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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

Report¹

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Paulo PISCO, Portugal, Socialists, Democrats and Greens Group

Summary

The forced displacement of Ukrainian civilians, including children, from occupied Ukrainian territory has been taking place for some time, but the process intensified after Russia's full-scale war of aggression against Ukraine began in February 2022. As of April 2023, 19 384 children were classified as "deported" to Russia.

The deportations are systematic State policy, involving all levels of political and administrative decision-making. Russia makes conditions for civilians in some areas unbearable in order to justify "evacuation", offers them no option but to travel to Russia and subjects them to unlawful "filtration" or, in some cases, torture and ill-treatment. Many of the deported children are placed in foster families, sent to orphanages, or face a process of "russification" in camps, including bans on speaking Ukrainian or showing Ukrainian identity, obligatory classes in Russian language and history, and forced absorption of Russian culture.

Russia's policy of the forcible transfer and deportation of civilians, including children, can be prosecuted as a war crime and a crime against humanity. Elements of the crime of genocide can also be found in the deportation of children and the related process of "russification". All State Parties to the Rome Statute should enforce the arrest warrants issued by the International Criminal Court against Russian President Vladimir Putin and Russian Commissioner for Children's Rights Maria Lvova-Belova and ensure prosecution of all those responsible for the Ukrainian children's deportations.

Meanwhile, Council of Europe member States should continue to assist Ukraine and others, including through any future register of damage, to record cases, gather evidence, identify victims and their current locations, and establish communication with them. Deported children should be safely and speedily returned, with the help of family tracing and reunification programmes. Finally, the perpetrators of these crimes must be resolutely brought to justice.

1. Reference to committee: Bureau decision, Reference 4718 of 24 April 2023.



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A. Draft resolution²

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 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;

2. Draft resolution adopted unanimously by the committee on 24 April 2023.

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.

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 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;

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 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.

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 recommendation³

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", deplores 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.
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.

3. Draft recommendation adopted unanimously by the committee on 24 April 2023.

C. Explanatory memorandum by Mr Paulo Pisco, rapporteur

1. Introduction

1. This report has been prepared in the context of the continuing war of aggression waged by the Russian Federation against Ukraine, to enable the Parliamentary Assembly to examine and make proposals concerning the extremely dramatic and urgent situation of the very many thousands of Ukrainian civilians, including children, forcibly transferred or deported to the Russian Federation or Ukrainian territories under the *de facto* control of the Russian Federation. The report has taken into account the positions expressed by international organisations in recent weeks and months, the international legal framework which must be applied in all circumstances, including in times of war, and the information and data on the scale and extent of the issue at hand, coming from national authorities and institutions in Ukraine and in the Russian Federation, and from national and international governmental and non-governmental organisations.

2. As of 8 February 2023, the number of civilians having fled Ukraine had reached 8 046 621 people, of which 4 823 326 registered for Temporary Protection or similar national protection schemes in Europe.⁴ Behind these shocking numbers are individual human beings, who need immediate support. The majority of the displaced are women, children and elderly persons. The displaced persons experience serious financial problems, health issues or difficulties to access education or social services. And above all, the question is what has happened to the four million people who have not registered as refugees in the European protection schemes. Where are they? What has been their fate? How many of them have been forcibly transferred or deported to the Russian Federation or to the temporarily occupied regions of Ukraine? What has happened, most urgently, to those of them who are children or minors, whose vulnerability and need for protection is especially acute?

3. On 26 January 2023, the Committee on Migration, Refugees and Displaced Persons held an exchange of views with Ms Oleksandra Matviichuk, Director, Centre for Civil Liberties, Ukraine, and winner of the Nobel Peace Prize 2022. Expressing her satisfaction that the Assembly was urgently looking into this topic, Ms Matviichuk provided vivid information about the situation on the ground. Giving the example of the situation in Mariupol, Ms Matviichuk recalled that the International Committee of the Red Cross (ICRC) had not been granted permission from the Russian Federation to open humanitarian corridors there, despite the provisions of international humanitarian law. Since the Ukrainians stranded in Mariupol had neither access to water nor medical assistance, they had no choice but to be transferred to the Russian Federation or to temporarily occupied regions of Ukraine. Ms Matviichuk explained that, although the Russian Federation was trying to convince Ukrainians that their deportation aimed at saving them from the “Ukrainian Nazis”, this policy was primarily justified by demographic issues. She further gave the Committee details about the process and fate of Ukrainian children deported to the Russian Federation: either they were being forcibly transferred together with their parents, or they were orphans hosted in State institutions, or their parents had been killed or arrested by the Russian forces. While, in the first case, their possibilities to escape from the Russian Federation depended on their parents, in the second scenario, the previous Ukrainian successful appeals to the European Court of Human Rights could no longer be emulated due to the almost certain refusal of the Russian Federation to respond to Court decisions. Ms Matviichuk highlighted moreover that it was especially in the third case that the children in question were vulnerable to indoctrination; what has been called “russification” process, especially since in this case many of the children were being formally adopted by Russian citizens. She stressed that this process of the erasure of Ukrainian identity was a violation of international humanitarian law and an element of a genocidal policy. In this regard, Ms Matviichuk urged the Assembly to request international agencies still operating in Russia, namely the United Nations High Commissioner for Refugees (UNHCR) and the ICRC, to actively pursue their mandates in striving to restore family ties and documents and to assist Ukrainians to leave the Russian Federation under safe conditions.

4. Ms Matviichuk confirmed the lack of precise statistical data and the discrepancy between the figures presented by the Russian Federation and those provided by various Ukrainian State institutions. However, she observed that, given the similarities in the descriptions of the transfer and deportation practices over time and from different regions, it was possible to establish the systematic nature of such operations, which amounted therefore to a State policy of the Russian Federation.

5. As regards adult victims, the policy of assimilation into the Russian Federation and its language and culture could have various impacts, according to different situations of displacements, as some Ukrainians had managed to leave the Russian Federation again, as quickly as possible, whereas others did not have the

4. <https://data.unhcr.org/en/situations/ukraine>, as consulted on 8 February 2023.

means or sufficient strength and energy to attempt to do so. Ms Matviichuk nonetheless maintained that if the Russian Federation chose to provide appropriate assistance to Ukrainians wishing to leave the Russian Federation or temporarily occupied territories to go elsewhere, departures would surely surge. In this context, she noted that many Russian volunteers, who themselves had fled Russia for fear of persecution, were aiding displaced people to find accommodation and to access assistance.

