



Doc. 15748 – Compendium of written amendments
26/04/2023

(Final version)

Deportations and forcible transfers of Ukrainian children and other civilians to Russian Federation or to Ukrainian territories temporarily occupied: create conditions for their safe return, stop these crimes and punish the perpetrators

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A. Draft Resolution

1. The full-scale war of aggression waged by the Russian Federation against Ukraine represents a massive and ongoing violation of international law and a tragedy of human suffering. The forced displacements of Ukrainian civilians, particularly of children from early ages until the age of 17 years old, to the Russian Federation or within the temporarily occupied Ukrainian territories, is an especially serious feature of this aggression. Immediate actions must be sought as a matter of urgency, backed up by documentation and monitoring of what has occurred and continues to occur, the establishment of accountability, and the bringing to justice of all the perpetrators, at all levels of responsibility.
2. The United Nations, the Council of Europe, the European Parliament and the Organization for Security and Co-operation in Europe have firmly condemned over recent months and weeks the practice of forcible transfer and deportation of civilians, in particular children, by the Russian Federation. While imposing these practices, the Russian Federation often forces Russian citizenship on them, which also leads to violation of the children's right to identity and promotes illegal adoptions of Ukrainian children by Russian families. Such practices are prohibited under international humanitarian, human rights and criminal law, and deserve prosecution as war crimes and crimes against humanity. In the case of forcibly transferred children, the crime of genocide has reared its head and must be thoroughly investigated and prosecuted.
3. The Ukrainian authorities and national and international human rights organisations are working intensively to document and investigate the forcible transfer and deportations of civilians, and to find, support and extricate the victims and reunite them with their families and home environment. Their efforts are hampered by the extremely difficult, hostile context and conditions of subterfuge under which the Russian Federation is applying these practices.
4. The practice of unlawful deportations of Ukrainians to the Russian Federation from the temporarily occupied territories of Donetsk and Luhansk regions had started before the Russian Federation's full-scale aggression against Ukraine of 24 February 2022, taking the form of deportation to the Russian Federation of children from orphanages and of children with disabilities from specialised institutions. These practices have intensified and evolved further since that date and are clearly being planned and organised in a systematic way, within the framework of a State policy. They involve all levels of political decision making from the top down and implementation by administrative bodies and State

Amendment 6

Tabled by Mr Ahmet YILDIZ, Mr Mehmet Mehdi EKER, Ms Emine Nur GÜNAY, Mr Ahmet Ünal ÇEVİKÖZ, Ms Serap YAŞAR

In the draft resolution, paragraph 2, third sentence, after the words "against humanity" insert the following words:

"by the competent courts".

Amendment 7

Tabled by Mr Ahmet YILDIZ, Mr Mehmet Mehdi EKER, Ms Emine Nur GÜNAY, Mr Ahmet Ünal ÇEVİKÖZ, Ms Serap YAŞAR

In the draft resolution, paragraph 2, replace the fourth sentence with the following sentence:

"In the case of forcibly transferred children, the competent courts should establish whether the crime of genocide has been committed so that the perpetrators can be prosecuted."

institutions of the Russian Federation, especially as regards the forcible transfer, deportation and indoctrination of Ukrainian children.

