



CRIMEAN  
HUMAN RIGHTS  
GROUP

# INFORMATION WAR CRIMES

Incitement to genocide and war of aggression  
in the Russian media space



Kyiv — 2024

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**Information War Crimes:** analytical information report on spreading incitement to genocide of Ukrainians and a war of aggression against Ukraine through the Russian information resources covering the armed conflict between the Russian Federation and Ukraine on a regular basis (February 2022 – February 2024)/ Under the general editorship by Yana Salakhova. – Kyiv, 2024. – 70 p.

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The publication represents the results of the monitoring and analysis of the content of Russian media as well as of reviewing international and Ukrainian legislation that regulates dissemination of speech acts containing incitement to genocide and a war of aggression. The report summarizes messages published in the Russian media from February 24, 2022, to July 31, 2024. The publication sources are mass media materials distributed across the territory of the Russian Federation since the full-scale invasion of the territory of Ukraine by Russia as well as open-source messages, including the information resources of the governmental bodies of Ukraine, the Russian Federation and "de facto" Crimea, the Crimean Human Rights Group.

The study mainly targets the media community, governmental bodies, educational and research institutions, diplomatic missions and international organizations as well as NGOs including human rights ones.

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Kingdom of the Netherlands

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**CRIMEAN  
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Crimean Human Rights Group (CHRG) is the Ukrainian non-governmental organization of Crimean human rights defenders and journalists. It is aimed at supporting observance and defense of human rights in Crimea by documenting violations of human rights and international humanitarian law norms in the Crimean Peninsula

territory and bringing public attention to them. CHRG is also searching and developing procedures to defend human rights for the residents of the occupied territories of Ukraine. The CHRG team includes experts, human rights defenders and journalists who since February 2014 have been monitoring and documenting violations of human rights in Crimea. The CHRG is mainly focused on human rights violations caused by unprovoked armed aggression of the Russian Federation against Ukraine. The results of CHRG monitoring and human rights violation documenting are published on quarterly basis in the monitoring reviews of human rights situation in Crimea<sup>1</sup>, and in the thematic reports and articles<sup>2</sup>.

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<sup>1</sup> <https://crimeahrg.org/en/main-page-3/>

<sup>2</sup> <https://crimeahrg.org/en/analitika-en/>

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# SUMMARY

NO SIGNAL

NO TAPE

APR 04 2025

Since 2014, the Crimean Human Rights Group has been monitoring hate speech in the Russian media space. After the full-scale invasion of Ukraine in 2022, the nature of the statements monitored transformed into hate speech through direct and public incitements to serious crimes. Given these dangerous trends, this study explored the potential of the monitoring results for use as evidence of criminal liability for incitement to genocide and waging a war of aggression in accordance with the existing judicial practice of international and Ukrainian legislation. Specific attention was paid to the psycholinguistic aspects of the analyzed statements and identifying markers that may constitute elements of crimes such as incitement to genocide and crimes of aggression.

The section dedicated to the monitoring results describes the methodology and provides an overview of the key communication channels (i. e., state-run media); media speakers popular in the Russian Federation and connected to them Internet sites; and their impact, including coverage, which varies from 2.5 to 28 million views. The types of incitements by mode and form of communication, narrative, and the status and connections of the speakers who disseminate these statements are also analyzed.

The analysis of the monitoring concluded that the speakers regularly incite hatred against Ukrainians on these information channels, in particular inciting the audience *to genocide of Ukrainians, to waging a war of aggression against Ukraine, and to commit war crimes and crimes against humanity*. Most of the analyzed speech acts include **statements that the population of Ukraine should be destroyed, in whole or in part, or persecuted**. Such incitements are usually combined with explanations and justifications for such actions. These speech acts incorporate manipulative actions such as the substitution of terms, wishes, and advice, among other strategies. In general, the inciting speech acts are disseminated **as direct quotes** of speakers broadcast live, in the **comments of the TV or radio presenters** on the news stories, or **as verbatim quotations** of other speakers by the presenters.

This study draws attention to the danger of Telegram channels that rebroadcast Russian state-owned live shows and thus reinforce the effects of the messages and narratives communicated on TV. The additional interaction of the target audience with the content is one of the tools for strengthening the effect of such messages. According to the observations of the monitors, the absence of pre- and post-moderation encourages the use of hate speech in comments in more extreme forms than those made publicly live on state-run TV channels



The overview of the international legislation focused on assessing the possible use of a “national group” definition in the context of the incitement to genocide during the Russian–Ukrainian war, judicial practice, and the challenges related to the absence of a definition for “propaganda” as such or lack of regulation on incitements to crimes on the internet and through social networks.

The review of national legislation focused on issues related to the criminal prosecution of persons who provide informational support to Russian aggression against Ukraine and commit or facilitate the commission of crimes against peace, human security, and the international legal order, including genocide and crimes against humanity. Factors such as the gravity of the offence, the statute of limitations for criminal prosecution, and specific aspects of investigating crimes committed by a group of persons—notably with the involvement of instigators and accomplices—are analyzed in detail as exemplified through articles 436, 437, 438, 442, and 442-1 of the Criminal Code of Ukraine (CCU).

The final section of the study provided an overview of the *psycholinguistic aspects of the inciting speech*. Together with the analysis of the cultural and linguistic context, the expert assessment indicates that the Russian population understands the term “political nation” as the total community of the country. Hence, incitement to destroy the political nation provides grounds for defining Ukrainians as a “national group” in the context of the provisions of the UN Genocide Convention. This section also lists the words and markers for identifying incitements to genocide and other crimes.

This report argues for the potential application of the national group concept to Ukrainian nationals linguistically and legally in line with the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide. It also points to a few of the challenges present in criminal law, both international and Ukrainian, caused by the lack of legal certainty, lack of regulation for certain provisions, and the absence, insufficiency, or ambiguity of judicial practice.

# CONCLUSIONS AND RECOMMENDATIONS





While considering the potential of bringing criminal prosecutions for incitement to the genocide of Ukrainians, the psycholinguistic analysis of cultural and linguistic factors demonstrates that these statements contain direct incitement to genocide of the citizens of Ukraine as a national group. This study has provided an overview of the political and public nature of the authors of such statements. The listed figures for the audience covered by the analyzed channels revealed the mass coverage of such messages. The legal and linguistic analysis of the relevant sections also suggested the potential application of the national group concept to citizens of Ukraine as a nation.

Regarding international law, the study has outlined the challenges associated with (a) the limited number of practical steps at the International Criminal Court (ICC) toward prosecuting those suspected of inciting genocide; (b) the lack of a clear definition of propaganda that violates the norms of international law; and (c) the lack of a unified approach for determining which statements can be punished as direct and public incitement to genocide. Due to the lack of contemporary judicial practice among the criminal courts and tribunals, there is no clear understanding of how to interpret calls communicated via social networks or other modes that did not exist in the 1990s.

Analysis of the national legislation of Ukraine provides grounds for concluding that certain issues of jurisdiction and the inadequacy of both Ukrainian and international legislation may complicate or even preclude criminal prosecution of foreigners and stateless persons who do not permanently reside in Ukraine and who have committed crimes against the rights and freedoms of Ukrainian citizens or the interests of Ukraine outside its territory, which is often the case with information disseminated online.

For instance, the lack of a clear definition of the “propaganda for war” concept in Ukrainian and international legislation may obstruct or even prevent bringing to justice those who disseminate calls for Russia’s war of aggression against Ukraine. It should also be added that propaganda of war (CCU Article 436) is classified as a minor offence, and the statute of limitations for criminal prosecution against perpetrators does not exceed 5 years. Consequently, punishing stateless persons and foreigners who have committed this crime online outside the territory of Ukraine may be complicated, as jurisdictional issues related to internet are insufficiently regulated.

A similar issue pertains to the public incitement to genocide, as well as the production and/or distribution of materials containing incitement to genocide (CCU Article 442.2) committed before October 24, 2024, as this crime was

classified as minor. However, the situation changed fundamentally following amendments to the CCU in connection with the ratification of the Rome Statute of the ICC and amendments to it. People who engage in incitement to genocide and related materials publicly disseminated from outside Ukraine, even by stateless persons and/or foreign citizens not permanently residing in Ukraine, may be subject to criminal liability under the requirements of the CCU. These crimes now have no statute of limitations and are classified as grave offences.

Another challenge is proving the shared intent between the disseminator of criminal content, as an instigator and accomplice, and the perpetrators of crimes of aggression (planning, preparation, initiation, and waging a war of aggression), war crimes (violations of the laws and customs of war), and crimes against humanity, as well as causal link between their actions. Proving these circumstances is extremely difficult—indeed, often impossible.

Frequently this relationship is not direct, but indirect, as propaganda creates conditions for committing these offenses, as well as justifying and legitimizing them in the eyes of perpetrators. Given these difficulties and considering that the informational component has gained particular significance in modern warfare, while social networks have created opportunities for rapid and widespread distribution of harmful content, it is advisable to consider criminalizing public calls for crimes against peace, the security of mankind, and the international legal order as separate crimes, both at the national and international levels.