6. Finally, turning to the issue of obtaining reparation and justice, Ms Matviichuk informed the Committee that her organisation was co-operating with many other regional organisations in Ukraine, and daily updating a database which, at that moment, numbered 31 000 cases. However, she expressed regret that the International Criminal Court would probably deal with only a few selected cases and that the Ukrainian national system was already overburdened by 70 000 pending criminal proceedings. In order not to leave thousands of individual cases unpunished, she urged the international community to set up a hybrid international mechanism of justice, separate from the international special tribunal on the Russian aggression.

7. Another important source of reliable information has been the work of the Ukrainian Parliament Commissioner for Human Rights, Dmytro Lubinets, who has issued a “Special report on the observance of the rights of persons affected by the armed aggression of the Russian Federation against Ukraine (for the period February 24 – October 31, 2022)”.

8. I have also taken into account the conclusions of the United Nations Independent International Commission of Inquiry on Ukraine. In its report of 15 March 2023, the Commission states that the body of evidence collected demonstrates that Russian authorities have committed a wide range of violations of international human rights law and international humanitarian law in many regions of Ukraine and in the Russian Federation. Many of these amount to war crimes and include: deliberate killings and attacks on civilians, unlawful confinement, torture, rape, and forced transfers and deportations of children.⁵ The Commission recommends that all violations and crimes be investigated and those responsible be held accountable, either at the national or the international level. It calls for a comprehensive approach to accountability that includes both criminal responsibility and the victims’ right to truth, reparation, and non-repetition.

2. International standards on the protection against forced displacements

9. Forced displacement may constitute evidence of genocide, war crimes and crimes against humanity and must be thoroughly investigated and firmly denounced. In its [Resolution 2367 \(2021\)](#) “The protection of victims of arbitrary displacement”, the Assembly reminded member States of the Council of Europe of the relevant legal standards and obligations protecting civilian populations against arbitrary displacement, which have been recognised as general principles of public international law in the statutes of the International Military Tribunal at Nuremberg, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. In addition, the Statute of the International Criminal Court (ICC) spells out the prohibition to arbitrarily displace civilian populations and qualifies such acts as war crimes and crimes against humanity. Unlike combatants who, once captured, are held as prisoners of war and may be moved to enemy territory, the forcible transfer of civilians, especially children, is prohibited under international humanitarian law and can be prosecuted as a war crime and a crime against humanity.

10. International standards must be applied to bring perpetrators of war crimes and crimes against humanity to justice, not least in times of war. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide⁶ should be stringently applied to ensure that such crimes never remain unpunished, and those responsible should be brought before the ICC. Even though the Rome Statute of the ICC has not yet been ratified by Ukraine, the court’s jurisdiction over the armed conflict was recognised by Ukraine in a special resolution of the Verkhovna Rada of Ukraine “On recognition by Ukraine of the jurisdiction of the International Criminal Court on Crimes against Humanity and Military Crimes by Higher Officials of the Russian federation and of the so-called “Donetsk People’s Republic” and “Luhansk People’s Republic”, which led to particularly grave consequences and mass murders of Ukrainian citizens”.⁷

11. Genocide was first recognised as a crime under international law in 1946 by the United Nations General Assembly (A/RES/96-I). It was codified as an independent crime in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the “Genocide Convention”). The Convention has been ratified by

5. A/HRC/52/62, see para. 95 and following of the report: www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A_HRC_52_62_AUV_EN.pdf.

6. www.un.org/en/genocideprevention/genocide-convention.shtml.

7. Resolution of the Verkhovna Rada of Ukraine (VRU No. 145-V-III of 4 February 2015).

149 States (as of January 2018). The International Court of Justice (ICJ) has repeatedly stated that the Convention embodies principles that are part of general customary international law. This means that regardless of whether or not States have ratified the Genocide Convention, they are all bound as a matter of law by the principle that genocide is a crime prohibited under international law. The ICJ has also stated that the prohibition of genocide is a peremptory norm of international law (or *jus cogens*) and consequently, admits of no derogation.

12. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group.

13. The provisions of the international humanitarian law provide additional grounds for the protection against forcible transfers or deportations of populations. Article 49 (first paragraph) of the 1949 Geneva Convention IV provides that “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive”.⁸

3. Collection of empirical evidence for future legal proceedings

14. Given the extremely hostile situation of the large-scale aggression and the subterfuge and malign intent of the authorities of the Russian Federation, the collection of data and empirical evidence of the crimes committed and still underway is not an easy task, but it is an absolutely critical one, both in order to be able to redress individual situations of forcibly transferred or deported adults and especially children, and in order to establish accountability and bring the perpetrators, at all levels, to justice. Both quantitative and qualitative data should be recorded and taken into consideration when determining what has happened and with what intent.

15. The UNHCR reported figure of 4 823 326 refugees from Ukraine registered for Temporary Protection or similar national protection schemes in Europe may include multiple registrations of the same individual in two or more EU+ countries; registrations that remain incomplete for various reasons; or registrations of refugees who have moved onward, including beyond Europe. Statistics are compiled mainly from data provided by the different authorities. While every effort has been made to ensure that all statistical information is verified, these figures represent an estimate.

16. There is mounting evidence that crimes referred to in Article II of the Genocide Convention have been and are being inflicted by the Russian Federation on the people of Ukraine. The international community must not shy away from looking closely at the evidence of genocide and in particular the elements related to forcible transfer and deportation. I welcome the position of the Secretary General of the Council of Europe, who is calling for a greater role to be played by the Council in establishing accountability for the Russian Federation’s aggression against Ukraine 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.⁹ Such register will certainly include the evidence of genocide, including the forcible transfer of children from Ukraine to the Russian Federation and the Ukrainian territories under the *de facto* control of the Russian Federation.

17. This report focuses primarily on forcible transfer and does not cover in detail the horrors of “filtration” points imposed on the Ukrainians who have had to flee, including intrusive body and belongings searches, medical examination, aggressive interrogation, and reports of torture, ill-treatment and disappearances. Thorough investigation about what has happened in the filtration camps, in addition to the evidence collected about the treatment of prisoners of war captured by Russian army and paramilitary forces, must be carried out and those responsible for crimes must face justice.

