



HUMAN RIGHT CENTER

DEPORTATION OF CUSTODIAL SETTINGS FROM OCCUPIED TERRITORIES OF UKRAINE

Analytical report

KYIV 2023

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INTRODUCTION

On 24 February 2022, the large-scale armed aggression of the Russian Federation against Ukraine began. However, Russia started to deport custodial settings¹, in particular, child care facilities, much earlier. In the temporarily occupied territories of Crimea, Donetsk and Luhansk regions, this campaign began as early as 2014². The procedure intensified a few days before the full-scale invasion: already on 18 February 2022, the “evacuation” began from the territories occupied before the full-scale invasion, and child care facilities³ were one of the categories taken out on a priority basis.

Later, with the advance of the Russian offensive and the seizure of new territories, where the occupying power was established, reports began to appear about the forcible transfer and deportation of people from these territories. News about the removal of custodial settings from the occupied territories intensified with the beginning of the Ukrainian offensive when the Russian side realised that it might not be able to hold the occupied territory. This can best be seen on the example of the facilities in Kherson region, which was occupied in the first days after 24 February 2022 and part of which, including regional centre Kherson city, was liberated at the time of preparation of this report.

The **purpose** of this report is to trace the methods and measures used by the Russian side for the purpose of forcible transfer and deportation of protected persons in custodial settings, based on information about the events that have been taking place in the temporarily occupied territories of Ukraine.

1 Here and below, the definition “custodial settings” means facilities (public or private) where a person is detained (placed and removed), or can be detained by order of any judicial, administrative or other authority or at its direction, with its knowledge or tacit consent (official and unofficial places of detention) in custody, in prison or under guardianship, which this person does not have the right to leave of their own free will or does not have the opportunity to exercise this will (due to physical condition or financial situation). Source: Custodial settings in Ukraine / Kharkiv Institute for Social Research, OSCE Project Co-ordinator in Ukraine, Ukrainian Parliament Commissioner for Human Rights, 2013:

<https://khisr.kharkov.ua/mistsia-nesvobody-v-ukraini-vydannia-druhe-dopovnene/>

2 Fedosiuk T. The Stolen Children: How Russia Attempts To Kidnap Ukraine’s Future / International Centre for Defence and Security, February 2023: <https://icds.ee/en/the-stolen-children-how-russia-attempts-to-kidnap-ukraines-future/>

3 How orphans from LPR and DPR were received in Rostov region / Yamal Media, 22 February 2022: <https://yamal-media.ru/narrative/my-edem-na-ekskursiju-kak-evakuirujut-detej-sirot-iz-luganska-i-donetska>

In particular, the directions of displacement, statements, and policies of the occupation administrations and authorities of the Russian Federation regarding the removal of places of detention, in which both adults and children reside, are considered within the framework of the report.

Pretrial detention centres, penal facilities, juvenile correctional facilities, healthcare facilities and orphanages at penal facilities, healthcare facilities at pretrial detention centres, specialised healthcare facilities, temporary detention centres, orphanages, comprehensive boarding schools-orphanages of all types and forms of ownership, comprehensive schools of social rehabilitation, vocational schools of social rehabilitation, children's homes, psychiatric (psychoneurological) hospitals, children's residential care facilities; residential care facilities for the elderly and people with disabilities; retirement homes; psychoneurological residential care facilities; children's shelters, children's social and psychological rehabilitation centres fall under the category of ***custodial settings*** within the scope of this report.

The analytical report covers the period from the start of the full-scale invasion on 24 February 2022 to 17 April 2023.

This analytical report is based on information collected both from open sources and when documenting the testimonies of persons who suffered or witnessed the crime of deportation and forcible transfer, in particular, managers and employees, as well as residents of custodial settings, as well as on the analysis of reports by the state authorities of the Russian Federation and occupation administrations regarding the removal and accommodation of persons from custodial settings, forcibly transferred to other occupied territories of Ukraine or deported to the Russian Federation.

SUMMARY

1. Considering the number of only known cases of forcible transfer and deportation of custodial settings from the occupied territories of Ukraine after the start of the full-scale invasion, a conclusion may be made on a purposeful policy of the Russian Federation toward the commission of the crime of forcible transfer and deportation.
2. Custodial settings have become a target of the Russian Federation due to their nature and the peculiarities of their functioning – restricting the movement and exercise of free choice of persons held in them. It is much easier to take this category of persons out of their legal place of residence without obtaining consent. This was also facilitated by the policy of the Russian troops and the occupation authorities regarding the refusal to open humanitarian corridors for the evacuation of such institutions, as well as the restriction on the receipt of humanitarian aid from Ukraine. Custodial settings were dependent only on the occupying power.
3. The intention and systemic nature of these measures are also evidenced by the preparation of institutions in the territory of the Russian Federation for the accommodation of such persons, as in the case of vacating penal facilities in some regions of the Russian Federation to transfer prisoners from the occupied territories of Ukraine there. The occupying power and the authorities of the Russian Federation repeatedly declared directly the preparation and implementation of forcible transfer and deportation of child care facilities, and the facts of residence of children from specialized institutions of the occupied territories in Crimea and the Russian Federation were made public in open sources. Moreover, it is openly declared at the state level to encourage the transfer of such children to Russian families in the future. The biggest concern is the displacement of minor residents, given the damage it causes to their development and their lack of awareness of the crime committed against them: Russia deprives them of the opportunity to grow and develop in their native environment, to be returned to their relatives, erasing their national identity.
4. It can be stated that there are signs of the crime of forcible transfer and deportation of protected persons who reside in custodial settings from the temporarily occupied territories of Ukraine. Taking into account the level of preparation, the purposefulness of such actions, the declared positions by the leadership of the Russian Federation and the occupation administrations, as well as the arrangement of infrastructure in the territories occupied until 24 February 2022 and in the territory of the Russian Federation, we can talk about

the scale and systemic nature of such transfer and deportation. In particular, according to available information, prisoners of at least four penal facilities were taken from the occupied territory of Kherson region: Hola Prystan penal facility No. 7, Daryivka penal facility No. 10, Kherson penal facility No. 61, and Pivnichna penal facility No. 90. There is also information available about the displacement of prisoners from Snihurivka penal facility No. 5 from Mykolayiv region through Kherson region (initially to Hola Prystan penal facility No. 7). The probable number of deported prisoners ranges from 2,000 to more than 3,500.