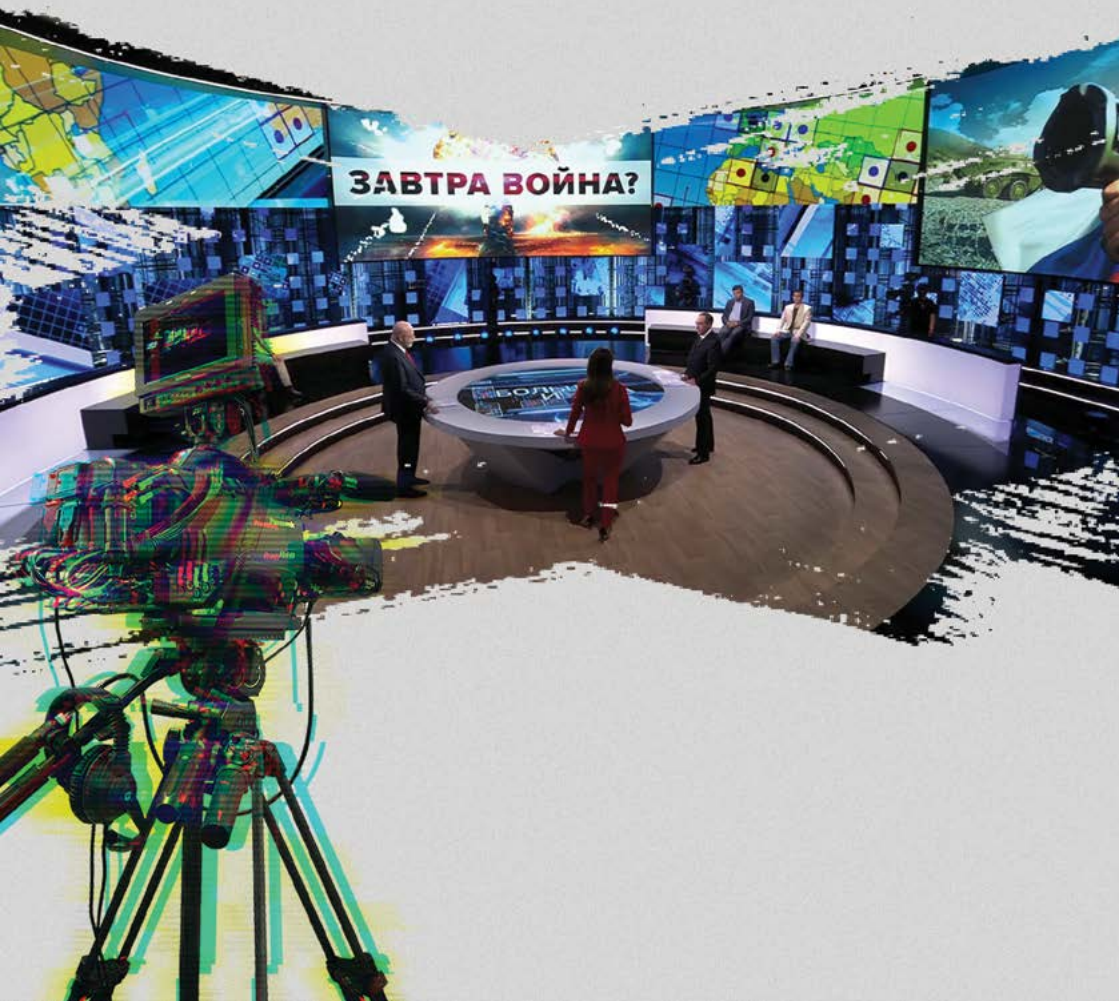
## RECOMMENDATIONS

The governments of democratic states, international organizations, and the academic community should seek

- ✔ To actively promote the establishment and development of efficient mechanisms to counter dissemination of incitement to genocide, waging a war of aggression, and other crimes against peace, the security of mankind, and the international legal order online, primarily through social networks and messaging platforms;
- ✔ To consider the necessity of criminalizing public incitement to crimes against peace, the security of mankind, and the international legal order, particularly for crimes including the crime of aggression, war crimes, and crimes against humanity;

- ✔ To define the concept of the “propaganda of war” and to enshrine this term in international documents;
- ✔ To conduct scientific research on both the direct and indirect effects of propaganda on the commission of crimes against peace, the security of humanity, and the international legal order to identify a mechanism for their influence on human behavior, and based on such research, to establish reliable mechanisms for holding accountable individuals who incite or otherwise facilitate the commission of these crimes;
- ✔ To introduce the continuous and consistent monitoring of unlawful content to identify persons who constantly disseminate incitements to the genocide of Ukrainians and waging a war of aggression against Ukraine and impose relevant personal sanctions on them;
- ✔ To study the problem in a comprehensive manner by supporting the regular exchange of experience and information related to the actions of the persons propagating war and/or inciting other to genocide or to commit other violations of international humanitarian legal norms; their instruments and methods of influence; and typical platforms for spreading incendiary and hate speech; and
- ✔ To facilitate the establishment of effective procedures to bring international criminal actions against those who are inciting their audience to genocide and to wage a war of aggression against Ukraine in a systemic manner.

# INTRODUCTION



The study presents continuation of the previous research carried out during 2014-2021 before the start of Russia's full-scale military aggression against Ukraine. While analyzing the Russian information media space, a consistent incitement of hatred was revealed to everything related to Ukraine as a sovereign state and its citizens self-identifying as Ukrainians who do not want to be "younger brother" under total Russia's control.

Consistent marginalization, dehumanization, and demonization have been achieved with direct, indirect and manipulative hate speech. It is important to note that since 2014 and until the full-scale military aggression, indirect and manipulative hate speech was dominating in the Russian media aimed at creating an illusion that journalistic standards are observed.

After the full-scale military invasion into the territory of Ukraine and failure of the plan "Kiev in 3 Days", the Russian journalists left all doubts and refused imitating journalistic standards. The extreme hate speech and direct calls for destruction of Ukraine and its residents because of their nationality and citizenship or to everything related to Ukraine, began to be widespread in the public space. Ukrainism – concept which is demonized and presented by journalists<sup>8</sup> as threat for further existence of Russia.

The live state broadcasting has been spreading Ukrainophobic grand narratives of the Kremlin about artificially created country, denial of existence of Ukrainians as a nation, their language and culture. Such grand narratives are enhanced and completed with psycho-emotional component to incite hatred and describe Ukrainians as "subhumans" to be assimilated or destroyed.

Monitoring results demonstrate that most of the analyzed speech acts refer to seizure of the territory of Ukraine and annihilation of Ukrainians based on their national and civic identity. But it is important to understand whether these calls can be considered as *incitement to genocide or other crimes* according to the international and national legislation and what challenges may be faced in qualifying and collecting evidence to prove these crimes.

The authors of the report are considering the following questions:

- 1) Could civilians – citizens of one state be considered as a national group which Russian journalists name "political nation" and consistently incite to destroy?
- 2) What kind of regulations bring liability for incitement to commit crimes that are spread via internet? What kind of international and national judicial practice is available?



- 3) Would incitement or other actions related to spreading information that violates the Criminal Code of Ukraine be considered a crime on the territory of Ukraine if they were publicly made on the territory of the aggressor state but became accessible for the users on the territory of Ukraine via internet?
- 4) How can the problem of the statute of limitations for criminal prosecution be addressed in applying the Criminal Code of Ukraine?
- 5) If the crime was committed by a group of persons, in particular with the involvement of instigators and accomplices who particularly can be held liable and what evidence should be collected?
- 6) Do the terms “nation, nationality, political nation” correspond to the concept “*national group*” which is protected group under the crime of genocide in the context of the international legislation?
- 7) What lexical and grammar markers does incitement to genocide have?

Answers to these questions would help Ukrainian law enforcement bodies and human rights organizations to start a dialogue on coordinating approaches and practice to define such speech as incitement to genocide in documenting, qualifying and proving Russia’s crimes.

# CONTENT MONITORING RESULTS\*



\*Section is written by Iryna Siedova

## SUBJECT OF MONITORING

There are various ways of influencing the public opinion of Russians regarding Russia's war in Ukraine, in the Russian media space. The authors of this study explored how the state-owned media, media figures popular in the Russian Federation, and the Internet sites associated with them influence the public opinion. While analyzing the statements it has been found out that speakers regularly spread hatred to Ukrainians including incitement to genocide of Ukrainians and waging a war of aggression against Ukraine, call to war crimes and crimes against humanity on these information resources.

## METHODOLOGY OF MONITORING

The content for analysis was selected by the Crimean Human Rights Group with WAR OF WORDS analytical service designed by CHANGING TOGETHER civil society organization. The monitoring objects were, for instance, TV shows of such Russian media as NTV, PERVYI KANAL (Channel 1), ROSSIYA 1 (Russia 1), ZVEZDA (Star), ROSSIYA 24 (Russia 24).

The abovementioned media are all-Russian federal TV channels owned fully or partially by the state and broadcasting across the entire territory of the Russian Federation. The content of these TV channels primarily targets the Russian language audience living in the Russian Federation territory.

As to the Internet, according to Similarweb, data of July 2024,<sup>1</sup> monthly attendance of these TV channels was as follows:

- › NTV – 28.36 mln visits
- › Channel 1 – 24.58 mln visits
- › Smotrim.ru (VGTRK (All-Russia State Television and Radio Broadcasting Company) video service broadcasting Russia 1 TV shows) – 31.42 mln visits
- › ZVEZDA – 2.969 mln visits
- › Russia 24 – (VGTRK site) – 2.67 mln visits

<sup>1</sup> Similarweb, <https://www.similarweb.com/>

The monitoring list also included selected video channels of Russian media and speakers having over 50, 000 subscribers on Telegram messenger or Youtube and Rutube video hosting channels.<sup>2</sup>

The methodology for choosing and assessing statements was developed by Yuliia Krylova-Hrek, Assistant Professor of Kyiv Mohyla Academy, Uppsala University researcher (see Section “PSYCHOLINGUISTIC ASPECTS OF THE INCITING SPEECH”).

The content from the abovementioned information resources was analyzed in a period of February 24, 2022, to July 31, 2024.

The content was chosen using transcriptions of video shows using hate speech and Telegram channel publications with the help of key words identified empirically during the previous monitoring studies. Some key words and phrases used to search for the relevant content:

*“to destroy Banderites”;*  
*“to reach Lviv”;*  
*“anti-Christ”;*  
*“we will destroy them”.*

The state TV channels that were analyzed have specialized talk shows and authors’ programs. Many of their releases are dedicated to inciting hatred and propaganda of an aggressive war against Ukraine. The study authors suggest that such shows and programs broadcast incitement to genocide and calls for other crimes that are communicated both by hosts and invited guests.<sup>3</sup>

## SOCIAL NETWORKS AND ANONYMOUS TELEGRAM CHANNELS

A separate category of channels that have impact on human consciousness are social networks. The authors of the study examined some channels in the Telegram messenger owned by the opinion leaders, regularly engaged in spreading calls that likely contain signs of incitement to genocide and/or propaganda for waging a war of aggression.

The authors of these Telegram channels rebroadcast Russian state television live shows and reinforce the impact of the TV messages and narratives.

<sup>2</sup> For full list of channels selected for the study, see Annex 1

<sup>3</sup> For the full list of TV shows where these calls were documented, see Annex 2

One of the tools for strengthening the effect of such messages is the additional involvement of the target audience in interaction with such content.

According to the observations of the monitors, the absence of pre- and post-moderation enables comments to incite further hatred in comments to the posts and allows extreme hate statements than those made publicly on the state-run TV channels live shows. Sometimes the statements are published by authors themselves as a comment to this or other news or as accompanying comment to the re-post of publications of other speakers.