18. Evidence of genocidal intent on the part of the Russian Federation is growing. In particular, practices as concerns the treatment of transferred and deported children, the denial of their Ukrainian identity, the assimilation into the Russian Federation including through adoption and citizenship, and the indoctrination into

8. Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 49, first paragraph.

9. SG/INF(2023)7, “Accountability for human rights violations as a result of the aggression of the Russian Federation against Ukraine: role of the international community, including the Council of Europe”.

Russian identity, are widespread over situations and over time and clearly point to a State policy, led from the top. Such practices involve the forced transfer of children from Ukraine with the complicity of the Russian Commissioner for Children's Rights, Maria Lvova-Belova, and given the full and public support of President Putin. The involvement of the Russian Commissioner for Children's Rights is evidenced by her statements. On 4 July 2022 she stated that within days a total of 108 orphans of the Donbass who received Russian citizenship would be sent to new parents across six regions of Russia, and she has appeared alongside President Putin in a propaganda video in which she announces that she herself has become a foster parent of a 16 year-old boy from Mariupol, who has been already issued with a Russian passport.

19. Thus, the intent of the Russian authorities and the Russian Commissioner for Children's Rights, Maria Lvova-Belova, to displace Ukrainian children to the Russian Federation and offer them for foster care or adoption is thus clear and publicly-stated. This is, indeed, a clear proof of intent to destroy the national and ethnical identity of Ukrainians, through the forced transfer of Ukrainian children to another group – Russian citizens. The pretext of “saving lives” is not acceptable since the intent is clearly to separate Ukrainian children from their families. Just as abhorrent is the abduction of children from Ukrainian orphanages: these children have already lost their parents and are now being separated from their country, language and culture— all that constituted their national and ethnic identity.

20. It is imperative that these cases are monitored and recorded, despite all the difficulties in obtaining information due to the subterfuge and malign intent on the part of the Russian Federation. Calls for a register to cover all the crimes being committed under the current aggression are multiplying, and the Council of Europe is well-placed to develop such a claims register, notably in light of the case law of the European Court of Human Rights and the process of supervision of the Court's judgments. The Organisation is already providing legal and policy advice, training investigation experts and professionals working with victims of violence, especially women. These and other activities are included in the Council of Europe's dedicated Ukraine Action Plan 2023-2026.

4. Evidence of forced transfers to Russia and Russian-occupied territories

21. Various sources, such as Human Rights Watch, provide evidence of specific cases of people that were forced to flee to Russia as no other option was available to them.¹⁰ As the HRW report on this topic states, people who sought to flee the fighting and did not have the means to organise private transportation, including thousands of residents from the Mariupol area, were offered no other possibility by Russian forces but to board buses travelling first to Russian-occupied areas and then travel onwards across the border into Russia.¹¹ The only option left to those who did not want to be relocated to Russia was to remain under intense shelling, with real and imminent risk to their lives. Amnesty International noted that the practice of deportations from the temporary occupied territories of Donetsk and Luhansk regions already existed before the Russian Federation's large-scale aggression against Ukraine of 24 February 2022, with the practice of transfer of children from orphanages and of institutionalised children with disabilities to Russia.¹² The transfers and deportations intensified after 24 February 2022.

22. A great number of cases have been documented of forcible transfers or deportations of Ukraine's civilian population, including children, the elderly and people with disabilities, to the Russian Federation or to Ukrainian territories under the de facto control of the Russian Federation, and also to Belarus.

23. It has been noted that some Ukrainian men may have chosen to leave via the Russian Federation in the first days of evacuations in order to avoid travel restrictions under Ukraine's martial law and in order to avoid forced enrolment into the Russian military in the occupied regions. Evacuation as far possible from the frontline was the only option left.

24. The civilians forcibly transferred or deported were mainly from the regions of Mariupol and Kharkiv and many were forced to leave to escape imminent danger to their lives, with no possibility of moving to safe territory within Ukraine. The Russian Federation intentionally makes the local conditions for civilians unbearable to justify the so-called «evacuation» actions. Some civilians have indicated that the Russian and

10. Different civil society sources must be mentioned, notably the reports of Human Rights Watch “We had no Choice-“Filtration” and the Crime of Forcibly Transferring Ukrainian Civilians to Russia”, and Amnesty International's report “Like a Prison Convoy – Russia's Unlawful Transfer and Abuse of Civilians in Ukraine During “Filtration””.

11. A notable exception was the March 14 evacuation from Mariupol referenced above when the Russian Defence Ministry allowed people to leave the city of Zaporizhia.

12. Amnesty International's report, “Like a prison convoy” (November 2022).

pro-Russian military forces explicitly refused to let them go to Ukrainian safe territory, offering them only the possibility of going to Russian Federation or to temporarily occupied territories of Donetsk region through “evacuation” buses, in clear breach of the 1949 Geneva Convention IV.

25. Before the start of the full-scale military aggression by the Russian Federation, and namely as of 1 January 2022, about 530 000 children lived in the Donetsk region, about 240 000 children in the Luhansk region, almost 190 000 children in the Kherson region, and more than 280 000 children in the Zaporizhia region. This amounts to more than 1 million Ukrainian children in total. Since then, more than 1399 children have died or been injured because of the war. And all Ukrainian children – more than 7,5 million have suffered from severe psychological trauma following the large-scale aggression and will be marked by that for life. It is imperative that all evidence of these crimes must be collected immediately and thoroughly. Many figures already exist, coming from the relevant official institutions of the Ukrainian State as well as from other parties, including the Russian Federation. Thus, Irina Vereshchuk, Deputy Prime Minister and Minister for Reintegration of the Temporarily Occupied Territories of Ukraine, has indicated that Russia had deported by June 2022 1 200 000 Ukrainian citizens to its territory, including 240 000 children. Daria Herasymchuk, Ukraine’s presidential advisor for children’s rights and rehabilitation, has indicated that as of 15 March 2023, Russia abducted, including for adoption purposes, nearly 19 384 Ukrainian children. The National Information Bureau of Ukraine has registered 361 children who have returned. For its part, the Russian agency TASS reported in August 2022 that 2,8 million people came to Russia from Ukraine after the start of the war, including 448 000 children.¹³ President Volodymyr Zelenskyy immediately responded that these people were forcibly displaced from Ukraine. Notwithstanding the difference in communicated figures, it is clear that a great number of cases of forcible transfers or deportations of Ukraine’s civilian population, including children, to the Russian Federation or Ukrainian territories under the de facto control of the Russian Federation as well as Belarus, have been reliably documented.

