The 50th Anniversary of the USSR Formation St, (7, Gazetny Lane) Makeyevka, and in the territory of *Druzhba* AGC coincide in the nature, type and form of artillery projectile, the direction of the projectile trajectory (considering the accuracy of the conducted measurements);

- damage of an explosive-fragmentation nature, which occurred on residential buildings at the addresses: 40/73, Heroes of Stalingrad St., Makeyevka, 7, The 50th Anniversary of the USSR Formation St, (7, Gazetny Lane) Makeyevka, and in the territory of *Druzhba* AGC were formed by 122mm or 152mm artillery shells fired from a direction of 320-330° relative to the northwise direction.

Considering the above data and the error of determining the direction plus or minus 15°, we can map the shelling sector and the line of combat contact.

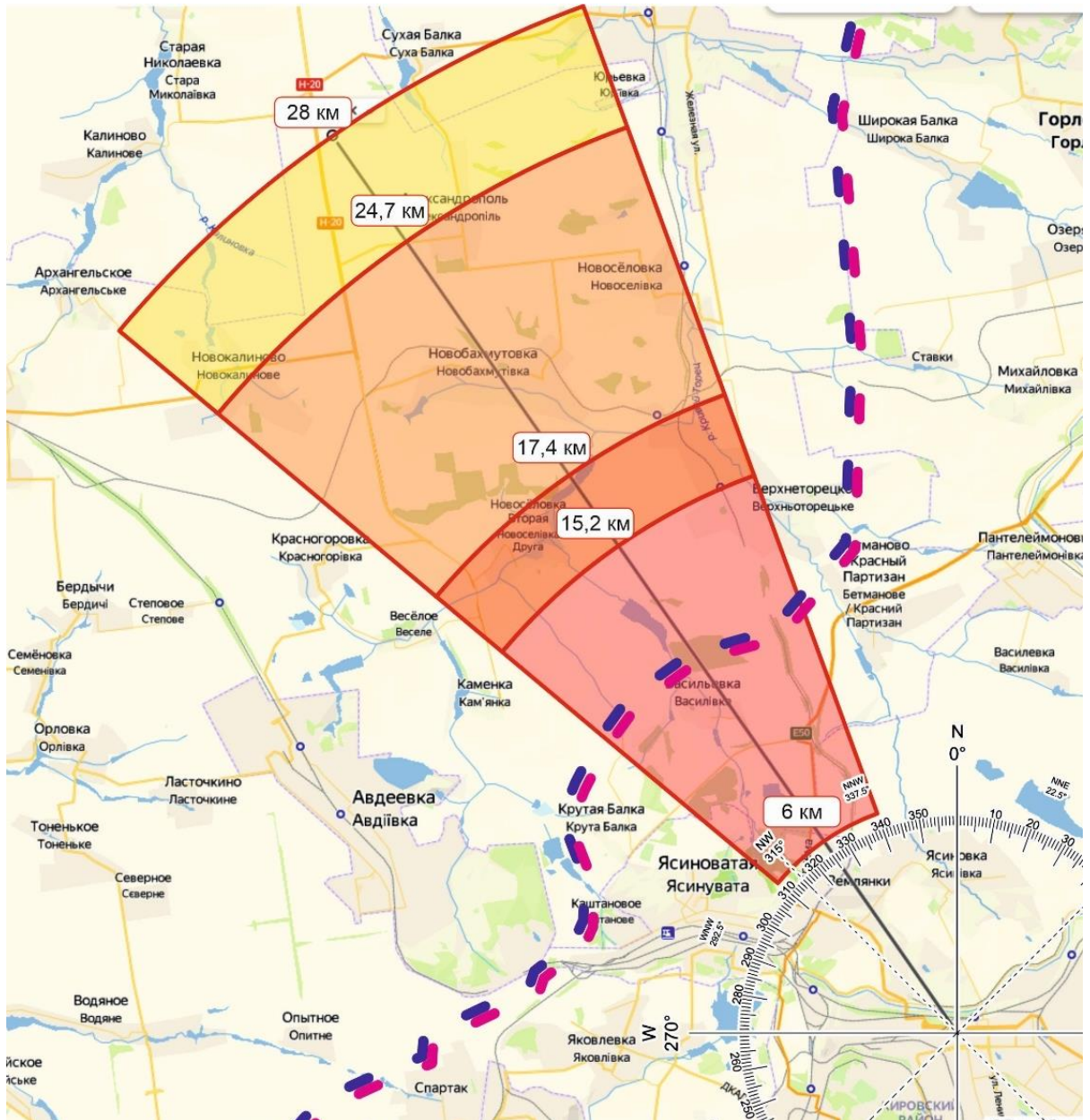


Fig. 18 – The shelling sector.