Another way of speculations on internet is spreading various anonymous Telegram channel messages containing many incitements to genocide of Ukrainians and other crimes, on Telegram channels of top Russian propagandists with millions of viewers.

These anonymous Telegram channels also have tens to hundreds of thousands of subscribers, while it is not always possible to find out who exactly manages these channels. In some cases, TV hosts of state TV channels invite the leading authors of these channels to their broadcasts and advertise these Telegram channels live on Russian television channels, while urging viewers to subscribe to these Telegram channels on the Internet.

## MAIN SPEAKERS

Opinion leaders from various spheres of social life are invited as guests to the live shows of Russian TV channels, who spread calls to kill Ukrainians. They are mostly political scientists, military experts, retired military personnel, and bloggers, including those who call themselves military journalists. Writers, philosophers, and scientists are also among speakers spreading such statements.

Sometimes calls to crimes are also spread by doctors, religious figures and other speakers who are popular in Russia and are invited to the broadcasts. A specific category of speakers is state officials, representatives of various branches of power, including active military commanders.

The full list of speakers whose statements, in the opinion of the study authors, meet the criteria of incitement to genocide of Ukrainians, calls to waging a war of aggression and other crimes, has been collected by the Crimean Human Rights Group on Crimes of Information Warfare information resource.<sup>4</sup>

<sup>4</sup> Information Warfare Crimes website, [https://info\\_warfare.uwazi.io/](https://info_warfare.uwazi.io/)



## TYPES OF INCITING SPEECH

Inciting speeches are formulated in the form of **advice or wishes or appear to be permission to take certain actions, a demand or an incentive to act.**

*Block 1 – incitement to genocide.* This type of speech acts is expressed with metaphors, generalizations, and speculations on WWII archetypes.

For instance, Dmitriy Puchkov, a Russian writer, blogger and TV presenter, while speaking at the education event “Course for Young Soldier” delivered by the Russian Military Historical Community on April 22, 2023, answered the question “Does Ukrainian nation have the right to exist” with the following statement:

*“Answering the question: what is your attitude to Ukrainians? I treat them the same as they treat me. I think that all this Nazi scum should be ruthlessly massacred! It is useless to re-educate them. The fact that they are buried there in big numbers is good for them, and for us, too. This kind of attitude I have to them.”*

A video of this speech including this statement has over 2mln views on Youtube as of July 2024.<sup>5</sup>

*Block 2 – incitement to a war of aggression and calls to keep on military occupation of the territory of Ukraine combined with hate speech.*

For instance, on September 26, 2022, Ivan Okhlobystin, a Russian actor and priest, posted in his blog on Yandex site:

*“And now we have no other way than a total victory, with the cleansing of everything connected with the Nazi Ukraine and all those who supported it. Those who transformed it into what it is now. No single centimeter should be left to the place on the planet where the “yellow-blue flag” could be stuck. If there is need in nuclear weapons, they must be used without hesitation.”*

*Block 3 – incitement to crimes against humanity and war crimes.* These speech acts are not considered as a crime itself neither in the Ukrainian nor in international legislation.

This category of speech acts include incitement to destroy the entire Ukrainian civil infrastructure and energy sector.

<sup>5</sup> In No Event! Talk Show with Dmitriy Puchkov, (22 March 2023), [https://www.youtube.com/watch?v=Rt1h\\_Tnhv5o](https://www.youtube.com/watch?v=Rt1h_Tnhv5o)

For example, part of the speech of Andrey Guruliov, Russian Parliament Member, who said the following on show entitled Evening with Vladimir Solovyov, Russia 1 TV Channel, on July 5, 2022:

*“...First – to cause a blackout. What is electricity? And this is not a major issue, believe me. There is no need to attack power stations, just distribution networks should be attacked, and they will stop functioning. They can’t be restored at once i and can’t be restored quickly. In winter this means the immediate failure of heating, this means no water, this means no sewage system. Could you imagine Kiev living without sewage for two weeks?!...”*

Incitements to persecute or execute Ukrainian prisoners of war (POWs) may be also assigned to this category. For instance, the statement of Sergey Karnaukhov on Solovyov LIVE show, on March 29, 2022:

*“The military tribunal that will judge and sentence this whole scum to liability, to punishment, it will be in Donetsk. In the center of Donetsk, in the center of Lugansk, public military tribunals should be held – open to the whole world. Moreover, we must publicly invite judges from around the world to participate in this event, as it used to be in the past. Next, to set a large judicial commission and judge these bastards.*

*Neither Donetsk nor Lugansk are members of any European unions, they have no moratorium for death penalty. Moreover, in our days, in the 21st century, in 2022, Donetsk and Lugansk have the right to choose the punishment that will correspond to the gravity of the offence. No shootings, only gallows, because this carrion must hang on the squares. Even if this resembles the Middle Ages, they should be punished for what they did. I hope military tribunals will be like this.”*

## DIFFERENT WAYS TO PRESENT INFORMATION

The analyzed speech acts that meet the criteria of incitement to genocide and propaganda of waging a war of aggression are based on certain clichés that offer an effective tool for these statements to reach the target audience.

In general, the inciting speech is disseminated **as direct quotes** from speakers invited to live shows or **as comments of TV and radio presenters** to the news stories or **as verbatim quotations** of other speakers by TV presenters. Another way is to use social network materials with inciting speech live on

TV channels. Such materials can be presented in the form of letters or video messages of people that are introduced by the TV presenters as their viewers or “common Russians”. In the social networks, the inciting speech is spread on the public pages of well-known Russian TV presenters as re-posts of the quotations of anonymous Telegram channels accompanied by explanatory video and photo. Sometimes, texts combined with pictures (so called memes) are used to strengthen impact on the audience.

## MAIN NARRATIVES

Spreading the abovementioned incitements, Russian Federation has been using several main narratives. While preparing this section, 180 speech acts were analyzed. These are the statements that, in the opinion of the study authors, contain extreme hate speech and incitements to kill Ukrainians, *in whole or in part*, and to seize the territory of Ukraine, *in whole or in part*.

In the analyzed statements the Russian propagandists are inciting to various types of crimes. Some of these speech acts are considered crimes under both Ukrainian and international legislation.

For example, there are **incitement to genocide and waging a war of aggression**. There are other categories of inciting speech that, in opinion of authors, pose direct risks for Ukrainians in the context of invasion war that Russia has been waging for over 10 years on the territory of Ukraine. These are **calls for crimes against humanity and calls to commit war crimes**.

The abovementioned inciting speech acts are repeated live on State-owned Russian TV channels and communicated by various speakers. The following main statements were identified in these speech acts:

- 1) Ukrainians must be killed *in whole or in part*.
- 2) Russia must occupy the territory of Ukraine *in whole or in part*.
- 3) The Ukrainian nation (political nation, Ukrainian community) must be destroyed.
- 4) The Ukrainian state must be destroyed.
- 5) All Ukrainian leaders in power must be physically killed.
- 6) The civil infrastructure and power sector must be destroyed.

- 7) Nuclear or chemical weapons must be used in Ukraine.
- 8) Ukrainian civilians who do not support Russia must be killed and/or persecuted.
- 9) All Ukrainian POWs must be executed or sentenced to life imprisonment.

In some cases, incitement to kill Ukrainians not only justify such actions but are presented like *advice, wishes, permissions to act or statements about urgent necessity of such acts*.

Most of the analyzed propaganda speech acts include **a statement that residents of Ukraine must be physically exterminated, in whole or in part, or to be persecuted**. In many cases such inciting speech acts are combined with explanations and justifications of such actions need.

The analyzed statements manipulate an often-repeated argument used to **legalize** in the public consciousness of citizens of Russian Federation **commission of genocide of Ukrainians, crimes against humanity and war crimes on the territory of Ukraine**. Provided arguments are not related to real facts but aimed at emotional impact on the target audience through intimidation or appeal to archetypes and stereotypes which present the Russian aggression and criminal acts as a heroic deed for the sake of saving and defending Russians.

For example, Russian TV host Sergey Mardan refers to Ukrainians as satanists, and Russians – as army of the Light while commenting a video with a detained Ukrainian POW in his own Telegram channel,

*“In front of our eyes the war is transforming into a religious war. We are warriors of the Light. They are the army of the Dark. Cause they are Satanists; the best option would be to burn them alive. Inquisitors were not fool.”<sup>6</sup>*

To justify massacres of Ukrainians and occupation or destruction of Ukraine, the **substitution of terms** is used, and the invasion war against Ukraine with genocide of Ukrainians signs is described as:

- › Fight with Nazis, Banderites, fascists;
- › Fight with non-humans, beasts, scum;
- › Retribution for the actions of Ukrainians;
- › War with the USA and NATO, which are waging war with Russia using Ukrainians;

<sup>6</sup> Mardan S. (@mardanaka (21 May 2022, at 11:03). <https://t.me/mardanaka/9233>

- › Fight against Russophobia;
- › Liberation of Ukraine from Western control;
- › Attempts to stop the supply of Western weapons to Ukraine;
- › The forced step caused by Ukraine's actions.
- › Fight with terrorists
- › Overcoming threat for Russians' security;
- › Returning to Ukrainians lost and forgotten Russian identity
- › Military objective, objective of Special Military Operation, fight against a dangerous enemy;
- › Restoring historical justice, return of the historical Russian lands;
- › Attempt to stop the war started by Ukraine.
- › Fight with demons, satanists, Anti-Christ servants, shaitans.

Some narratives contain incitement to seize all Ukrainian territories combined with calls to kill Ukrainians.

Such inciting speech is combined with **denial of existence of Ukrainians as a separate nation or aimed at dividing Ukrainians into "ours" (called Russians or Little Russians (Malorosy) and "others" (called Nazis or Banderites)**. Such narratives contain the following statements:

- › A part of Ukrainians who are in fact Russians must be liberated, and the other part of Ukrainians has no right to exist as a separate nation.
- › Ukrainians as a nation do not exist, Ukrainians are Russians which need to be liberated from the criminal authorities, and everybody who disagrees with this, must be destroyed.
- › Russia must seize Ukraine to return to Ukrainians their Russian identity.