26. Additionally, the documentation of individual cases adds precious information on the processes involved. Several individual cases have been documented by Human Rights Watch, following interviews held with people who went to Russia from Mariupol area and Kharkiv region. The interviewed eyewitnesses have indicated that they made the journey with hundreds of other Ukrainians. Some were told that the route to Ukrainian-controlled territory was too unsafe because of the hostilities. Evacuations were organised by the authorities of the Russian Ministry of Emergency. Svitlana, a 24 year-old woman from a Mariupol suburb, said Russian authorities, which organised the evacuations, did not ask whether she and her family members wanted to go to Russia, but simply loaded them and everyone who had already undergone filtration with them onto buses that drove them to the Russian border. They remained on the bus at the border crossing for many hours, which was especially hard on children and elderly people.¹⁴ At the crossing, an official distributed migration cards to fill out and an application form to receive a payment of 10 000 roubles from the Russian Government, which Svitlana and her family members refused. Russian security agents were pulling people out for questioning. They mostly focused on men, but also interrogated some women, including her. The interrogator took down the IMEI number of her phone and asked numerous questions in what she felt was a threatening manner.

27. The Committee on Migration, Refugees and Displaced Persons has also been informed about the findings of the Regional Center for Human Rights, Ukraine.¹⁵ The forcible transfer of Ukrainian children to Russian families, which started in 2014, after the Russian Federation families adopted at least 12 children from the occupied Crimean Peninsula through the “Train of Hope” program, would seem to demonstrate elements of a genocidal policy from the outset. In the annexed Crimea region, as early as April 2022, 28 families expressed their desire to take children from the newly occupied territories, and since the beginning of the full-scale invasion, at least 400 children have been transferred to Russian families to be brought up by them.

28. If, at the beginning of the large-scale invasion on 24 February 2022 the main reason for the deportation of minors was a so-called “evacuation,” from the summer of 2022 the Russian authorities were offering forward several other pretexts, such as taking children for vacations and medical treatment in the Russian Federation, the occupied Crimea region, and Belarus.

13. Meduza, 24 July 2022 (<https://meduza.io>).

14. HRW telephone interview, 7 April 2022.

15. On 15 March 2023, the Committee on Migration, Refugees and Displaced Persons, held an exchange of views with the participation of Ms Kateryna Rashevskya, legal expert at the Regional Center for Human Rights, Ukraine.

29. In autumn of 2022, a new Russian pretext to deport and forcibly transfer Ukrainian children became overt: the so-called “medical examination” – the displacement of children to provide “medical assistance.” By September 2022, 550 children were transported to receive treatment in 2023 in the Russian Federation (in particular, in the Khanty-Mansiysk District). In 2023, 435 million roubles were allocated from the Russian Federation’s federal budget for “dispensation” (medical ambulatory treatment). It is to be noted, however, that parents are allowed to accompany only those children under 4 years old, meaning that children over 4-5 years old are separated from their parents in this process. Children aged 6-17 are sent to “re-education” camps. These are minors from the temporary occupied territories of Donetsk and Luhansk regions, and the (de)occupied Kharkiv, Kherson, and Zaporizhzhia regions.

30. As part of this process, the Prime Minister of the Russian Federation, Mikhail Mishustin, openly called for an increase in availability of places for children’s recreation and “medical check-ups for children” from the “new regions”. On 22 February 2023, the Prime Minister, in his address to the government, said the following: “As per the President’s instructions, we will spend almost 1.5 billion roubles on medical exams for children in the new regions. At least 220,000 children will be able to undergo preventive medical exams and receive recommendations from doctors, including paediatricians. Medical personnel have already started working in the Donetsk and Luhansk people’s republics, and the Zaporizhzhia and Kherson regions. In 2023, we will send 35 medical teams with specialists to conduct full medical exams. This will make it possible to quickly detect various health disorders in their early stages and to prescribe further treatment when necessary. Mr Murashko¹⁶, I would like to ask you to monitor how this is organised in the new Russian regions. The government also continues to develop the medical rehabilitation system, and we are allocating the required funding for this purpose. This year, we have already transferred 8 billion roubles to regional healthcare institutions. We will also set aside over 1.7 billion roubles for 43 federal-level medical institutions in the Russian regions. These allocations will help provide specialised clinics with modern equipment. It is necessary to use these allocations effectively and in full so our medical personnel will have everything they need for rehabilitating people after serious diseases, complicated surgery and injuries. Thus, even more people will be able to undergo rehabilitation, including at outpatient clinics and day-wards. Patients will be able to overcome their health issues more quickly and get back to their normal lives.”

31. Prime Minister Mishustin’s statement of 22 February 2023 clearly shows the involvement at the highest level of command in the system of medical examination for Ukrainian children from the temporary occupied territories of Donetsk and Luhansk regions, and the purposes of which most certainly go beyond medical imperatives. The medical exams enable the use of children’s biometrical data to issue Russian Federation passports, with the aim of definitively integrating these children into the Russian Federation, supported by all the indoctrination methods previously described. A further risk is the use of medical assessment in order to identify youths and determine their health status for the purposes of a future drafting into the Russian army.

32. From all these practices, it can be seen that many and various groups of minors continue to be under the effective control by the Russian Federation: children deported together with a legal representative; unaccompanied children, in particular, but not exclusively, orphans and those deprived of parental care; minors whose parents’ fate is unknown; children with disabilities; minors who are kept in camps or sanatoriums for “re-education”; and children taken out of Ukraine for medical intervention.

33. In the first months after the beginning of the full-scale invasion, minors from Ukraine were deported to at least 57 regions of the Russian Federation, in particular to remote ones, such as Sakhalin.