5. In determining the extent and scale of the forcible transfers and deportations, precise figures are difficult to establish given the ongoing aggression, lack of access to the temporarily occupied territories of Ukraine, and subterfuge on the part of the Russian Federation as to the circumstances of forcible transfers and deportations and the current whereabouts of the victims. Nonetheless, various sources and data demonstrate that very many thousands of Ukrainians are victims of such practices, and that the human cost and consequences of these practices, today and for the future, are immense. As of mid-April 2023, the Ukrainian Government stated that it had collected reports of over 19 384 children classified as “deported” to the Russian Federation, of which the authorities have indicated only 361 having since returned home. Therefore, there are still many thousands of children and other civilians whose fate must be clarified.
6. The Parliamentary Assembly condemns the actions of the Russian authorities in violation of their obligations under international humanitarian law, which consist in unjustified delays in the repatriation of children and obstacles in the reunification of families separated as a result of this armed conflict. It also condemns the violation of the rights of deported Ukrainian children to preserve their identity, defined by the Convention on the Rights of the Child (Article 8) of the United Nations, with the practice of forced acceptance of Russian citizenship and placement of children for upbringing in the families of citizens of the Russian Federation.
7. Despite the difficulties in establishing definitive data on numbers involved or on the current fate of the victims, the evidence indicates various practices which are widely reported by victims and witnesses and which point to systematic policy by the Russian Federation. These include:
 - 7.1. due to the deliberate targeting and destruction of civilian infrastructure, extreme pressure has been exerted by the Russian military and Russian-affiliated officials to force Ukrainian civilians to flee hostilities with only the option of relocation to the Russian Federation or Russian-occupied territories of Ukraine, or to Belarus;
 - 7.2. “filtration” of Ukrainian civilians by the Russian military and Russian-affiliated officials, including intrusive body and belongings searches, aggressive interrogation, and the extraction of vast amounts of personal and biometric data. In some cases, civilians have been subjected to torture and ill-treatment; many have been detained and some have disappeared, according to family members;
 - 7.3. the forcible transfer of children to the Russian Federation and within temporarily occupied territories of Ukraine, to be placed in foster families or Russian-run orphanages or residential facilities, including so-called “summer camps”, and the facilitation of adoption of such children by Russian families. This includes orphans and children with disabilities, as well as children who have been moved either with or without their parents, and children whose

parents have agreed to let the occupying authorities transport them for “holidays” in residential camps from which they have never returned;

- 7.4. the practice of “re-education” of the children thus removed from their homes and families, both in residential facilities and in foster or adoption families. This practice is called “russification” which implies a prohibition to speak the Ukrainian language or express in any way their Ukrainian identity and culture, compulsory exposure to the Russian language and culture through classes, blanket exposure to the prevailing propaganda through the media, teaching of the Russian version of history, visits to “patriotic” sites, military training, denigration of the Ukrainian language, culture and history. In some cases, children have been (often falsely) informed that their parents had died, most have no means of knowing where they are or how to contact their families or obtain any help, and many suffer from bullying and psychological harassment.
8. The organised and systematic nature of the practices involved, the similar characteristics of such operations both geographically (across different temporarily occupied regions), and over time (including before the full-scale aggression of February 2022), point to the conclusion that these crimes are not random or unplanned. They indicate an intention to destroy Ukraine and the Ukrainian identity as well as the cultural and linguistic characteristics of its people. The forcible transfers, unlawful deportations and “re-education” of children, who are especially vulnerable and in need of protection, are abhorrent in their aim of annihilating every link to and feature of their Ukrainian identity.
9. The Assembly notes that both the Russian Federation and Ukraine are signatories to the most relevant humanitarian law treaties that apply to international armed conflicts: the Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV, 1949) and Additional Protocol I (1977) to the Geneva Convention concerning the Protection of Victims of International Armed Conflicts. Other relevant international treaties include the United Nations Charter, the Council of Europe European Convention on Human Rights (ETS No. 5), the International Covenant on Civil and Political Rights, the Hague Conventions of 1899 and 1907, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the Rome Statute of the International Criminal Court, the International Convention for Protection of All Persons from Enforced Disappearance, and the 1989 United Nations Convention on the Rights of the Child and its additional protocols.
10. The Assembly underscores that the forcible transfer of children from one group to another group, with the intention to destroy, totally or in part, a national, ethnic, racial or religious group is considered as a crime of genocide under Article 2 paragraph (e) of the 1948 Genocide Convention, which matches with the documented evidence of deportation and forcible transfer of Ukrainian children to the Russian Federation or territories temporarily under Russian occupation.

