
COMMENTS

By Representatives of The Reckoning Project on the List of Issues in Relation to the Sixth and Seventh Periodic Reports of the Russian Federation (List of Issues, February 2023)

[REC]

**The Reckoning
Project**

Center for Human Rights
Palais des Nations
CH-1211 Geneva 10
Switzerland

Date: 15 December 2023

Re.: Comments by Representatives of The Reckoning Project on the List of Issues in Relation to the Sixth and Seventh Periodic Reports of the Russian Federation (List of Issues, February 2023)

Dear Sirs/ Madams,

This submission is made on behalf of The Reckoning Project (“TRP”), an NGO that works with Ukrainian researchers to collect the testimonies of victims of war and occupation. The cases and patterns highlighted in this submission were all collected by TRP Ukrainian personnel operating in different parts of Ukraine and trained by international qualified legal professionals to contribute to the preservation of the legal integrity of collected evidence. TRP focuses its documentation of incidents on witness testimonies taken in person through a strict methodology aiming for preservation. TRP has been documenting cases since March 2022 and continues to do so. To date, TRP on the ground researchers have documented 266 testimonies documenting 161 incidents, from different regions of Ukraine including Kherson, Donetsk, Luhansk, Sumy, Zaporizhia, Kyiv, Chernihiv, Khakiv, Mykolaiv and Nizhyn Raion, including towns, cities, and villages in said regions. Previously, The Reckoning Project had a general mandate for international crimes in Ukraine. The testimonies cited here, concerning deportation and forcible transfer of children, are from this period. TRP has since begun a specific project on this issue and will be able to share findings in the coming weeks and months.

I submit for your attention TRP’s concise comments on the List of Issues presented to the Russian Federation in February 2023 in advance of January 2024’s session by the Committee on the Rights of the Child (“CRC” or “Committee”). This submission is focused on the theme of deportation/forcible transfer of children, and as such the comments mirror question 12. These comments are not confidential and can be made available by the Committee.

Ibrahim Olabi
Chief Legal Counsel at The Reckoning Project

PRELIMINARIES

1. In 2019 the Russian Federation submitted to the CRC its combined sixth and seventh periodic reports for the review procedure culminating in session 95, January-February 2024. In October-November 2022 a number of Russian NGOs submitted ‘Alternative Reports’ to the CRC. In February 2023, the CRC submitted to the Russian Federation the ‘List of Issues’ (“LOIs”) in connection with the State Report and NGOs’ comments to it.
2. Question 12 posed by the CRC in the LOI asked for: *“information concerning the evacuation and allegations of deportation and transfer of children from Ukraine to the territory of the State party, to that of any other States or within the occupied territory of Ukraine by the State party, since 24 February 2022, including on the following:*
 - (a) *The number of such children;*
 - (b) *Measures taken to ensure that children, in particular separated or unaccompanied children and children in care institutions in Ukraine, including in the occupied territory of Ukraine, are not moved in violation of rights under the Convention or relevant international humanitarian law, including article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and article 78 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts;*
 - (c) *Measures taken to ensure that the right of such children to preserve their identity, including nationality, name and family relations, is protected, through a system of identity registration and record-keeping of any changes;*
 - (d) *Measures taken to ensure that the whereabouts of such children are identified and tracked so as to enable their return to their families;*
 - (e) *The number of children who have acquired Russian citizenship or have renounced their Ukrainian citizenship;*
 - (f) *Procedures and safeguards put in place to ensure that Ukrainian children residing, including temporarily, in the territory of State party or the territory of Ukraine temporarily occupied by the State party, are not deprived of their Ukrainian nationality in violation of their rights under the Convention and relevant international law, in particular through applications for Russian citizenship or renouncement of Ukrainian citizenship under the simplified procedure submitted by guardians or authorized representatives of orphans or children without parental care.*
3. Representatives of TRP now add comments to the LOIs for the sake of further detailing and clarifying this question posed by the CRC.

Question 12 – general comment

4. TRP has collected numerous testimonies alleging forcible transfer of children from Ukraine to the territory of the Russian Federation. The transfers often, but not exclusively, were framed by occupation authorities as ‘vacations’ in Crimea. The consent given by parents was routinely retroactive or violated, such as through prolonged length of stay for the children or unjustified logistical hurdles placed in front of families seeking to reunite with their children. The Russian Federation frequently acted through

educational institutions established by occupation authorities, employing local figures working in collaboration with regional and federal authorities including the Commissioner of the President of the Russian Federation for Children's Rights, Maria Lvova-Belova. Throughout this submission, TRP relies upon five key testimonies taken from witnesses in Ukraine. The summaries included below are concise excerpts of more comprehensive files held by TRP. Key details, such as precise details, names, and perpetrators, have been largely omitted to protect the privacy of TRP sources, but can be provided upon further engagement with the Committee.