Given the general context of narratives, terms "Banderites" and "Nazis" have negative connotation for Russians in the Russian informative space and may incite them to crimes against all Ukrainians standing for the independence of Ukraine. These accusations have no ground because ideology of Fascism and Nazism has no significant support in Ukraine and is prohibited on the level of Law.<sup>7</sup>

<sup>7</sup> For definitions of some concepts identified in the studied content in more detail see Explanatory Glossary compiled by Yuliia Krylova-Hrek. Hate Speech in Online Media Publicizing Events in Crimea, p. 54. [https://crimeahrg.org/wp-content/uploads/2022/06/mova-vorozhnechi\\_fin\\_ua.pdf](https://crimeahrg.org/wp-content/uploads/2022/06/mova-vorozhnechi_fin_ua.pdf)



## VERTICAL NARRATIVES

While spreading incitement to genocide of Ukrainians as well as other inciting speech, the Russian propagandists often quote top officials and military: their words are used as a pretext to create new, more cruel narratives and to strengthen emotional impact of these words on the target audience.

Application of such “vertical narratives”<sup>8</sup> allows Russian propagandists using the words of top governmental officials as an argument for incitement to genocide and to wage a war of aggression. For instance, messages of Russian President Putin that *Ukrainians as a separate nation do not exist; Ukraine is controlled by Nazis; territory of Ukraine is a historical Russian land*, are used by the propagandists as an argument to seize Ukraine in whole and to destroy or persecute Ukrainians resisting the occupation.

Quoting top officials while spreading such inciting speech helps enhance their influence on the target audience in media that disseminate them.

<sup>8</sup> CHRG website, article: “To Intensify Calls for Genocide Russian Media Use Narrative Verticals” <https://crimeahrg.org/uk/dlya-pidsilennya-zaklikiv-do-genocyzidu-derzhavni-media-rf-vikoristovuyut-vertikali-narativiv/>

# INTERNATIONAL LAW REVIEW\*

PAUSE

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## WAR PROPAGANDA

Starting the discussion about the prohibition of war propaganda and incitement to genocide in international law, it is worth emphasizing that such prohibitions are part of a wider sphere of regulation, namely freedom of speech. This freedom is guaranteed by Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).

However, these guarantees are not absolute and do not prevent the establishment of restrictions to ensure respect for the rights and reputation of others, as well as restrictions in the interests of national or public security or order, the territorial integrity of the state, the prevention of riots or crimes and the protection of health or morals of the population. Moreover, the European Convention on Human Rights explicitly states that freedom of speech shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

In addition, though international law does not prohibit disinformation and propaganda as forms of freedom of speech, it clearly prohibits propaganda of war and speech that constitutes incitement to discrimination, hostility or violence (Article 20 of the International Covenant on Civil and Political Rights, Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination).

It should be noted that *propaganda of war is prohibited only as a call for armed aggression or breaching peace*; propaganda in wartime is permitted, as is disinformation, particularly with the aim of undermining the enemy's ability to resist, as a form of subterfuge or deception [A/77/228, it. 39,44]. At the same time, such operations, including information ones, *that spread terror among the civilian population, encourage violations of international humanitarian law, call to commit war crimes, constitute threats of violence or an act of treason*, i. e. an act that encourages a party to an armed conflict to protect enemy under international humanitarian law that would allow him to kill, injure or capture, are prohibited during the war [Article 3 common for all 4 Geneva Conventions].

The extreme form of speech to commit crimes, namely incitement to genocide, will be considered further in more detail. But before going into this discussion, it is worth mentioning the existence of another type of international

crime: crimes against humanity. Unlike incitement to genocide, incitement to crimes against humanity is not a separate crime under international law, particularly under the Rome Statute.

Thus, to treat the statements aimed against Ukrainians as crime against humanity it is necessary to prove that such statements are “other inhuman acts”. In doing so, it should be demonstrated that the severity of these statements is comparable to other acts that constitute crimes against humanity, such as torture, sexual violence or forcible displacement.

## INCITEMENT TO GENOCIDE

Therefore, when information operations or other actions take the form of incitement to genocide, Article III of the Convention on the Prevention and Punishment of the Crime of Genocide, which prohibits “direct and public incitement to commit genocide” should be referred to. The same prohibition is imposed by Article 25 of the Rome Statute, which Ukraine has only recently ratified, but which the International Criminal Court has been guided by in its ongoing investigation of situation in Ukraine since 2014.

Before proceeding to analyze the international legal prohibition of incitement to genocide, it is worth outlining in brief what acts may constitute genocide. This is any of the following acts (a) Killing members of the a national, ethnical, racial or religious 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 [Article II, the Genocide Convention]. To constitute a crime of genocide these acts shall be committed *with intent to destroy, in whole or in part, a protected group, i. e. any national, ethnical, racial or religious group, as such.*

**A national group** is defined as a group of people who are perceived to share *a legal bond based on common nationality* (within the national legal system or recognized by international community) and share common understanding and reciprocity of rights and duties [Akayesu TJ, it. 512].

**An ethnic group** is defined as a group whose members share a common language, culture, tradition, history, social structures and culture including, for

instance, tribal customs and traditional ties with the land [Akayesu TJ, it. 513, arrest warrant for al-Bashir, it. 22 and 137].

**A racial group** is defined as a group whose members have hereditary physical traits, for instance, skin color, often identified with a geographical region, irrespective of linguistic, cultural, national or religious factors [Akayesu TJ, it. 514, Kayishema Judgement, it. 98].

**A religious group** is defined as a group whose members share the same religion, denomination or mode of worship [Akayesu TJ, it. 515, Kayishema Judgement, it. 98].

While the meaning of “destroy a group in whole” is rather evident, destroying a group “in part” needs additional explanations. There is no clear quantitative requirement, i. e. a perpetrator should not destroy a definite number of the protected group representatives [Gatete TJ, it. 582]. But the perpetrator’s intent should cover a “substantial” part of this group – so substantial that its destruction will have affected the group as such [Karadžić TJ, it. 555]. In order to determine whether there is a substantial part of a protected group against which the crime of genocide may be committed or has been committed, factors such as the absolute size of the share of the group that suffers or has been affected by the crime, as well as its size relative to the whole group, the significance, emblematicity and significance of this share for the entire group and its survival; the area under control and in which criminals are active and where they can reach, are taken into account [Mladić TJ, it. 576].

As to the incitement to genocide in the international law, it is indeed criminalized. Hence, clear elements of the crime are defined, namely, *the incitement shall be direct and public*.

The incitement to genocide is direct when commission of one or several genocidal acts is incited (see above) [ICTR, Prosecutor v. Serugendo, “Trial Judgement”, ICTR-2005-84-T, 12 June 2006, it. 9].

A direct incitement is an incitement that has an unambiguous interpretation in a specific context and is perceived accordingly by the target audience. A direct incitement cannot be a vague or indirect suggestion or hate speech that does not directly incite to genocide [ICTR Trial Chamber in The Prosecutor v. Pauline Nyiramasuhuko et al., it. 5986]. *Cultural and language factors as well as the type of audience the message is addressed to may help qualify whether a certain speech constitutes a direct incitement* [ICTR, Prosecutor v. Muvunyi, “Trial Judgment”, ICTR-00-55-T, 11 February 2010, it. 502]. *The political and civil origin*



*of the person who incites to genocide are also relevant factors* [ICTR, Prosecutor v. Bikindi, “Judgement”, ICTR-01-72-T, 2 December 2008, it. 387-389].

To be public the incitement *should be communicated on a mass scale*, i. e. speeches made at big fully public assemblies, messages communicated by mass media or via a public address system [ICTR, Prosecutor v. Pauline Nyiramasuhuko et al., “Trial Judgement”, ICTR-98-42-A, 24 June 2011, it. 5987].

## JUDICIAL PRACTICE

The International Criminal Court has not yet prosecuted persons suspected of incitement to genocide, so it is difficult to predict which statements may lead to criminal liability. This being said, the practice of other international courts and tribunals is helpful at least in terms of a general understanding of what speeches or messages have previously been recognized as incitement to genocide or similar acts.

First of all, Julius Sebastian Streicher, a founder, editor and publisher of *Der Stürmer*, was brought to justice at the Nuremberg trials for his anti-Semitic articles where Jews were called *parasites, enemies, and criminals, spreaders of diseases or swarms of locusts that must be completely exterminated*. For these and other statements, Streicher **was found guilty of committing crimes against humanity** (the trial did not consider genocide and incitement to genocide) as the person who *using his propaganda helped establish a psychological base necessary to implement a persecution program which high point was killing of six million of men, women and children*. Otto Dietrich who controlled *Der Stürmer* and dozens of other publications with a total audience of more than 30 mln people **was also convicted for crimes against humanity**.

On the other hand, Hans Fritzsche, head of German press unit of the Ministry of Public Education and Propaganda, who guided German newspapers instructing them what to communicate, was acquitted at Nuremberg. The prosecution failed to prove that he had been “deliberately falsifying news to arouse in the German People those passions which led them to the commission of atrocities” on the conquered peoples. Later one of the prosecutors claimed that newly found evidence had proved that Fritzsche not only had known of the extermination of European Jews but also “played an important part in bringing [Nazi crimes] about”. Ultimately, he was sentenced to eight years in prison.

The International Criminal Tribunal for Rwanda found three people guilty of incitement to genocide for broadcasting calls to kill Tutsis on the radio and in newspapers, although such calls were somewhat veiled in the form of “cut down tall trees”, “get to work”, etc. The tribunal found that *without firearms, machetes or any physical weapon, [the accused] caused the deaths of thousands of innocent civilians.*

At the same time, the International Criminal Tribunal for the former Yugoslavia also considered a case of propaganda and incitement to violence, but this case ended with an acquittal. The tribunal found Vojislav Šešelj, the leader of a far-right Serbian political party and, during the war of the 1990s, the organizer of armed groups of Serbian volunteers, not guilty of propaganda crimes.

For several years, Šešelj delivered speeches, published and delivered statements and articles that were described by experts as “xenophobic nationalism” [Seselj TJ, it. 298]. However, statements such as *no Ustasha should leave Vukovar alive*, calls to the military *to fight heroically against the Ustasha and show no mercy* were not recognized as criminal. The tribunal decided that such words could have been moral support for the Serbian military, spoken by a politician, and not by a person who had at least some control over military operations [Seselj TJ, it. 318]. In the context of another speech, the tribunal determined that a call to cleanse Bosnia *of the filth* beyond a reasonable doubt could constitute a call for ethnic cleansing [Seselj TJ, it. 328]. Even regarding calls recognized by the Tribunal as calls to expulse or displace forcibly, as *Ustasha, Go Away!, Croatians, Go to Croatia! This is Serbia!*, it was not established that displacement of people had been caused by such calls, and, thus, they had been criminal [Seselj TJ, it. 333].