Amendment 8

Tabled by Mr Ahmet YILDIZ, Mr Mehmet Mehdi EKER, Ms Emine Nur GÜNAY, Mr Ahmet Ünal ÇEVİKÖZ, Ms Serap YAŞAR

In the draft resolution, paragraph 10, replace the words “”, which matches with the documented evidence of deportation and forcible transfer of Ukrainian children to the Russian Federation or

territories temporarily under Russian occupation.", with the following words:

". Accordingly, the perpetrators of the deportation and forcible transfer of Ukrainian children to the Russian Federation or territories temporarily under Russian occupation must be prosecuted by a competent court."

11. The Assembly further recalls its Resolution 2367 (2021) "The protection of victims of arbitrary displacement", its Resolution 2448 (2022) "Humanitarian consequences and internal and external displacement in connection with the aggression of the Russian Federation against Ukraine" and its Resolution 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", which refers inter alia to the Genocide Convention as regards the forcible transfer of children.
12. The Assembly welcomes the International Criminal Court's decision of 17 March 2023 to issue arrest warrants against the President of the Russian Federation, Vladimir Putin, and the Russian Commissioner for Children's Rights, Maria Lvova-Belova, for the war crimes of unlawful deportation and transfer of populations, in particular children, from temporarily occupied areas of Ukraine to the Russian Federation.
13. The Assembly supports the Secretary General of the Council of Europe in calling for a role to be played by this Organisation in determining accountability and securing justice for the Russian Federation's aggression against Ukraine, including the establishment in cooperation with Ukraine, of an international register of damage to serve as a record, in documentary form, of evidence and claims of damage, loss or injury to all natural and legal persons concerned, as well as the State of Ukraine, caused by internationally wrongful acts of the Russian Federation in or against Ukraine, as well as to promote and co-ordinate evidence-gathering.
14. The Assembly also supports the need for thorough recording, gathering and assessment of evidence of the crime of genocide as provided by both the Rome Statute and the Genocide Convention. The Assembly supports the investigation and prosecution of the State policy of forcible transfers and deportation of Ukrainian children by the Russian Federation, and Ukraine's potential actions before the International Criminal Court and the International Court of Justice.
15. The Assembly further supports the recommendations put forward in March 2023 by the Commissioner for Human Rights of the Council of Europe, calling for the establishment of concrete mechanisms and solutions to reunite the children with their families, including through the identification and registration of unaccompanied and separated children from Ukraine and the facilitation of family tracing and reunification procedures.
16. In the light of all the above, the Assembly calls for immediate and urgent action to be taken to halt the practices of unlawful forcible transfer and deportation currently being carried out by the Russian Federation

against the Ukrainian population, and especially its policy and practices relating to the removal of children from their families and homes and their subsequent absorption into Russian citizenship, identity and culture. The Assembly highlights the need for the recording and monitoring of individual cases, both in order to permit mechanisms for rapid redress, and to collect evidence of accountability in order to bring the perpetrators, at all levels of responsibility, to justice.