34. As regards “recreation” and “re-education” purposes, Russian Federation has a policy of sending children to summer camps (Artek, Orlenok (Krasnodar Krai), Ocean (Vladivostok), Smena (Krasnodar Krai). As regards the summer camp “Artek” alone, they have planned to send there, in 2023, almost 41,000 children. The Commissioner for Children’s Rights of the Office of the President of the Russian Federation, Maria Lvova-Belova, has publicly stated that the “recreation” in summer camps is aimed at familiarising children with the Russian language, culture, and prospects for a “bright future in Russia”. The *de facto* authorities of the temporarily occupied regions have defined the goals as being “to foster in the shortest possible time true patriots of the Fatherland”, referring to the Russian Federation. For example, the Deputy Prime Minister of the Republic of Tatarstan, Leyla Fazleeva, noted that “all camps... are aimed at the patriotic upbringing of youth, development of communication skills, and preservation of [Russian] cultural heritage.”

16. Mr Mikhail Murashko has been Minister of Health of the Russian Federation since 21 January 2020.

35. As an example, the “recreation” programme for some Ukrainian children has included guided tours to cultural and religious places (namely conversations with representatives of the Russian Orthodox Church), the so-called “places of glory,” in particular on the territory of the Russian Federation, lectures by Russian “veterans” (mainly those who fought in the Donbas region or in Syria) and Russian historians, and military training (weapon disassembly, physical and tactical preparations, driving and repair of military equipment).

36. Contrary to the rules of international law,¹⁷ Ukrainian children were placed in camps alongside Russian children, they were subject to additional traumas such as bullying in connection with their use of the Ukrainian language (speaking Ukrainian in the camps being forbidden), their other manifestations of Ukrainian national identity (clothes, accessories, songs, criticism of the aggression by the Russian Federation against their country, insulting names and behaviour). Educators and the administration authorities of the institutions have not reacted to or stamped out these instances of violence and enmity.

37. The Russian authorities stated that as of April 2022, 2 161 orphans had arrived in Russia from Ukraine, including some from the temporary occupied territories of Donetsk and Luhansk regions. Ukraine’s National Information Bureau, however, estimates that as of April 2023, 19 384 children have been deported or forcibly transferred to non-specified locations in the Russian Federation or Russian-controlled areas.

38. A report published in February 2023 by the Humanitarian Research Lab at Yale School of Public Health entitled “Russia’s Systematic Program for the Re-education and Adoption of Ukraine’s Children” states that at least 6,000 children have been subject to re-education and indoctrination implemented by the Russian Federation authorities in 43 institutions in occupied Crimea (8) and on the territory of the Russian Federation (35). Two of these camps, one in the Russia-occupied Crimea and one near in Grozny, Chechnya, are engaged in military training.

39. Sources from the side of the Russian or Russian-controlled authorities provide further figures. Such sources have indicated that around 10 000 children have been received in Crimea in 2022 and that 2 000 children, mainly from the temporary occupied territories of Ukraine, have been taken to camps and sanatoriums in Belarus. Moreover, representatives of the temporarily occupied territories of Donetsk region have claimed that 18 000 children resided in camps in 2022.

40. It is alarming that the International Children’s Centre “Artek”, located in the town of Gurzuf in the occupied Crimean Peninsula, is indicating plans to receive more than 41 000 minors in 2023. This situation must be closely monitored by the international community.

41. For a large majority of accompanied, separated or orphaned children now placed in the Russian Federation or in Russian-controlled territories, it is extremely difficult to reunite or have contact with families or guardians, both because Russian officials make it difficult to do so, and because they are in camps located thousands of kilometres from their place of origin, and also because there are no formal channels for communication between Russia and Ukraine on this matter.. Many children that have been sent to camps for “recreational” purposes have not returned Ukraine, although their stay in the camps was originally indicated as a holiday period. The Russian authorities have also set unacceptable conditions for the repatriation of these children, namely, demanding that the parents come to Russia to recuperate them, which is obviously impossible given the safety issues for the parents and the difficulties in communication with the children in order to find their location.

5. Human Rights Watch submission under the United Nations Convention on the Rights of the Child

42. In November 2022, Human Rights Watch published a submission to the United Nations Committee on the Rights of the Child¹⁸ entitled “Review of Russia’s compliance with the Convention on the Rights of the Child (CRC)”. Evidence of forcible transfers of children from Ukraine to Russia has been established. The right to preserve her or his identity, including nationality, name and family relations, and the right to remain with their parents or caregivers, are being denied instead of being protected in all circumstances, in absolute infringement of the CRC. Children of Ukraine are protected by the provisions of the CRC, ratified by Ukraine on 28 August 1991 and by the Russian Federation on 16 August 1990. The forcible transfer of children of one

17. The Rome Statute of the International Criminal Court incorporates the principle of positive distinction by requiring respect for the interests and personal circumstances of victims and witnesses, including their age, gender, health and the specific nature of the crime (Articles 36, para. 8 (b), 42, para. 9, 54, para. 1 (b), and 68, para. 1). Rule 17, sub-rule 3 of the Rules of Procedure and Evidence of the International Criminal Court provides that the Victims and Witnesses Unit created within the Registry of the Court shall “give due regard to the particular needs of children, elderly persons and persons with disabilities”.

18. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en.

group to another group for russification purposes falls under Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, to which both Ukraine and the Russian Federation are parties, which prohibits not only the genocide itself but also the direct and public incitement to commit genocide and the attempt to commit genocide.

43. As reported by Human Rights Watch, Irina Vereshchuk has spoken of a figure of about 240 000 Ukrainian children who had been forcibly taken to the Russian Federation. Human Rights Watch has not been able to verify the total number of children that Russian or Russian-affiliated forces transferred to the Russian Federation but has managed to gather evidence of the forcible transfer of children in a specific case. On that basis, Human Rights Watch made a submission to UN Committee on the Rights of the Child ahead of its 94th pre-session and its review of the Russian Federation to highlight areas of concern regarding that country's compliance with the CRC. This submission addresses, *inter alia*, the filtrations and transfers of children to the Russian Federation, as presented below.

