

Explanatory Note
to the Resolution of the Verkhovna Rada of Ukraine On Declaration of
the Verkhovna Rada of Ukraine on the Genocide
Committed by the Russian Federation in Ukraine

1. The basis for the adoption of the Resolution

At this difficult time, when the struggle of the Ukrainian people against the armed aggression of the Russian Federation continues, more and more brutal atrocities that must receive a proper legal assessment come to light. It is clear now that the actions committed by the armed forces of the Russian Federation amount not only to a crime of aggression but are also aimed at systematic and consistent destruction of the Ukrainian nation, its distinct identity, and at depriving the Ukrainian nation of its right to independent development.

This requires the immediate recognition of the actions committed by the armed forces of the Russian Federation during the most recent phase of the armed aggression of the Russian Federation against Ukraine, which began on 24 February 2022, as genocide of the Ukrainian nation.

By Article 2 of the UN Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the Convention) and Article 6 of the Rome Statute of the International Criminal Court (hereinafter the Statute) 'genocide' means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

Thus, to establish the act of genocide, it is necessary to establish that the relevant acts are characterized as follows:

- 1) they are directed against a certain protected group of people which can be distinguished based on nationality, ethnicity, race, or religion;
- 2) their purpose is to destroy a protected group of people in whole or in part;
- 3) they must be manifested in at least one of the forms provided for in the Convention and the Statute.

1.1. Acts committed against the Ukrainian nation

The texts of the Convention and the Statute use the term 'national group'. The meaning of this term cannot be tied only to a particular nationality, within

the meaning of ethnicity (for example, ethnic Ukrainians), as the representatives of the ‘Russian world’ often try to do, as such interpretation unjustifiably narrows the content of the Convention and leaves outside the scope of the protection against genocide whole communities of people who may belong to different ethnicities.

The judicial practice has a broader understanding of the concept of the national group, which on the one hand meets the objectives of the Convention and the Statute, and on the other, corresponds to the semantic meaning of the English terms 'nation', 'national', which in Ukrainian corresponds primarily to the terms 'people', 'people's'. Thus, according to the judgment of the International Criminal Tribunal for Rwanda in the case of *Akayesu* ‘a national group is defined as a collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties’.

It should also be borne in mind that the case-law of international criminal tribunals uses a so-called subjective approach to the definition of protected groups (case of *Semanza*). This means that the victim’s affiliation to a protected group is determined not only by certain objective criteria but also by the perpetrator's subjective perception of the victim's affiliation to such a group. According to this approach, even persons who are not formally citizens of Ukraine, but are considered and persecuted by the aggressor as such for physical destruction, belong to the protected national group.

The text of the Constitution of Ukraine (General Principles) defines the Ukrainian nation as citizens of Ukraine of all nationalities residing in Ukraine. It is therefore the Ukrainian nation that constitutes a protected group of people for genocide. This concept fully corresponds to the meaning of the term 'national group' in the definition of genocide under international law.

Given the above, it should be noted that the actions of the Armed Forces of the Russian Federation on the territory of Ukraine against the civilian population are carried out with the intent to destroy, in whole or in part, the Ukrainian nation as a distinct national group under the Convention.

1.2. The aim of the Russian Federation is the destruction of the Ukrainian nation

The circumstances that precede and accompany the onset and conduct of the aggressive war of the Russian Federation against Ukraine unequivocally indicate the intent of the leadership of the Russian Federation to destroy the Ukrainian nation.

Several days before the full-scale invasion of the Russian Federation in Ukraine, on 21 February 2022, Putin denied the existence of Ukraine as a separate state and said that Ukraine is an ‘integral part’ of Russia and Russia’s ‘historical, cultural and spiritual space’. This was preceded by other statements by Vladimir Putin that Ukrainians are not a separate nation, but are part of the

Russian nation. For example, this was substantiated in Vladimir Putin's article 'On the historical unity of Russians and Ukrainians.'

Vladimir Putin's assertion that the Ukrainian and Russian nations are not distinct, but are one nation amounts to nothing less than denying the very existence of one of these two nations, in this case, the Ukrainian nation. If only one of the two nations exists, the other cannot exist. It is self-evident that in Putin's view only the Russian nation should continue to exist.

