

# Children, War and Genocide

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Ukrainian children 'relocated' from Ukraine to Russia  
Well-established and uncontested fact

Numbers vary; conservative estimates between  
20,000 and 35,000 children since February 2022

Practice of 'relocation' widely condemned by United  
Nations Committee on the Rights of the Child,  
Parliamentary Assembly of the Council of Europe,  
OSCE, the European Union, USA, etc.

# Categories of Children Removed from Ukraine

01

So-called 'children of war,' i.e., children who lost (perhaps temporarily) their parents and were collected by Russian authorities

02

Children separated from their parents following the detention of and thus separation from them at filtration camps

03

Children in institutions (e.g. orphanages, boarding schools, and hospitals) who were systematically displaced by the Russian authorities

04

Children in occupied territories sent on vacation in Crimea or Russia but who, after the agreed recreation period, were not returned to their legal guardians



Situation in Ukraine: ICC judges issue arrest warrants against Vladimir  
Vladimirovich Putin and Maria Alekseyevna Lvova-Belova



Today, 17 March 2023, Pre-Trial Chamber II of the International Criminal Court ("the Court") issued warrants of arrest for two individuals in the context of the situation in Ukraine: Mr Vladimir Vladimirovich Putin and Ms Maria Alekseyevna Lvova-Belova.

Mr 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 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 and authority over civilian and military subordinates who committed the acts, or allowed for their commission, and who were under his effective control 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

## Arrest Warrants – 22 February 2023

‘unlawful deportation of population (children) and [...] 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).’

Crimes against Humanity  
of Deportation or Forcible  
Transfer of Population  
(Article 7(1)(d) ICC  
Statute)

Civilian population

Systematic or widespread attack

- Wide range of officials involved in deportation programme
- Transfers coordinated by officials and local authorities
- System of camps and adoptions authorised and coordinated at highest levels of Russia's federal government
- Operations 'neither random nor unplanned' (PACE) and conducted similarly over time and across different regions
- Laws and regulations to facilitate transfer and assimilation of children in Russia

### Deported or forcibly transferred by expulsion or other coercive acts

Not only physical but also 'threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment'. Elements of Crime fn 12

Consent

Genuine choice, i.e. no threatening or intimidating acts aimed at depriving civilian population of exercising free will (Simic)

Taking advantage of coercive environment turns transfer into a forcible one (Karadzic)

### Without grounds permitted under international law

No compliance with IHL (Decision in the Situation in Myanmar 2019 para 98)  
In occupied territory: Article 49 GCIV prohibits forcible relocation or transfer of population; consensual transfer/relocation is not forcible (Naletilić and Martinović, Krnojelac); evacuation as **only exception**

### To another State or location

### Person lawfully present in the area from which they were deported or transferred

- 'lawful presence of a person must be assessed on the basis of international law, and should not be equated with the requirement of lawful residence.' (Decision in the Situation in Myanmar 2019 para 99)

# Forcibly Transferring Children of the Group to Another Group as Genocide (Article 6(e) ICC Statute – Elements of Crime)

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Forcible transfer of person

**Same as for CAH?**

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Belongs to national, ethnical, racial or religious group

**Different from CAH though often transfer linked to ‘otherness’**

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Intent to destroy, in whole or in part, that group, as such

**Different from CAH**

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Transfer from one group to another

**Different from CAH**

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Person under age of 18 years

**More limiting than CAH**

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‘context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction’ (ICC specific though ‘persuasive and consistent evidence for a pattern of atrocities’ (Genocide Case, Stakic))

**Different from CAH though widespread or systematic chapeau**