## UNIVERSAL JURISDICTION

In addition to international courts and tribunals, perpetrators of incitement to genocide can be prosecuted in national courts, particularly for crimes committed outside the respective states. Such a mechanism is called universal jurisdiction.

There exists no single and generalized procedure to hold liable persons inciting to genocide of Ukrainians under universal jurisdiction since each country has its own unique criminal law and its procedures.

For instance, in the USA, the definition of incitement to genocide almost repeats that in the Genocide Convention [18 U. S. C. § 1091(c)]. But then it is explained that incitement means: to urge another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct [18 U. S. C. § 1093(3)]. At the same time, the situation should be linked with the USA, for instance, the accused stays in the territory of the USA or it is highly probable to happen [Trial International, Universal Jurisdiction, Law and Practice in the United States of America, May 2022, p. 21].

On the contrary, Germany has not criminalized incitement to genocide in the definition identical to that of the Convention, but such acts may be, anyway, prosecuted under the national law, for instance, within a structural investigation when the perpetrator has not been identified [Universal Jurisdiction Law and Practice in Germany, March 2019, p. 17].

Finally, France though it may prosecute for crimes of torture and forced disappearance as well as almost all offenses criminalized under the Rome Statute within universal jurisdiction, demands “habitual residence” of the suspected in its territory [France’s Highest Court Confirms Universal Jurisdiction, June 2023].

## GAPS IN INTERNATIONAL LAW

As abovementioned international legal norms and judicial practice show, **international law lacks a clear definition of propaganda violating international law or a unified approach to define the statements to be punished as direct and public incitement to genocide.** Consequently, it is difficult for many international and national judicial authorities to distinguish among freedom of speech expressions and violations of relevant prohibitions. In addition, due to the absence of current judicial practice of criminal courts and tribunals it is not clear how to interpret calls communicated via social media or other means which did not exist in the 1990s when similar cases were considered in the context of crimes in Rwanda and former Yugoslavia.

# CRIMINAL LIABILITY UNDER LAWS OF UKRAINE\*

\*Section is written by Liudmyla Opryshko

## GENERAL PROVISIONS

In the context of the Russian-Ukrainian war, questions frequently arise concerning the liability of persons who deliberately maintain harmful informational influence by spreading the “hate and fear speech”, promoting war, inciting genocide, and disseminating information that encourages planning, preparation, initiation and waging the war of aggression, violating the laws and customs of war, etc.

In this regard, it should be noted that the Criminal Code of Ukraine (*here and after – CCU*) contains several articles aimed at preventing and terminating aforementioned acts and establishes the punishment for their commission. These primarily concern criminal offences against peace, security of mankind, and international legal order under articles 436 (*Propaganda for war*), 437 (*Planning, preparing, initiating and waging a war of aggression / Crime of aggression*), 438 (*Violation of laws and customs of war/ War crimes*), 442 (*Genocide*), 442-1 (*Crimes against humanity*). Additionally, Article 161 (*Violation of citizens’ equality based on their race, nationality, regional affiliation, religious beliefs, disability and other characteristics*) should not be overlooked. Depending on the content of the statements, other provisions of the CCU may be applied, for example, articles 109 (*Actions aimed at forceful change or overthrow of the constitutional order or seizure of state power*), 110 (*Violation of the territorial integrity and inviolability of Ukraine*), etc.

This report will focus solely on certain aforementioned legal provisions, specifically on articles 436, 437, 438, 442 and 442-1 of the CCU, as during the war these are the most frequently cited as potential grounds for liability. These legislative provisions were incorporated into the CCU because of implementing international law principles and standards. Therefore, their application by Ukrainian courts must consider relevant international standards and international courts’ case-law (*see International Law Review section*).

It should be further noted that international treaties in force, consent to which has been granted by the Parliament of Ukraine (Verkhovna Rada of Ukraine), constitute a part of Ukrainian national legislation (Constitution of Ukraine, Article 9) and that shall therefore be observed in criminal proceedings (Criminal Procedure Code of Ukraine, Article 9.1).

For comprehensive analysis, certain general provisions of Ukrainian criminal liability legislation should be considered. Such liability may only arise



when an individual commits a criminal offence **explicitly provided for in the CCU**. If at the time of the commission of certain actions or commissions, the CCU does not establish their illegality, they are not considered crimes or criminal misdemeanors, and therefore, criminal liability does not arise. The CCU explicitly prohibits the application of criminal liability law by analogy (CCU Article 3.4).

The issue of temporal validity of the aforementioned CCU articles cannot be overlooked, as the unlawfulness, punishability of acts and their consequences are determined by the CCU provisions that were in effect at the time of the commission of the criminal offense (CCU Article 4.2). Criminal liability law that establishes a criminal unlawfulness of an act, aggravates criminal liability or otherwise worsens a person's position, **shall not have retroactive effect** (CCU Article 5.2).

These legal approaches are particularly important because at the time this report was prepared, Ukraine ratified the Rome Statute of the International Criminal Court and its amendments. Consequently, amendments were made to the CCU, particularly to articles 8, 49, 437, 438, 442. A new article – 442-1 (*Crimes against humanity*) – was also introduced in the Code.<sup>9</sup> These amendments entered into force on October 24, 2024. However, hate speech emanating from the Russian media space and analyzed in this report, were disseminated long before that date and continue to be spread after its occurrence. Therefore, they will be subject to different legal regulations, which we will highlight.

## UKRAINIAN JURISDICTION

Jurisdiction of Ukraine extends only **to its territory**. Therefore, persons who commit crimes on the territory of Ukraine, regardless of their permanent residence and citizenship, are subject to criminal liability under Ukrainian legislation, specifically the Criminal Code of Ukraine. A crime and/or criminal offence is considered committed on the territory of Ukraine, if **it was initiated, continued, completed or terminated on the territory of Ukraine** or if its perpetrator or at least of accomplices acted on the territory of Ukraine.

<sup>9</sup> Law of Ukraine no 4012-IX dated October 9, 2024 "On amending the Criminal and the Criminal Procedural Codes of Ukraine due to ratification of the Rome Statute of the International Criminal Court as amended", <https://zakon.rada.gov.ua/laws/show/4012-20#Text>



In this context, the question arises whether incitements or other actions related to spreading the information that violate the criminal legislation of Ukraine would be considered committed on the territory of Ukraine, if they were made publicly in the territory of the aggressor state but became accessible to users in Ukraine via internet. To answer this question, it is necessary to refer to the definition of the “territory”.

Articles 2 and 13 of the Constitution of Ukraine stipulate that the sovereignty of Ukraine extends to its entire territory which is integral and inviolable within existing borders; the land, its subsoil, atmospheric air, water and other natural resources located within the territory of Ukraine, natural resources of its continental shelf, exclusive (*maritime*) economic zone are objects of property rights of the Ukrainian People. Furthermore, Article 1 of Law of Ukraine “On the State Border” provides that the state border of Ukraine is a line and a vertical surface running along this line, marking the boundaries of the territory of Ukraine – land, water, subsoil, air space. Law of Ukraine “On Urban Planning Regulation” characterizes territory as a part of the earth’s surface with air space above and the subsoil beneath it within defined boundaries (*borders*) having a specific geographical location, natural and human-made conditions and resources (Article 1.1-13).

This definition of the territory of Ukraine **does not encompass cyberspace**.<sup>10</sup> Given the global cross-border nature of the Internet, the jurisdiction of states regarding offenses committed using internet technology should be determined by international law. Ukrainian criminal legislation currently does not provide a direct answer regarding jurisdiction of Ukraine in cyberspace.

However, existing Ukrainian judicial practice, although limited in the number of cases, demonstrates that Ukraine considers itself competent to prosecute for the dissemination of the information prohibited by Ukrainian criminal legislation, distributed on the Internet from another state’s territory but accessible to users in Ukraine.<sup>11</sup>

<sup>10</sup> Pursuant to Law of Ukraine “On Fundamentals of Ensuring Cyber Security of Ukraine”, Article 1.1-11, **cyberspace** means an environment (virtual space) that provides opportunities for communications and/or implementation of social relations, formed as a result of compatible (connected) communication systems and the provision of electronic communications using the Internet and/or other global data transmission networks, <https://zakon.rada.gov.ua/laws/show/2163-19#Text>

<sup>11</sup> For example, this is evidenced by verdicts in cases No 761/14763/22 dd. 14 November 2023 at: <https://reyestr.court.gov.ua/Review/114881278> and No 127/15700/23 dd. 24 January 2024, Tasks of Special Military Operation are to defend sovereignty and security of our citizens, at: <https://reyestr.court.gov.ua/Review/116618973>.

The CCU also regulates the application of its provisions in cases where criminal provisions are committed outside Ukraine. In such cases a person's citizenship and place of permanent residence are of particular importance.

If a criminal offense is committed **outside the territory of Ukraine** by a citizen of Ukraine or a stateless person who **permanently resides in Ukraine**, they may be held criminally liable under the CCU provisions, unless otherwise provided by international treaties of Ukraine ratified by the Parliament of Ukraine and provided that such person has not been punished for the same offences under the legislation of another state (CCU, Article 7.1 and 7.2).

**Foreigners and stateless persons who do not permanently reside** in Ukraine and commit a criminal offense **outside its borders** may be held criminally under the CCU provisions only in exceptional cases in those defined by international treaties. Liability under Ukrainian criminal law provisions may also arise in the case of committing **a grave or especially grave crime against the rights and freedoms of citizens of Ukraine and the interests of Ukraine**, provided for by the CCU (CCU Article 8.1).

A crime shall be considered **grave** if it is determined by a fine of ten to twenty-five thousand non-taxable minimum incomes<sup>12</sup> or by an imprisonment for more than five years but not exceeding ten years as the main punishment. An **especially grave** crime is one punishable by a fine exceeding twenty-five thousand non-taxable minimum incomes, imprisonment for more than ten years, or life imprisonment.