5. In the context of the displacement of child care facilities, such actions of the Russian Federation have the characteristics of the crime of genocide in terms of the transfer of children from one national group to another. According to available information, children from the Novopetrivka special school, the Oleshky children's residential care facility, and the Kherson regional children's home were taken from the occupied territories of Kherson region.

OVERALL DESCRIPTION OF THE SITUATION WITH CUSTODIAL SETTINGS



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Custodial settings became both an easy target and one of the main goals of the Russian occupation authorities. The “evacuation”, in particular, of child care facilities began even before the start of the full-scale invasion, without any legal basis for such relocation, from the territories that were occupied until 24 February 2022. When capturing new territories, this approach was applied to institutions that the Ukrainian side did not have time to evacuate before the Russian offensive. For example, Kherson region was occupied very quickly, in the first days of the full-scale invasion, so they did not have time to evacuate in advance. At the same time, the Russian side did not provide an opportunity to evacuate after the capture of the territory⁴.

4 Russia continues to block evacuation of residents of Kherson and Zaporizhzhia regions – Vereshchuk / Suspilne Novyny, 10 June 2022 <https://suspilne.media/248687-rosia-prodovzue-blokuvati-evakuaciju-ziteliv-hersonskoi-i-zaporizkoi-oblastej-veresuk/>

In general, it is possible to follow common tactics for all types of facilities: contact was established with the management and staff of institutions, assistance with provision was offered, which often had no alternative (in Kherson region, in particular, a humanitarian corridor was never opened and humanitarian from Ukraine was not allowed). If the staff refused to cooperate with the occupation authorities, the Russian side appointed a new management that obeyed all the instructions of the military and the occupation authorities even if they contradicted the interests of the residents.

For example, the occupation authorities “fired” Vitaliy Badryzlov the director of the Kakhovka retirement home of the Kherson Regional Council, bringing several charges against him, and later appointed a new “head”⁵. After that, the residents of the retirement home were displaced, and the occupiers accommodated military personnel in the territory of this institution⁶.

The peculiarity of custodial settings is that their residents are **restricted in their movement**, both in the context of serving a sentence, complicated health issues, or status of minors under guardianship. This also limits the exercise of free choice by such persons, and the children’s consent has no legal force at all. It was these factors that were actively used by the Russian side for the massive displacement of entire institutions or some of their residents. Persons held in such settings were not given a choice, and in case of resistance, it was much easier for the Russian side to use leverage than with protected persons in the occupied territories living in their own homes. As a result, the Russian Federation in the occupied territories of Kherson region focused specifically on custodial settings in the context of forcible transfer and deportation of protected persons.

Currently, it is difficult to estimate the number of Ukrainian citizens transferred from custodial settings in the occupied territory of Kherson region to another occupied territory of Ukraine or deported to the territory of the Russian Federation. First of all, the reason for this is the lack of access to the occupied territories and the impossibility to assess how many residents of custodial settings in the temporarily occupied territories remain in these territories or were transferred to relatives (if we are talking about child care facilities, psychoneurological residential care facilities for adults, retirement homes, etc.). Also, there are no exact data on the number of persons deported from the penitentiary institutions in Kherson region to the territory of the Russian Federation.

5 Occupation authorities in Kherson region appoint new ‘head’ of Kahovka retirement home / Suspilne Novyny, 9 June 2022: <https://suspilne.media/248588-na-hersonsini-okupacijna-vlada-naznacila-novu-kerivnicu-kahovskogo-geriatricnogo-pansionatu/>

6 Operational information of the General Staff of the Armed Forces of Ukraine on Russian invasion as of the evening of 7 November 2022 / Donetsk Regional State Administration, 7 November 2022: <https://dn.gov.ua/news/operativna-informaciya-stanom-na-1800-07112022-shchodo-rosijskogo-vtorgnennya>

As of 1 February 2022

the government-
controlled territory of

Donetsk region	Zaporizhzhia region	Luhansk region	Mykolayiv region	Kherson region
5	11	1	6	4
penitentiary institutions, in which	penitentiary institutions, in which	penitentiary institutions, in which	penitentiary institutions, in which	penitentiary institutions, in which
2466	3182	310	2011	2107
persons were held	persons were held	persons were held	persons were held	persons were held

Some convicted persons and persons taken into custody were evacuated before the occupation of the territories where these institutions were located. A total of 4,123 people were evacuated from institutions in Donetsk, Zaporizhzhia, Mykolayiv, Kharkiv, and Kherson regions⁷.

According to the Ministry of Justice of Ukraine, as a result of the rapid occupation of some territories, 11 institutions and almost 3,000 prisoners remained there. After the de-occupation of the territory, it turned out that about 2,000 convicts were taken out of the institutions⁸.

As of 1 March 2023, seven penitentiary institutions remained in the temporarily occupied territory, from which people were not evacuated:

- Donetsk region: “Mariupol pretrial detention centre” (347 people), “Pyazovska penal facility (No. 107)” (105 people)⁹
- Luhansk region: “Starobilsk pretrial detention centre” (310 people)¹⁰
- Kherson region: “Hola Prystan penal facility (No. 7)”
- Zaporizhzhia region: “Veseliivskyi penal centre (No. 8)” (154 people), “Prymorska penal facility (No. 145)” (21 people), “Melitopol penal facility (No. 144)” (95 people)¹¹.

