



Українська Арбітражна  
Асоціація



“7” April 2022

## URGENT CALL FOR ACTION TO PREVENT FURTHER GENOCIDE OF UKRAINIANS

We, the undersigned, representing the **community of Ukrainian lawyers**, appeal to the 152 Contracting Parties of the Convention on the Prevention and Punishment of the Crime of Genocide (**Genocide Convention**).

We **urge you** to observe your international obligation **to prevent and to punish the international crime of genocide** (per Article I of the Genocide Convention). This *erga omnes* obligation stems from a peremptory rule from which no derogation is permitted and which knows no territorial limits.

Under international law, **your obligation** to prevent the crime of genocide, and the corresponding duty to act, **have arisen** at the instant that you have learned of, or should normally have learned of, **the existence of a serious risk** that genocide would be committed.

The international community has been aware of and expressed concerns about what can be viewed as evidence of the crime of genocide, crimes against humanity and war crimes carried out by Russia's state organs and agents against Ukrainians as a national group.

The world is yet to see the full scale of Russia's acts of barbarity. However, it is unnecessary to wait for further affirmation of Russia's brutalities or new atrocities. You must act now to comply with your obligations to prevent and stop those crimes and ensure accountability for violations already committed.

Genocide, as defined by Article II of the Genocide Convention, includes acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group; and
- (e) Forcibly transferring children of the group to another group.

A fraction of the facts that has already been documented and confirmed by independent observers include as of 4 April 2022 the followings (however, there are many more which are yet to be recorded and reported):

- **Deliberate killing of civilians, torture and mass rapes.** Scenes from the towns and villages in Kyiv oblast recently liberated from Russia's forces include bodies of hundreds of civilians,

including children, women and elderly, buried in mass graves. Others on the streets or in basements with hands tied, shot in the head from behind or otherwise from close proximity. Bodies wrapped in plastic, bound with tape and thrown into a ditch. Bodies of women shot dead and then run over by Russian tanks. Bodies of women, repeatedly raped, killed and in an apparent attempt to dispose of set on fire. These scenes are not unique to the territories of Kyiv oblast previously occupied by Russia's forces. Human rights organisations report mass rapes and summary executions in the occupied areas of Chernihiv and Kharkiv regions.<sup>i</sup>

- An ongoing unprecedented campaign of Russia's **deliberate shelling** of civilian houses, residential buildings, hospitals, schools, and kindergartens in Mariupol, Kharkiv, Chernihiv, Sumy, Izium, Okhtyrka, and many other places in Ukraine, to install fear, suppress opposition and enforce subjugation.<sup>ii</sup>
- Russia's **denial of humanitarian assistance** to those requiring it. There are multiple humanitarian catastrophes in besieged and occupied cities. Russian forces are killing hundreds of Ukrainian civilians trying to escape the war, despite multiple previous guarantees of "safe passages" and "humanitarian corridors".<sup>iii</sup>
- **Mass deportations** of Ukrainian civilians from the occupied territories. Around 40,000 of Ukrainian citizens, among whom there are at least 2,389 children, have already been reportedly forcibly deported to Russia or Belarus.<sup>iv</sup>

**Russian perpetrators' specific intent** to commit the genocide of Ukrainians by destroying, in whole or in part, Ukrainians as a national group, i.e. 'a collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties'<sup>v</sup>, is apparent from the following particular circumstances:

- The President of the Russian Federation Vladimir Putin has unambivalently explained that Russian state policy is to target Ukrainians as a national group and deny Ukraine's right to exist as a sovereign nation.<sup>vi</sup> Russia's President claimed that Ukraine was "entirely created by Russia",<sup>vii</sup> and further suggested that Ukrainians are Russians who must be "corrected" by force — "cleansed" or "spat out".<sup>viii</sup> The declared aims of Russia's aggressive war against Ukraine are "denazification" and "demilitarisation" of Ukraine which effectively mean President Putin's asserted licence to kill or deport and re-educate/indoctrinate Ukrainians.<sup>ix</sup>
- Russia's targeting of civilians,<sup>x</sup> including intentional crimes against women and girls (mass rape, killing<sup>xi</sup> and forced deportation).<sup>xii</sup> Such crimes, reportedly often perpetrated in front of family members, are aimed at subjugating and humiliating both a female victim as well as her family unit and their larger affiliation with the national group.
- Russia's use of indiscriminate weapons deliberately targeting Ukrainian civilian population.<sup>xiii</sup>
- Russia's denial of humanitarian assistance to Ukrainian civilians kept hostage by Russia's forces, which is an act of deliberate infliction on civilians of conditions of life calculated to bring about their physical destruction, deep psychological trauma and cause more innocent civilian casualties.<sup>xiv</sup>
- Russia's use of mobile crematoria and mass graves to hide the true number of Ukrainian civilians murdered by Russians. For instance, in December 2021, Russia adopted a special Official Regulation providing for guidelines for burial of corpses in mass graves, cremation or water burial.<sup>xv</sup>
- Russia's intentional or deliberately indiscriminate attacks against Ukrainian cultural heritage. Russia has destroyed or damaged museums, theatres, historic buildings, monuments and religious buildings. At least 53 culturally important sites have been damaged according to the

