

This Communication has been prepared following Article 15 of the Rome Statute of the International Criminal Court by two non-governmental organizations, the Regional Center for Human Rights and the Lemkin Institute for Genocide Prevention, based on the research carried out and the facts collected by these organizations for the period from February 24 to September 30, 2022. It contains a description and evidence of one of the grave human rights violations committed by the Russian Federation Presidential Commissioner for Children's Rights, Maria Lvova-Belova, against the Ukrainian children under Russian occupation in connection with their illegal adoption by Russian citizens. This action has elements of the crime of genocide against the Ukrainian nation.

The Regional Center for Human Rights (RCHR) is a non-governmental human rights organization, which was created in July 2013 in Sevastopol (Ukraine). Many years of fruitful cooperation of its founders in the field of protection of human rights, both at the national and international levels, preceded the establishment of the organization. Following the illegal referendum and the attempted annexation of Crimea and the city of Sevastopol by the Russian Federation, members of the organization were compelled to leave the territory of Crimea, and in July 2014 they registered a new address of the organization in Kyiv. Today the RCHR consists of lawyers with many years of practical experience in the field of human rights protection.

Since the Russian invasion of Ukraine on February 24, 2022, the RCHR has expanded its activities and begun documenting and providing legal qualifications for war crimes and crimes against humanity committed in Ukraine. The organization is a member of the Platform for the Investigation of War Crimes in Ukraine (Ukraine 5 AM Coalition). During March-September 2022, the RCHR carried out research on identifying specific features of the crime of genocide in Ukraine, particularly its fifth element: (e) Forcibly transferring children of the group to another group.

The Lemkin Institute for Genocide Prevention is a US-registered non-governmental organization focused on the prevention of genocide worldwide through education and grassroots empowerment, national and international advocacy, and legal accountability. The Lemkin Institute believes that the most important prevention work happens at the grassroots level and that true long-term human security is built over time through broad-based internal social and cultural commitments to justice.

The Lemkin Institute works to prevent genocide globally by fighting for the unrestricted respect for human rights, the eradication of all forms of impunity for international crimes, and an end to all forms of discrimination, especially when the discrimination on which criminal conduct may operate has as a pretext the victims' national origin, ethnicity, sexuality, gender identity, language, religious or philosophical convictions, social or cultural habits, place of residence, and/or any other personal condition or circumstance related to their identity.

As part of the Lemkin Institute's work on Russia's war of aggression against the country of Ukraine, the Institute issued two statements and a Red Flag Alert regarding the genocidal rhetoric and genocidal characteristics of the conflict. You can access those documents at the website: www.lemkininstitute.com.

The Lemkin Institute decided co-author this communication in order to denounce the serious crimes committed against the children of Ukraine and the entire Ukrainian nation with the hope that such behavior, which offends all humanity, does not go unpunished.

Context

1. Russia began the process of illegal adoption of Ukrainian children at the start of the occupation of the Crimean Peninsula in 2014. Illegally extending its full jurisdiction to the temporarily occupied territory of Ukraine in Crimea, the Russian Federation has been pursuing a large-scale policy of destroying Ukrainian identity. One of the vectors of this policy, together with automatic naturalization of civilians¹, is the forcible transfer of the population to Russia.
2. At the beginning of the temporary occupation of the Crimean Peninsula, there were 4,323 orphans and children without parental care². The Russian Federation has consistently denied Ukraine access to these children and has not responded to inquiries about their fate. It became known from open sources that Ukrainian orphans and children deprived of parental care from the occupied Crimea were transferred to Russian families for adoption. Through the “Train of Hope” program,³ at least, twelve children from the temporarily occupied Crimean Peninsula were adopted by citizens of the Russian Federation and transferred to different regions of Russia⁴. Given the militarization of Russian education⁵ these actions are aimed at turning children into enemies of their nation and using them for subsequent hostilities.
3. On February 24, 2022, the Russian Federation launched a full-scale invasion - amounting to the crime of aggression under the Rome Statute of the International Criminal Court - of the territory of Ukraine, which has been accompanied by the commission of war crimes, crimes against humanity, and genocide.
4. As of the end of September 2022, and since the beginning of the full-scale invasion, the Russian Federation has deported to its territory an estimated 900,000 to 1,600,000 Ukrainian citizens, of which at least 260,000 are minors⁶.
5. At least 2,389 of these minors, as of February 24, 2022, lived in specialized Ukrainian full-time boarding institutions. These are orphans and children without parental care, as well as children with chronic health conditions who had parents and close relatives.
6. Among the deported Ukrainian children are those whose parents either were killed by the Russian military during the large-scale invasion or were detained in the so-called “filtration camps”⁷ during deportation.

¹ Federal Constitutional Law no. 6-FKZ (21 March 2014) On Admission to the Russian Federation of the Republic of Crimea and the Establishment within the Russian Federation of the New Constituent Entities – the Republic of Crimea and the City of Federal Importance Sevastopol, Article 4

<https://www.zakonrf.info/doc-32944536/> (last accessed on 20 October 2022)

See also UNGA Res 72/190
<https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F72%2F190&Language=E&DeviceType=Desktop&LangRequested=False>

² Annex 4

³ “Train of Hope” is a program of the social project “Children's Question” of the “Radio of Russia”.

⁴ <https://deti.radiorus.ru/hopetrain/118>

⁵ https://digitallibrary.un.org/record/3954787/files/A_RES_76_179-RU.pdf

https://digitallibrary.un.org/record/3896447/files/A_RES_75_192-RU.pdf

⁶ <https://www.cnn.com/2022/07/13/us-calls-on-russia-to-halt-forced-deportations-of-ukrainians.html>

⁷ Researchers at Yale University have uncovered 21 “filtration” sites in the Russian-controlled territory of Donetsk in eastern Ukraine. These sites are used by Russian forces and their allies to process, register, interrogate and detain Ukrainians trying to leave Russian-occupied territory. The conditions of confinement in “filtration camps” include insufficient sanitation, shortages of food and water, cramped conditions, and reported acts consistent with torture.