However, as of October 24, 2024, the situation has changed for these people. Foreigners and stateless persons who committed a crime of aggression (Article 437) or war crimes (Article 438) or genocide (Article 442) or crimes against humanity (Article 442-1) **outside borders Ukraine and do not permanently reside** in Ukraine, can be prosecuted under the CCU provisions if they come to Ukraine and stay on its territory. However, this can occur if they are not subject to extradition or transfer to a foreign State or international court for criminal prosecution or if Ukraine refused such extradition or transfer (CCU Article 8.2).

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However, it should be noted that these cases were heard in the absence of the accused, and the jurisdiction issue was not specifically highlighted. It can be assumed that in these cases, the courts took into account the fact that prohibited information distributed via the Internet was accessible to users in Ukraine. These court verdicts do not address whether the mere criterion of information accessibility is sufficient for resolving jurisdiction issues.

<sup>12</sup> The non-taxable minimum income of citizens for determining the amount of a fine as a criminal punishment is UAH 17. (see *Tax Code of Ukraine, Section XX "Transitional Provisions", subsection 1 "Peculiarities of personal income tax payment", Clause 5*).

## Statute of Limitations for Criminal Liability

The issue discussed is very important and needs attention. It is regulated by Article 49 of the CCU which stipulates that a person shall be exempt from criminal liability **if** the following periods have elapsed **between the date of the commission of a criminal offence and the date on which the verdict enters into force**:

- › **five years** – in the case of committing a **minor** crime, except for the case when the statute of limitations was terminated;
- › **ten years** – in the case of committing a **grave** crime;
- › **fifteen years** – in the case of committing **especially grave** crime.

The statute of limitations shall be terminated if the perpetrator evades the pre-trial investigation or the court proceedings. In these cases, the statute of limitations resumes from the day of the person's arrival with the confession or his/her detention. In this case, the person shall be exempt from criminal liability if fifteen years have passed since the commission of the criminal offense.

The statute of limitations is **interrupts** if, before the above-mentioned periods expire, the person **commits a new crime**, except for a minor crime punishable by imprisonment for up to two years.

The **statute of limitations is not applied** in case of committing crimes against peace and security of mankind under Articles 437 (*Planning, preparation, initiation and waging the war of aggression/ Crime of aggression*), 438 (*Violation of laws and customs of war/ War crimes*), and in part 1 of Article 442 (*Genocide*) of the CCU.

However, until October 24, 2024, **the statute of limitations applied** to minor offences such as propaganda for war (CCU Article 436) and public incitement to genocide as well as the production of materials containing incitement for genocide for the purpose of their distribution or dissemination (CCU Article 442.2). Therefore, prosecution was only possible if no more than five years had elapsed between the commission of the offense and the court verdict entering into force (unless the limitation period was suspended or interrupted).

In the context of prolonged armed conflict, five years is a relatively short period. The Russian armed aggression against Ukraine has continued for over 10 years at the time of this study, with no apparent signs of conclusion. Consequently, there was a significant risk that persons who promoted war or incited genocide could evade criminal liability for their actions.

This can be prevented by a special pre-trial investigation procedure for criminal offences as established by the Criminal Procedural Code of Ukraine (*hereinafter CPCU*) Article 297-1. It provides for a pre-trial investigation into the suspect's absence (except for minors). To apply it, an investigator should provide the investigating judge with evidence that the suspect is evading from the investigative authorities and the court by hiding in the temporarily occupied territory of Ukraine, in the territory of a state recognized as an aggressor state by the Parliament of Ukraine, and/or placed on international wanted list.

Therefore, investigators and prosecutors conducting criminal proceedings in cases related to propaganda for war or incitement to genocide should consider the insignificant statute of limitations that was in force before October 24, 2024, to prosecute the perpetrators for committing these crimes and plan the course of investigation of such cases accordingly. If necessary, the special pre-trial investigation procedure foreseen by Article 297-1 of the CPCU should be timely applied. However, its application should not adversely affect the quality of pre-trial investigation as arguments of defense usually can't be heard in such cases.

The situation with statute of limitations has somehow changed as of October 24, 2024. It is no longer applied to such crimes as direct and public incitement to genocide and production as well as distribution of materials containing them (CCU Article 442-2) committed on or after this date. It's also prohibited for crimes against humanity (CCU Article 442-1). Persons who committed criminal offenses exempt from the statute of limitations may be prosecuted at any time. However, these amendments affect the situation with the propaganda for war (CCU Article 436).

Thus, in the course of the investigation and trial of criminal proceedings under the aforementioned article of the CCU, **it is necessary to consider** the location of the crime (territory of Ukraine or another state), the gravity of the alleged crime and the citizenship of the suspect/accused, applicable limitation periods and their (non) expiration, the necessity of special pre-trial investigation procedures.

## **Commission of Criminal Offences by a Group of Persons**

It should also be considered that criminal offenses can be committed both by an individual and by a group of persons. Accordingly, the CCU determines the specifics of bringing persons to criminal liability for criminal misdemeanors and crimes committed in complicity (CCU Articles 26 – 31).

Complicity is the **intentional joint participation** of several persons in committing an intentional crime or criminal misdemeanor. Besides the criminal offender, accomplices include organizer, instigator and abettor. Therefore, an important feature of complicity is **the existence of shared intent** to commit unlawful acts.

In the context of our study, it is necessary to highlight such forms of complicity as instigation and abetting in committing criminal offences.

Pursuant to Article 27.4 of the CCU, **instigator** means a person who by persuasion, bribery, threat, coercion or **otherwise induced** another accomplice to commit a criminal offense.

**Abettor** is a person who **facilitated** the commission of a criminal offence by other accomplices through **providing advice, instructions**, means or tools or removing obstacles, as well as a person who has promised in advance to conceal a perpetrator of a criminal offense, tools or means of committing a criminal offense, traces of a criminal offense or items obtained by criminal means, purchase or sell such items or otherwise assist in concealing the criminal offense (CCU Article 27.5).

Therefore, it is necessary to keep in mind that a person who incited the perpetrator(s) to commit the crime (an instigator) and/or facilitated the commission of criminal offenses with advice, instructions or removal of obstacles (an abettor) is an accomplice to the committed crime.

The above stated is crucial in the context of determining the circle of persons who should be held liable for disseminating calls, materials, etc. prohibited by the CCU.

If the mentioned calls and relevant materials are disseminated through media and communication means (including via internet), criminal liability extends to persons who make such calls or produce and disseminate such materials with a direct intent. These include the author of calls and/or relevant materials, as well as the person(s) obliged to exercise editorial control over such materials before their publication (for example, editors). The owners of relevant media may also face criminal liability if evidence of their direct influence on the editorial policy in general and on publishing and disseminating of unlawful materials in particular, has been found. Complicity in the commission of a crime can be said to exist in this case.

On the other hand, the owners and employees of information- and video-sharing platforms of such social networks as Facebook, X (Twitter), as well

as Telegram, Viber etc. who do not exercise prior control over the content of materials disseminated by users, cannot, in general, be held criminally liable for disseminated illegal messages.

## Description of Criminal Offences that are the Subject of this Study

**Article 436. Propaganda for war.** *This legal norm establishes criminal liability for: 1) public calls for a war of aggression or for initiating a military conflict; 2) production of materials calling to commit such actions, for the purpose of their dissemination; 3) dissemination of the specified materials.*

This criminal offence is **minor** so the statute of limitations for holding criminally liable for its commission does not exceed 5 years.

Ukrainian legislation doesn't define the terms "war of aggression" and "military conflict". Therefore, their interpretation would depend on the courts considering relevant cases. And it is essential that international treaties and jurisprudence are considered in understanding these definitions.

The Grand Chamber of the Supreme Court interprets the concept of "aggression" in the light of Article 1 of the United Nations General Assembly Resolution 3314 (XXIX) dd. 14 December 1974, as "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations". Article 3 of the Resolution sets forth a list of actions, which regardless of a declaration of war, may qualify as an act of aggression. However, this list is not exhaustive. The UN Security Council may determine that other acts constitute aggression in accordance with the provisions of the UN Charter (Article 4 of the Resolution).<sup>13</sup>

It is necessary to note that the criminal liability is established for "public calls", production and dissemination of relevant "materials». This means that the legislator intentionally uses the specified terms **in plural form**. Furthermore, all described acts should be interpreted **in the context of the generic concept of "propaganda for war."**

This means that relevant public calls and materials should not be isolated instances. However, the legislator doesn't specify the requisite number of such

<sup>13</sup> Decree of the Grand Chamber of the Supreme Court dd. 28 February 2024 in case no 415/2182/20, items 32-33, <https://reyestr.court.gov.ua/Review/117555176>



acts. Therefore, the resolution of this matter will largely depend on how courts interpret this legal provision.

The content of the concept of “**propaganda**” also lacks a clear and unambiguous definition in both international law and Ukrainian legislation. Moreover, it remains a subject of ongoing debate.

Such a situation complicates the practical application of this legal provision.

Therewith, as previously noted, Ukrainian courts have begun issuing occasional verdicts under Article 436 of the CCU,<sup>14</sup> where the defendant has been found guilty of, inter alia, disseminating the materials with public calls for a war of aggression.

**Article 437. Preparation, planning, initiation and waging of a war of aggression.** *As of October 24, 2024, the title of this Article is “Crime of Aggression”.*

This legal provision establishes liability for the following types of actions: 1) planning, preparation or initiation of a war of aggression or military conflict, as well as participation in a conspiracy directed at committing such acts (Part 1 of Article 437), 2) waging a war of aggression or aggressive military actions (part 2 of this Article).

The crime prescribed in Parts 1 and 2 is classified as **especially grave**. It is not subject to any **statute of limitations for criminal prosecution** that, at first sight, somewhat increases the chances of bringing perpetrators to justice.