Thus, during a speech at a meeting of the National Security and Defense Council of the Russian Federation on 21 February 2022, Putin stated that modern Ukraine was created completely by Russia and accused the Communists and Ukrainian nationalists 'of the collapse of historical Russia called the USSR'. He also noted that in 2014, as a result of the 'coup d'état', radical nationalists seized the power and openly launched an anti-Russian policy.

The stated goal of military aggression by the Russian Federation is the 'denazification' of Ukraine. This term was created precisely to link the armed aggression to the destruction of the 'nazis' who allegedly inhabit Ukraine. The Russian leadership labels 'nazis' those Ukrainians who deny the idea of the existence of a sole nation and who fight for the right of the Ukrainian nation to self-identification. In this way, the Russian Federation pursues a policy aimed at creating a distorted view of the identity of the Ukrainian nation and its desire for independence, implemented through the dissemination of false ideologemes based on the deliberately untruthful and manipulative identification of Ukrainian patriotism with 'Nazism' or other misanthropic ideologies.

The false ideologeme described above is spread by a well-developed Russian propaganda network and is publicly and officially supported by officials at various levels. Already in the midst of the war, the Deputy Chairman of the Security Council of the Russian Federation (the Chairman of the Council is Vladimir Putin) Dmitry Medvedev in his telegram channel said on 17 March 2022 that Ukrainianness and its identity '[...] is one big fake. This phenomenon has never existed in history. And it does not exist now'.

The website of the Russian state-owned (!) international news agency RIA Novosti on 3 April 2022 published an article entitled 'What Russia Should Do to Ukraine' stating that the 'denazification' of Ukrainians consists in re-education, which is achieved through ideological repression (suppression) of nazi attitudes and strict censorship not only in the political sphere but also in the sphere of culture and education. This publication states that 'denazification' will inevitably constitute 'de-Ukrainization' understood as the rejection of the large-scale and artificial inflation of the ethnic component of self-identification of the population of the historical territories of Little Russia and Novorossia. The author of this propagandistic material claims that 'debanderization' alone will not be enough for 'denazification' as the 'Bandera' element is only a performer and a screen, a disguise for the European project of nazi Ukraine, so the denazification of Ukraine is also inevitably its 'de-Europeanization'.

Thus, the true objective of 'denazification' is the destruction of the Ukrainian nation, its distinct identity, and the deprivation of its right to independent development.

This objective has been implemented gradually and step by step. This is evidenced by the centuries-long policy of the Russian Federation aimed at 'deUkrainization' and absorption of the Ukrainian nation through distortion and appropriation of its history, and its achievements in the fields of science, culture, and art. Just one of many very telling examples is Putin's statement during the joint press conference with the French President E. Macron in May 2017 in Versailles that Yaroslav the Wise is their Grand Duke, and that his daughter Anne, the wife of King Henry I of France, established Russian-French relations. In his article 'About the historical unity of Russians and Ukrainians', the President of the Russian Federation claims that modern Ukraine is entirely the brainchild of the Soviet era and that the Ukrainian elite denies this. He believes that collectivization, the famine of the early 1930s is a common tragedy, and Ukrainians call it the genocide of the Ukrainian nation. In fact, the Holodomor of 1932-1933 is one of the most telling historical examples of Russia's genocidal actions aimed at the destruction of the Ukrainian nation.

Numerous public statements by the President of the Russian Federation as head of state and Commander-in-Chief of the Armed Forces of the Russian Federation and by other Russian state officials as well as decisions of authorities of all levels taken in support and pursuance of these statements testify in their totality to the existence of an official policy of the Russian state of nonrecognition of the Ukrainian nation's right to self-identification, self-determination and, consequently, of its right to exist.

Thus, at the NATO Summit in 2008, the President of the Russian Federation stated that Ukraine is a complex state entity, one-third of Ukrainians are ethnic Russians, and the Russian Federation has its own interests in Ukraine. At the same time, Vladimir Putin stated that if Ukraine joins NATO, Ukraine may cease to exist. In his article about the wall between Russia and Ukraine published in July 2021, Vladimir Putin also stated that Ukraine's sovereignty is possible only in partnership with the Russian Federation. Former First Deputy Head of the Presidential Administration of the Russian Federation V. Surkov in November 2021 in his propaganda article stated that Russia 'has not lost its imperial instincts' and will continue to expand.

