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Rapid  
Response  
Analysis

A close-up photograph of several dark red Russian passports. A hand with bright pink nail polish is pointing to one of the passports. The passports feature the Russian coat of arms and the text 'РОССИЙСКАЯ ФЕДЕРАЦИЯ' and 'RUSSIAN FEDERATION'.

# RUSSIAN CITIZENSHIP REQUIREMENT FOR UKRAINIANS IN THE OCCUPIED TERRITORIES

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# Russian Citizenship Requirement in the Occupied Territories: Rapid Response Analysis

## Background and Introduction

On April 27, 2023, Vladimir Putin, president of the Russian Federation, signed a decree (“Citizenship Decree”) seeking to impose Russian citizenship on the Ukrainian people living within the Russian-Occupied Territories of Ukraine in Donetsk, Luhansk, Kherson, and Zaporizhzhia (“Occupied Territories”).<sup>1</sup> The Citizenship Decree requires those in the Occupied Territories to take on citizenship of the Russian Federation.<sup>2</sup> Anyone who does not take on Russian citizenship by July 1, 2024, will be considered a foreigner and “subject to deportation.”<sup>3</sup>

As a consequence of Russia’s full-scale invasion of Ukraine beginning on February 24, 2022, and based on pre-war estimates, more than eight million people live within the Occupied Territories.<sup>4</sup> Since 2014 Russia has been naturalizing Ukrainian people in the Occupied Territories.<sup>5</sup> The most significant aspect of the Citizenship Decree is the new threat of deportation for Ukrainians in the Occupied Territories who do not take Russian citizenship.

From a public international law perspective, the Citizenship Decree violates multiple international laws and norms. From a practical perspective, the Citizenship Decree imposes unacceptable hardship for the millions of Ukrainians in the Occupied Territories.

## Public International Law Perspective

Forced citizenship and deportations and forced citizenship carried out pursuant to the Citizenship Decree would violate multiple international laws and norms, including the 1949 Geneva Convention (IV) for the Protection of Civilian Persons in Time of War, the Genocide Convention, the 1998 Rome Statute of the International Criminal Court, the International Legal Principle of Good Neighborly Relations, and the 2014 and 2015 Minsk agreements between Russia and Ukraine.

**The 1949 Geneva Convention for the Protection of Civilian Persons in Time of War** in Article 49 provides that “deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited,

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<sup>1</sup> Указ Президента Российской Федерации от 27.04.2023 № 307 · Официальное опубликование правовых актов · официальный интернет-портал правовой информации (2023), <http://publication.pravo.gov.ru/Document/View/0001202304270013?index=0&rangeSize=1>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at paragraph 14.

<sup>4</sup> *The Five Ukrainian Regions Annexed by Russia Since 2014*, THE ECONOMIC TIMES, Sept. 30, 2022, available at <https://economictimes.indiatimes.com/news/international/world-news/the-five-ukrainian-regions-annexed-by-russia-since-2014/articleshow/94570113.cms>.

<sup>5</sup> Elina Beketova, *Behind the Lines: Passport to the Front*, CENTER FOR EUROPEAN POLICY ANALYSIS, March 23, 2023, available at <https://cepa.org/article/behind-the-lines-passport-to-the-frontline/>

regardless of their motive.”<sup>6</sup> Article 4 defines “protected persons” as “those who at a given moment and in any manner whatsoever, find themselves, in a case of a conflict or occupation, in the hands of a party to the conflict or Occupying Power of which they are not nationals.”<sup>7</sup> This definition of “protected persons” applies to the Ukrainians in the Occupied Territories, given that Russia’s war against Ukraine has now brought their homeland under the occupation of Russia, of which they are not nationals.

### **The Convention on the Prevention and Punishment of the Crime of Genocide**

prohibits “[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part,” as a means to “destroy, in whole or in part, a national, ethnical, racial or religious group.”<sup>8</sup> The “transformation” of Ukrainian citizens, under the threat of deportation, into Russian citizens is consistent with Russian efforts to destroy the Ukrainian identity through the destruction of Ukrainian cultural heritage,<sup>9</sup> the displacement and killing of Ukrainian citizens, and the forced deportation and transfer of Ukrainian children in the occupied territories to Russia.<sup>10</sup>

