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UN Committee on Enforced Disappearances

**Comments on the Concept Note on the General Comment № 1 on Enforced
Disappearances in the Context of Migration**

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Our Association of Reintegration of Crimea (ARC)¹, is non-governmental expert and human rights organisation², our expert researches are related with human rights and humanitarian issues, including displacement and relevant situation on the Russia-occupied territories, including Crimea³⁴⁵⁶⁷. Experts of ARC co-operated with OSCE and UN bodies on issues of protecting and defending internal displaced persons (IDP).

Sending Comments on the Concept Note on the General Comment № 1 on Enforced Disappearances in the Context of Migration (points 27, 42-47 and others).

Specific challenges to be taken into account

As it is well-known, since 24th of February 2022 Russia committed broad and open military aggression to all Ukraine's territory. Due last year Russia occupied some territories of Donetsk, Kherson, Luhansk, Zaporizhzhya regions. Such Russia's illegal activities cause non-precedent flows of migration of millions of Ukrainian; our Association informed UN bodies on relevant risks and challenges to such persons⁸⁹¹⁰¹¹¹²¹³.

Ukraine filed an Application with the International Court of Justice (ICJ) but Russia refused to execute the ICJ order in this case to stop the aggression¹⁴. Russia-controlled troops and mercenaries committed in Ukraine gross violation of international law¹⁵¹⁶¹⁷¹⁸¹⁹²⁰²¹. Those issues now are the subject of the investigation the International Criminal Court (ICC),²² including issue of Russia's deportation Ukrainian children. Due to gross violation the human rights

¹ <https://arcrimea.org/>

² https://www.journal-officiel.gouv.fr/associations/detail-annonce/associations_b/20210005/1348

³ <https://www.ohchr.org/sites/default/files/Documents/Issues/Slavery/SR/ReportHRC48/CSOs/ARC.pdf>

⁴ <https://www.ohchr.org/sites/default/files/Documents/Issues/Children/SR/GA76/Association-of-reintegration-of-crimer.pdf>

⁵ <https://www.ohchr.org/sites/default/files/documents/issues/truth/nsa/2022-09-14/submission-NSAs-hrc51-academia-Association-of-Reintegration-of-Crimea-ARC.pdf>

⁶ <https://www.ohchr.org/sites/default/files/2022-01/Association-of-Reintegratin-of-Crimea.pdf>

⁷ <https://www.ohchr.org/sites/default/files/documents/issues/truth/cfi-achieving-sdgs/2022-10-10/submission-NSAs-hrc51-academia-Association-of-Reintegration-of-Crimea-ARC.pdf>

⁸ <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea-ukraine-minnesota-protocol.pdf>

⁹ <https://www.ohchr.org/sites/default/files/2022-04/AssociationReintegrationCrimeaSubmission.pdf>

¹⁰ <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea.pdf>

¹¹ <https://www.ohchr.org/sites/default/files/2022-04/association-reintegration-crimea.pdf>

¹² https://www.ohchr.org/sites/default/files/2022-05/arc_replies-dp.pdf

¹³ <https://www.ohchr.org/sites/default/files/documents/issues/disappearances/cfi/draft-stm/submissions/2022-09-05/association-of-reintegration-of-crimea-draft-stm.pdf>

¹⁴ <https://www.icj-cij.org/en/case/182>

¹⁵ <https://sofrep.com/news/russian-soldiers-gang-raped-ukrainian-woman-as-her-child-was-crying-in-the-next-room/>

¹⁶ <https://www.icj-cij.org/public/files/case-related/182/182-20220307-PRE-01-00-EN.pdf>

¹⁷ <https://www.bbc.com/ukrainian/features-60888528>

¹⁸ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

¹⁹ <https://www.bbc.com/news/world-europe-60547807>

²⁰ <https://news.un.org/en/story/2022/03/1113652>

²¹ <https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas>

²² <https://www.icc-cpi.int/ukraine>

Ukraine filed an application to the European Court of Human Rights also²³. Russia refused to execute the demand of the ECtHR and the order of ICJ to immediately suspend the military operations²⁴.