44. "In mid-March, a Ukrainian volunteer tried to rescue 17 children, between the ages of 2 and 17, from a residential healthcare facility in Mariupol. The volunteer told Human Rights Watch that Ukrainian regional authorities had asked him to rescue any children whose families had not come to collect them from the facility. The volunteer said the "minister of social policy" of the so-called "Donetsk People's Republic" blocked him and said he had no legal right to remove the children. The children were then put on a bus and apparently taken to the so-called "Donetsk People's Republic". In June, six of the children, all from one foster family, were allowed to leave Donetsk for Russia and travelled from there onwards to France where they reunited with their foster parents. As of November 2022, the whereabouts of the other 11 children remain unknown".¹⁹

45. The Russian Commissioner for Children's Rights, Maria Lvova-Belova, stated in May 2023 that children from institutions in the so-called "Donetsk People's Republic" had been placed with foster families in the Moscow region and that she was working to expand the program and to unify guardianship and adoption procedures with the pro-Russian authorities from the temporary occupied territories of Donetsk and Luhansk regions. The same month, the Russian Federation published a law that was revised to facilitate granting nationality to and adoptions of Ukrainian children, which President Putin had called for. "Now that the children have become Russian citizens, temporary guardianship can become permanent," Lvova-Belova said in July 2022. In July, the OSCE noted reports that around 2 000 children from institutions had been transferred to Russia "even though they have living relatives and were in the institutions only for medical care." The Ukrainian Government reported 9 755 children had been deported to Russia as of 31 October 2022. As of August 2022, at least 160 children from the so-called "Donetsk People's Republic" were placed in Russian foster families in at least six regions of Russia, and at least 133 children had received Russian citizenship. Some children in Russia, who were able to return to their families, reportedly said that officials from the so-called "Donetsk People's Republic" and Russian officials told them their Ukrainian parents had "abandoned" them".²⁰

46. In its submission, Human Rights Watch put forward a series of questions that the UN CRC Committee should ask the Government of Russia:

- How many children have undergone the filtration process?
- Clarify what data, including biometric and other sensitive personal data, is collected from children in the filtration process, how it is stored, and what state or corporate agencies the data is shared with?
- How many children have been transferred from Ukraine to Russia and what is the number, location, and occupancy rate of the temporary placement centres throughout Russia? How many of these children travelled with their families, how many were unaccompanied, and how many were brought to Russia as groups from children's institutions?
- How many Ukrainian children have received Russian citizenship since 24 February 2022?
- How many Ukrainian children have been adopted in Russia since 24 February 2022? How many are currently in process of being adopted?

47. Human Rights Watch considers that the UN CRC Committee should call on the Government of the Russian Federation to clarify the fate and whereabouts of all children detained as a result of filtration; to remind the said government that any collection, storage and sharing of data in these processes – including biometric and other sensitive personal data – must be guided by human rights principles of legality, necessity, and proportionality. The Russian Federation should also respect the prohibition of arbitrary detention of

19. [Russia: Submission to the UN Committee on the Rights of the Child | Human Rights Watch \(hrw.org\)](#).

20. Ibid.

children; investigate any allegations of these or other abuses committed against children by Russian forces and Russian-affiliated armed groups; ensure that civilians in areas occupied by Russian and Russian-affiliated forces, including in the temporary occupied territories of Donetsk and Luhansk regions, can leave to Ukrainian-controlled territory or any other third country if they choose. Finally, the Russian Federation must impose an immediate moratorium on adoptions of children from Ukraine, including occupied Ukrainian territory.²¹

48. I believe that the Assembly should endorse the proposed call for action by the UN CRC and that it should urge that these actions be taken by the Russian Federation without further delay.

6. Measures taken by Ukraine to protect the rights of deported or forcibly displaced persons

49. The Ukrainian Parliament Commissioner for Human Rights, Mr Dmytro Lubinets, presented the measures taken by Ukraine to protect the rights of deported (forcibly displaced) persons in his recently issued special report that covers the period from 24 February to 31 October 2022.²²

50. To facilitate the co-ordination of the activities of the central and local executive authorities, of State bodies, armed forces and law enforcement agencies, a resolution of the Cabinet of Ministers of Ukraine was issued on 18 October 2022 (Resolution No. 1187). It established a headquarters for coordinating the departure of citizens of Ukraine from the territory of Ukraine temporarily occupied by the Russian Federation, in particular the autonomous Republic of Crimea and Sebastopol, through the territory of other countries into the territory of Ukraine and assistance in returning to Ukraine.

51. Organisational information and logistical support of its activity are entrusted to the Ministry for Reintegration. In addition, co-ordination of measures to ensure return to the territory of Ukraine in which public authorities exercise their powers in full, citizens of Ukraine, in particular children, forcibly displaced (deported) to the Russian Federation and the Ukrainian territories under the *de facto* control of the Russian Federation, or other States, is also carried out by this ministry.

52. According to the National Information Bureau, the proper managers of information on persons who have left or were deported from the occupied territories to the territory of the aggressor State, as well as the number of persons who were forcibly mobilised or conscripted in the occupied territories to military service on the side of the aggressor, are the Main Intelligence Directorate of the Ministry of Defence of Ukraine, the Security Service of Ukraine (SBU), Ukraine's external intelligence service, other intelligence and law enforcement agencies. Stronger co-operation is needed between all relevant agencies to ensure the safe and quick return of children, including strengthening the "Children of war" platform, and providing the platform with necessary support, including psychological support.²³

53. Commissioner Lubinets indicates that the Prosecutor General's Office works together with National Information Bureau and the National Police on the identification of deported children. According to the National Police, at the end of July 2022, the Prosecutor's Office changed the jurisdiction of these criminal proceedings and further investigation was entrusted to the Security Service of Ukraine (SBU).

54. The SBU, which is the service which provides information on the citizens of Ukraine, which were deported to the territory of the Russian Federation or forcibly displaced to the occupied territories, reports that as of 2 November 2022 the number of such persons was 1 550 adults and 279 children. This amount significantly differs from the data of the National Information Bureau: for the period from 24 February to 1 November 2022 the number of people deported (forcibly displaced from the territory of Ukraine to the territory of the Russian Federation or the Autonomous Republic of Crimea and Sevastopol) of people in total is 45 995, of which 37 855 adults and 8 140 children.

55. The Prosecutor General's office reported that since 24 February 2022, 60 criminal offences have been registered by the law enforcement agencies of Ukraine on the facts of forced displacement and deportation. As of April 2023, 19 384 Ukrainian children were deported (displaced) to the territory of the Russian Federation and Belarus, of which 96 were returned to the territory of Ukraine and European countries. The Prosecutor General's efforts are supplemented by the International Criminal Court.