However, it should be noted that application of this article for bringing Russian “propagandists” to criminal liability is extremely challenging task. **It requires collecting evidence demonstrating that individuals who disseminate Russian disinformation and other destructive materials participated in one or more of the acts specified in the article’s disposition, namely: planning, preparation, initiation of a war of aggression or military conflict or, at least, participating in a conspiracy aimed at committing the aforementioned acts.**

It should be considered that scholarly research distinguishes between “information operations” as a component of military or war operations, and other information activities.<sup>15</sup>

<sup>14</sup> See the abovementioned case no 27/15700/23, <https://reyestr.court.gov.ua/Review/116618973>

<sup>15</sup> П. М. Сніцаренко, Інформаційна операція Збройних Сил України як інтегруюча форма воєнних дій в інформаційному просторі // Наука і оборона, <http://nio.nuou.org.ua/article/view/210744/255169> (P. M. Snitsarenko, *Information Operation of Armed Forces of Ukraine as Integrating Form of Military Activities in Information Space.* // *Science and Defense*)

The former specifically entails the existence of a **unified concept and plan, coordinated actions and a common purpose** – creating favorable conditions for the deployment of exercising destructive influence – both informational and otherwise – on the enemy’s decision-making, etc. In essence, this is an activity carried out by certain units of the armed forces, using both their own capabilities and the information infrastructure of the state.<sup>16</sup> In this case, the mentioned “information operations” may constitute elements of planning, preparation for waging the war of aggression or military conflict or their waging, and such acts may incur liability under Article 437 of the CCU.

Accordingly, **it is necessary to gather evidence that confirms the involvement of responsible persons in the specified activity, determining their personal role in its implementation, as well as evidence of the causal relationship between the mentioned “information operations” and planning, preparation, initiation and/ or waging of a war of aggression or military conflict.**

According to the legal position formulated by the Grand Chamber of the Supreme Court, the acts specified in Article 437 of the CCU, may be committed by persons who, by virtue of their official authority or actual social position, are capable of exercising effective control over political, military actions and/or substantially influencing political, military, economic, financial, informational and other processes in their own state or abroad, and/or directing specific areas of political or military actions.

The planning, preparation, initiation of the war of aggression or military conflict, participation in a conspiracy directed at committing such acts and waging a war of aggression or aggressive military actions require that such subjects possess either appropriate authority, resources in the spheres of international relations, internal policy, defense, industry, economics, finance, or such a social position that enables them to influence the adoption of relevant decisions by authorized persons. They may, including but not limited to: define and implement the general course of state development; represent the state in international relations; influence its legislative and regulatory activity; shape governmental policy; develop a national ideology and ensure its implementation in life through mass influence on public opinion; approve the composition armed forces subordinate to the state and command both these forces and illegal paramilitary or armed formations; determine strategic objectives for the economy and industry to achieve military goals; provide funding for military measures and manage the logistical support for the implementation of these measures.

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<sup>16</sup> Ibidem.

Persons with such capabilities may include, but are not limited to, heads of states and governments; members of parliament; leaders of political parties; diplomats; heads of intelligence services; commanders of armed forces subordinate to the state as well as illegal paramilitary or armed formations; other persons who effectively act as military commanders; heads of executive authorities responsible for developing and implementing the state policy and regulatory framework in the field of armed formations and weapons circulation; leaders whose legal status is not defined by the term “military commander” but who direct or control those persons participating in the war of aggression or aggressive military actions; other persons who, although not holding formal positions, are capable of actively influencing military-political processes related to the planning, preparation, initiation of the war of aggression or military conflict and conduct the war of aggression or aggressive military actions.<sup>17</sup>

Qualification of other, non-military, information activities as prohibited under this article is almost impossible, as such activities would likely not relate to the actions enumerated in the disposition of this legal norm. The absence of evidence establishing a causal link between the information activities and the planning, preparation or initiation of the war of aggression or military conflict, participation in a conspiracy directed at committing such acts or waging the war of aggression or aggressive military actions precludes criminal prosecution under Article 437 of the CCU.

**Article 438. Violation of laws and customs of war.** *Since October 24, 2024, the title of this article is “War Crimes”*

Part 1 of this article recognizes the following as criminally punishable acts: 1) cruel treatment of prisoners of war or civilians; 2) expulsion civilians for forced labor; 3) pillage of national treasures in occupied territory; 4) use of means of warfare prohibited by international law; 5) other violations of laws and customs of war provided for by international treaties, consent to be bound by which has been granted by the Parliament of Ukraine; 6) giving an order to commit any of the aforementioned acts.

If the abovementioned acts were combined with intentional murder, the perpetrators’ actions were subject to qualification under Part 2 of this article, which establishes more severe punishment for their commission. The October 24, 2024, version of this legal provision clarifies its content, providing for

<sup>17</sup> Decree of the Grand Chamber of the Supreme Court dd. 28 February 2024 in case no 415/2182/20, items 140-142, <https://reyestr.court.gov.ua/Review/117555176>

criminal liability for the acts listed in Part 1 of Article 438 “if they resulted in death of a person.”

This crime belongs to the category of **especially grave crimes** (both parts of this Article), and its commission allows for prosecution at any time, as statutes of limitations do not apply.

Based on the content of Article 438 of the CCU, it can be concluded that a person involved in the commission of this crime shall have **direct intent**, meaning they shall be aware of the socially dangerous nature of their act (action or inaction), foresee its socially dangerous consequences and desire their occurrence.

The crime is considered completed from the moment of committing of at least one of the above listed acts.

It should be noted that the article under review does not provide for any specific liability for disseminating public calls prior to committing the acts prohibited by it. Therefore, it is necessary to separately note that persons who publicly call for, induce to the above-described illegal activity, provide advice, instructions, means, or remove obstacles for its implementation, may act as **instigators** and/or **abettors**.

For instance, Article 85 Protocol Additional to the Geneva Conventions of 12 August 1949,<sup>18</sup> *prohibits making the civilian population or individual civilians the object of attack* (3. a)) as well as civilian objects when it is known that such attack will cause excessive loss of life, injury to civilians or *damage to civilian objects necessary for the survival of the civilian population*.

During the monitoring it was recorded that on March 26, 2024, A. Lugovoy made the following statement on the program “**Evening with Vladimir Solovyov**”:

*I think Kharkov needs to be **cut off from power** to such an extent that it **becomes unlivable**, so that these 800 thousand people who remained there would get in cars, on foot, with bundles, on carts and head **west. And the same should be done with other cities, including Kiev.***<sup>19</sup>

<sup>18</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) dd. 8 June 1977, [https://zakon.rada.gov.ua/laws/show/995\\_199#o342](https://zakon.rada.gov.ua/laws/show/995_199#o342)

<sup>19</sup> CHRG website, Calls for Genocide of Ukrainians: Examples, (May 2024), <https://crimeahrg.org/wp-content/uploads/2024/05/prikлади-zaklikiv-do-genocyzidu-ukra%D1%97ncziv.pdf>

In our opinion, this statement contains elements of public incitement to violate the laws and customs of war, namely, to commit acts prohibited by international treaties. Such acts may be considered as incitement to commit a crime under Article 438.1 of the CCU.

However, when dealing with the process of proving criminal actions requires identifying other actors besides the instigator, at minimum, at least the perpetrator(s). Complicity presumes that the crime is committed by prior conspiracy of several persons who agreed in advance, that is, **before the beginning** of the criminal offense, **on its joint commission** (CCU, Article 28.2).

Hence, there should be a connection between the instigator and the perpetrator. As accomplices to the crime, they shall share a unified intent for its commission. Therefore, it is necessary to gather evidence confirming that the inciter and perpetrator agreed on its execution before committing the criminal offense, having distributed roles, and that the inciter's actions influenced the perpetrator's illegal acts.

However, in practice, it is extremely difficult to establish and prove the **causal relationship** between such public statements or similar ones and the actual acts committed by Russian military personnel or other persons that violate the laws and customs of war.

Additional practical difficulties arise from the necessity to prove the existence of **common intent** – the joint **arrangement between the accomplices** (the perpetrator and the instigator) for the commission of this crime, which shall be reached **prior to its commission**.

**Article 442. Genocide.** *This legal provision establishes criminal liability for genocide and defines the content of this term.*

In the version effective prior to October 24, 2024, genocide was defined as an act **intentionally** committed **with the purpose of** complete or partial destruction of any national, ethnic, racial or religious group **by means of** killing members of such group or causing them grievous bodily harm or creating living conditions calculated for complete or partial physical destruction of the group, reducing childbearing or preventing it in such group, or by forcible transfer of children from one group to another (Part 1 of the Article). Part of 2 of this legal provision established criminal liability **for public incitement to genocide as well as for production of materials containing incitement to genocide** with the purpose of their distribution or distribution of such materials.



The version of Article 442 of the Criminal Code of Ukraine dated October 24, 2024, clarifies the concept of “genocide”, bringing it closer to the content of Article 6 of the International Criminal Court Rome Statute.<sup>20</sup> It provides that **genocide** is an act **intentionally** committed with the purpose of destroying, in whole or in part, a national, ethnic, racial or religious group, **as such by means of**: 1) killing members of the group; 2) causing serious harm to members of the group;<sup>21</sup> 3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; 4) imposing measures intended to prevent births within the group; 5) forcibly transferring children of the group to another group.

**Direct and public calls** to commit the aforementioned acts proclaimed with the purpose of destroying, in whole or in part, a national, ethnic, racial or religious group as such as **production of materials** containing incitement to commit such acts with purpose of their distribution or distribution of such materials constitutes a **separate crime** under Part 2 of this Article.

Genocide is an especially grave crime and has no statute of limitations for prosecution.

However, such acts as public incitement to genocide, production of materials containing such incitement with the purpose of their distribution, or actual distribution of materials containing them, until October 24, 2024, were considered as **minor** offences with all corresponding consequences. In particular, the statutes of limitations for criminal prosecution of perpetrators did not exceed five years. In addition, foreign nationals and stateless persons not permanently residing in Ukraine who committed said crime outside Ukraine could not be subject to the provisions of the CCU unless otherwise provided by international treaties.

However, following the introduction of the mentioned amendments to the CCU, for these criminal offenses committed after October 24, 2024, the **statute of limitations** for criminal prosecution **no longer applies**. Therefore, a person may be prosecuted for these acts at any time. In addition, direct and public incitement to genocide proclaimed with the purpose of destroying, in whole

<sup>20</sup> Rome Statute of the International Criminal Court ratified by the Parliament of Ukraine as stated and amended, by Law no 3909-IX dated August 21, 2024, [https://zakon.rada.gov.ua/laws/show/995\\_588#Text](https://zakon.rada.gov.ua/laws/show/995_588#Text)

<sup>21</sup> Serious harm means infliction of grievous bodily injury or bodily injury of medium gravity, commission of rape or other forms of sexual violence, causing severe physical pain or physical or moral suffering (see note to CCU Article 442).

or in part, a national, ethnic, racial or religious group as such, as well as production and/or distribution of materials containing such incitement have been re-classified **as a grave crime** due to increased liability for their commission. Therefore, perpetrators, regardless of their citizenship, place of permanent residence and place of crime commission, may be prosecuted for committing these acts according to the CCU provisions.