On March 16 2022, Russia was excluded from the Council of Europe and refused officially to execute the demands of European Convention on Human Rights²⁵ that guarantees rights to life, freedom and safe migration. UN HRC expressed grave concern at the documented harm to the enjoyment of many human rights, resulting from Russia's aggression against Ukraine²⁶.

On 8 March 2022 UN human rights recalled that intentional attacks against civilian objects amount to war crimes²⁷. On 6 May 2022 UN human rights experts and the Global Protection Cluster Coordinator issued a statement alarming by the scale of displacement in Ukraine²⁸.

UN General Assembly in its resolution ES-11/1 recognized that the military operations of Russia inside Ukraine are on a scale that the international community has not seen in Europe in decades²⁹. UN General Assembly in its resolution ES-11/2 demanded again full respect for and protection of objects indispensable to the survival of the civilian population³⁰.

Such UN decisions³¹³²³³ are not executed by Russian troops, Russia-controlled mercenaries and terroristic groups, which established policy of terror and repressions over the Russia-occupied territories of Ukraine. Russian troops, fake "military-civil administrations" and "military commandant's offices" created by Russian invaders use actively the practice of deportation and extrajudicial executions of local civil population³⁴³⁵.

A lot of persons, including them who tried to evacuate themselves from conflict zone, were killed or kidnapped as "non-loyal" ones or during looting their property³⁶. Russian troops blocked since 2022 the humanitarian corridors established to evacuate civil population from hostilities zones and occupied territories and block any information about such corridors.

Since 2022 Russia made sustainable illegal steps to prepare crime of attempted annexation the territories of Donetsk, Luhansk, Kherson³⁷ and Zaporizhzhya³⁸ regions of Ukraine³⁹.

Russia blocked the possibility for Ukrainians, residing in the Russia-occupied territories, to get the information about the ways of evacuation and the destiny of persons kidnapped by Russian militaries and Russia-controlled proxies, as all Russia-controlled Internet and mobile operators are under full control of Russia's regime, its military and special services⁴⁰.

In the Russia-occupied Crimea, all Ukrainian minors taken in this way from the war zone to the peninsula are subject to criminal "sorting"⁴¹. A lot of displacing persons, including children, disappeared after they were captured by Russians to the so-called "filtration camps".⁴² This approach is accompanied by the attitude of the occupiers, Russian colonizers and collaborators to "Ukrainian refugees" as "third-class people" because of "their long residence in Ukraine"⁴³.

²³ <https://hudoc.echr.coe.int/eng-press?i=003-7282553-9922068>

²⁴ <https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf>

²⁵ <https://web.archive.org/web/20220322175027/https://arc.construction/26897>

²⁶ <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session49/Pages/ResDecStat.aspx>

²⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28231&LangID=E>

²⁸ <https://www.ohchr.org/en/press-releases/2022/05/ukraine-millions-displaced-traumatized-and-urgently-need-help-say-experts>

²⁹ <https://digitallibrary.un.org/record/3959039?ln=ru>

³⁰ <https://digitallibrary.un.org/record/3966630?ln=en>

³¹ <https://news.un.org/en/story/2022/04/1115782>

³² <https://digitallibrary.un.org/record/3967950?ln=ru>

³³ <https://web.archive.org/web/20220612122520/https://arc.construction/31039>

³⁴ <https://hromadske.radio/en/news/2022/03/09/members-of-the-wagner-group-have-been-killed-in-ukraine>