⁷ According to the response from the Department for Execution of Criminal Penalties of the Ministry of Justice of Ukraine No. 3/1-115-23/105 dated 6 April 2023 to the Human Rights Centre ZMINA inquiry.

⁸ Olena Vysotska, Deputy Minister of Justice / Ukrinform, 3 March 2023: <https://www.ukrinform.ua/rubric-ato/3677438-olena-visocka-zastupnica-ministra-usticii.html>

⁹ According to the response from the South-Eastern Interregional Department for Execution of Criminal Penalties of the Ministry of Justice of Ukraine No. 13.1-2295/khl-23 dated 10 April 2023 to the Human Rights Centre ZMINA inquiry.

¹⁰ According to the response from the Department for Execution of Criminal Penalties of the Ministry of Justice of Ukraine No. 3/1-115-23/105 dated 6 April 2023 to the Human Rights Centre ZMINA inquiry.

¹¹ According to the response from the South-Eastern Interregional Department for Execution of Criminal Penalties of the Ministry of Justice of Ukraine No. 13.1-2436/khl-23 dated 14 April 2023 to the Human Rights Centre ZMINA inquiry.

Accordingly, there are at least 1,032 people in penitentiary institutions in the temporarily occupied territories of Ukraine.

According to the calculations of the Russian NGO “Russia Behind Bars”, the Russians have taken approximately 5,000 prisoners out of the occupied territories of Ukraine since the beginning of the full-scale invasion (this number includes 2,500 people from Kherson region, patients of a psycho-neurological residential care facility and people taken from the Chornukhyne penal facility in Luhansk region and Olenivka¹² penal facility, Donetsk region)¹³. This figure does not include child care facilities.

The following information is available for custodial settings that are not penitentiary facilities.

To date, four residential care facilities are located in the temporarily occupied territory of Zaporizhzhia region, in which, according to the latest information, 1,013 people received social services of inpatient care 24/7 (residence), namely:

- Municipal institution “Berdiansk retirement home” of the Zaporizhzhia Regional Council (as of 1 May 2022) – 244 people
- Municipal institution “Mykhaylivskiy psycho-neurological residential care facility” of the Zaporizhzhia Regional Council (as of 1 August 2022) – 259 people
- Municipal institution “Preslav psycho-neurological residential care facility” of the Zaporizhzhia Regional Council (as of 1 September 2022) – 319 people,
- Municipal institution “Orlove psycho-neurological residential care facility” of the Zaporizhzhia Regional Council (as of 1 September 2022) – 191 people

There is no information on the forcible transfer or deportation of people from these institutions¹⁴.

As of 12 April 2023, all custodial settings in Luhansk region, except for those that were displaced, were located in the temporarily occupied territory, namely:

- Teple regional psycho-neurological residential care facility (109 people)
- Dmytrivka regional psycho-neurological residential care facility (276 people)
- Nova Astrakhan regional psycho-neurological residential care facility (73 people)

12 Volnovakha penal facility No. 120 (Donetsk region), located in the temporarily occupied territory since 2014; used by the occupation authorities as illegal custodial setting.

13 Olga Romanova tells why Russia took Ukrainian prisoners out of occupied territories / Nastoyashcheye Vremia, 1 December 2022: <https://www.currenttime.tv/a/32156850.html>

14 According to the response from the Social Protection Department of the Zaporizhzhia Regional State Administration No. 015-InZ-23 dated 5 April 2023 to the Human Rights Centre ZMINA inquiry.

- Starobilsk regional psycho-neurological residential care facility (167 people)
- Troyitske regional residential care facility for elderly and people with disabilities (31 people)
- Bilokurakhyne regional residential care facility for elderly and people with disabilities (45 people)
- Municipal Institution “Kreminskyi regional residential care facility for elderly and people with disabilities” (71 people)
- Svatove regional residential care facility for elderly and people with disabilities (67 people)

Accordingly, 839 people reside in the facilities in the occupied territory of Luhansk region. There is no information on the custodial settings and the number of residents who were forcibly transferred or deported from custodial settings by representatives of the Russian Federation¹⁵.

Currently, there are four child care institutions with 24/7 residence in the temporarily occupied territory of Kherson region, namely:

- Two social protection institutions (municipal institution of the Kherson Regional Council “Centre for children’s social and psychological rehabilitation “Radist”, municipal institution of the Kherson Regional Council “Oleshky orphanage”) in which children do not live now
- One health care institution (municipal non-profit enterprise “Kherson regional children’s home” of the Kherson Regional Council (hereinafter referred to as the children’s home), where 46 children were living.
- One educational institution (municipal institution “Novopetrivka special school” in Snihurivka district, Mykolayiv region).

During the occupation of this territory of Ukraine, the representatives of the Russian Federation transferred 15 orphans and children deprived of parental care from the municipal institution “Novopetrivka special school” in Snihurivka district, Mykolayiv region, to Stepanivka village in Kherson region and accommodated them in the municipal institution of the Kherson Regional Council “Centre for children’s social and psychological rehabilitation”. Currently, 15 pupils of the special school managed to be taken out of the territory of the Russian Federation with the help of a Georgian charitable organization, and now they stay in the territory of Georgia together with the accompanying persons¹⁶.

15 According to the response from the Mass Communications Department of the Luhansk Regional State Administration No. 01-14/89 dated 12 April 2023 to the Human Rights Centre ZMINA inquiry.

16 According to the response from the Civil Protection Department of the Mykolayiv Regional State Administration No. P-1-23PI dated 17 April 2023 to the Human Rights Centre ZMINA inquiry.