See also <https://ysph.yale.edu/news-article/yale-researchers-identify-21-sites-in-donetsk-oblast-ukraine-used-for-civilian-interrogation-processing-and-detention/>

7. As a result of the analysis of open sources, it was established that Ukrainian children were deported to 57 regions of the Russian Federation, particularly to such remote regions as the Omsk region and Sakhalin⁸. Such deportations significantly limit the opportunities for displaced children to continue communicating with relatives, which is not in their best interest, and which destroys their chances of maintaining contact with their Ukrainian identity. In addition, given the significant differences between the climatic conditions of remote Russian areas and the occupied coastal territories of Ukraine, where the children lived permanently, deportation can, inter alia, negatively impact their physical and mental health.
8. In partnership with the unrecognized Lugansk People's Republic and Donetsk People's Republic (together LDPRs), open-ended advisory groups and special headquarters are being set up by Russia to accelerate the illegal adoption of deported children. Such actions are led by the Presidential Commissioner for Children's Rights, Maria Lvova-Belova, and, at the parliamentary level, by the pro-Putin United Russia party⁹.
9. Competent authorities of Ukraine are excluded from the process of adoption of Ukrainian children by Russian citizens. Maria Lvova-Belova declined the request of the Minister for Reintegration of the Temporarily Occupied Territories of Ukraine, Iryna Vereshchuk, regarding the return of deported children to the territory of Ukraine. Lvova-Belova claimed that the Ukrainian children did not want to return:
 “Now, sometime later, Vereshchuk requested these children back, on what basis is unclear. And she said that there are legal representatives who are ready to accept them into their families [...]. My task is to act in the interests of the child. And we started asking: “Guys, you are saying that Russia is bad. Good. But allow them to return, no one wanted to return”¹⁰. However, such justifications by Lvova-Belova are not legitimate, since children, due to their age, cannot make a conscious choice to return from the Russian Federation and preserve their Ukrainian identity.

Article 6 (e): Genocide. Forcibly transferring children of the group to another group

Material element

10. No later than April 26, 2022, Maria Lvova-Belova committed acts that have the elements of the crime of genocide and are provided for in Article 6 (e) of the Rome Statute of the International Criminal Court, namely: the intent to destroy — at least in part — the Ukrainian nation by forcibly transferring children of the group to another group.
11. The official website of the Presidential Commissioner for Children's Rights <http://deti.gov.ru/> contains information about forcible transfer of Ukrainian children to Russian families.
12. On April 27, 2022, twenty-seven children deported from the temporarily occupied territories of Ukraine were transferred to ten Russian families. Maria Lvova-Belova herself; the governor of the Moscow Region, Andrey Vorobyov; the adviser to the head of the so-called DPR for children's rights,

⁸ <https://spravdi.gov.ua/dopomoga-vykradenym-syrotam-yak-rosiya-vsynovlyuye-ditej-z-ukrayiny>

⁹

<http://deti.gov.ru/articles/news/otvety-po-voprosam-semejnego-ustrojstva-detej-sirot-iz-dnr-i-lnr-v-rossijskie-sem-i>
<https://er.ru/activity/news/edinaya-rossiya-zakonodatelno-prorabatyvaet-vopros-ustrojstva-detej-sirot-donbassa-v-rossijskie-sem-i>

¹⁰ <https://t.me/malvovabelova/605>

See Белова Protocol

Eleonora Fedorenko, and Ksenia Mishonova, children's ombudsman of the Moscow region, took part in the transfer process. According to the Russian Federation data, all children come from large families and have brothers and sisters. They range in age from 3 to 17 years old. Most of the children are 9 to 11 years old. Four children have disabilities due to phenylketonuria, developmental disorders (in particular, autism), epilepsy, and musculoskeletal disorders. Among the families to which Ukrainian children were transferred, there are those “who have a practice of adopting children from Donbas since 2014.” Families live in Bogorodsky, Domodedovsky, Volokolamsky, Serpukhovsky, Taldomsky, Chekhovsky, and other urban districts of the Moscow Region¹¹. On July 5, 2022, the children were granted ID documents on the simplified procedure for admission to Russian citizenship¹².

13. On July 15, 2022, 108 Ukrainian children were taken to six regions of the Russian Federation and placed under their care. In the Moscow region and Moscow city, one family took nine children into foster care while three other families took a total of eight children. In Tula, three families adopted four children each, and one family adopted five children. During the transfer of children, Maria Lvova-Belova reported that already fifty children live in foster families in the Moscow region. Plans to transfer children to the Russian families in Yamalo-Nenets Autonomous District, Voronezh, and Kaluga Oblasts were also announced¹³.
14. On July 22, 2022, Maria Lvova-Belova brought nine Ukrainian children to the Kaluga region. At the same time, another twenty-five Ukrainian children were transferred to five foster families. Two families adopted five children, one family took six children, one family took two children, and one family took one child. The governor of the region, Vladyslav Shapsha, was involved in the transfer process. On July 14, 2022, Maria Lvova-Belova personally took Ukrainian children out of the so-called DPR¹⁴.
15. On August 4-5, 2022, during a visit to the so-called LPR, Maria Lvova-Belova reported that “160 children from the DPR have transferred to the foster care to Russian families, 133 of them have already received Russian citizenship.” The announced number coincides with the one that can be obtained by calculating the data from points 12-14 of this Communication. Commissioner Lvova-Belova announced the regions that are ready to take Ukrainian children. These are the Astrakhan, Volgograd, Leningrad, Murmansk, Nizhny Novgorod, Novosibirsk, Omsk, Penza, Samar, Tyumen, and Chelyabinsk regions. She said that according to the results of the meeting with the representatives of the so-called LDPR “it was decided that soon 104 children who are in children's social institutions of the LPR will be prepared to be transferred to Russian families.”¹⁵
16. On September 16, 2022, the largest group of children since the beginning of the full-scale invasion was transferred to Russian families: 125 people under the age of 18. Maria Lvova-Belova personally accompanied them on board the plane of the Ministry of Defense of the Russian Federation. According to the latter, the children will be divided into small groups and transferred to thirteen regions of Russia, the support of whose governors was obtained by Commissioner Lvova-Belova¹⁶.