³⁵ <https://www.bbc.com/news/world-europe-60547807>

³⁶ <https://web.archive.org/web/20220819134455/https://arc.construction/26918>

³⁷ <https://web.archive.org/web/20220607083347/https://arc.construction/27771>

³⁸ <https://web.archive.org/web/20220612123625/https://arc.construction/28052>

³⁹ <https://web.archive.org/web/20220411081420/https://arc.construction/29020>

⁴⁰ <https://web.archive.org/web/20220612115724/https://arc.construction/32258>

⁴¹ <https://web.archive.org/web/20220929173744/https://arc.construction/29005>

⁴² <https://web.archive.org/web/20220701233834/https://arc.construction/33269>

⁴³ <https://web.archive.org/web/20221002154444/https://arc.construction/28224>

On April, 2022 the aggressor-controlled newspaper “Yevpatoriyska Zdravnitza” published a de facto instruction for similar scheme of criminal “re-registration”⁴⁴. On May 31, the aggressor-controlled so-called “Commissioner for protection of children’s rights” of Sevastopol, Marina Peschanskaya, stated during a “report” that displaced persons who arrived in the city from the war zone in mainland Ukraine were “massively hiding from registration”. Ukrainian citizens do it understanding the corresponding risks for them and their own children in the occupied Crimea⁴⁵.

Some thousand persons were kidnapped by Russian militaries and punitive structures in occupied part of Kherson Region only. A lot of persons were kidnapped by Russian invaders in the “checkpoints” between the Crimea and Ukraine’s mainland⁴⁶. In the Russia-occupied Crimea a lot of children, transferred from Ukraine’s mainland, disappeared in April-May, 2022⁴⁷⁴⁸⁴⁹. A big group of Ukrainian youth disappeared from Yevpatoria, where the Russian occupiers concentrated up to 2,000 criminally “evacuated” children in September, 2022 on the basis of Ukrainian children’s sanatoriums illegally seized in 2014, those children have been in difficult living conditions, had significant problems with food and warm things.

Later, from the last days of December 2022, all these “evacuated” children of the aggressor’s structures were suddenly, without warning, and en masse taken out of occupied Yevpatoria, but they did not return to the Kherson region, in particular, to its Russian-occupied part, there was no information about the current whereabouts of these children for months⁵⁰⁵¹⁵².

Next search of this children and returning them to Ukraine, as the PACE and Euro Parliament resolutions 2482 (2023) and 2022/2049 directly point⁵³⁵⁴, demand usage modern technologies, including genetic expertise. “Conflict Observatory” published on February, 14 report “Russia’s systematic program for the ‘re-education & adoption’ of Ukraine’s children”. Report points that facilities in Russia and Russia-occupied Crimea had held, at least, 6,000 children from Ukraine’s mainland since 24 February 2022.

The separation of children from their parents for indefinite periods documented in this report, which constitute a violation of the Convention on the Rights of the Child. Some of the actions of Russia’s government and its proxies detailed in this report, such as unnecessarily expediting the “adoption and fostering” of children from Ukraine during the current emergency, constitute a potential war crime and crime against humanity in some cases, researchers stress. Experts identified the network at least 43 facilities, 41 of which are pre-existing summer camps in Russia-occupied Crimea and Russia. Experts point that the exact number of facilities is likely significantly higher than identified in this report⁵⁵.

On February, 23, 2023 the UN General Assembly called for ending the war in Ukraine and expressed grave concern at the high number of civilian casualties, including women and children, the number of internally displaced persons and refugees in need of humanitarian assistance, and violations and abuses committed against children⁵⁶.

On February 24, 2023 OSCE officials and structures made a number of statements, condemning the Russia’s atrocities⁵⁷⁵⁸.

⁴⁴ <https://web.archive.org/web/20220607090836/https://arc.construction/29119>

⁴⁵ <https://web.archive.org/web/20220608184817/https://arc.construction/32274>

⁴⁶ <https://web.archive.org/web/20220608175342/https://arc.construction/30144>

⁴⁷ <https://web.archive.org/web/20220929173744/https://arc.construction/29005>

⁴⁸ <https://web.archive.org/web/20220609151253/https://arc.construction/32309>

⁴⁹ <https://web.archive.org/web/20221004172453/https://arc.construction/28407>

⁵⁰ <https://arcrimea.org/en/news/2023/01/15/disappearance-of-kidnapped-kherson-children-from-yevpatoria/>

⁵¹ <https://arcrimea.org/en/news/2023/01/22/invaders-propaganda-and-missed-kherson-children/>

⁵² <https://arcrimea.org/en/news/2023/01/27/new-questions-about-children-deported-by-occupiers/>