On October 20, 2022, 16 children were illegally taken from the Oleshky orphanage to the Autonomous Republic of Crimea. On September 2, 2022, two children were illegally taken from the Kherson regional children's home (presumably transported to Moscow for treatment), and on October 21, 2022, 46 pupils were transferred, of which 18 have the status of children deprived of parental care, together with accompanying persons to the city of Simferopol¹⁷.

Accordingly, in the temporarily occupied territories of Ukraine, about 2,000 people were held in custodial settings which are not penitentiary institutions, and 79 of them are known to have been forcibly transferred and deported. It is impossible to carry out general calculations of forcibly transferred or deported persons, as, contrary to its obligations, the Russian Federation does not inform either the Government of Ukraine or the responsible international organizations about how many people are "evacuated" from the occupied territories and where.

¹⁷ According to the response from the Department for Protection of Children's Rights and Ensuring Equality Standards of the National Social Service of Ukraine to the Human Rights Centre ZMINA inquiry.

PLACES OF RESTRAINT (DEPRIVATION) OF LIBERTY



People held in institutions of restraint (deprivation) of liberty also belong to the category of protected persons under the Fourth Geneva Convention. Accordingly, they are also subject to general rules regarding evacuation – grounds and rules for its conduct, in accordance with Article 49.

Special protection is provided by Article 37 of the Fourth Geneva Convention, in particular, protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated.

It is also worth paying attention to Article 76 of the Geneva Convention. It provides that protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. The article primarily concerns those who were arrested for reasons related to the armed conflict. However, the interpretation assumes that the provision, according to which a convicted person serves their sentence in the occupied territory, is based on the fundamental principle of the prohibition of deportation, which is set forth in Article 49. Therefore, it is absolutely logical that the **prohibition of forcible transfer and deportation also applies to persons confined as a result of committing crimes not related to the armed conflict.**

It is currently known that in the period October-November 2022, inmates of at least four penal facilities were transferred from the occupied territory of Kherson region. Those were inmates of Hola Prystan penal facility No. 7, Daryivka penal facility No. 10, Kherson penal facility No. 61, and Pivnichna penal facility No. 90. There is also information on the transfer of Snihurivka penal facility No. 5 from Mykolayiv region to Hola Prystan penal facility No. 7¹⁸. The probable number of deported prisoners, according to the Ministry of Justice of Ukraine, is about 2,000 people¹⁹, and according to NGO "Protection of Prisoners of Ukraine" – more than 3,500 people²⁰, who were accommodated in at least three regions of the Russian Federation – Volgograd, Vladimir regions, Stavropol Krai and Krasnodar Krai.

As for pre-trial detention centres and temporary detention centres of the Ministry of Internal Affairs in the city of Kherson, according to the testimonies documented by Human Rights Centre ZMINA²¹, some of the people detained there were also displaced to the territory of the Russian Federation. The exact number of such people is currently unknown.

By the end of November 2022, employees of the Russian human rights organizations "Russia Behind Bars" and Gulagu.net were able to confirm about 10 penal facilities where prisoners from Ukraine were taken. First, they were transported to the territory of Crimea and then to the regions of the Russian Federation.

There is also reliable information about beatings and ill-treatment of convicts from Ukraine, they are isolated from any communication with the outside world, access to them is as limited as possible²². In addition, prisoners were forced to make dugouts for the Russian military and repair military equipment. In May 2022, they began to be forced to write applications for the issuance of Russian passports²³.

The situation in different places of deprivation of liberty of the penitentiary sphere (correctional facilities and pre-trial detention centres) was different.

So, for example, as of 26 February 2022, there were probably 180 people in the pre-trial detention centre at the State Institution "Daryivka penal facility No. 10", which had a planned capacity of 2,450 people.

18 Kherson prisoners held captive by Russian occupiers / NGO "Protection of Prisoners of Ukraine", 29 December 2022: <https://ngoauu.org/xersonski-vyazni-v-poloni-u-rosijskix-okupantiv/>

19 Olena Vysotska, Deputy Minister of Justice / Ukrinform, 3 March 2023: <https://www.ukrinform.ua/rubric-ato/3677438-olena-visocka-zastupnica-ministra-usticii.html>

20 Kherson prisoners held captive by Russian occupiers / NGO "Protection of Prisoners of Ukraine", 29 December 2022: <https://ngoauu.org/xersonski-vyazni-v-poloni-u-rosijskix-okupantiv/>

21 Testimonies of Natalia Havrylenko, documented by Human Rights Centre ZMINA in Kherson city, Kherson region, on 6 April 2023.

22 Olga Romanova tells why Russia took Ukrainian prisoners out of occupied territories / Nastoyashcheye Vremia, 1 December 2022: <https://www.currenttime.tv/a/32156850.html>

23 Nothing but violence. How Russian military seize Kherson penal facilities, beat people in pre-trial detention centres and create their own police / Kholod, 5 August 2022: https://holod.media/2022/08/05/kherson_prison/

Starting in mid-April 2022, the situation worsened every day: there were no food supplies, there was no possibility of obtaining medicines. After everyone from Daryivka penal facility No. 10 was transported to the institution, it became even worse.

Staff were not given recommendations/instructions, transfer/evacuation was no longer possible, as the region and town were already besieged. In May 2022, the institution changed its flag to the Russian tricolor.

In the middle of May, all those who were serving sentences in the facility, were in the pre-trial detention centre or the hospital of the facility No. 10, were transported to Pivnichna penal facility No. 90 located in the city of Kherson. Instead, a military hospital was deployed in the territory of penal facility No. 10²⁴.