statement of UNESCO Deputy Director-General for culture from 1 April 2022.<sup>xvi</sup> Russia has been also conducting “deliberate hunting on teachers”<sup>xvii</sup> and destroying Ukrainian literature, especially books on Ukrainian history and freedom fighting / independence movement.<sup>xviii</sup> The Russian service people also kidnap and kill the priests of the Orthodox Church of Ukraine.<sup>xix</sup>

- Russia’s targeting of Ukrainian activists, journalists, politicians and others vocal patriots by use of so-called “kill lists” and deployment of mercenaries and assassins<sup>xx</sup>. Russia does not stop there. For Russia, a pro-Ukrainian position or speaking Ukrainian is a sufficient pretext for persecution/ extermination.
- Russia incites hatred against Ukrainians through its state-owned media outlets calling to purge and “re-educate” Ukrainians, forcing them to renounce Ukrainian national identity. A recent publication by Timofei Sergeytsev “What Russia Must Do to Ukraine” in RIA Novosti (state media, part of Russia Today Group) chillingly called for “re-education” of the majority of Ukrainian population through “harsh censorship” in the fields of “not only politics, but also culture and education”, prohibition of the name “Ukraine” for any puppet “people's republics” to be created by Russia instead of Ukraine, and stating that “denazification of Ukraine in fact means its deukrainisation”, i.e. fight against Ukrainian culture and identity as a separate national group.<sup>xxi</sup>
- Russia’s propagandists, including Margarita Simonyan, the editor-in-chief of Russian state media Russia Today, degrading Ukrainians by stating that the significant part of Ukrainian population are Nazis with “animal nature”.<sup>xxii</sup>

These patterns of criminal conduct evidently correspond to the elements of the crime of genocide under Articles II (a), (b), (c) and (e) of the Genocide Convention, and in any case satisfy the test for war crimes and crimes against humanity.

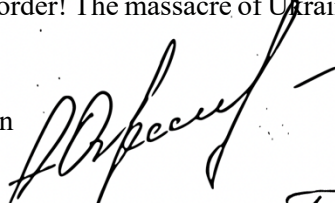
The Preamble to the Genocide Convention makes it abundantly clear that international cooperation is required to prevent genocide. We urge that each Contracting Party of the Genocide Convention stay true to the purpose of the Convention, comply with its international obligations, and employ all means reasonably available to it that might contribute to preventing Russia’s further genocide against Ukraine, including:

- Enhance Ukrainian defence capabilities by, among other, providing Ukraine with weapons required by Ukraine’s armed forces, to enable Ukraine to defend itself, stop Russian terror and protect Ukrainian people from further genocide.
- Impose a total comprehensive unconditional embargo on Russia’s energy resources, including oil, gas and coal.
- Intensify sanctions against Russia and Belarus:
  - Disconnect all Russian and Belarusian banks from SWIFT;
  - Prohibit the export to Russia and Belarus of particles that can be used to manufacture missiles, bombs and other weaponry or military machinery without any exception; precursors that may be used for constructing chemical, biological or nuclear weapons; military technologies, software etc. that is used by the armed forces, police or any other body exercising same functions. Provide for criminal liability for those evading sanctions via shipment through the third countries or by any other means;
  - Sanction persons/entities that directly or indirectly trade arms, fuels etc. with Russia and Belarus or otherwise contribute to production/supply of weaponry to Russia and Belarus;