⁵³ <https://arcrimea.org/en/analytics/2023/01/26/new-fundamental-resolution-of-pace-regarding-russias-aggression/>

⁵⁴ https://www.europarl.europa.eu/doceo/document/TA-9-2023-0011_EN.html

⁵⁵ <https://arcrimea.org/en/news/2023/02/15/american-researchers-confirmed-illegality-of-aggressors-deportation-ukrainian-children/>

⁵⁶ <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N23/048/58/PDF/N2304858.pdf?OpenElement>

⁵⁷ <https://arcrimea.org/en/news/2023/02/25/osce-statements-were-made-on-large-scale-russian-aggression-anniversary/>

Also on February 24, a Joint Statement of the OSCE Parliamentary Assembly Bureau, was made also. In a Joint Statement, the OSCE PA Bureau condemned Russia's kidnapping of thousands of Ukrainian children for forced adoption and assimilation. OSCE PA Bureau also called to support the children of Ukraine to overcome the trauma they have experienced⁵⁹.

On March, 17, 2023 ICC has issued an arrest warrant for Russia's president Vladimir Putin for overseeing the abduction of Ukrainian children. In granting the request for warrants by the ICC prosecutor, a panel of judges agreed that there were reasonable grounds to believe Putin and his children's rights commissioner, Maria Lvova-Belova, bore responsibility for the unlawful deportation of Ukrainian children⁶⁰.

New challenges for internal displacement were caused by Kakhovka HPP destruction on Dnipro River that happened on 6 June, 2023.

Ukraine's Operational Command South has reported in morning, 6 June that the Russian occupation forces have blown up the Kakhovka Hydroelectric Power Plant (HPP)⁶². U.S. spy satellites detected an explosion at the Kakhovka dam just before it collapsed. Engineering and munitions experts have said a deliberate explosion inside the Kakhovka dam, which is controlled by Russia, most likely caused its collapse on June 6⁶³.

Ukraine's President pointed on June, 6 that Russia deliberately destroyed the Kakhovka reservoir by destruction the Kakhovka HPP dam⁶⁵. Ukrainian ecologic organizations point that hydropower dams have always been subject to high technological risks, they stress that the negative consequences of this criminal destruction of the Kakhovka HPP are global⁶⁶.

On June 10, the Verkhovna Rada of Ukraine adopted an Appeal to the UN and other structures in connection Russia's act of terrorism – the explosion of the Kakhovka HPP⁶⁷.

Ukrainian parliament points out that this crime of Russia is not only an act of terrorism, ecocide, but also a war crime in accordance with the IV Geneva Convention, its Ist Additional Protocol of 1977, and a violation of the UN Convention on the Prohibition of Military or any hostile use environmental impact agents, 1977. Rada stated that the blowing up the Kakhovka HPP was a continuation of the Russian policy of genocide of the Ukrainian people⁶⁸.

ARC experts previously noted since June, 7⁶⁹, that Russia's undermining of the Kakhovka HPP became a separate crime of genocide, including the forced deportation of the population of the villages and cities adjacent to the Dnipro in the Left Bank Kherson region, the destruction of their houses and the murder of those who cannot escape flooding⁷⁰.

It was pointed out that these areas are the original and traditional place of residence of ethnic Ukrainians, and that this obviously became a "bone in the throat" for Russian occupiers, regardless of their criminal military plans' algorithms⁷¹.

During the week (6-11 June, 2023) after Russian occupants blew up the HPP, these thesis received a lot of evidence, this is the aggressor's refusal to allow UN assistance to the victims of flooding to the occupied Left Bank of the Kherson region, and the blocking of the flooded

⁵⁸ <https://www.osce.org/odihr/537933>

⁵⁹ <https://www.oscepa.org/en/documents/officers-of-the-assembly/4627-joint-statement-of-the-osce-pa-bureau-action-on-the-one-year-anniversary-of-russia-s-war-against-ukraine-and-the-international-legal-order-24-february-2023/file>

⁶⁰ <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>

⁶¹ <https://arcrimea.org/en/analytics/2023/03/04/deportation-of-ukrainian-youth-by-russian-invaders-specifics-of-legal-response/>