On November 29, 2022, information appeared about the deportation of a man who, at the beginning of the full-scale invasion, was held in the Daryivka penal facility in Kherson region, to the territory of the Russian Federation. In May 2022, already during the occupation of the region, the man and other inmates were transferred to Hola Prystan penal facility No.7 in Stara Zburyivka (Kherson region). Inmates from Kherson penal facility No. 90 and Snihurivka penal facility No. 5 were also transferred there. Two weeks before the retreat from Kherson, the Russians began to take out inmates. A woman learned from the relatives of the people who were in prison with her son that they were transferred to Simferopol, where they were beaten severely, and then transferred to Krasnodar penal facility No. 14 or Volgograd region penal facility No. 19²⁵.

As for the pre-trial detention centre in Kherson city (the planned capacity of the institution is 277 people), immediately after the beginning of the large-scale invasion, the citizens staying in the institution were provided with everything they needed. In the second half of April 2022, there was information from the medical staff of the institution that they lacked medicines.

In May, the situation in the pre-trial detention centre changed: the pre-trial detention centre management refused to cooperate with the Russians for several months, until the Russian military broke into the pre-trial detention centre and, meeting the resistance of the management, detained the employees and planned to deliver them to the temporarily occupied Crimea for trial for organizing an act of disobedience and trying to prevent Russian military from entering the centre's territory²⁶. Subsequently, a video appeared on the Internet showing Lieutenant Colo-

24 Nothing but violence. How Russian military seize Kherson penal facilities, beat people in pre-trial detention centres and create their own police / Kholod, 5 August 2022: https://holod.media/2022/08/05/kherson_prison/

25 'Mom, we are being taken somewhere' / Sirena, 29 November 2022: <https://telegra.ph/Mama-nas-kuda-to-uvozyat-11-29>

26 The other day, Russian military broke into the Kherson pre-trial detention centre / Post by Hayane Ohanesian on Facebook, 16 May 2022: https://www.facebook.com/permalink.php?story_fbid=5356522674410768&id=100001592643908

nel Ihor Huriakov, acting head of the State Institution “Kherson pre-trial detention centre”, lieutenant colonel of the internal service, calls on his colleagues to continue working²⁷. The employees refused to work for the occupation authorities and wrote resignation letters²⁸.

Since the beginning of the Russian full-scale invasion of the territory of Ukraine, the term of pre-trial restraint for some inmates has expired, but because the courts in the region are closed since February 24, 2022, the term of arrest is simply extended. At the end of May, pre-trial restraint for inmates was extended for six months – until the end of November 2022.

In mid-May, Russian state media reported that the “military police of Russia” “prevented a riot in the pre-trial detention centre and an escape attempt by inmates” in Kherson. In a video recorded by a Russian state TV channel, kidnapped Huriakov tells a version about the “organization of riot by Ukraine’s Security Service”²⁹.

According to one of the centre’s employees, the riot in the pre-trial detention centre arose after the Russian military began to threaten inmates with killing their relatives. Relatives of inmates who stay in the pretrial detention centre claim quoting the inmates that there was no riot at all: the Russians broke into the detention centre with no reason.

Having entered the territory of the pre-trial detention centre, Russian soldiers used stun grenades, beat the inmates in cells, and killed one inmate by shooting him “in the head”. “*Everyone was shocked, the Russians came in, they wanted to create chaos,*” says one of the prisoners’ relatives³⁰.

During the retreat of Russian troops from Kherson in November 2022, the management of the institution, newly appointed by the occupation authorities, also fled, having previously opened the gates. Some of the inmates escaped, some voluntarily addressed the Ukrainian military who entered the territory. However, the Russians took 59 people detained during the occupation to Crimea³¹.

27 Head of Kherson pre-trial detention centre Huriakov calls on his colleagues to continue working / RIA Novosti, 15 May 2022: <https://ria.ru/20220515/kherson-1788626036.html>

28 Invaders force head of Kherson pre-trial detention centre to appear in a propaganda video / Ukrinform, 16 May 2022: <https://www.ukrinform.ua/rubric-regions/3484717-zagarbniki-zahopili-nacalnika-hersonskogo-sizo-akij-ciniv-opir.html>

29 Acting head of Kherson pre-trial detention centre Huriakov accuses Security Service of Ukraine of organizing inmates’ riot / Rossiyskaya gazeta, 15 May 2022: <https://rg.ru/2022/05/15/io-nachalnika-sizo-guriakov-bunt-zakliuchennyh-v-hersone-byi-splanirovannoj-akciej-sbu.html>

30 Nothing but violence. How Russian military seize Kherson penal facilities, beat people in pre-trial detention centres and create their own police / Kholod, 5 August 2022: https://holod.media/2022/08/05/kherson_prison/

31 Fleeing from Kherson, occupiers released all inmates from pre-trial detention centre. Their whereabouts unknown / Hromadske, 14 November 2022: <https://hromadske.ua/posts/pid-chas-vtechi-rosiyan-z-hersonu-bulo-vipusheno-vsih-vyazniv-z-sizo-de-voni-zaraz-nevidomo>

CHILD CARE FACILITIES



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The occupying power, first of all, is obliged to ensure the proper functioning of institutions/establishments devoted to the care and education of children. That means that the occupying authorities are bound not only to avoid interfering with their activities but also to support them actively. The occupying power must refrain from requisitioning staff, premises or equipment which are being used by such establishments and must ensure by agreement with the local authorities that the persons concerned receive food, medical supplies and anything else necessary to enable them to carry out their task.

This obligation of the occupying power allows us to conclude that the primary task is to ensure the functioning of such institutions in the occupied territory. The occupying power is obliged to do everything possible so that such institutions can fully perform their functions continuously in the territory where they are located because any violations of this process might do irreparable harm to physical and mental development of the institutions' residents³².