¹¹ <http://kremlin.ru/events/administration/68286>

¹² <http://deti.gov.ru/articles/news/deti-iz-dnr-nachali-poluchat-grazhdanstvo-rossii-v-uproshennom-poryadke>

¹³ <https://archive.ph/Zi9n6>

¹⁴ <https://www.kaluga-gov.ru/news/14078/>

¹⁵ <http://deti.gov.ru/articles/news/davajte-dadim-im-shans-mariya-l-vova-belova-o-detyah-sirotah-v-lnr>

¹⁶ <https://t.me/malvovabelova/569>

See video_2022-10-06_14-38-10_Protocol

17. On September 22, 2022, twenty-four Ukrainian children were taken to Nizhny Novgorod and transferred to Russian families for adoption. A large number of the children were teenagers. As on previous occasions, Maria Lvova-Belova personally accompanied the children¹⁷.

Mental element

Dolus generalis

18. According to Article 30 of the Rome Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge. As regards the material element of genocide provided for in Article 6(e) of the Rome Statute, unlike Article 30(3), which requires awareness that a circumstance exists or a consequence will occur in the ordinary course of events, it is sufficient if the perpetrator should have known that the victims, who were transferred from one group to another, were minors¹⁸.
19. The acts provided for in Article 6(e) of the Rome Statute were committed by Maria Lvova-Belova or by persons under her control, not by accident or carelessness. She took an active part in, encouraged, and sped up the illegal adoption of Ukrainian children by Russian citizens, therefore intending the outcome of greater numbers of Ukrainian children transferred from the Ukrainian nation to another group.
20. In April and May 2022, Commissioner Lvova-Belova participated in the meeting of the headquarters on the synchronization of the legislation of the Russian Federation and the so-called LPR and DPR in the field of tutelage and guardianship. According to the results of this meeting, at the end of May, to simplify the procedure of forcibly imposing citizenship of the Russian Federation, children from the so-called LPR and DPR, and new temporarily occupied territories of Ukraine, “were allowed to obtain Russian citizenship in a simplified manner”.
21. On July 12-14, 2022, during a meeting with the head of the so-called DPR, Denis Pushylin, Maria Lvova-Belova proposed the creation of a single data bank for both occupied territories that would identify all orphans and children deprived of parental care, by analogy with how it works in Russia. According to her, the intention was to simplify the procedure of finding adoptive parents for children¹⁹.
22. On August 4-5, 2022, Maria Lvova-Belova visited the so-called LPR. During the visit, there was a meeting of the headquarters on the synchronization of the legislation of the Russian Federation and the so-called LPR and DPR in the field of tutelage and guardianship. Commissioner Lvova-Belova heads the activities of this headquarters. During the meeting, legal issues for “regulating the process of transferring children from the LPR to the Russian families” were discussed²⁰. The purpose of the meeting was to ensure the consistent implementation of the administrative practice of transferring children to Russian families.
23. Interviews given by Maria Lvova-Belova also testify in favor of a deliberate and conscious attitude to the acts provided for in Article 6(e) of the Rome Statute. During a meeting in July 2022 with the governor of the Kaluga region and Russian families to whom Ukrainian children were transferred,

¹⁷ <https://t.me/malvovabelova/580>

See video_2022-10-06_14-45-49_Protocol

¹⁸ C. Kress, *International Criminal Law Review* (2006), p. 461,

G. Werle Верле, *Principles of International Criminal Law* (3rd Edition), §373

¹⁹ <http://deti.gov.ru/articles/news/mariya-l-vova-belova-dogovorilas-s-glavoj-dnr-o-razvitii-sotrudnichestva>

²⁰ <http://deti.gov.ru/articles/news/davajte-dadim-im-shans-mariya-l-vova-belova-o-detyah-sirotah-v-lnr>

Lvova-Belova stated that the transfer of children “was preceded by a large and painstaking work, which was carried out taking into account the legislative features of the interested states, and was connected with the preparation of documents, the choosing of regions capable of creating the necessary conditions, the search, and selection of families ready to adopt children with disabilities or a large family group at once - 4-9 children each”²¹. Commenting on the process of selecting foster families, the Commissioner herself calls such work “jewelry”²².

24. On July 5, 2022, during the granting of Russian passports to Ukrainian children transferred to Russian families, Maria Lvova-Belova noted: "Now the children not only have a motherland in Donbas but also a home in Russia." Such a statement testifies to Commissioner Lvova-Belova's support for simplifying the procedure for imposing Russian citizenship on Ukrainian children, which directly affects the acceleration of illegal adoption and the dissolution of the Ukrainian national identity. During this "ceremony of granting" of Russian passports, the Commissioner thanked the Governor of the Moscow Region for his involvement in the fate of the children and noted that the experience of the Moscow Region, which was the first to "adopt children from the DPR," will be spread throughout the country²³. Maria Lvova-Belova has the legal capacity and material ability to ensure the implementation of his claim.
25. The conduct of Lvova-Belova testifies to the fact that that her actions are not chaotic but constitute the elements of a clear policy.
26. Maria Lvova-Belova knows that Ukrainian citizens who are transferred to Russian families are minors. On the official website of the Commissioner <http://deti.gov.ru>, such Ukrainian citizens are called “children”²⁴ and/or “minors”²⁵. Maria Lvova-Belova herself also uses the word “children” to refer to this group of victims²⁶.