**The 1998 Rome Statute of the International Criminal Court** in Article 8(2)(b)(viii) includes as a war crime, “the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.”<sup>11</sup> The Citizenship Decree constitutes a further escalation of the same crime under Article 8 for which he was charged by the International Criminal Court, on March 17, 2023.<sup>12</sup> Although neither Russia nor Ukraine is a party to the Rome Statute of the International Criminal Court, the court currently has jurisdiction “with respect to alleged crimes committed on Ukrainian territory,” in light of Ukraine’s referral of the matter to the court.<sup>13</sup>

**The International Legal Principle of Good Neighborly Relations** in the Preamble and Article 74 of the U.N. Charter, calls for the peaceful resolution of disputes over the use of force, based on respect for the principle of equal rights and self-determination of peoples.<sup>14</sup> Forcing the

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<sup>6</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War art. 49, Aug. 12, 1949, 75 U.N.T.S. 287, available at <https://treaties.un.org/doc/Publication/UNTS/Volume%2075/volume-75-I-973-English.pdf>.

<sup>7</sup> *Id.* Art. 4.

<sup>8</sup> The Convention on the Prevention and Punishment of the Crime of Genocide, art. III, (Jan. 12, 1951), available at <https://treaties.un.org/doc/Publication/UNTS/Volume%2078/volume-78-I-1021-English.pdf>.

<sup>9</sup> United Nations Office of the High Commissioner for Human Rights, *Targeted destruction of Ukraine’s culture must stop: UN experts*, (Feb. 22, 2023), available at <https://www.ohchr.org/en/press-releases/2023/02/targeted-destruction-ukraines-culture-must-stop-un-experts>.

<sup>10</sup> Press Release, International Criminal Court, Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova (Mar. 17, 2023), available at <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and-maria-alekseyevna-lvova-belova>.

<sup>11</sup> *Rome Statute of the I.C.C.* art. 8, 2010, available at <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

<sup>12</sup> Press Release, International Criminal Court, Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova (Mar. 17, 2023), <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and-maria-alekseyevna-lvova-belova>.

<sup>13</sup> International Criminal Court, *Situation in Ukraine*, (Mar. 2, 2022), available at <https://www.icc-cpi.int/situations/ukraine>.

<sup>14</sup> United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, available at <https://www.un.org/en/about-us/un-charter/full-text>; Adriana Kalicka-Mikolajczyk, *The Good Neighborliness Principle in Relations Between the European Union and its European Neighbors*, ADAM MICKIEWICZ UNIVERSITY

Ukrainians living in the Occupied Territories to choose Russian citizenship or separation from their families, homes, and communities through deportation violates this principle. As a member of the U.N. and a permanent member of its Security Council, Russia should hold this principle in even higher regard.

Deportation of Ukrainians in the Occupied Territories also violates the **Minsk Agreements** that Russia signed in 2014 and 2015, which, among other things, recognized Ukrainian sovereignty of the now Russian-occupied parts of Ukraine.<sup>15</sup>

## **Undue Hardship**

Forcing Ukrainians to adopt Russian citizenship has happened since 2014, but the Citizenship Decree goes even further than previous efforts.

Continuing without Russian citizenship carries significant risk for Ukrainians in the Occupied Territories. Based on Russia's current record of deporting Ukrainians, and particularly Ukrainian children,<sup>16</sup> from within the Russian-occupied parts of Ukraine to deep within Russia, or to third countries via "filtration centers," the threat of deportation for not agreeing to take Russian citizenship is very real.<sup>17</sup> Since 2014, nearly a million people living in the occupied territories of Donetsk and Luhansk have acquired Russian citizenship as a means of economic and physical survival.<sup>18</sup>

According to Russian practices, refusing to accept Russian citizenship in violation of the Citizenship Decree may cause Ukrainians in the Occupied Territories to be viewed as Ukrainian sympathizers. Ukrainians living under Russian occupation have already reported suffering a loss of rights and sometimes torture or even death, for "actual or suspected volunteer activities, providing or expressing support for Ukrainian forces or the government, or for being a veteran of the Ukrainian security force operations" in the Occupied Territories.<sup>19</sup>

Taking Russian citizenship however carries the risk of forced mobilization into the Russian military. Already, thousands of Ukrainians trapped within the Russian-occupied parts of

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LAW REVIEW, Sept. 9, 2019, at page 139, *available at*

[http://ppuam.amu.edu.pl/uploads/PPUAM%20vol.%209/09\\_Kalicka-Miko%C5%82ajczyk.pdf](http://ppuam.amu.edu.pl/uploads/PPUAM%20vol.%209/09_Kalicka-Miko%C5%82ajczyk.pdf).