The role of the occupying power is limited only to the case when the local authorities do not fulfill their duties, and there are no relatives who can provide care and education to a child. Only in this case, the occupying power may hand over such children to authorised persons or institutions. According to Article 24 of the Fourth Geneva Convention, such persons should, whenever possible, be of the same nationality, speak the same language and practice the same religion as the children in their care.

At the same time, the question of the territoriality of such care is not even raised – international humanitarian law provides for a complete ban on the movement of children.

Article 78 of Protocol I Additional establishes a direct prohibition of the transfer of children to a foreign state, and the only exception in which the transfer of children who are in the occupied territory may be permitted is compelling reasons of the health or medical treatment. In the case of children, even the general rule provided for all protected persons is not taken into account – security of the population or imperative military reasons are not permissible reasons for moving children outside the country. At the same time, even if there is a single reason, it is emphasised that such an evacuation should be temporary – all necessary measures should be taken to ensure a quick transfer back, as soon as the circumstances that made the evacuation necessary have ceased³³. To facilitate the return of a child to the country of citizenship, a comprehensive information card for each child who has been evacuated shall be sent to the Central Tracing Agency of the International Committee of the Red Cross.

In the course of such evacuation, the state must make every effort to locate the child's relatives or guardians and obtain their written consent. In the absence of parents or guardians, consent is required of the persons who by law or custom are primarily responsible for the care of the children.

At the same time, only such consent is not enough. In the absence of a single legal basis, the consent of the responsible persons does not make the transfer of children legal. In addition, such consent must be free, that is, given without coercion. Any

32 Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, Commentary of 1958, Article 50: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-50/commentary/1958>

33 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Commentary of 1987, Article 78: <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-78/commentary/1987>

reference to the wishes or consent of the children themselves to such a transfer also does not make the transfer legal, because children, by virtue of their status, cannot give informed consent.

The prohibition of forced displacement also applies to transfer within the occupied territories. In this case, the general rule prohibiting forcible transfer of protected persons applies and only two legal grounds for evacuation are provided.

With regard to children, the prohibition of transfer is of particular importance due to their inability to make informed choices on their own, as well as the possibility of causing irreparable harm to a child through such transfer under already existing conditions of stress.

Russia, in turn, massively relocates children's institutions and some of their residents. This often happens within the bounds of the occupied territories, but this stage is usually intermediate, and institutions and their residents are moved further to the territory of the Russian Federation or immediately placed under the care of Russian families.

The deportation of child care facilities to the Russian Federation began even before the full-scale invasion. In particular, on 19 February 2022, the first buses with 225 pupils of Donetsk boarding school No. 1 arrived at the border of the Russian Federation³⁴. On 27 February 2022, information appeared about the accommodation on the eve of the full-scale invasion of "refugees from Donbas", "evacuees" in the territory of Russia's Rostov region, in particular, about the arrival of children from three Donetsk boarding schools-orphanages, Donetsk boarding school No. 1 among them, to the Romashka sports and recreation complex in Neklinovsky district, Rostov region of the Russian Federation, on 19 February 2022. A total of 457 children were accommodated in Romashka complex³⁵. On 23 April 2022, an interview with the institution's director, Olga Volkova, was released. She said that the decision on evacuation was made "within minutes" before the full-scale invasion, and that all the children "gave their consent" to be transferred to families in Russia³⁶.

On 2 October 2022, it became known about the transfer of 39 residents of Donetsk boarding school No. 1, who were previously in the territory of Rostov region of the Russian Federation, to the city of Kirov, Russian Federation. In October 2022, they had to undergo a medical examination and start studying³⁷.

34 Rostov region starts receiving evacuees from Donbas / VestiRU, 19 February 2022: <https://www.vesti.ru/article/2679189>

35 Convoys of buses and about 200 IDPs: how refugees from LPR and DPR accommodated in Rostov region / DONTR.RU, 27 February 2022: <https://dontr.ru/novosti/kolonny-s-avtobusami-i-okolo-200-pvr-kak-razmeshchali-bezhentsev-iz-lnr-i-dnr-v-rostovskoy-oblasti/>

36 Children in Donetsk were listening to missiles every day/ 360, 23 April 2022: <https://360tv.ru/tekst/obschestvo/kazhdyj-den-deti-donetska-prislushivalis-k-raketam/>

37 39 children from Donetsk boarding school arrive in Kirov / Svoiy Kirovskiy, 2 October 2022: <https://kirov-portal.ru/news/poslednie-novosti/v-kirov-pribyli-39-detej-iz-doneckoj-shkoly-internata-31840>

On 5 August 2022, Maria Lvova-Belova, Russian President's Commissioner for Children's Rights, visited the temporarily occupied territory of Luhansk region and reported that 160 children from the territory of the so-called "DPR" were placed in the custody of Russian families, of which 133 already received Russian citizenship. In the so-called "LPR" there are 442 such children and another 90 teenagers over the age of 16 who study in colleges.

According to Lvova-Belova, those children lived in boarding schools as orphans for a long time. The children were planned to be accommodated in families in Astrakhan, Volgograd, Leningrad, Murmansk, Nizhny Novgorod, Novosibirsk, Omsk, Penza, Samara, Tyumen, and Chelyabinsk regions. At a joint meeting of representatives of the authorities of the so-called "LPR" and Lvova-Belova, it was decided that soon 104 children from children's social institutions in the "LPR" would be placed in custody in Russian families. It was also decided to create a data bank of orphans and children left without care in the "LPR"³⁸.

On 13 October 2022, 24 orphans under the age of 16 were brought to Novosibirsk region from the temporarily occupied Luhansk region to be transferred to eight Russian foster families³⁹.