⁶² <https://www.pravda.com.ua/eng/news/2023/06/6/7405479/>

⁶³ <https://www.nytimes.com/2023/06/09/world/europe/ukraine-dam-collapse-explosion.html>

⁶⁴ <https://www.jordskjelv.no/meldinger/seismic-signals-recorded-from-an-explosion-at-the-kakhovka-dam-in-ukraine>

⁶⁵ <https://www.president.gov.ua/en/news/stvorena-rosijskimi-teroristami-katastrofa-na-kahovskij-ges-83449>

⁶⁶ <https://en.ecoaction.org.ua/destruction-of-the-kakhovka-hpp-preliminary-conclusions.html>

⁶⁷ <https://arcrimea.org/en/news/2023/06/11/ukrainian-parliament-condemned-explosion-of-kakhovka-hpp/>

⁶⁸ <https://planeta.press/2023/06/08/genocid-levoberezhya/>

⁶⁹ https://24tv.ua/ru/deportacija-opustynivanie-chego-rossijane-dobivalis-hersonshhine_n2330382

⁷⁰ <https://glavcom.ua/columns/borys.babin/henotsid-livoberezhzha--933119.html>

⁷¹ <https://opinions.glavred.info/genocid-levoberezhya-rossiyane-narushili-konvenciyu-oon-10476316.html>

areas by the aggressor's troops and punishers. UN officials and ICC investigators visited the Ukraine-controlled flooded territory on Right Bank on the Kherson region in same days.

In this vein, the activity of the criminal "Crimean volunteer" Valeria Petrusovich, associated, among other things, with "black" transplantation, which we have previously described many times⁷²⁷³, and which is now used by the aggressor's propaganda as a "talking head" in imitation of "helping flood victims", has become characteristic. This figure made statement on June 10 from which it follows that Russia's military and punishers will actually block any supply of food and water to persons who refuse to be deported from the flooded areas of Left Bank of the Kherson region⁷⁴.

The refusal of the surviving population to be "evacuated" by Russian occupying forces has obvious reasons – they understand that the Russian occupiers will prohibit their return home till Russia controls the Left Bank of the Dnipro River, and that Russians will organize their criminal deportation, including through the occupied Crimea.

So the Russia's destruction the Kakhovka HPP dam created new wave of migration that in Russia-controlled area has features of forced deportation and genocide.

Proposals to Concept Note

1. Regarding migrants' children enforced disappearances issues (p. 27) specific situation must be taken into account: of enforced "patronage" and "adoption" and keeping in orphanages with artificial change of children personal data, including names, origin, parents' names that make impossible effective research of deported child

2. Regarding migrants' rights (p. 42) special attention must be paid to indigenous migrants regarding their rights, guaranteed by UN Declaration, 2007, including cultural and spiritual rights and right to return on historic native land.

3. Also, regarding migrants' rights (p. 42-47 and others) in conditions on hostilities and interstate conflict demands of Roma Statute, Geneva Convention and Additional Protocols must be taken in account regarding war crimes and crimes against humanity committed as enforcement disappearances.

4. Also, regarding migrants' rights (p. 42-47 and others) in conditions of ethnic cleanings, racist and discrimination policy committed by some states, Convention on the Prevention and Punishment of the Crime of Genocide must be taken into account regarding migrants' systematic enforcement disappearances on ethnic, linguistic or racial ground as a form of genocide.

5. Also, regarding migrants' rights (p. 42-47 and others) ecocidal and other environmental challenges must be taken into account as state may use power of nature like floods and fires to hide the victims of migrants' enforced disappearances.

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⁷² <https://arcrimea.org/en/investigations/2023/01/12/criminal-puppet-of-russian-invaders-organs-and-millions-on-organs/>

⁷³ <https://arcrimea.org/en/news/2023/03/24/sudden-rat-fights-of-crimean-collaborators/>

⁷⁴ <https://arcrimea.org/en/news/2023/06/11/gondoliers-of-fortune-and-aggressors-genocide-of-left-bank-population/>