5. **Incident 001, Mariupol:** TRP took the testimony of a single father who was separated from his children at a checkpoint and imprisoned for 45 days. His children were transferred first to a social centre in Ukrainian territory, and then into Russia with over 30 other children. When there, they were given the choice between placement in a Russian foster family or an orphanage in the Russian Federation. After contacting his father, the witness' son informed him that he had only a few days to pick up his children lest they be placed into a Russian foster family. All of these developments happened without any contact by teachers or social service officials of the Russian Federation with the witness to obtain his consent for such actions. The witness raised funds to travel through volunteers and was able to go to pick up his children. They informed him most of those from their group had been sent to foster families in Russia.
6. **Incident 002:** A witness recalled that in April 2022, her son was studying and staying at an educational institution that had been taken over by Russian authorities. From September 2022, following a missile strike close to the college, management campaigned to take the children to Crimea for a 'vacation'. There were no formal arrangements to do so, but in early October 2022, the witness's son informed her that he would be 'taken to Crimea soon' and she received phone calls from the college curator asking for permission to take her child there for a two-week 'vacation'. In early October, the witness received a call from her son telling her that he was being transported to Crimea, for which she has no prior notification. The witness kept in touch with an individual who was with the abducted children for about 10 days, but after that his number became unreachable. The witness's son had his own phone, and updated her as he was moved to different facilities. In early January 2023, her son sent a video and photo showing that he was being taken to the occupied Ukrainian territory. He was able to provide screenshots showing his geolocation, following which the witness went to pick him up. When she arrived, the head of the college did not allow her and her son to leave for two days, demanding a certificate stating that she is a single mother. They eventually left and went to a European country.
7. **Incident 003:** One witness amongst a group who spoke to TRP is the mother of a disabled child who lived in the Oleshky Children's boarding house, a special institution for the accommodation and treatment of children with disabilities in Kherson. In late October 2022, her disabled daughter was aged 13 years old. A different parent witness attested that the institution's managers were replaced by the Occupation Authorities, after the Ukrainian acting director refused to cooperate with the Russian forces. In October 2022, the witness repeatedly refused permission for her daughter to be relocated for 'resort treatment' in Simferopol for 11 days. Later in October 2022, over 50 children were loaded onto buses and taken to Simferopol, Crimea. The mother of the girl was able to travel to Crimea to retrieve her daughter in late-November 2022, and found her in alarming condition: "*very thin, in dirty clothes, and with intense body odour.*" The girl had not been washed or had her teeth brushed for over three weeks, and related to her mother that she had been beaten over the head by hospital staff. While this witness was able to leave with her daughter, the other children were later transferred yet again by order of the

Commissioner of the President of the Russian Federation for Children's Rights, Maria Lvova-Belova. Their destination was a rehabilitation centre of Skadovsk, apparently inadequate to their needs.