- Strengthen the existing sanctions regime by preventing delays in implementation and eliminating loopholes and a variety of exceptions that have been widely abused;
  - Close ports for Russia's vessels or vessels hired by any Russian companies; prohibit leasing of vessels, providing crew services and bunkering services to Russian entities or entities shipping goods purchased from Russian entities;
  - Prohibit investing in Russia and Belarus, including through provision of financing or locally incorporated businesses, or maintaining investments in Russia and Belarus;
  - Promptly diversify supply chains in order to halt the trade with Russia and Belarus, including suspension of customs clearance of the Russian and Belarusian products as well as prohibiting logistics companies from providing transportation and storing services with regard to imports from Russia and Belarus;
  - Suspend scientific, cultural and technical cooperation with Russian and Belarusian government and entities as well as with any other entity under Russian or Belarusian jurisdiction;
  - Prohibit teaching/training of Russian and Belarusian persons in relation to production of any kind of weaponry or related types of technologies.
  - Demand all international businesses to immediately stop their business activities in Russia and with its state and private companies.
- Support by all possible means efforts to investigate and prosecute the ongoing crime of genocide, war crimes and crimes against humanity.
  - Step up humanitarian assistance to Ukraine and bordering states to alleviate the living conditions of millions of refugees and internally displaced persons, who were forced to flee their homes from Russian aggression.

We urge the international community to take immediate and decisive measures to honour your international obligations of the highest order! The massacre of Ukrainians must be stopped immediately.

On behalf of Ukrainian Bar Association  
Anna Ogrenchuk, President



On behalf of Ukrainian Association of International Law  
Olga Butkevych, President



On behalf of Ukrainian Arbitration Association  
Olena Perepelynska, President



On behalf of Ukrainian Advocates' Association  
Olga Dmitrieva, President



On behalf of Jessup Ukraine,  
Mariia Stolbova, National Administrator



On behalf of Dead Lawyers Society,  
Dmytro Gadomsky



On behalf of Ukrainian National Insolvency Trustee Association,  
Oleksandr Bondarchuk, Chairman



NB. Information about the true scale of Russian crimes is accumulated and multiplies every day. For the avoidance of doubts, the links below represent only a fraction of reported resources on Russia's acts of wickedness against Ukrainians

<sup>i</sup> Human Rights Watch. “*Ukraine: Apparent War Crimes in Russia-Controlled Areas Summary Executions, Other Grave Abuses by Russian Forces*”. Last modified April 3, 2022.

<https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

<sup>ii</sup> United Nations Human Rights Office of the High Commissioner. “*Ukraine: civilian casualty update*”. Last modified April 2, 2022.

<https://www.ohchr.org/en/news/2022/04/ukraine-civilian-casualty-update-2-april-2022>

<sup>iii</sup> German Federal Foreign Office. “*G7 Chair’s Statement on today’s G7 call (17 March 2022)*”. Last modified March 17, 2022.

<https://www.auswaertiges-amt.de/en/newsroom/news/g7-russia-ukraine/2517850>

<sup>iv</sup> Statement of the Ministry of Foreign Affairs of Ukraine on the illegal deportation of Ukrainian children to Russia. <https://www.kmu.gov.ua/en/news/zayava-mzs-shchodo-nezakonnogo-vivezennya-ukrayinskih-ditej-na-teritoriyu-rosiyi>

<sup>v</sup> ICTR Akayesu Trial Judgment para. 512. See also ICTY Krstić Trial Judgment paras 558–559; ICTR Jević et al. Trial Judgment para. 950 (‘A “national group” is a collection of people who are perceived to share a legal bond based on common citizenship, coupled with the reciprocity of rights and duties.’); Ivanović Appeal Judgment para. 51. See also UN Report on Darfur para. 494 (‘[B]y “national groups,” one should mean those sets of individuals which have a distinctive identity in terms of nationality or of national origin.’). According to Hannah Arendt, ‘[a] people becomes a nation when “it takes conscience of itself according to its history”.’ Hannah Arendt, *Essays in Understanding, 1930–1945: Formation, Exile, and Totalitarianism* (Harcourt Brace & Company 1994).

<sup>vi</sup> Bloomberg. Transcript: Vladimir Putin’s Televised Address on Ukraine

<https://www.bloomberg.com/news/articles/2022-02-24/full-transcript-vladimir-putin-s-televised-address-to-russia-on-ukraine-feb-24>

<sup>vii</sup> The Print. “*Modern Ukraine entirely created by Russia’ — read full text of Vladimir Putin’s speech*”. Last modified February 24, 2022. <https://theprint.in/world/modern-ukraine-entirely-created-by-russia-read-full-text-of-vladimir-putins-speech/843801/>

<sup>viii</sup> The Washington post. “*Opinion: Putin has long fantasized about a world without Ukrainians. Now we see what that means*”. Last modified March 23, 2022.