17. The Assembly calls upon the Russian Federation to:
 - 17.1. as concerns the particularly urgent situation of Ukrainian children in the hands of the Russian Federation, immediately and unconditionally cease unlawful forcible transfer and deportation of Ukrainian children to the Russian Federation, Belarus or within temporarily occupied Ukrainian territories, halt any adoption procedures underway, stop the imposition of Russian citizenship, re-establish the children's links with their parents or carers, and repatriate them to their homeland or release them to a safe third country;
 - 17.2. provide representatives and staff of relevant United Nations bodies and other international human rights and humanitarian mechanisms and organisations, such as the International Committee of the Red Cross, with unhindered, immediate and safe access, provide reliable and comprehensive information about the number and the whereabouts of Ukrainian children, and to ensure their dignified treatment and their safe return;
 - 17.3. fully co-operate with the Committee on the Rights of the Child of the United Nations in the establishment of facts on the basis of the submission submitted to the latter by Human Rights Watch in November 2022 on the review of Russia's compliance with the Convention on the Rights of the Child;
 - 17.4. halt all practices linked to the process of "filtration", unlawful deportation, and forcible transfers of civilians and other protected persons from Ukrainian territories and to release all those that are still in "filtration" points; to ensure that evacuation of civilians from danger zones is on the basis of their full knowledge and consent and with the option of relocating within Ukraine or to safe destinations of their choice.
18. The Assembly calls on the international community to firmly and consistently denounce and to take every measure possible to prevent the continuation of these crimes, to support the Ukrainian authorities and others in the diligent collection of evidence and proofs, and to ensure that the perpetrators at all levels are identified and brought to justice. It also calls on:
 - 18.1. the States Parties to the Rome Statute, to take every possible action to fulfil their obligations to enforce the arrest warrants already issued by the International Criminal Court, and to support the prosecution and bringing to justice of all other responsible persons. In particular, named individuals for whom direct responsibility has been alleged by international human rights organisations include the Russian Federation's Prime Minister, ministers of education and health, the

Amendment 5

Tabled by Mr Oleksii GONCHARENKO, Ms Iryna KONSTANKEVYCH, Ms Maria JUFEREVA-SKURATOVSKI, Mr Bob van PAREREN, Ms Olena KHOMENKO, Ms Larysa BILOZIR, Mr Normunds DZINTARS, Ms Lesia

Commissioner for Human Rights and the first deputy chief of staff to the Russian President and, at regional level, the governors of Krasnodar Krai, Magadan, Kamchatka Krai, the President of Tatarstan, and the head of the Republic of Adygea;

VASYLENKO, Mr Oleksandr MEREZHKO, Mr Serhii SOBOLIEV

In the draft resolution, paragraph 18.1, second sentence, after the words "staff to the Russian President," insert the following words:

", the self-proclaimed president of Belarus, Alexander Lukashenko, the government of Belarus"

- 18.2. the International Criminal Court to examine with all due seriousness the possible prosecution of the crime of genocide as regards the State policy of the Russian Federation towards Ukrainian children currently within its hands and encourages States Parties to consider bringing prosecutions for all crimes within their national criminal courts where jurisdiction is possible (in Ukraine or in third-party courts with universal jurisdiction);
- 18.3. the authorities of Ukraine, to ensure that Ukrainian nationals who were forcibly transferred to Russia, including men between the ages of 18 and 60, suffer no legal consequences for such transfer upon returning to Ukraine;
- 18.4. to strengthen co-operation with the European Union in order to stop the crimes of forcible transfer and deportations of Ukrainian civilians by the Russian Federation, to create conditions for the Ukrainian children's safe return or settlement in a safe third country in Europe, and to punish the perpetrators, as underscored in the Council of the European Union and the European Commission statements at the European Parliament on 19 April 2023.
19. The Assembly calls upon the Council of Europe member States to:
- 19.1. give all possible political and financial support to the Council of Europe mechanisms and measures put in place to support its member State Ukraine at the present time, including the Action Plan for Ukraine "Resilience, Recovery and Reconstruction" (2023-2026) and the Expert Advisory Group to the Office of the Prosecutor General of Ukraine;
- 19.2. support Ukraine in its efforts to document and monitor the situation of Ukrainian citizens, and especially children, who have been forcibly displaced or deported by the Russian Federation, and to lend their political, logistical and financial support to the development of an effective

Amendment 1

Tabled by Ms Olena KHOMENKO, Ms Lesia VASYLENKO, Mr Bob De BRABANDERE, Ms Iryna KONSTANKEVYCH, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Gergely ARATÓ, Mr Pavlo SUSHKO, Ms Larysa BILOZIR, Mr Pavlo BAKUNETS, Ms Olena MOSHENETS, Mr Serhii SOBOLIEV, Mr Artem DUBNOV