21. Ibid.

22. Special report of the Ukrainian Parliament Commissioner for Human Rights on the observance of the rights of persons affected by the armed aggression of the Russian Federation against Ukraine (for the period February 24 – October 31, 2022).

23. <https://childrenofwar.gov.ua/>.

56. Resolution No. 1201 of the Cabinet of Ministers of Ukraine dated 21 October 2022 "On implementation of the experimental project on registration of certificate of return to Ukraine in Ukraine" provides that in the absence of consular institutions of Ukraine in the Russian Federation, which were forced to stop their work after 24 February 2022, Ukrainians who, for various reasons found themselves in the Russian Federation and lost documents, can restore them at the request of their relatives or of the ministry for Reintegration to the State Migration Service of Ukraine.

57. The Resolution also concerns the protection and restoration of documents for Ukrainian children in the Russian Federation. The problem is still the way to transfer these documents to Ukrainians in the Russian Federation. This will probably be resolved upon completion of negotiations with partners of Ukraine on the definition of a country whose diplomatic institutions in the Russian Federation will be able to provide consular services to Ukrainians, who remain there, or through agreements with international organisations that continue their activities in the Russian Federation. Human rights organisations of Ukraine have praised this resolution.

58. Mr Lubinets also denounced the fact that out of 1 760 prisoners of war who were exchanged and repatriated to Ukraine, none were able to meet with ICRC representatives. The international agencies operating in the Russian Federation should continue to be able to exercise their respective mandates to help restore family ties and documents and to allow Ukrainians to safely evacuate the Russian Federation.

59. Concluding his report Commissioner Lubinets put forward a series of recommendations, mentioning, in particular, the need:

- to ensure stable co-ordination of member States, international and national organisations on the return of the deported and forcibly transferred or displaced persons, as well as recording of such facts.; as well as to collect data on civilians, who are deported to the Russian Federation or forcibly transferred or displaced in connection with the armed aggression;
- to strengthen co-ordination to ensure the prosecution of persons guilty of deportation and forcible displacements. In doing so, to keep separate statistics of such criminal proceedings and the register of affected persons in the framework of these proceedings; to ensure an increase in the level of knowledge and skills of prosecutors in the qualification of deportation as a war crime; and to collect the necessary evidence in order to increase the effectiveness of criminal prosecution;
- to disseminate information on the causes and consequences of deportation (forced displacement); to engage international organisations and other mediators in the process of identifying persons deported in the territory of the Russian Federation and persons forcibly transferred or displaced to the territory of Ukraine temporarily occupied by the Russian Federation, in order to ensure their freedom to return to the territory controlled by Ukraine or move to other States; finally, to make all possible efforts to obtain data on the location of deported and forcibly displaced persons, as well as establish communication with such persons, obtaining information on the conditions of their keeping and ensuring their awareness of the right to return to Ukraine or to move to other States.

7. Actions needed to help return Ukrainian children deported to the Russian Federation

60. In addition to the work that has already been initiated, the measures identified by the Regional Center for Human Rights in Ukraine are to be supported. These include in particular the need for a clear legal and political mechanism for the return of Ukrainian children deported to the Russian Federation. At this stage, there are several *ad hoc* schemes aimed at solving specific problems related to the repatriation of children, working with the support of civil society. This includes identification of the location of the minor; establishing contact with the administration of a detention facility; organisation and financing of a trip to a detention facility; legal and psychological assistance; and preparing documents necessary for the return of the child.

61. Implementing *ad hoc* schemes is feasible mainly in cases where one or both parents are actively seeking their child and are ready to go and pick up the child in the territory controlled by the Russian Federation. Usually, a group of juveniles from one or more detention facilities are returned together. Representatives of the non-governmental organisations "Save Ukraine" and "SOS Children's Villages" are in particular involved in such processes.

62. A significant drawback of such schemes is their sporadic nature. In the process of return, Russian agents deliberately created obstacles in the form of additional checks at the border, "preventive talks" with representatives of law enforcement agencies, refusal to hand over the child to a legal representative on the grounds of the armed conflict or "deficiencies" in the documents, threats of subsequent prosecution upon their return to Ukraine for collaborating, and so on.

63. It is extremely worrying that in the period of more than one year since the start of the large-scale aggression, so few children have returned to Ukraine. The children who are victims of this displacement need urgent repatriation but also rehabilitation and reintegration. Furthermore, means of reparation in the form of access to justice for these minors must be ensured, not the least since the Russian Federation is unlikely to abide by any judgments of the European Court of Human Rights concerning violations which have occurred during the period in which appeals to the Court were still possible.

64. It is important that sanctions are maintained also to deter continuing and further violations of Ukrainian children's rights by the Russian Federation. In particular, I believe that the 28 children's ombudspersons from the subjects of the Russian Federation, nine governors, and the heads of any institutions that accept Ukrainian children for "re-education" or "recreation" should be added to the sanctions lists at the foreign and regional level.

65. The ICC issued a clear statement on 17 March 2023 on the need to protect Ukrainian children, strongly condemning their deportations, forced displacement, and illegal adoptions.²⁴ That day, the Pre-Trial Chamber II of the ICC issued warrants of arrest for two individuals in the context of the situation in Ukraine: President Vladimir Vladimirovich Putin and Ms Maria Alekseyevna Lvova-Belova.