8. **Incident 004:** A witness in occupied Ukraine registered her son to study at a local school on the promise of a payment designed to encourage children to study at Russian administered schools. However, no payments were made and classes never started. Instead her son was offered a 'vacation' in Crimea by his former teacher, who had been appointed school director by the occupying Russian forces. The witness accepted, and her son was transferred to Crimea amongst other children two days later on a bus with over 10 other children. They were accompanied by two women from the so-called 'administration.' Two weeks after his removal, her son contacted the witness to apply for his return the following week. The witness did so, but her son was not returned. He was then transferred to another camp, the conditions of which he reported to be inadequate in terms of food and medical care. The witness repeatedly petitioned the school director for the return of her child, without success. She contacted the camp director in November 2022, but this approach was also fruitless. The witness was told to transfer power of attorney to an 'official,' who would then return her son. The witness followed these instructions, also without success. The witness then proposed to the camp director that her adult daughter, who lived in occupied Ukrainian territory, pick up her son. The camp director refused and threatened to call the police if the witness' daughter appeared in the camp. Undeterred, the witness transferred power of attorney to her daughter who then snuck her brother – the witness' son – out of the camp with an NGO group in December 2022. The boy was returned to Ukraine in March 2023.
9. **Incident 005:** A witness recalls that her daughter was enrolled at a school established by occupying Russian authorities. In October 2022, occupation authorities announced 'vacations' and proposed the 'evacuation' of children to Crimea for 'safety reasons'. The witness tried to persuade her daughter not to go, but she would not give up, arguing that all her friends were also going. The day before her daughter left, the witness went to meet with the so-called school director, who avoided a detailed conversation and did not provide information about her daughter's proposed whereabouts and those responsible for her life and health. He told the witness the children would return and that she should not worry. On this promise, the witness reluctantly agreed. In early October 2022, the witness recalls accompanying her daughter to the port, where there were soldiers and various accompanying persons and organizers of the transfer process at the port. Her daughter was accompanied by a young woman, who accompanied a number of children. The witness asked about the dates when the children would return and where they were going, but the woman replied that she did not know. For the first week, the witness could not speak to her daughter because of issues with communication, but she was later able to keep in touch via Telegram. Two weeks after her daughter was taken, the witness went to the school to see the 'principal' and ask when her daughter would be returned. However, he was no longer there, and instead a few teachers informed her that the vacation in Crimea had been extended for another two weeks. At the same time, her daughter informed her by phone that she would not be returned and that she had to go to get her. To do this, the witness had to write an application to the director of the camp. The witness duly filled out a form provided by 'teachers' at the school asking to take her child in late October 2022. Several weeks later, her daughter was transferred to a different facility. In early March 2023, the daughter was transferred to again to occupied Crimea. This happened without information being given to, or consent being received from, the witness. The witness took her daughter from there in March 2023 with the help of an NGO.

Question 12(a) - The number of such children:

10. Testimony collected by TRP from the families of transferred children typically show that those children represent nodes in large networks of children in schools or boarding houses who underwent collective transfer to the territory of the Russian Federation. None of the incidents above occurred in isolation, and in each case witnesses report their children being transferred, or later being in the company of, multiple Ukrainian children taken from their parents in Ukraine, either directly or *en masse* from educational institutions. Indeed, in Incident 005, such was the scale of the transfer that, on the day her daughter left from the port with Russian authorities, the witness recalls feeling that “*all the children of [the region] were being taken away. The port was full of children*”. TRP infers from these testimonies that transfers took place on a large scale, involving the organised movement of children across borders. The assessment of numbers, however, is not part of our mandate and as such TRP is unable to communicate figures on this point.
11. We ask the Committee to recommend the Russian Federation provide clear indication of the numbers of children – both accompanied and unaccompanied – subjected to the crime of deportation/ forcible transfer.

Question 12(b) - Measures taken to ensure that children, in particular separated or unaccompanied children and children in care institutions in Ukraine, including in the occupied territory of Ukraine, are not moved in violation of rights under the Convention or relevant international humanitarian law, including article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and article 78 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts

12. Special attention in the Committee’s question has been paid to Article 49 of GCIV, which prohibits forcible transfers or deportations. The meaning of the word “forcible” encompasses situations of “threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, or the act of taking advantage of a coercive environment.”¹
13. In each of the cases identified above, TRP has found evidence of coercion and misrepresentation used as tools to remove children from their parents or schools. Most common in this respect is perhaps justifying the transfer of children for ‘safety reasons’. However, in each of the incidents above, hostilities were at different stages. For example, whilst the deportation of the victim in Incident 002 took place following a missile strike on a nearby building, the deportation in Incident 004 took place in the absence of any such immediate military necessity. The same can be said for the vulnerability of the children in question. For example, whilst Incident 001 took place in circumstances in which the victims’ father was taken into custody, Incident 003 took place when the victim was otherwise in the custody and care of their mother. Despite this variability, however, the use of forced or coerced ‘vacations’ is common to each incident, suggesting that it was not the necessity of evacuation, but a broader widespread and systematic policy of child abduction, conducted under the ruse of the term ‘vacation’, which drove the forcible transfer/deportation in each incident above. This is further supported by the fact that at least in Incidents 002, 003, and 004, individuals are said to have ‘campaigned’ for children to take up those ‘vacations’ weeks or days prior to them actually occurring, suggesting, again, that the transferral/deportation that took place as part of those practices was

¹ Prosecutor v. Radovan Karadžić, IT-95-5/18-T, Public Redacted Version of Judgement (24 March 2016), [488-490].

driven by broader policy goals designed to take advantage of a coercive environment in theatres of conflict, rather than as an immediate response to military necessity in each particular conflict zone.