It was much easier to relocate children's institutions in the territories occupied by Russia until 24 February 2022 due to the mechanism and occupation infrastructure already formed over a long period of time. However, Russia is not limited to these territories only – Russia carries out forcible transfer first to other occupied territories with a long-established occupation system, and then deportation in territories occupied after the full-scale invasion.

The Donetsk Regional Prosecutor's Office also opened proceedings over cases of forcible transfer and deportation from the city of Mariupol. In particular, in March 2022, under the pretext of evacuation, the Russian armed forces forcibly removed 12 minor patients of the Regional Children's Bone and Tuberculosis Centre of Mariupol to the territory of Donetsk region occupied until 24 February 2022. Another 14 children, residents of two foster homes, together with three adoptive parents, were taken from the city of Mariupol to Russia's Rostov region⁴⁰.

This practice also became widespread in Kherson region, which was quickly occupied and that fact obstructed the evacuation of institutions from the territory.

38 Let's give them a chance – Maria Lvova-Belova about orphans in LPR / Official website of the Russian President's Commissioner for Children's Rights, 05 August 2022: <http://deti.gov.ru/articles/news/davajte-dadim-im-shans-mariya-l-vova-belova-o-detyah-sirotah-v-lnr>

39 Novosibirsk families accept children from LPR / RIA Novosti, 13 October 2022: <https://ria.ru/20221013/siroty-1823636704.html?in=t>

40 Forced evacuation of children from Mariupol to the Russian Federation and pseudo-republics – investigation has been launched / Prosecutor General's Office, 11 April 2022: <https://www.gp.gov.ua/ua/posts/primusova-evakuaciya-ditei-z-mariupolya-do-rf-ta-psevdorespublik-rozpocato-rozsliduvannya>

As of 24 February 2022, there were 52 children in the municipal institution of the Kherson Regional Council “Centre for Social and Psychological Rehabilitation of Children”. From the first months of the occupation, the children were provided solely thanks to the help of volunteers and local residents. Until May 2022, the employees of the institution worked full-time without getting salaries and began to receive funds from the Ukrainian budget⁴¹ only after May, which promoted refraining from cooperation with representatives of the occupation authorities.

On 2 June 2022, the Russian military came to the municipal institution and inspected the children and the institution. The director understood that it was time to act, and gave some of the children to their parents or relatives of the children – grandparents, etc. The transfer of the children was formalised in accordance with Ukrainian legislation. Seventeen children did not have close relatives, and a decision was made to transfer them to the families of the institution’s staff. As of 2 July 2022, there were five boys aged 14-17, director Volodymyr Sahaydak in the institution, and one more child was in hospital. When the Russian military arrived at the institution on 2 July 2022, they took away documents, computers, and a video surveillance system to find out where the children were⁴². They had a conversation with the five boys, who refused to go to the Russian Federation for rehabilitation and generally to go anywhere. In this way, the director of the institution managed to save the children from forced deportation. To date, almost all children have been evacuated to appropriate institutions in safer cities of Ukraine.

At the same time, on 15 July 2022, the Russian military brought 15 orphans, residents of the Novopetrivka special school (Municipal institution “Novopetrivka special school” of Novopetrivka village, Snihurivka district, Mykolayiv Regional Council), to the Centre for Social and Psychological Rehabilitation of Children, which at that time was on the front line. Children from Mykolayiv region were brought by the Russian military on military vehicles, they were followed throughout their stay in Stepanivka, so there was no way to hide these children. The children lived in the Centre until 19 October 2022. While retreating from Kherson, the Russians took the children with them⁴³. Volodymyr Sahaydak was told that they were being taken to Henichesk, but a bus driver said that they were going to Crimea. Three days later, Volodymyr Sahaydak managed to contact the director of the Novopetrivka special school, Natalia Lutsyk, the state guardian of the children, who did not leave them. She was moving with the children from July 2022 and reported that they were brought to the city of Anapa in

41 See also: Salaries to employees who stay in the territory of Ukraine captured by the aggressor during armed aggression against Ukraine or within the areas of military (combat) operations or blocked areas / National Agency of Ukraine for Civil Service <https://nads.gov.ua/vidpovidi-na-aktualni-pitannya-roboti-derzhavnoyi-sluzhbi-u-voyennij-period/oplata-praci-ta-inshi-viplati>

42 Ukraine War: Chilling moment Russians came for Ukrainian orphans / Sky News YouTube channel, 21 December 2022: <https://www.youtube.com/watch?v=c9js35juYBI>

43 Armed Russians broke into orphanage in Kherson region to kidnap children (video) / UNIAN, 22 December 2022: <https://www.unian.ua/society/rosiyani-zi-zbroyeyu-vderlisya-v-ditbudinok-na-hersonshchini-shchob-vikrasti-ditey-video-12087105.html>

Krasnodar Territory of the Russian Federation. Then a long rescue operation began and, according to Volodymyr Sahaydak, the residents of the Novopetrivka special school are now safe in the territory of Georgia⁴⁴.

More than 120 children from all regions of Ukraine lived in the Oleshky boarding school-orphanage. More than 50% of them are orphans and children deprived of parental care. Since childhood, they have movement disorders, use wheelchairs, crutches are bedridden.

Approximately until the beginning of May 2022, there was connection with the institution's director: the residents were provided with everything they needed with minor interruptions in the supply of food and medicines. At the end of April, Ms. Tetiana complained that there were very few workers, not enough staff. Then the connection with her was lost.

According to boarding school graduate Viktor Bulka, who keeps communicating with the institution's director Tetiana by phone, it is known about her refusal and the part of the staff to cooperate with the Russians. All those who refused to cooperate were fired. On 7 October 2022, representatives of the occupation authorities created the so-called budget institution "Oleshky boarding school-orphanage" on the basis of the property complex of the municipal institution "Oleshky boarding school-orphanage" and appointed a new "institution's director"⁴⁵. The dismissed director and her staff, who remained under the occupation, do not provide comments because the telephone connection is tapped and they can be taken "to basement for "mentoring" at any moment. A new director was appointed at the institution.