Dolus specialis

27. In addition to a “deliberate and conscious attitude” to the material elements of the crime, the mental element of genocide also requires the perpetrator of the crime to have a special intention aimed at the total or partial destruction of the protected group as such.
28. Relevant jurisprudence on the crime of genocide via the transfer of children from one group to another can be found in Argentina's internal legal process for the crimes committed during the 1976-1983 military dictatorship. In the Argentina case, the transferring of children became an internationally known practice whose innumerable consequences are still being discovered today. The Federal Oral Tribunal N 1 of La Plata Jurisdiction, in case 3329/11 titled “Manacorda, Nora Raquel y Molina, Silvia Beatriz s/ inf. Artículos 139 inc. 2, 146, 292, y 296 CP.” (retention, concealment of a child under 10 years of age, suppression and assumption of marital status and ideological falsehood), stated “[a] genocide took place during the last civic-military dictatorship, which in addition to affecting a national

²¹ <http://deti.gov.ru/articles/news/mariya-l-vova-belova-posetila-kaluzhskuyu-oblast-i-vstretilas-s-priemnymi-sem-yami-vzyavshimi-pod-opeku-detej-iz-dnr>

²² <http://deti.gov.ru/articles/news/v-blizhajshee-vremya-priemnye-sem-i-6-regionov-rossii-voz-mut-pod-opeku-108-detej-iz-dnr>

²³ <http://deti.gov.ru/articles/news/deti-iz-dnr-nachali-poluchat-grazhdanstvo-rossii-v-uproshennom-poryadke>

²⁴ E.g., <http://deti.gov.ru/articles/news/v-blizhajshee-vremya-priemnye-sem-i-6-regionov-rossii-voz-mut-pod-opeku-108-detej-iz-dnr>

²⁵ E.g.,

<http://deti.gov.ru/articles/news/shtab-gumanitarnoj-missii-detyam-v-ruki-otkrylsya-v-doneckoj-respublike>

²⁶ <http://deti.gov.ru/articles/news/rebyata-iz-mariupolya-uvideli-moskvu-na-obzornoj-ekskursii>

group that was defined by the perpetrators, materialized the forcible transfer of children from their family group to another.” Moreover, the Tribunal mentioned “the Convention for the Prevention and Punishment of the Crime of Genocide [...] contains a criminal type that is specifically applicable to the present case since it contemplates within the crime of genocide the transfer of children from one group to another group in the framework of a plan to destroy a national group.”²⁷

29. And identical approach was taken in the case No. 3224/11 titled “Madrid, Domingo, Elichalt, María M. y Kirilosky, Silvia s/inf. art. 146, 293, 55 and 292 of the CP”, where the Tribunal mentioned - quoting an international scholar - that “[e]very genocide is an eugenic radicalization.” Forced identity change via the transferring of children from one group to another, is a particularly insidious way to partially or totally destroy a group.
30. Lvova-Belova’s actions aimed at transferring children to Russian families are carried out with the intent of partially destroying the Ukrainian national group. In the contemporary context Ukrainian nationality is a political concept and is based on the commitment of its representatives to the Ukrainian state, indicating strong historical ties with the territory of existence, its unique culture, and its language in combination with the recognition of the diversity and peculiarities of each of the regions of Ukraine. This concept is broader than citizenship, defined as “a legal relationship between an individual and Ukraine, which is manifested in their mutual rights and obligations”.
31. Nevertheless, in the case of minors, membership in the Ukrainian national group should be primarily determined by the criterion of citizenship. First, a child's self-identification as a member of a national group is not permanent and depends largely, but not exclusively, on age, upbringing, and social environment²⁸. The forcible transferring of children to another group disrupts the continuity of the target group’s identity in the child transferred to the other group and, therefore, aims at the destruction of the whole or a part of the group. As explained by a Venezuelan diplomat in the original United Nations Sixth Committee debates on the Genocide Convention, the forcible transfer of children to a group where they would be given an education different from that of their own group, and would have new customs, a new religion and probably a new language, was in practice tantamount to the destruction of their group, whose future depended on that generation of children.²⁹
32. Regardless of the availability of official documentary evidence, following Article 7 of the Law of Ukraine “On Citizenship of Ukraine”, a person who has at least one parent who is a citizen of Ukraine at the time of their birth, as well as persons who were born on the territory of Ukraine from stateless persons who on legal grounds reside in the territory of Ukraine, are citizens of Ukraine³⁰.
33. Children who were deported from the temporarily occupied territories of Ukraine and transferred to Russian families can also be identified as members of the Ukrainian national group in connection with

²⁷ “The prosecution of crimes committed in Argentina during the last military dictatorship is unprecedented worldwide. The International Federation of Human Rights has stated that Argentina is the jurisdiction for prosecuting crimes against humanity, and the UN Human Rights Council, consisting of forty-seven States, has recognized Argentina as the undisputed world leader in this area.” Marcelo Ferreira, 2013. Genocide and Its Definition as the Partial Elimination of the Natural Group. *Genocide Studies and Prevention* 8, no. 1, page 6.

²⁸ Martyn Barrett The development of national identity in childhood and adolescence. p. 40. <https://www.researchgate.net/publication/30930030> The development of national identity in childhood and adolescence

²⁹ <https://www.jurist.org/commentary/2022/04/laurie-blank-russia-invasion-ukraine-genocide/>

³⁰ <https://zakon.rada.gov.ua/laws/show/2235-14#Text>

other objective criteria, such as connection with the territory and ethnic group, language³¹, culture, and traditions.

34. The national group is created by the bond between people as individuals and the nation.³² The International Criminal Tribunal for Rwanda (ICTR) stated that a national group “is comprised of individuals that share a legal bond based on common citizenship granting them reciprocal rights and obligations.”³³ Equally, the Inter-American Court of Human Rights in its Advisory Opinion OC4/84,41 - based on the doctrine established in 1955 by the International Court of Justice in the *Nottebohm* case - ruled that “[n]ationality is the political and legal bond that links a person to a given State and binds him to it with ties of loyalty and fidelity, entitling him to diplomatic protection from that State”.³⁴
35. Maria Lvova-Belova repeatedly claimed that all children from the temporarily occupied territories of Ukraine are Russian children. She held this position both before³⁵ and after the annexation of these territories. On September 30, 2022, Lvova-Belova wrote in her first post after Russia's illegal annexation of parts of the Donetsk, Luhansk, Kherson, and Zaporizhia regions of Ukraine, on the official Telegram channel at <https://t.me/malvovabelova>: “Children of the DPR, LPR, Zaporizhzhia, and Kherson regions are now Russians. I congratulate you, friends! We are happy to welcome you into our big family!”³⁶ Her expression of children being “now” Russians reveals her acknowledgement of their previous national identity as Ukrainians and, hence, their forced conversion into the identity of the perpetrator.
36. Moreover, Commissioner Lvova-Belova claims that the goal of forcible transfer of Ukrainian children to Russian families is to eradicate their Ukrainian identity and create new loyalties to both the Russian Federation and its top political leadership: “We brought a group of children from Mariupol, 30 people, who were found in basements, abandoned by their adoptive parents who evacuated without them [...]. When we brought them to the territory of the Moscow region so that they could recover a little, the story began: they spoke negatively about the President [Putin], said all sorts of bad things, sang the Ukrainian anthem, shouted: “Glory to Ukraine”. But some time passed, and these children were placed in foster families in the Moscow region, one of the boys was placed in my family. And I can see with my own eyes how this integration began to happen”³⁷.
37. As for the “boy” who was “placed in [her] family”, Maria Lvova-Belova claims that she met him in Mariupol. According to her, the boy, whose name is Philip and who is sixteen years old, was abandoned by his adoptive parents during the evacuation, leaving him in the basement while under fire. According to her Telegram posts, having established contact with Philip, despite the boy's lack of Russian citizenship [Philip is a citizen of Ukraine under the Law of Ukraine “On Citizenship of Ukraine”], Lvova-Belova adopted the child in violation of not only Ukrainian and international law, but also