In the draft resolution, paragraph 18.4, after the words "settlement in a safe third country in Europe," insert the following words:

"to prevent the adoption of Ukrainian children with an illegal alleged Russian citizenship by citizens of Council of Europe member States, to take steps to jointly develop and implement a mechanism to identify, locate and repatriate such children to Ukraine,"

and rapid mechanism to identify, locate and repatriate victims to Ukraine or to a safe third country;

19.3. in this endeavour, provide support and assistance in strengthening co-ordination between all the relevant national bodies and institutions in Ukraine and to the work of the Ukrainian Parliament Commissioner for Human Rights;

19.4. support the Ukrainian authorities in the development of a rapid mechanism to identify, locate and repatriate victims to Ukraine or to a safe third country, including by strengthening the "Children of war" platform, and to provide returning children with the necessary support, in particular emergency and continuing psychological support;

19.5. ensure that the Temporary Protection Directive by European Union member States and other temporary protection measures are effectively applied to all Ukrainians who are seeking entry at the European Union borders from the Russian Federation, with or without valid or undamaged travel documents;

19.6. support and facilitate the work of civil society organisations active in protecting the rights of Ukrainian citizens, displaced persons and refugees.

Amendment 2

Tabled by Ms Olena KHOMENKO, Ms Lesia VASYLENKO, Mr Bob De BRABANDERE, Ms Iryna KONSTANKEVYCH, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Gergely ARATÓ, Mr Serhii KALCHENKO, Mr Pavlo SUSHKO, Ms Larysa BILOZIR, Mr Pavlo BAKUNETS, Ms Olena MOSHENETS, Mr Serhii SOBOLIEV, Mr Artem DUBNOV

In the draft resolution, paragraph 19.4, after the words "including by strengthening the "Children of war" platform", insert the following words:

"and promoting the Reunite Ukraine App"

Amendment 3

Tabled by Ms Olena KHOMENKO, Ms Lesia VASYLENKO, Ms Iryna KONSTANKEVYCH, Mr Oleksii GONCHARENKO, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Gergely ARATÓ, Mr Serhii KALCHENKO, Mr Pavlo SUSHKO, Ms Larysa BILOZIR, Mr Pavlo BAKUNETS, Ms Olena MOSHENETS, Mr Serhii SOBOLIEV, Mr Artem DUBNOV

In the draft resolution, after paragraph 19.5, insert the following paragraph:

"if they have not already done so, follow the example of the parliaments of Council of Europe member States that have adopted resolutions calling on the Russian Federation to comply with its obligations under international law, to take the measures necessary to end the illegal practice of forcibly deportating children and to ensure their safe return to Ukraine;"

Amendment 4

Tabled by Ms Olena KHOMENKO, Ms Lesia VASYLENKO, Ms Iryna KONSTANKEVYCH, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Gergely ARATÓ, Mr Serhii KALCHENKO, Mr Pavlo SUSHKO, Ms Larysa BILOZIR, Mr Pavlo BAKUNETS, Ms Olena MOSHENETS, Mr Serhii SOBOLIEV, Mr Artem DUBNOV

In the draft resolution, after paragraph 19.6, insert the following paragraph:

"strengthen the work of strategic communications units and the independent media that contribute to debunking Russian disinformation campaigns, as disseminating the

truth about Russia's crimes is essential to assisting the victims and restoring justice."

20. Underpinning all the above, and over and beyond the immediate measures which must be taken to protect Ukrainian civilians and children today, the Assembly stresses once more that the perpetrators of crimes under international law, including the crime of aggression against another country, war crimes, crimes against humanity, and genocide, must be identified and brought to justice. On the eve of the Council of Europe Reykjavik Summit, it calls upon member States, and upon the international community as a whole, to proclaim and reassert their commitment to this objective, to rapidly establish the mechanisms and processes which are needed to reach this end, and to remain steadfast in their common endeavours to ensure that justice is served.