As of October 2022, the Ukrainian side was aware of 82 children staying in the institution, 40 of which were patients under palliative care. Twelve children with 1st, 2nd, 3rd degree disabilities aged 8 to 18 were forcibly transported to Clinical psychiatric hospital No. 5 in the village of Strohonivka, Simferopol district, occupied Crimea⁴⁶. On 5 November 2022, it became known about the forced transfer of other children aged 9 to 17 from the institution to the same Clinical psychiatric hospital in Simferopol district⁴⁷.

44 Russians wanted to steal 52 children from Kherson region! They were not allowed to do that! – Volodymyr Sahaydak / TSN, 03 January 2023: <https://tsn.ua/youtube/rosiyani-hotili-vkrasti-52-ditey-z-hersonschini-ne-dali-yim-ce-zrobiti-volodimir-sagaydak.html>

45 Russians continue to cynically kidnap Ukrainian children in temporarily occupied territories / Telegram channel of Andriy Yermak, Head of the Office of the President of Ukraine, 23 October 2022: <https://t.me/ermaka2022/1512>

46 Russians continue to cynically kidnap Ukrainian children in temporarily occupied territories / Telegram channel of Andriy Yermak, Head of the Office of the President of Ukraine, 23 October 2022: <https://t.me/ermaka2022/1512>

47 Occupation authorities of Kherson region continue to violate UN Convention on the Rights of the Child and the Geneva Convention relative to the Protection of Civilian Persons in Time of War / Telegram channel of Dmytro Lubinets, Ukrainian Parliament Commissioner for Human Rights, 05 November 2022: https://t.me/dmytro_lubinetzs/1117

At the time of the occupation, there were about 100 children in the Kherson regional children's home. In May 2022, the institution's director was escorted by the military, who were constantly on duty at the children's home. At the beginning of the occupation, the director communicated via Signal app but reported that the military was almost always near her, so she refused any help and cooperation in the future.

In April 2022, it was reported that there were 58 children in the children's home, and they stayed in the basement for a long time, hiding from shelling and bombing by the Russian military. The administration of the children's home and the Children's Service could not guarantee the safe transfer of children to the territory under the control of the government of Ukraine, and it was not possible to agree on a humanitarian corridor from Kherson region. At that stage, problems with food, medicines, and hygiene products began because the Russian side did not allow humanitarian aid to enter the city⁴⁸.

It is known that in June 2022, representatives of the Kherson regional charitable foundation "My Home" succeeded in taking away some of the children from the children's home, who were accepted and sheltered by the Golgotha Church. It is also known that after spreading the information about the rescue of children through the church, the Russian military searched local churches in one day, found and took away the children.

Three children from the children's home were transferred to the regional children's hospital for treatment in summer. In September 2022, those children were taken from the hospital and taken away when all the doctors had finished their shift and were off duty.

All children from the Kherson regional children's home were taken to Crimea, their further fate is unknown. Forty-six children under the age of five were taken to Simferopol by ambulances. Among them, 18 out of 46 children are deprived of parental care, nine are temporarily placed in custody, 19 have no legal status (removed from the family)⁴⁹. Kirill Stremousov, Kremlin-installed "deputy chairman of the Kherson region governor" also reported that transfer⁵⁰.

At the same time, an article entitled "Russian authorities take at least 14 orphans under the age of five from Kherson to Yelochka Crimean orphanage"⁵¹ was

48 Commissioner: 58 orphans remain in danger in temporarily occupied Kherson / Website of the Ukrainian Parliament Commissioner for Human Rights, 14 April 2022: https://ombudsman.gov.ua/news_details/upovnovazhenij-u-timchasovo-okupovanomu-hersoni-zalishayutsya-u-nebezpechi-58-ditej-sirit

49 Russians took 46 small children from Kherson to Simferopol – RMA / Ukrayinska Pravda, 21 October 2022: <https://www.pravda.com.ua/news/2022/10/21/7372970/>

50 Children's home completely evacuated from Kherson city today / Kirill Stremousov's Telegram channel, 21 October 2022: https://t.me/Stremousov_Kirill/567

51 Russian authorities take at least 14 orphans under the age of five from Kherson to Yelochka Crimean orphanage / Viorstka, 26 January 2023: <https://verstka.media/rossijskie-vlasti-vyvezli-nemenee-14-sirot-iz-hersona/>

published on the website of the Viorstka Russian media outlet on 26 January 2023. Its authors suspect that those 14 children are from the group of 46 children taken out of the Kherson regional children's home. All 14 children were photographed in the same interiors of the Yelochka orphanage, which specializes in working with children who have central nervous system lesions, mental and behavioral disorders, hearing and vision impairments, and HIV. The orphanage is subject to the so-called "Ministry of Health of the Republic of Crimea".

The article also notes that "Commissioner for Children's Rights of Crimea" Iryna Kliuyeva reported on 28 October 2022 that Maria Lvova-Belova, Russian President's Commissioner for Children's Rights, came to visit the children evacuated from Kherson and brought beds and mattresses for the children.

In addition, volunteers from Yalta, who visited Yelochka orphanage during the reception of orphans from Kherson, wrote that the children needed warm clothes, pants, jackets, and developmental toys, and announced a fundraising campaign. Among the messages published regarding this campaign, messages about the arrival of 46 orphans from Kherson⁵² to the orphanage have been preserved. This information is also confirmed in the comments to the post.

52 Messages of volunteers, published on Katerina Gorelkina's personal Vkontakte account, 28 October 2022: https://vk.com/wall36790778_12175