³¹ In this context, it should be mentioned that the member of the Council of Federations, the head of the committee on science, education and culture, Lilia Gumerova, stated “As it turned out, not all children from the “liberating” territories speak Russian at a sufficient level to master our general education program”: <https://t.me/warfakes/2192>
See 2_Protocol

³² Marcelo Ferreira, 2013. Genocide and Its Definition as the Partial Elimination of the Natural Group. *Genocide Studies and Prevention* 8, no. 1

³³ *The Prosecutor v. Jean Paul Akayesu*, Trial Judgment, 2 September 1998, ICTR-96-4-T para. 511-515.

³⁴ Inter-American Court of Human Rights, OC-4/84 of January 19, 1984, Series A No. 4, No. 22.

³⁵ See Белова_1_Protocol

³⁶ <https://t.me/malvovabelova/608>

³⁷ <https://t.me/malvovabelova/608>

Russian legislation³⁸. Philip received Russian citizenship only on September 21, 2022³⁹, although he had been adopted by the family of Maria Lvova-Belova since at least July 2022⁴⁰.

38. Maria Lvova-Belova's illegal adoption of Philip from Mariupol and the subsequent change of his Ukrainian identity to Russian testify in favor of the presence of the special intent on her part, aimed at the destruction of the Ukrainian nation. Referring to Philip, she reported on her Telegram channel: "For the first few days, he sat alone - he admitted that he misses the home he grew up in, his friends, and his native Mariupol. And he is not used to living in a large family, he is not familiar with the traditions of Orthodoxy, and he has not seen Russian films and books."⁴¹

However, after only two months, she celebrated his Russian identity: "Today he received a passport of a citizen of the Russian Federation and did not release it from his hands! He admitted that emotions are overflowing"⁴².

39. Despite the objective impossibility of analyzing the methods and approaches used in the family of Maria Lvova-Belova to change the identity of their foster children, it is certain that Lvova-Belova supports the so-called "special military operation" and the use of minors to promote aggressive actions aimed at the destruction of the Ukrainian nation. According to her words, the "conscious" participation of children in events where people gather to stand in lines that create the letter Z (the triumphalist symbol of Russia's occupation) should "deserve respect". She stated: "If the participation in flash mobs is conscious – the child is full of feelings and wants to support in any way our [Russian] military, the children who are there in those territories – this, of course, deserves respect from me as a mother, above all."⁴³

40. Finally, answering the question about her inclusion in the sanctions lists in connection with the deportation and illegal adoption of Ukrainian children, Maria Lvova-Belova emphasized: "For me, this is a feeling that we are going the right way." She once again confirmed that she will continue to work to "save" orphaned children from the Donbas and transfer them to families in the Russian Federation⁴⁴. Such statements once again testify to Lvova-Belova's conscious attitude to her actions and the presence in them of a special intent aimed at the fastest possible change of the identity of Ukrainian children from the territories of Ukraine temporarily occupied by the Russian Federation through their transfer to Russian families, where they are forced to quickly adopt Russian culture and the narratives of the political regime.

41. From the abovementioned evidence, it is clear that the criminal actions taken meet the standard of the ICTR in the Akayesu case: "the victim is chosen not for his individual identity but rather on account of his membership of a national, ethnical, racial or religious group. The victim of the act is therefore a member of a group [Ukrainian, in this case], chosen as such, which, hence, means that the victim of the crime of genocide is the group itself and not only the individual."⁴⁵

³⁸ See Annex 2

³⁹ <https://t.me/malvovabelova/578>

⁴⁰ <https://www.miloserdie.ru/news/uvidela-i-ponyala-chto-eto-moj-rebenok-detskij-ombudsmen-mariya-lvova-belova-prinyala-v-semyu-malchika-iz-donbassa/>

https://aif.ru/society/detskiy_ombudsmen_lvova-belova_usynovila_podroostka_iz_donbassa

⁴¹ <https://t.me/malvovabelova/501>

⁴² <https://t.me/malvovabelova/578>

⁴³ <https://www.wonderzine.com/wonderzine/life/news/263789-belova-children&cd=27&hl=en&ct=clnk&gl=ua>

⁴⁴ <https://ria.ru/20220722/donbass-1804237340.html>

⁴⁵ ICTR, *The Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, Trial Chamber 1, 2 September 1998

42. At this point it is unnecessary to devote more time to Maria Lvova-Belova's knowledge of the children falling under the provisions of the Rome Statute as children. It is clear that, due to her official capacity, her obligations under such capacity, and the public statements she has been making on this issue, she had knowledge that the abducted and transferred individuals were children as required by the Rome Statute.

Article 28 (b) (iii): Responsibility of commanders and other superiors

Power of Maria Lvova-Belova under the legislation of the Russian Federation

The position of the Presidential Commissioner for Children's Rights was established on September 1, 2009, by Decree of the President of the Russian Federation No. 986 "On the Commissioner for Children's Rights under the President of the Russian Federation" to ensure effective protection of the rights and interests of children⁴⁶.