MILITARY PRESENCE

In 2016, the 58th Sumy Separate Motorized Infantry Brigade of the Ukrainian Ground Forces (58th SMBr) controlled 30 kilometers of the LoC from the village of Verkhnetoretskoe to the Avdeevskaya industrial zone)²².



Fig. 19 – Artillerymen of the 58th SMBr fire from 152 mm D-20 howitzer²³.

The 58th SMBr

The 58th Separate Motorized Brigade of the Operational Command “North” of the Ukrainian Ground Forces began its formation on February 17, 2015 in the city of Sumy on the basis of the 27th rocket artillery regiment according to the joint

²² The 58th Separate Motorized Brigade of the Operational Command "North". Official website of the Voronizh Starostyn district. URL: <http://voronizh-rada.gov.ua/main/1143-6-58-.html> (accessed on 20.11.2023)

²³ The 58th Separate Motorized Brigade. Weekdays. (published on 30.05.2020) ABOUT THE WORLD YouTube Video hosting. URL https://youtu.be/v0Xvw_9LXXg?si=OwwSOiyxsq0iGdMx (accessed on 20.11.2023)

directive of the Ministry of Defense of Ukraine and the General Staff dated December 8, 2014²⁴.



Fig. 20 – Brief information about the UAF 58th SMBr on the pages of “Wikipedia”²⁵.

The brigade is structured as follows²⁶:

- Brigade’s Headquarters
- 13th Motorized Infantry Battalion “Chernihiv-1”
- 15th Motorized Infantry Battalion “Sumy”
- 16th Separate Motorized Infantry Battalion “Poltava”
- Tank Battalion
- Artillery Battalion
 - Target Acquisition Headquarters & Battery
 - **Howitzer Artillery Battalion (D-20)**

²⁴ The 58th Separate Motorized Brigade of the Operational Command "North". Official website of the Voronizh Starostyn district. URL: <http://voronizh-rada.gov.ua/main/1143-6-58-.html> (accessed on 20.11.2023)

²⁵ 58th Separate Motorized Brigade SSI (published on 07.03.2019) Wikipedia. URL [https://uk.wikipedia.org/wiki/58-ма_окрема_мотопіхотна_бригада_\(Україна\)](https://uk.wikipedia.org/wiki/58-ма_окрема_мотопіхотна_бригада_(Україна)) (accessed on 20.11.2023)

²⁶ 58th Motorized Brigade (Ukraine) // Wikipedia URL [https://en.wikipedia.org/wiki/58th_Motorized_Brigade_\(Ukraine\)](https://en.wikipedia.org/wiki/58th_Motorized_Brigade_(Ukraine)) (accessed on 20.11.2023)

- Anti-tank Artillery Battalion (MT-12 Rapira)
- Anti-Aircraft Defense Battalion
- Reconnaissance Company
- Engineer Battalion
- Logistic Battalion
- Maintenance Battalion
- Signal Company
- Radar Company
- Medical Company
- Chemical, Biological, Radiological, and Nuclear Protection Company

From November 2015 to October 2016, the 58th SMBr carried out combat missions in the Donetsk direction, in particular in Avdeyevka and Yasinovataya district, covering 30 kilometers of the front in the Avdeyevka industrial zone and Verkhnetoretsky district.

It is worth noting that in 2016, at least 10 soldiers of the 58th SMBr died in the village of Novoselovka II. This is evidenced by the information posted on the Ukrainian portal “Book of Memory of those who died for Ukraine²⁷. This indicates that there were well-fortified positions of the brigade in the vicinity of this settlement.

As for the persons responsible for the death of the civilian population in the town of Makeyevka, it is worth noting that this shelling occurred during the period of the change of command. Thus, the first commander of the brigade was Colonel Sergey Vyacheslavovich Zabolotny. He commanded the brigade from February 17, 2015 to October 16, 2016. And since October 17, 2016, the brigade was headed by Lieutenant Colonel Mihail Vasilevich Drapatyi. We have to figure out who of them could have given the criminal order.