These and numerous other public materials prove that the policy of the Russian Federation, implemented consistently and systematically, is aimed at the mass extermination of the population of Ukraine, violation of the sovereignty and territorial integrity of Ukraine, and the elimination of the statehood of the Ukrainian nation. The goal of the leadership of the Russian Federation is to destroy the patriots of Ukraine, the Ukrainian language, Ukrainian culture, and everything that forms the identity of the Ukrainian nation.

1.3. Forms of the genocide of the Ukrainian nation

The actions of the armed forces of the Russian Federation against the civilian population on the territory of Ukraine are committed with the intent to destroy, in whole or in part, the Ukrainian nation as a distinct national group by killing members of this group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life for Ukrainian population that is calculated to bring about the physical destruction in whole or in part of the Ukrainian nation, the forcible transfer of Ukrainian children to the territory of the Russian Federation or the territories of Ukraine temporarily occupied by the Russian Federation.

There is evidence of mass atrocities perpetrated by the armed forces of the Russian Federation in the temporarily occupied territories (in particular in the cities of Bucha, Irpin, Mariupol, urban-type settlements Borodyanka, Hostomel, and many other inhabited localities on the territory of Ukraine) which include numerous instances of murder, enforced disappearance, imprisonment, torture, rape, desecration of corpses, executions of people and entire families, including children that tried to evacuate from the occupied settlements of Donetsk, Kyiv, Luhansk, Sumy, Kharkiv, Kherson, Chernihiv regions. After the liberation of the territories occupied by the Russian Federation, more and more such horrific, inhuman, and cynical deeds come to light.

The occupiers are intentionally targeting the civilian population, civilian facilities, and specially protected sites (hospitals, schools, kindergartens) as in Mariupol (dropping bombs on the maternity hospital and on the theater which served as a shelter for civilians and near which the inscription 'Children' was made), essentially destroying entire cities (Volnovakha, Izyum, Mariupol, Okhtyrka, Chernihiv, Shchastia and a number of other settlements).

Special attention should be paid to the numerous facts that indicate the creation of conditions of life calculated to physically destroy the population of Ukraine.

Besieging of settlements, destruction of civilian infrastructure in such areas (electricity, water and heat supply, etc.) combined with blocking humanitarian aid and obstructing the evacuation of civilians deprives the population of access to basic items indispensable for survival, namely water, food, heat in the cold season, medicines, and medical care. This is designed to inflict great suffering and ultimately achieve the physical destruction of civilians in many settlements in Ukraine. Such actions constitute a war crime of using starvation of civilians as a method of warfare as well as a crime against humanity of extermination of the civilian population. The besieging of such large cities as Mariupol and Chernihiv testifies to the intent of the Russian Federation to achieve the physical destruction of at least part of the Ukrainian nation.

There are also numerous cases of forcible transfer of thousands of people, including children, belonging to the civilian population of Ukraine to the territory of the Russian Federation or the territories temporarily occupied by it.

The forced expulsion and relocation of Ukrainian citizens en masse, as is the case with the residents of Mariupol, also proves the intent to destroy the Ukrainian nation by ending its existence in certain areas. The forcible transfer of Ukrainian children to the territory of the Russian Federation and their relocation to an alien environment testifies to the intent to annihilate their self-identification as Ukrainians.

There are numerous instances of causing serious physical and mental harm to the representatives of Ukrainian public authorities and local self-government, representatives of non-governmental organizations, and other local activists, journalists, clergy, and other authoritative figures in Ukrainian society. Such actions are aimed at suppressing and destroying the elite of the Ukrainian nation.

A number of actions of the Russian Federation are aimed at inflicting conditions of life calculated to bring about gradual destruction of the Ukrainian nation by means of undermining its economic capacity and security, which is manifested in the destruction of economic infrastructure (damaging granaries, obstructing sowing campaigns, blockading trade routes, destroying electricity and gas transportation infrastructure, etc). Such actions are aimed at creating preconditions for the gradual impoverishment of the Ukrainian nation, shortage of food supplies, and other resources indispensable for people's survival.