43. According to Article 16.1 of the Federal Law No. 124-FZ "On Basic Guarantees of Children's Rights in the Russian Federation" dated July 24, 1998: The Presidential Commissioner for Children's Rights of the Russian Federation and the Commissioner for the Rights of the Child in the Subject of the Russian Federation ensures the protection of the rights and legitimate interests of children within the limits of their powers⁴⁷.

44. Article 2 of the Federal Law No. 501-FZ "On Children's Rights Commissioners in Russian Federation" dated December 27, 2018, provides for a list of powers of the Commissioner:

2. The representative helps:

- 1) to recover the violated rights and legitimate interests of children;
- 2) to enhance the legislation of the Russian Federation concerning the protection of the rights and legitimate interests of children;
- 3) to develop international cooperation in the field of protection of the rights and legitimate interests of children;
- 4) to enhance forms and methods of protection of the rights and legitimate interests of children.

45. Article 5 of the Law enshrines the main tasks of the Commissioner:

- 1) ensuring protection of the rights and legitimate interests of the children who are citizens of the Russian Federation, in the territory of the Russian Federation and in the territories of foreign states, the children who are foreign citizens or stateless persons, in the territory of the Russian Federation in accordance with the legislation of the Russian Federation and international treaties of the Russian Federation;
- 2) assistance in forming an effective functioning of the state system of ensuring the realization, observance, and protection of the rights and legitimate interests of children by state bodies, local government bodies, and officials;
- 3) monitoring and efficiency analysis of the functioning of mechanisms of realization, observance, and protection of the rights and legitimate interests of children by the federal executive bodies, public authorities of subjects of the Russian Federation, local government bodies, the educational and medical organizations, the organizations rendering social and other services to children and the families;

⁴⁶ http://www.consultant.ru/document/cons_doc_LAW_91194/

⁴⁷ <https://docs.cntd.ru/document/552050708>

- 4) participation in the formation and the realization of a single state policy in the field of ensuring and protection of the rights and legitimate interests of children, including participation in activities of the coordinating bodies created for the purpose of the realization of the specified state policy, and also the preparation of relevant proposals for the President of the Russian Federation and in the Government of the Russian Federation;
- 5) the prevention of the violation of the rights and legitimate interests of children and assistance in recovery of the violated rights and legitimate interests of children;
- 6) participation in activities for the prevention of neglect of and offenses against minors;
- 7) assistance in the development of international cooperation in the field of protection of the rights and legitimate interests of children.

46. The law also provides for the procedure for appointing the Commissioner (Article 3) and the requirements for the Commissioner (Article 4), including the educational requirements of the person appointed to this role, namely higher education⁴⁸.

The material authority of the Presidential Commissioner for Children's Rights in the context of the international armed conflict between Ukraine and the Russian Federation

47. According to Article 28 (b) (iii) of the Rome Statute of the International Criminal Court,

[...] a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates

under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

[...] The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

48. Assessing the compliance of the commander's actions to the standard of "necessity and reasonableness," as established in the "Bemba case," should take into account that the authority of such a person is inseparable from the facts and reality that exists on the battlefield, unique to a specific conflict situation. Hence, whether the measures are necessary and reasonable should be decided on a case-by-case basis⁴⁹.

49. In April 2022, the government of the Russian Federation created two special headquarters whose activities had an undeniable impact on the process of transferring Ukrainian children to "another group". They consist of representatives of the structures of the Russian Federation, the so-called LPR and DPR. These are agencies tasked with:

- the synchronization of the legislation of the pseudo-republics and the Russian Federation and the development of forms of temporary guardianship and adoption; and
- finding relatives of children who are deported to the Russian Federation and transferred to adoption to Russian families⁵⁰.

⁴⁸ *ibid*

⁴⁹ Sesay case, para. 313

⁵⁰ <http://deti.gov.ru/articles/news/otvety-po-voprosam-semejnego-ustrojstva-detej-sirot-iz-dnr-i-lnr-v-rossijskie-sem-i>

50. Maria Lvova-Belova heads the activities of both headquarters⁵¹, and therefore makes decisions regarding the transfer of Ukrainian children for adoption to Russian families⁵². Moreover, Lvova-Belova personally accompanies children from the temporarily occupied territories of Ukraine to Russia, where she transfers them to foster families⁵³. As a person responsible for finding the relatives of children who are deported to the Russian Federation and given up for adoption to Russian families, Maria Lvova-Belova did not take all “necessary and reasonable measures” to fulfill her duties. Moreover, her statements are contradictory: on the one hand, she insists on ensuring the opportunity for children to communicate with relatives, while on the other hand, she makes efforts to speed up the procedure of transferring children to Russian families, in particular, through “speeding up the procedure of transferring orphans to Russian families”⁵⁴.
51. To speed up the process of illegal adoption, Commissioner Lvova-Belova also encouraged the imposition of Russian citizenship on Ukrainian children in parallel with the process of drawing up documents for adoption⁵⁵.
52. Maria Lvova-Belova is the head of the "Children in Hands" humanitarian mission. From July 12 to 14, 2022, in this capacity, the Commissioner was on a working visit to the so-called DPR. Among the key tasks identified by the mission was the transfer of Ukrainian children to Russian families. To fulfill the task, the mission bought a minibus⁵⁶.
53. Commissioner Lvova-Belova also holds regular meetings with the leaders and competent bodies of the so-called DPR and LPR. During such meetings, issues of speeding up the transfer of children to Russian families are discussed⁵⁷. Therefore, Maria Lvova-Belova not only does not take all necessary and reasonable measures to prevent the crime of genocide but also encourages and facilitates its commission. For her work, on April 6, 2022, Maria Lvova-Belova was awarded the award “For Good Deeds”, presented by the head of the so-called LPR, Leonid Pasichnyk⁵⁸.
54. In the Separate Opinion in Prosecutor v. Bemba, Judge Van den Wyngaert wrote that “the language of articles 28 and 30 of the [Rome] Statute requires that the commander is virtually certain of the guilt of his or subordinates.”⁵⁹ Maria Lvova-Belova knew or, due to her capacity, should have known that the forcible transfer of children of the group to another group is a crime of genocide because the Russian Federation ratified the Convention on the Prevention and Punishment of the Crime of Genocide on March 18, 1954⁶⁰. In addition, Article 357 of the Criminal Code of the Russian Federation criminalizes genocide, listing the forcible transfer of children among the material elements. Moreover, even after the condemnation of the illegal adoption of children by competent international and regional