²⁷ Book of Memory of those who died for Ukraine. URL <https://memorybook.org.ua/index.htm> (accessed on 20.11.2023)

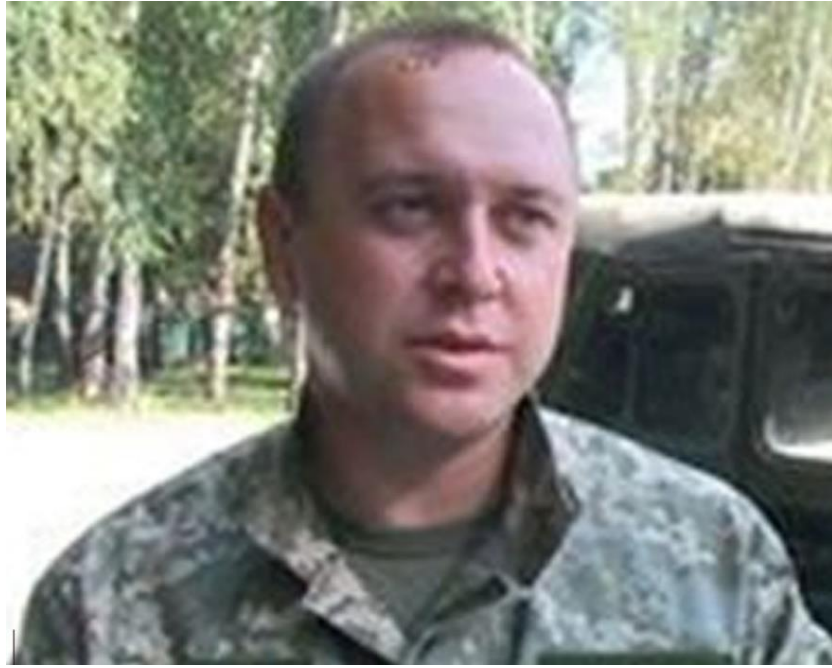


Fig. 21 – Sergey Vyacheslavovich Zabolotny



Fig. 22 - Mihail Vasilevich Drapatyi²⁸.

²⁸ Drapatyi Mihail Vasilevich. CENTER FOR RESEARCH OF ELEMENTS OF CRIMES AGAINST THE NATIONAL SECURITY OF THE RUSSIAN FEDERATION. URL: <https://tribynal.ru/criminals/121-drapatyi-mihail-vasilevich.html> (accessed on 20.11.2023)

CONCLUSIONS

Thus, it can be stated that the artillery shelling of the town of Makeyevka on October 27, 2016 at around 19:00 was carried out with the use of 152 mm rifled artillery in the direction from the north-west to the south-east (along the azimuth of 320-330°). This act resulted in the death and injury of civilians and can be qualified as a war crime.

Combatants from the UAF 58th SBr, armed with 152mm D-20 guns were deployed in this shelling sector.

Colonel Sergey Vyacheslavovich Zabolotny and lieutenant colonel Mihail Vasilevich Drapatyi are responsible for the actions of their subordinates.

LEGAL QUALIFICATIONS

Indiscriminate shelling of a densely populated residential area in the town of Makeyevka, in which civilians were killed and injured, is a crime for which responsibility is provided by the norms of national legislation of Ukraine and by the norms of international law.

The acts described above first of all violate the principle of **proportionality**, which declares as prohibited “*attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated*”.

This principle is enshrined in **Article 51(5)(b)** and is repeated in **Article 57 of Additional Protocol I** to the 1949 Geneva Conventions. It is also recognized as **rule 14 of customary international humanitarian law** and applies to both international and internal armed conflicts.

Moreover, the acts in question can be qualified as **indiscriminate attacks**.

Article 51(4) of Additional Protocol I to the 1949 Geneva Conventions expressly prohibits indiscriminate attacks and reckons the following among them: “*(a) those which are not directed at a specific military objective; (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol*”.

In compliance with **Rule 71 of Customary International Humanitarian Law**: “*States must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets*”

In compliance with **Art. 3 common to all Geneva Conventions of August 12, 1949**, extending its effect to all types of armed conflicts, “*persons taking no*

active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria".

To this end, violence to life and person, in particular murder of all kinds and mutilation, are prohibited inter alia with respect to the above-mentioned persons.

In compliance with **Art. 438 of the Criminal Code of Ukraine**, for “... *use of methods of the warfare prohibited by international instruments, or any other violations of rules of the warfare recognized by international instruments consented to be binding by the Verkhovna Rada (Parliament) of Ukraine, and also giving an order to commit any such actions*”, shall be punishable by imprisonment for a term of eight to twelve years, and if the same acts accompanied with an intended murder, shall be punishable by imprisonment for **a term of ten to fifteen years, or life imprisonment.**

REFERENCES

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