B. Draft Recommendation

1. The Assembly, referring to the Resolution ... (2023) "Deportations and forcible transfers of Ukrainian children and other civilians to Russian Federation or to Ukrainian territories temporarily occupied: create conditions for their safe return, stop these crimes and punish the perpetrators", deploras and condemns the massive violations of international law caused by the full-scale war of aggression by the Russian Federation against Ukraine and the resulting deportations and forcible transfers of thousands of children and civilian adults, to the Russian Federation or temporarily occupied territories of Ukraine, or Belarus. The repatriation of children, their rehabilitation, and the creation of conditions for family reunification to preserve the identity of the children of Ukraine must now be a priority for the Council of Europe member States.
2. The Assembly welcomes, therefore, the preparation by the Committee of Ministers of a declaration on the situation of children of Ukraine affected by the Russian Federation's continued aggression against Ukraine initiated by the Steering Committee for the Rights of the Child (CDENF) with a view to its adoption by the Heads of State and Government of the Council of Europe at the forthcoming 4th Summit (16-17 May 2023, Reykjavik, Iceland), and underscores the need to guarantee the effective protection of the rights of children of Ukraine. The Assembly trusts that the Committee of Ministers will ensure adequate follow-up to this Reykjavik declaration and stands ready for future co-operation on this issue.
3. The Assembly welcomes the Committee of Ministers' initiatives to ensure that the Council of Europe contributes to establishing accountability for Russian Federation's aggression against Ukraine, bringing to justice all responsible for deportations and forcible displacements, and securing justice for victims, including the establishment of a register to record and document evidence and claims of damage, loss or injury as a result of the Russian aggression against Ukraine, and the subsequent proposals of the Secretary General of the Council of Europe.
4. The Assembly supports the recommendations put forward by the Commissioner for Human Rights, that concrete mechanisms and solutions must urgently be identified and used to reunite all children transferred from Ukraine to Russia and temporarily Russian-occupied territories with their families, including through the identification and registration of unaccompanied and separated children from Ukraine and the facilitation of family tracing and reunification procedures. It calls upon the Committee of Ministers to assist Ukraine in this process. The Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction (2023-2026) should be instrumental in reaching these aims.

Amendment 9

Tabled by Ms Mariia MEZENTSEVA-FEDORENKO, Mr Normunds DZINTARS, Ms Yelyzaveta YASKO, Ms Iryna KONSTANKEVYCH, Mr Serhii KALCHENKO, Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Yevheniia KRAVCHUK, Ms Olena KHOMENKO, Ms Lesia VASYLENKO, Mr Serhii SOBOLIEV, Ms Ieva BRANTE, Mr Oleksandr MEREZHKO

In the draft recommendation, at the end of paragraph 4, insert the following words:

"A special effort should be made to support the work of the Coordination Council on the protection of children under the auspices of the Office of the President of Ukraine and the work of the Office of the Ukrainian Parliament Commissioner for Human Rights on the return of

Ukrainian children from deportation. In this regard, the development of a new Human Rights Education for Legal Professionals course on the deportation of children will be very important."

5. The Assembly calls upon the Committee of Ministers to ensure effective protection of migrants and refugees in a vulnerable situation, especially women and children fleeing Ukraine through the work of the Secretary General's Special Representative on Migration and Refugees, in the framework of the Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025).
6. The Assembly trusts that the Secretary General will ensure co-ordination of all actions taken to protect the rights of children of Ukraine and will inform the Committee of Ministers and the Assembly of progress achieved. The Assembly recommends that appropriate communication mechanisms are established, in co-operation with the Ukrainian authorities, as well as other international organisations, such as the European Union institutions, the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, the International Organization for Migration, the International Committee of the Red Cross, and international and national civil society organisations.