In the territories temporarily occupied by the Russian Federation, the usage of the Ukrainian language and Ukrainian-language books is banned, and education in Russian and with a Russian ideological bias is instantly introduced, which also testifies to the attempts to destroy Ukrainian identity and the Ukrainian nation. Children who are forced to study under new 'programs' are in fact subjected to forced transfer from one group to another.

In the libraries of the temporarily occupied territories of Luhansk, Donetsk, Chernihiv, and Sumy regions, Ukrainian historical and fiction literature which does not coincide with the postulates of Kremlin propaganda is being confiscated. Russian units of the so-called 'military police' were specially engaged for this task. They have a whole list of names forbidden to be mentioned, among them are Mazepa, Petliura, Bandera, Shukhevych, and Chornovil. The instances of the seizure of the book 'The Case of Vasily Stus' by Vakhtang Kipiani are also known. Found books are confiscated, immediately destroyed, or taken away in an unknown direction.

It should be noted that cases of genocide involving the physical destruction of a protected group are often accompanied by attacks on and destruction of cultural and historical heritage sites, religious sites, and buildings. In this regard, international courts and criminal tribunals consider that attacks on cultural and religious sites and symbols may be legitimate evidence of the intent to physically destroy a protected group.

The deliberate destruction of Ukrainian museums, historical monuments, places of worship, destruction of Ukrainian books, and the banning of the use of the Ukrainian language in the territories controlled by the occupiers is an attempt to erase cultural, historical, and linguistic features that characterize and unite the

Ukrainian nation. Such actions prove the existence of intent to physically destroy the Ukrainian nation.

Thus, these facts taken together provide grounds to believe that the actions of the Russian Federation during the armed aggression are aimed at the destruction of the Ukrainian nation and therefore amount to genocide.

2. Purpose and objective of the Resolution

The purpose of the Resolution is the recognition by the Verkhovna Rada of Ukraine as an act of genocide against the Ukrainian nation of the actions committed by the Armed Forces of the Russian Federation and its political and military leadership during the most recent phase of the military aggression of the Russian Federation against Ukraine which began on 24 February 2022.

3. General summary and basic provisions of the Resolution

The Resolution proposes to adopt the Declaration of the Verkhovna Rada of Ukraine 'On the Genocide Committed by the Russian Federation in Ukraine'. With this Declaration, the Verkhovna Rada of Ukraine recognizes as the genocide of the Ukrainian nation the actions committed by the Armed Forces of the Russian Federation and its political and military leadership during the most recent phase of the military aggression of the Russian Federation against Ukraine which began on 24 February 2022.

Parliament also appeals to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly, the NATO Parliamentary Assembly, and governments and parliaments of foreign states to recognize the genocide of the Ukrainian nation committed by the Russian Federation as well as crimes against humanity and war crimes committed on the territory of Ukraine.

The Resolution instructs the Chairman of the Verkhovna Rada of Ukraine to ensure the immediate forwarding of the text of the Declaration to the United Nations, the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE Parliamentary Assembly, the NATO Parliamentary Assembly, and governments and parliaments of foreign states.

The Chairman of the Verkhovna Rada of Ukraine is empowered to appeal to the Prosecutor General's Office, the Ministry of Foreign Affairs of Ukraine, and the Ministry of Justice of Ukraine to take urgent measures to properly document the genocide of the Ukrainian nation, crimes against humanity and war crimes, and other serious crimes committed on the territory of Ukraine, and to initiate the prosecution of all the perpetrators.

4. Financial and economic justification

Adoption of the Resolution does not require additional expenditures from the State Budget of Ukraine.

5. Justification of the expected socio-economic, legal, and other consequences of the Resolution after its adoption

Adoption of the Resolution will be the first step toward exposing the true intent of the Russian Federation and its actions aimed at the destruction of the Ukrainian nation during the armed aggression of the Russian Federation against Ukraine and bringing this information to the international community in order to ensure the prosecution of all the perpetrators.

Members of Parliament