<https://www.washingtonpost.com/opinions/2022/03/23/putin-genocide-language-ukraine-wipe-out-state-identity/>

<sup>ix</sup> Russian state-owned domestic news agency RIA Novosti. “*Что Россия должна сделать с Украиной*”. Last modified April 3, 2022.

<https://ria.ru/20220403/ukraina-1781469605.html>

<sup>x</sup> CNN. “*Here’s why experts believe Russia is ‘intentionally targeting’ Ukraine civilians*”

<https://edition.cnn.com/videos/world/2022/03/17/ukraine-civilians-targeted-lead-pleitgen-intl-vpx.cnn>

<sup>xi</sup> Human Rights Watch. “*Ukraine: Apparent War Crimes in Russia-Controlled Areas Summary Executions, Other Grave Abuses by Russian Forces*”. Last modified April 3, 2022.

<https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

The Guardian. “*Rape as a weapon: huge scale of sexual violence endured in Ukraine emerges*”. Last modified April 3, 2022.

<https://www.theguardian.com/world/2022/apr/03/all-wars-are-like-this-used-as-a-weapon-of-war-in-ukraine>

<sup>xii</sup> The Guardian. “*Ukraine crisis: claims Mariupol women and children forcibly sent to Russia*”. Last modified March 20, 2022.

<https://www.theguardian.com/world/2022/mar/20/ukraine-crisis-claims-mariupol-women-and-children-forcibly-sent-to-russia>

<sup>xiii</sup> Amnesty International. “*Russian military commits indiscriminate attacks during the invasion of Ukraine*”. Last modified February 25, 2022.

<https://www.amnesty.org/en/latest/news/2022/02/russian-military-commits-indiscriminate-attacks-during-the-invasion-of-ukraine/>

Human Rights Watch. “*Interview: Weapons of War in Ukraine Cluster Munitions Used, Vacuum Bombs Spotted in Ukraine*”. Last modified March 24, 2022.

<https://www.hrw.org/news/2022/03/24/interview-weapons-war-ukraine>

<sup>xiv</sup> BusinessToday.In. “*Russia refuses to guarantee humanitarian access: Ukraine*”. Last modified March 10, 2022. <https://www.businesstoday.in/latest/world/story/russia-refuses-to-guarantee-humanitarian-access-ukraine-325522-2022-03-10>

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<sup>xv</sup> Radio Free Europe/Radio Liberty. "Russia Introduces Regulations To Expedite Mass Burials Of Those Killed During Military Conflicts" <https://www.rferl.org/a/russia-mass-burials-regulations/31619324.html>; Article 5.1.1, Regulations on the Expedited Mass Burial of Humans during Wartime and Peacetime, Ministry of Emergency Situations of the Russian Federation <https://www.mchs.gov.ru/uploads/document/2021-12-29/30c35f386d81ec343c5c8d1d9af5cd1b.pdf>

<sup>xvi</sup> Radio Free Europe/Radio Liberty. "UNESCO Says At Least 53 Cultural Sites in Ukraine Damaged in War". <https://www.rferl.org/a/ukraine-unesco-endangered-sites-russia/31782483.html>.

<sup>xvii</sup> Аргумент. "Це новий Бабин Яр. Нові биківнянські могили". Last modified April 3, 2022. <http://argumentua.com/reportazh/tse-novii-babin-yar-nov-bik-vnyansk-mogili>

<sup>xviii</sup> Defence Intelligence of the Ministry of Defence of Ukraine. "Окупаційні війська вилучають та знищують українську літературу та підручники історії". Last modified March 24, 2022.

<https://www.facebook.com/DefenceIntelligenceofUkraine/posts/277500277894733>

<sup>xix</sup> Victoriia Zhuhan, Ukraine war: The priest shot at a checkpoint, 25 March 2022

<https://www.bbc.com/news/world-europe-60778909>.

<sup>xx</sup> BBC. "US reveals claims of Russian 'kill list' if Moscow occupies Ukraine" <https://www.bbc.com/news/world-europe-60472889>

<sup>xxi</sup> RIA Novosti. "What Russia must do to Ukraine".

<https://web.archive.org/web/20220403212023/https://ria.ru/20220403/ukraina-1781469605.html>

<sup>xxii</sup> Excerpt from M. Simonyan's speech during talk show on Russian TV-channel "NTV".

<https://twitter.com/ntvru/status/1507605586447327234?s=21&t=rU7278cCyIjyLQCQZtypeA>