14. In some circumstances, such as those in Incident 005, for example, parents were also faced with pressure from their own children, who - unaware of the nature of their transfer - pleaded with their parents to actually go on the proposed 'vacations'. They did so, however, as a result of the deleterious conditions created by ongoing conflict (itself caused by the Russian occupation), and the peer pressure created and propagated by the narratives of occupying authorities and their school institutions.
15. Contrary to narratives of necessary evacuations, there is accordingly evidence that the Russian Federation has taken advantage of the conflict scenario and its own access to children through education institutions to create an environment in which parents are pressured to accept offers of 'vacations' or evacuations, contrary to the prohibition upon doing so per Article 49 GCIV.
16. In addition to direct protections under Article 49 GCIV, it is noted that Ukrainian children are "protected persons" under GCIV, which prohibits forceful transfer or deportation of "protected persons" within or outside an occupied territory.² API to the Geneva Convention provides that children shall be the "object of special respect," and that "parties to the conflict shall provide them with the care and aid they require." International humanitarian law also requires that systems must be established to identify and register separated children,³ that families are entitled to exchange personal correspondence,⁴ that interned and detained families must be kept together,⁵ and that the belligerent states attempt in "every possible way" to reunify families separated as a result of armed conflict.⁶
17. These obligations within international humanitarian law are furthered under international human rights law which is generally accepted to continue to apply during international armed conflicts.⁷ Furthermore, the Russian Federation has not suspended its obligations to the UN Convention on the Rights of the Child ("UNCRC") by means of a derogation. These human rights obligations are extended to all individuals within their jurisdiction, over whom the occupying power enjoys effective control either directly or through non-state agents.⁸ The Russian Federation is thus bound by its obligations under the UNCRC, including those in Articles 3, 8, 9, and 10, to respect the rights of owed to children in both occupied Ukrainian territory, from territory under effective Russian control since 2014 (the Autonomous Republic of Crimea, Donetsk, and Luhansk regions) as well as to certain areas claimed and partly lost since 2022 (Kherson, Zaporozhzhia, and other parts of the Donetsk and Luhansk regions).
18. Contrary to these obligations, however, TRP witnesses repeatedly recount a failure on the part of the Russian authorities to document the precise whereabouts of the child victims for, or to put in place measures to ensure that those child victims could be returned to, or contacted by, their parents/legal guardians. The absence of any such policies potentially violates the standards highlighted above which are designed to maintain the safety and best interests of children, and the integrity of the family unit in situations of armed

² GCIV, Article 4(1) and (2).

³ GCIV, Article 22.

⁴ GCIV, Article 25

⁵ GCIV, Article 22.

⁶ Additional Protocol I, Article 74.

⁷ [UN DOC. A/HRC/RES/9/9, Resolution 9/9. Protection of the human rights of civilians in armed conflict, 18 September 2008.](#)

⁸ [UN Human Rights Committee, 'General Comment, No.31 \[80\]' \(26 May 2004\) UN Doc CCPR/C/21/Rev.1/Add.13 at para 10.](#)

conflict. They also stand in stark contrast to the readiness of those authorities to integrate displaced children into Russian society through the use of foster families, adoption, and further transferral between camps inside Russia proper, and throughout Russian occupied territory. The result of many of these measures means that witnesses had little choice but to collect their abducted children themselves, either at their own cost or with the help of NGO funding. Such policies may again point to a system designed to cement child transfer/deportation once it has taken place, rather than to treat it as an extraordinary contingency justified only by the most pressing considerations of military necessity.

19. We ask the Committee to recommend the Russian Federation cease the violation of the prohibition of forceful transfer or deportation in GCIV Article 49, to cease exposing unaccompanied children to adoption or similar measures, to take positive steps to reunite children with their families, and to halt non-justified prolonged internment or logistical hurdles to family reunification.