- "Vladimir Vladimirovich Putin, born on 7 October 1952, President of the Russian Federation, is allegedly responsible for the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied areas of Ukraine to the Russian Federation (under articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute). The crimes were allegedly committed in Ukrainian occupied territory at least from 24 February 2022. There are reasonable grounds to believe that Mr Putin bears individual criminal responsibility for the aforementioned crimes, (i) for having committed the acts directly, jointly with others and/or through others (article 25(3)(a) of the Rome Statute), and (ii) for his failure to exercise control properly over civilian and military subordinates who committed the acts, or allowed for their commission, and who were under his effective authority and control, pursuant to superior responsibility (article 28(b) of the Rome Statute).
- Ms Maria Alekseyevna Lvova-Belova, born on 25 October 1984, Commissioner for Children's Rights in the Office of the President of the Russian Federation, is allegedly responsible for the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied areas of Ukraine to the Russian Federation (under articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute). The crimes were allegedly committed in Ukrainian occupied territory at least from 24 February 2022. There are reasonable grounds to believe that Ms Lvova-Belova bears individual criminal responsibility for the aforementioned crimes, for having committed the acts directly, jointly with others and/or through others (article 25(3)(a) of the Rome Statute).
- Pre-Trial Chamber II considered, based on the Prosecution's applications of 22 February 2023, that there are reasonable grounds to believe that each suspect bears responsibility for the war crime of unlawful deportation of population and that of unlawful transfer of population from occupied areas of Ukraine to the Russian Federation, in prejudice of Ukrainian children.
- The Chamber considered that the warrants are secret in order to protect victims and witnesses and also to safeguard the investigation. Nevertheless, mindful that the conduct addressed in the present situation is allegedly ongoing, and that the public awareness of the warrants may contribute to the prevention of the further commission of crimes, the Chamber considered that it is in the interests of justice to authorise the Registry to publicly disclose the existence of the warrants, the name of the suspects, the crimes for which the warrants are issued, and the modes of liability as established by the Chamber.
- The above-mentioned warrants of arrests were issued pursuant to the applications submitted by the Prosecution on 22 February 2023."²⁵

66. On 19 April 2023, at the European Parliament, the Council of the European Union and the European Commission shared statements on forcibly displaced Ukrainian children and the ICC's arrest warrant of 17 March 2023 against Vladimir Putin and Maria Lvova-Belova, the Russian Commissioner for Children's Rights. Swedish minister Jessika Roswall, on behalf of the Council, stressed the need for all ICC State Parties to respect the warrant. She highlighted that the ICC needed sufficient evidence and resources and welcomed the fact that many EU Member States had provided and will continue providing additional material to the ICC.

24. See [Statement by the ICC Prosecutor Karim A. A. Khan KC on the issuance of arrest warrants against President Vladimir Putin and Ms Maria Lvova-Belova](#).

25. www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and.

She also noted that the fight against impunity is not solely an ICC responsibility and that she hoped for the establishment of an international centre for justice in The Hague with a mechanism to prosecute the crime of aggression, supported by Eurojust, to be inaugurated before June 2023. In line with the Council's Conclusion of December 2022, Roswall called for a co-ordination of all efforts to ensure accountability for the crimes committed in Ukraine. Vice-President Věra Jourová reiterated that message, highlighting the severity and urgency of the situation. She also spoke of the Ukrainian children identified in Russian orphanages, some of which are submitted to so-called military and patriotic Russian education or "russification". The public prosecutor alleges that these acts demonstrate an intention to permanently remove these children from their home country. Since the start of the war, the Commission has provided over €10 million to the ICC to strengthen its investigation and prosecution capacities. The Members of the European Parliament exchanged views on this issue, highlighting the need 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.

8. Conclusions

67. The Assembly was among the first international bodies to clearly and strongly condemn the full-scale invasion of Ukraine by the Russian Federation and was a driving force for the expulsion of the Russian Federation from membership of the Council of Europe. The Assembly must continue to speak out in the clearest possible terms to denounce all the crimes which have been and continue to be committed in the ongoing aggression, in a clear violation of the laws of war and of international humanitarian law. These international rules must be respected at all times and in all circumstances; their purpose is to minimize human suffering and most particularly to protect civilians, especially children. Both Russia and Ukraine are signatories of the most relevant humanitarian law treaties that apply to international armed conflicts: the Geneva Convention IV (1949), relative to the Protection of Civilian Persons in Time of War and its Additional Protocol I (1977), concerning the protection of civilian victims of international armed conflicts.

68. It is imperative that the Russian Federation cease forthwith its practice of displacement and deportation of Ukrainian citizens towards the Russian Federation, Belarus and temporarily occupied regions of Ukraine. Most urgently, it must cease its policy of removing Ukrainian children and their subsequent indoctrination and put a stop to any adoptions into Russian families which have already taken place or are underway.

69. Given the urgent need to redress existing crimes and return the victims to their homes and families as rapidly as possible, the Russian Federation must share with international bodies and the Ukrainian authorities reliable and comprehensive information about the number, the names and whereabouts of all children deported or forcibly displaced to the Russian Federation or Ukrainian territories under Russia's *de facto* control. It must facilitate effective communication between children and their families and with Ukrainian or international child protection agencies. Similarly, reliable and comprehensive information about all civilians deported or forcibly transferred to Russian Federation or to Ukrainian territories temporarily occupied must be made available in order that such persons can be located and assisted in returning to Ukraine or leaving for a safe third country if they so wish.

70. The evidence leaves no doubt as to the existence of a deliberate State policy of forceful transfers and deportations of civilians, including children, implemented on the direct order of President Vladimir Putin. This policy should be prosecuted as a war crime and a crime against humanity. Elements of crimes of genocide can be found in the practice of deportations and forced transfer of civilians, namely children, and the correlated process of "russification" and this aspect must be seriously examined and prosecuted by the relevant jurisdictions.

71. The Assembly reminds the Russian Federation that the only data collection which is permissible in the case of civilians and children during the aggression is in order to facilitate their safe return to their families and homes, and that any other data collection, including medical examinations, which may be used for nefarious purposes such as conscription, are in violation of international standards.

72. For their part, the Ukrainian authorities, together with the international community and humanitarian organisations, must continue their efforts to put in place mechanisms and an efficient framework of co-ordination to support the repatriation of child victims of forced displacement, deportations or transfers, including those that have been adopted by Russian families. The emphasis must be upon the best interests of the child victims, who need protection, and significant multisectoral mental health and psychosocial support to start to overcome the trauma endured. It is important to ensure that children that return to Ukraine from the Russian Federation from camps, institutions or Russian families, are provided with the best possible conditions, including for those who do not have family members who can look after them; wherever possible,

the aim should be to avoid their long-term institutionalisation. The Ukrainian authorities should carefully prepare the return of these children clarifying where they will leave and identifying their caretakers and legal guardians, as necessary, in each individual case.

73. Last but not least, the crimes committed must not go without justice. Those responsible, at all levels of the chain of command and in all roles, must be identified and held accountable. These flagrant violations of international law – aggression against another State, war crimes, crimes against humanity, genocide – cannot be left unpunished. The international community must act resolutely to ensure that justice is served.