<sup>15</sup> Organization for Security and Co-operation in Europe (OSCE), *Protocol on the results of consultations of the Trilateral Contact Group (Minsk Agreement)*, 1 (Sep. 5, 2014), *available at* <https://www.osce.org/files/f/documents/a/a/123258.pdf>.

<sup>16</sup> *Russia's Systematic Program for the Re-education and Adoption of Ukraine's Children*, YALE SCHOOL OF PUBLIC HEALTH HUMANITARIAN RESEARCH LAB, page 4, 14 (Feb. 14, 2023), *available at* <https://hub.conflictobservatory.org/portal/sharing/rest/content/items/97f919ccfe524d31a241b53ca44076b8/data>.

<sup>17</sup> Press Release, Anthony J. Blinken, Russia's "Filtration" Operations, Forced Disappearances, and Mass Deportations of Ukrainian Citizens, U.S. Dept. of State, (Jul. 13, 2022), *available at* <https://www.state.gov/russias-filtration-operations-forced-disappearances-and-mass-deportations-of-ukrainian-citizens/>.

<sup>18</sup> *Le Monde*, *Putin Threatens to Deport Ukrainians From Regions Annexed by Russia*, *available at* [https://www.lemonde.fr/en/international/article/2023/04/29/putin-threatens-to-deport-ukrainians-from-regions-annexed-by-russia\\_6024766\\_4.html#:~:text=According%20to%20the%20official%20data,Russia%20occupied%20separatist%20territories%20in.](https://www.lemonde.fr/en/international/article/2023/04/29/putin-threatens-to-deport-ukrainians-from-regions-annexed-by-russia_6024766_4.html#:~:text=According%20to%20the%20official%20data,Russia%20occupied%20separatist%20territories%20in.)

<sup>19</sup> Human Rights Watch, *Ukraine: Russian Torture Center in Kherson*, (April 13, 2023), *available at* [hrw.org/news/2023/04/13/ukraine-russian-torture-center-kherson](https://www.hrw.org/news/2023/04/13/ukraine-russian-torture-center-kherson).

Ukraine have been forced into the Russian military to fight against their neighbors and fellow countrymen.<sup>20</sup>

To date, the Ukrainian government, as explained by Mykhailo Podolyak, an adviser to Ukraine's presidential office, has been clear that “[i]f it is possible not to take a Russian passport, then try not to take one. But if you have to take a Russian passport to avoid oppression and torture, then take one,” and that Ukraine would not persecute citizens who “passively obtained Russian citizenship.”<sup>21</sup> Even with this guarantee by the Ukrainian government, during a time of war there are societal, and even personal psychological and emotional risks associated with taking on the citizenship of a state committing a war of aggression against your state and attempting genocide against your people.

## Conclusion

Despite the public affairs gloss painted by the Kremlin, the Citizenship Decree does not present the Ukrainians in the Occupied Territories with a new opportunity to become Russian citizens as much as it establishes the certain threat of deportation for continuing without Russian citizenship past the July 1, 2024 deadline. From a public international law perspective, the Citizenship Decree violates multiple treaties to which Russia is a party, including the Fourth Geneva Convention of 1949, the Genocide Convention, and the Minsk agreements, as well as the Rome Statute of the International Criminal Court, as well as certain international principles and norms, including the International Principles of Good Neighborly Relations. Moreover, the Citizenship Decree creates undue hardship by threatening access to economic and physical security, exposing Ukrainian citizens to conscription in the Russian armed forces to fight against their own country, and potentially causing substantial emotional distress by taking on the citizenship of the occupying enemy.

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<sup>20</sup> Marc Santora and Anna Lukinova, *The Kremlin's mobilization effort includes forcing Ukrainians to fight their own country*, THE NEW YORK TIMES, Sept. 25, 2022, available at <https://www.nytimes.com/live/2022/09/25/world/russia-ukraine-putin-news/the-kremlins-mobilization-effort-includes-forcing-ukrainians-to-fight-their-own-country?smid=url-share>.

<sup>21</sup> Lilia Rzhetska and Hanna Sokolova, *Russia Forces Occupied Ukrainians to Change Citizenship*, DW NEWS, (May 5, 2023), available at <https://www.dw.com/en/russia-forces-occupied-ukrainians-to-change-citizenship/a-65522524>.