Question 12(c): Measures taken to ensure that the right of such children to preserve their identity, including nationality, name and family relations, is protected, through a system of identity registration and record-keeping of any changes

20. Where a child is subject to adoption or foster care, preservation must go beyond preventing unreasonable impediments to the preservation of various elements of the child's identity and include 'positive steps' to ensure that the child does not lose elements of his or her identity through 'neglect or omission' by state authorities.¹⁷ This means an 'obligation to enable the child to access information that will enable him to understand the historical elements of his or her identity; and an obligation to take reasonable measures to ensure that the child can explore, define, express, and enjoy his or her identity without unlawful interference.'¹⁸ The right to identity includes attributes such as cultural, religious, and political identity. "Family relations," it must be noted, extends beyond parents and to siblings and other relatives involved in the care and welfare of the child.¹⁹ This means that the Occupying Power denying a child contact or reunion with a sibling, uncle, or grandparent etc. would constitute a breach of the UNCRC.
21. It should be noted, also, that the removal of a child from the care of their parents in this situation is a breach of the right identity (Article 8), the right not to be separated from parents (Article 9 UNCRC), and the right to family reunification (Article 10 UNCRC). The Committee in its General Comment No 14 explained that the separation of children from their parents should only occur "as a last resort measure... separation should not take place if less intrusive measures could protect the child."²⁰ The UN Guidelines for Alternative Care of Children echo the prohibition and emphasise the brevity of a separation should it occur: "the removal of a child from the care of the family should be seen as a measure of last resort and should, whenever possible, be temporary and for the shortest possible duration."²¹ States, per Article 10, are under a positive obligation to facilitate family reunification in a "humane and expeditious" manner.

¹⁷ *The UN Convention on the Rights of the Child - A Commentary edited by Tobin, John (28th March 2019), Art.8, 295.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 297.

²⁰ General comment no. 14 (2013) on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1) 21 p. RIGHTS OF THE CHILD; CHILD NEEDS; CHILD WELFARE; UN, Geneva: 29 May 2013: http://digitallibrary.un.org/record/778523/files/CRC_C_GC_14-EN.pdf

²¹ Guidelines for the Alternative Care of Children' in UNGA Res 64/142 (20 December 2009) ('UN Guidelines') annex.

22. Taking this into consideration, and for the reasons stated in respect of TRP's comments on question 12(b), above, it is submitted that the Russian Federation has actively and knowingly failed to take appropriate measures to ensure the right of transferred children to preserve their identity, including nationality, name, and family relations.
23. We ask the Committee to recommend the Russian Federation respect the numerous elements aimed at the preservation of the transferred children's personal, legal, and family identity and offer special protection and assistance to establish this true and genuine identity as soon as possible, in particular by restoring to child to his blood relations.²²

Question 12(d) Measures taken to ensure that the whereabouts of such children are identified and tracked so as to enable their return to their families

24. Article 50(2) GCIV obliges the Occupying Power to take all necessary steps to identify children and register their parentage. API 78(3) understands a central function of this bureau to be facilitating the return of unaccompanied children to their families and countries. Such a bureau has not been created, nor has the Russian Federation facilitated enquiries by family members hoping to reunite with their children, as the above statements show. Instead, parents have been left to seek out their children themselves, undertaking convoluted lines of inquiry and typically having no choice but to retrieve their children personally. The witnesses referenced in this submission were actually able to do so, others lack resources or a chance to be away from work or dependants.
25. In TRP's submission, The Russian Federation therefore failed, and is failing, to take appropriate measures to ensure that the whereabouts of such children are identified and tracked so as to enable their return to their families.
26. We ask the Committee to recommend the Russian Federation establish formal procedures for the identification of transferred children and registration of their parentage with a view to facilitating reunification for family members separated by conflict or deportation.

CONSOLIDATED LIST OF REQUESTS

27. On the basis of the above, TRP requests that the Committee:
 - a. Recommend that the Russian Federation provide clear indication of the numbers of children – both accompanied and unaccompanied – subjected to the crime of deportation/ forcible transfer;
 - b. Recommend that the Russian Federation cease the violation of the prohibition of forceful transfer or deportation in GCIV Article 49, to cease exposing unaccompanied children to adoption or similar measures, to take positive steps to reunite children with their families, and to halt non-justified prolonged internment or logistical hurdles to family reunification;
 - c. Recommend that the Russian Federation respect the numerous elements aimed at the preservation of the transferred children's personal, legal, and family identity and offer special

²² OHCHR, *Legislative History of the Convention on the rights of the child. Volume I.*, UN, 2007, p. 383.

protection and assistance to establish this true and genuine identity as soon as possible, in particular by restoring to child to his blood relations;

- d. Recommend the Russian Federation establish formal procedures for the identification of transferred children and registration of their parentage with a view to facilitating reunification for family members separated by conflict or deportation.