⁵¹ <https://rg.ru/2022/04/06/lvova-belova-vozglavit-shtab-po-probleme-usynovleniia-detej-sirot-lnr.html>

⁵² <http://www.kremlin.ru/events/administration/69414/photos>

<http://deti.gov.ru/articles/news/mariya-l-vova-belova-posetila-kaluzhskuyu-oblast-i-vstretilas-s-priemnymi-sem-yami-vzyavshimi-pod-opeku-detej-iz-dnr>

<http://deti.gov.ru/articles/news/v-blizhajshee-vremya-priemnye-sem-i-6-regionov-rossii-voz-mut-pod-opeku-108-detej-iz-dnr>

⁵³ See video_2022-10-06_14-38-10_Protocol

⁵⁴ <http://deti.gov.ru/articles/news/davajte-dadim-im-shans-mariya-l-vova-belova-o-detyah-sirotah-v-lnr>

⁵⁵ ibid

⁵⁶ <http://deti.gov.ru/articles/news/shtab-gumanitarnoj-missii-detyam-v-ruki-otkrylsya-v-doneckoj-respublike>

⁵⁷ <http://deti.gov.ru/articles/news/mariya-l-vova-belova-dogovorilas-s-glavoj-dnr-o-razvitii-sotrudnichestva>

⁵⁸ <https://lug-info.com/news/glava-lnr-vruchil-nagrady-predstaviteljam-rf-za-podderzhku-respubliki>

⁵⁹ Separate Opinion, supra note 25, para. 46

⁶⁰ <https://base.garant.ru/6159639/>

organizations⁶¹, as well as her consecutive inclusion during June-September 2022 in the sanction lists⁶², Commissioner Lvova-Belova did not take all “necessary and reasonable measures” to repress the crime and punish the guilty persons. We are not aware of any actions taken by Maria Lvova-Belova aimed at preventing, investigating, or bringing to justice persons who are under her effective control and involved in the process of deportation and illegal adoption of Ukrainian children.

55. Maria Lvova-Belova did not take all “necessary and reasonable measures” within her power to prevent and repress the commission of the crime of genocide against the Ukrainian nation, nor did she submit the matter to the competent authorities for investigation and prosecution⁶³. As a superior, she was obliged to prevent the commission of acts containing characteristics of the crime of genocide by agents involved in the process of forced transfer and illegal adoption of Ukrainian children. Such agents are tutelage and guardianship bodies, regional commissioners for children's rights, and two headquarters directly headed by her to simplify the illegal adoption, including representatives from the so-called LPR and DPR.

The connection between Maria Lvova-Belova and some top representatives of the political regime of the Russian Federation

56. Maria Lvova-Belova has long-term and stable ties with the highest political leadership of the Russian Federation. On January 22, 2018, Maria was registered by the Central Election Commission of the Russian Federation as a confidant of President Vladimir Putin⁶⁴. From 2019 to 2021, Lvova-Belova was a member of the Presidium of the General Council of “United Russia.” From 2020 to 2021 she held the position of the Authorized Representative of the Federation Council under the Presidential Commissioner for Children's Rights⁶⁵.

57. On October 27, 2021, Maria Lvova-Belova was appointed as the Presidential Commissioner for Children's Rights by Vladimir Putin's Decree No. 606⁶⁶. The corresponding appointment was made in violation of Part 1 of Article 4 of the Federal Law No. 501-FZ “On Children's Rights Commissioners in the Russian Federation” dated December 27, 2018⁶⁷, since at the time of the issuance of the decree Maria Lvova-Belova did not have any advanced degrees required by Russian law⁶⁸.

58. Deviation from the requirements stipulated by the legislation confirms that the institution of the Commissioner for Children's Rights in the Russian Federation is just a link in the vertical chain of the President's power. The latter chooses a loyal person regardless of whether he or she meets the formal criteria. According to Russian human rights defender Yevhenii Bunimovich: “This is completely

⁶¹ https://www.europarl.europa.eu/doceo/document/B-9-2022-0407_EN.html

⁶² <https://www.gov.uk/government/publications/the-uk-sanctions-list>
<https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list> https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/consolidated-consolide.aspx?lang=eng
<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>

⁶³ <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

⁶⁴ http://ng58.ru/news/news/mariya_lvova_belova_stala_doverennym_litsom_prezidenta/
<https://penzanews.ru/politics/122962-2018>

⁶⁵ https://www.trud.ru/article/27-10-2021/1408859_snova_zhena_svyaschennika_putin_naznachil_novogo_detskogo_ombudsmena.html&hl=en&gl=ua&strip=1&vwsrc=0

⁶⁶ <http://kremlin.ru/events/president/news/67014>

⁶⁷ <https://docs.cntd.ru/document/552050708>

⁶⁸ <https://bloknot.ru/politika/mariya-l-vova-belova-nezakonno-zanyala-post-detskogo-ombudsmena-net-vy-shego-obrazovaniya-840726.html&cd=50&hl=en&ct=clnk&gl=ua>

contrary to the European system, where the commissioners for the rights of the child appeared as an independent institution, which should be chosen by the parliament, and not appointed by the head of state. How can a commissioner control the actions of the authorities if he or she is with them? These systemic things will interfere with any commissioner, whoever he or she is.”⁶⁹

59. On March 9, 2022, a meeting was held between Maria Lvova-Belova and President Vladimir Putin, at which, inter alia, the transfer of Ukrainian children to Russian families was discussed. During the meeting, Commissioner Lvova-Belova said that “Russian citizens with a big heart, of course, have already lined up to take Ukrainian children.” Vladimir Putin replied: “Very well.” Then Lvova-Belova noted that “We have already created a register of those [children] who have documents.” She added that “[children] with Russian citizenship⁷⁰ could already be arranged,” by which she meant they could be adopted according to existing Russian laws. Putin replied: “Why only with Russian? With any citizenship.” Lvova-Belova noted that this was impossible due to regulatory obstacles. Putin assured: “Tell me what the obstacles are - and we will eliminate them.”⁷¹
60. Putin kept his word and eliminated “obstacles” related to the lack of Russian citizenship of many Ukrainian children. On May 25, 2022, the President signed Decree No. 304 on the simplified procedure for acquiring Russian citizenship by citizens of Ukraine⁷². On September 30, 2022, as a result of the annexation of the temporarily occupied territories of the Donetsk, Luhansk, Zaporizhzhya, and Kherson regions, Putin recognized all the citizens of Ukraine as citizens of the Russian Federation⁷³.
61. Earlier, on September 21, 2022, Maria Lvova-Belova recorded a video message in which she thanked "Vladimir Vladimirovich for his support in helping the children of Donbas, his deeply human attitude towards their suffering, hopes, and needs." She repeated her rhetoric about protecting the "fraternal people" from the Nazis and expressed her confidence regarding Ukrainian children that "Russia, despite any sanctions, threats, and hardships, will accept them into its big and strong family. We have always been and will be together, and together we will become even stronger. Russia does not abandon its people, especially its children! The children of these territories are our relatives, and they have a common future with their Russian peers."⁷⁴
62. Thus, thanks to the close ties between Maria Lvova-Belova and Vladimir Putin, it was possible to simplify and speed up the process of the illegal adoption of Ukrainian children by Russian citizens.
63. The Commissioner also has close ties with the head of the Russian Orthodox Church, Patriarch Kirill. It should be noted that the husband of Maria Lvova-Belova, Pavel Kogelman, who at the time of her appointment to the position of Commissioner was only a non-staff cleric of the Penza Diocese, on February 24, 2022, by Decree Patriarch Kirill No. U-02/30, was immediately enrolled in the clergy of the Moscow Diocese and appointed to the position of the full-time priest of the Church of the Nativity of the Blessed Virgin Mary in Krylatskoye⁷⁵. The appointment of Maria Lvova-Belova to the position

⁶⁹ <https://novayagazeta.ru/articles/2021/10/28/kanon-otnyne-tam>

⁷⁰ On July 17, 2019, the President of the Russian Federation signed Decree No. 343. Under this Decree, persons living in the territory of the so-called LPR and DPR were allowed to obtain a Russian passport in a simplified manner. Russia recognizes such persons and their children as its citizens. Ukraine and most of the world's countries do not recognize Russian citizenship imposed contrary to the rules of international humanitarian law and international human rights law. <http://static.kremlin.ru/media/events/files/ru/P5fha7h9z0a512JrLIB2bzAmGe55YESz.pdf?fbclid=IwAR3p03ia1x9vYZ0EUKVwe2181eYnl0HQzsZf0oQfqJ0Br7wHxi4VDEU1Sfc>

⁷¹ <http://kremlin.ru/events/president/news/67949>

⁷² <http://publication.pravo.gov.ru/Document/View/0001202205250004>

⁷³ <http://duma.gov.ru/news/55420/>

⁷⁴ See Белова_1_Protocol

⁷⁵ <http://moseparh.ru/ukaz-u-0230-ot-24-fevralya-2022.html>

of the Commissioner herself caused a wave of approval by the higher clergy of the Russian Orthodox Church, namely the Vicar of the Holy Patriarch of Moscow and All Rus, the head of the Synodal Department for Church Charity and Social Service, Bishop Panteleimon Vereyskiy (Arkady Shatov), as well as the Archpriest of the Saint Petersburg Diocese, the abbot of the Church of St. Nicholas the Wonderworker and the Church of the Assumption of the Mother of God Aleksandr Tkachenko⁷⁶.

64. Since the beginning of the full-scale invasion of the territory of Ukraine, Patriarch Kirill has supported actions aimed at the forcible transfer of Ukrainian children to Russia, and has held meetings with children from the Donbas and “any other place of our historical family, where people suffer, where they are offended and discriminated against.” He emphasized that “his heart and the doors of the Church of Moscow are always open.”⁷⁷ Patriarch Kirill repeatedly denied the existence of an independent Ukraine, incited the faithful of the Russian Orthodox Church to commit violence against representatives of the Ukrainian nation, and incited enmity and intolerance, following the narratives of the political regime of the Russian Federation⁷⁸.

Conclusion

65. The authors of this Communication have provided extensive and convincing evidence of the facts of the participation of Maria Lvova-Belova in the formation and implementation of the consistent and systematic policy to transfer Ukrainian children to Russian families.
66. These actions of Commissioner Lvova-Belova, which are of concern to the international community, can be qualified as genocide within the meaning of Articles 6(e) of the Rome Statute of the ICC.
67. The impunity of persons who commit international crimes makes it impossible to achieve the objectives of international criminal justice.
68. The States Parties of the ICC recognize in the Preamble to the Rome Statute that genocide is the gravest of crimes, one that constitutes a threat to international peace and security and that therefore must not go unpunished, since the punishment of perpetrators is one of the most important means at our disposal to prevent the repeat of such crimes.

Considering the objective impossibility of bringing the guilty person to justice at the national level in this case, as well as a) the gravity of the acts committed, b) the interests of justice to prosecute those responsible for international crimes, and c) the existing reasonable basis to assume that the situation of the illegal adoption of Ukrainian children by Russian citizens falls within the jurisdiction of Articles 17 and 20 of the ICC RS,

the authors of this Communication apply to the Prosecutor of the International Criminal Court to:

69. investigate the situation of the illegal adoption of Ukrainian children by Russian citizens, which has the elements of the crime of genocide and is provided for in Article 6(e) of the Rome Statute, in the light of Article 15(3) of the Rome Statute.

⁷⁶ <https://ura.news/news/1052513588>

⁷⁷ <https://pravoslavie.ru/148147.html>

⁷⁸ E.g.: <http://www.patriarchia.ru/db/text/5906442.html> <https://monasterium.ru/predstoyatel/propovedi/my-dozhili-s-vami-do-sudbonosnogo-vremeni-a-v-sudbonosnoe-vremya-sleduet-obnovit-nashu-veru/>, <https://culturemeter.od.ua/gundjaev-zajavil-chto-rossija-nikogda-ni-na-kogo-ne-napadala-134762/>