This significantly enhances the possibilities of punishing persons who informationally support Russian aggression against Ukraine, justify cruelty and violence against Ukrainians, and call for their destruction.

Public incitement to genocide and the production and distribution of relevant materials **constitutes independent crimes and do not depend on whether they ultimately led to direct acts of genocide**. These crimes shall be considered **completed** from the moment of public proclamation of incitement to genocide and/or production and/or distribution of relevant materials.

The crime provided for in Article 442.2 of the CCU requires proof of, including but not limited to, the following elements of the criminal offence:

- 1) **Public nature of actions** (commission of a prohibited speech act publicly, or production of materials containing incitement to genocide with the purpose of their dissemination or dissemination of these materials);
- 2) **incitement/direct incitement** (that is, commission of actions that encourage the commission of genocide);
- 3) **direct intent** (person's understanding of the danger of the actions and awareness of their negative consequences and the desire for these consequences to occur);
- 4) **purpose** (to destroy, in whole or in part, a particular national, ethnic, racial or religious **group** by any of abovementioned ways).

It should be noted that crime of incitement to genocide shall be distinguished from other similar crimes, for instance, incitement to the murder on grounds of racial, national or religious intolerance (CCU Article 115.2-14) or infliction of intentional grievous bodily harm motivated by racial, national or religious intolerance (CCU Article 121-2).

To better understand the difference between this and other crimes, it is necessary to examine the nature of the crime of the genocide. Relevant

clarifications can be found in the manual “Incitement to Genocide: Holding Propagandists Accountable. International Experience and Ukrainian Law”.<sup>22</sup>

Finally, it should be noted that in November 2023, Shevchenkivskyi District Court of City of Kyiv found a Russian Federation citizen guilty of, inter alia, public incitement to genocide, i. e. a criminal offence under CCU Article 442.2.<sup>23</sup>

**Article 442-1. Crimes against humanity.** *These include any of the following acts when committed intentionally as part of a widespread or systematic attack<sup>24</sup> directed against civilian population, namely:*

- 1) persecution of any identifiable group or community (this may manifest in the restriction of human rights on political, racial, national, ethnic, cultural, religious, gender or other grounds (signs of discrimination) defined by international law as inadmissible);
- 2) deportation of population, i. e. forced displacement (eviction) of a relevant group of persons from the area in which they lawfully stayed, to the area of another state, without grounds provided for by international law;
- 3) forcible transfer of population, i. e. forced displacement (eviction) of a relevant group of persons from the area in which they were lawfully stayed, to another area within the same state, without grounds provided by international law;
- 4) rape, sexual exploitation, forced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence;
- 5) enslavement or human trafficking;
- 6) enforced disappearance;<sup>25</sup>

<sup>22</sup> А. Вишнякова, Г. С. Гордон, Д. Птащенко «Заклики до геноциду: притягнення пропагандистів до відповідальності. Міжнародний досвід та українське право», <https://www.lingvalex.com/buklety/posibnik-zakliki-do-genocidu-prityagnennya-propagandistiv-do-vidpovidalnosti> (A. Vyshniakova, H. S. Hordon, D. Ptashchenko “Calls For Genocide: Holding Propagandists Liable. International Experience and Ukrainian Law”

<sup>23</sup> See the abovementioned conviction in case no 761/14763/22 at: <https://reyestr.court.gov.ua/Review/114881278>

<sup>24</sup> Attack directed against civilian population means multiple acts (two and more) of committing any of the acts specified in this article against civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack (see note to CCU Article 442-1).

<sup>25</sup> Enforced disappearance means the arrest, detention, abduction or any other form of deprivation of liberty of a person followed by a refusal to acknowledge such arrest, detention, abduction or deprivation of liberty of a person in any other form or by concealment of information about the fate

- 7) unlawful deprivation of physical liberty;
- 8) torture;<sup>26</sup>
- 9) other intentional inhumane acts of a similar character causing great suffering, or medium gravity or grievous bodily injury or serious harm to mental or physical health (CCU Article 442-1.1);
- 10) the crime of apartheid, extermination,<sup>27</sup> murder (CCU Article 442-1.2).

These acts are considered crimes in Ukraine starting from October 24, 2024, when the Law of Ukraine “On amending Criminal and Criminal Procedural Codes of Ukraine due to ratification of the Rome Statute of the International Criminal Court and Amendments Thereto” came in force. Prior to this, the CCU did not provide for liability for crimes against humanity.

This crime is **especially grave**, and **no statute of limitations applies** to criminal prosecution for it (CCU Article 49.5).

However, when it comes to bringing to criminal responsibility persons who spread Russian disinformation and propaganda, supporting, justifying, encouraging or otherwise facilitating the commission of crimes against humanity, this task may prove quite challenging.

Article 442-1 of the CCU does not establish liability for public incitement to commit this crime and for production and/or dissemination of materials containing such incitement. Therefore, persons who informationally support and facilitate the commission of these crimes may be prosecuted as instigators or abettors. This requires proving the existence of shared intent to commit criminal acts between them and the direct perpetrators of the crime and the corresponding causal link between their actions.

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or whereabouts of such person, as well as a refusal to acknowledge the fact of arrest, detention, abduction or any other form of deprivation of liberty of a person or concealment of information about the fate or whereabouts of such person (see note to CCU Article 442-1).

<sup>26</sup> Torture means the intentional infliction of severe physical pain or physical or mental suffering upon a person (see note to CCU Article 442-1).

<sup>27</sup> Extermination means causing death of one or more persons by creating intentionally conditions of life aimed at destroying a part of a population, inter alia by depriving of access to water, food and medicine (see note to CCU Article 442-1).

# PSYCHOLINGUISTIC ASPECTS OF INCITING SPEECH\*

БОЛЬШАЯ  
ИГРА

КОМАНДА  
ПУТИНА

\*The section was written by Yuliia Krylova-Hrek



**A**nalysis of the psycholinguistic component of incitement to genocide and other crimes<sup>28</sup> should be considered within its geopolitical and historical context. These speech acts are rooted in ideological narratives of Russia as authoritarian state; they are spread from the top down—that is, from the president and officials to mass media outlets, the latter, in turn, enhance such statements with emotional components and disinformation, such as creating “cannibal” narratives to foment hatred toward everything related to Ukraine. Some journalists have overstepped all bounds and are using direct incitement to massacres and brutal treatment of Ukrainian citizens. By inciting their audience to destroy everything associated with Ukraine—geographically, culturally, and politically—journalists are deliberately demonizing and marginalizing the citizens of Ukraine, thereby inciting anti-Ukrainian sentiments, acceptance of war, and crimes that meet the criteria for genocide.

It is important to note that, in authoritarian Russia, all information spread in the public sphere is controlled by the authorities. Moreover, media personnel receive “so-called manuals” with special instructions on how to cover events, along with specific words and phrases to use.<sup>29</sup> In other words, this means that there has been an intentional accumulation of anti-human and genocide narratives disseminated to wider public to further militarize Russian society and justify military aggression and other crimes.

Since 2014, the main anti-Ukrainian narratives have been actively spread in the media, subject to change and transformation in line with the social and political context and situation. Since 2014, Russian mass media started to pursue active policy of preparing public opinion for military aggression. Hate speech could be heard every day, live, on all state-owned TV channels, online media, and social networks. As the result, in the awareness of the Russian audience, Ukraine was transformed from a friendly neighboring country (according to a survey by the Levada Center in 2012, Ukraine ranked in the top five

<sup>28</sup> For the purposes of this study, the phrase “other crimes” is defined as incitement to waging a war of aggression, crimes against humanity, or war crimes.

<sup>29</sup> SBU. (2022, June 26). SBU intercepts new FSB manuals teaching Russian officials how to praise Putin and comment on the war in Ukraine correctly (video). SBU website. <https://ssu.gov.ua/novyny/sbu-perekhopyla-novi-metodychky-fsb-u-nykh-rosiiskykh-chynovnykiv-vchat-pravylno-khvalyty-putina-ta-komentuvaty-viinu-v-ukraini-video>; Pertsev, A. (2022, August 4). ‘Standing up for the oppressed’ The Kremlin’s newest propaganda guide suggests likening Russia’s invasion of Ukraine to the First World War (trans. S. Breazeal). Meduza. <https://meduza.io/en/feature/2022/08/04/standing-up-for-the-oppressed> (original: <https://meduza.io/feature/2022/08/04/vy-ne-poverite-no-my-razdobyli-esche-odnu-metodichku-kremlya-teper-propagandisty-budut-rasskazyvat-o-prorochestvah-putina-i-sravniyat-2022-y-s-1914-m>)

among Russia's allies and 61% of respondents had a positive attitude toward Ukraine) into a dehumanized and marginalized enemy posing a risk for Russia (when a survey by the same center found that 71% of respondents supported the so-called special operation against Ukraine).<sup>30</sup>

When the open military aggression started, incitements to genocide and other crimes were veiled with slogans about the need “to defend people” in Ukraine, to “denazify,” and “demilitarize” Ukraine (2022). Instead of a blitz victory, however, Russia has been forced to wage a protracted war. This has influenced the change in the slogans used for the war propaganda—that is, from defending the Russian-speaking population in 2014 to denazifying and liberating in 2022, committing crimes against the citizens of Ukraine was masked by narratives of the “defense of the Motherland” and the protection of the sovereignty and security” of the citizens of Russia from NATO in 2024.<sup>31</sup>

During the entire period of armed aggression, the veiled state narratives of war have been accompanied by aggressive speech in the media for actions that meet the criteria for genocide, as well as for the commission of other crimes, which are accompanied by the same actions by the Russian army against Ukraine and its citizens, including crimes on occupied territories.

## OBJECTS OF INCITEMENT UNDER INTERNATIONAL LAW

### Major Challenges in Identifying Incitement to Genocide

Experts face numerous linguistic, legal, and psycholinguistic challenges when they seek to identify instances of incitement to genocide. Given the influence of the present-day meaning of the concepts, situation, and power of word on the audience, experts should have clear criteria for identifying incitement to

<sup>30</sup> Levada Center. (2012, June 14). Attitude of Russians to other countries. Levada Center. <https://www.levada.ru/2012/06/14/otnoshenie-rossiyan-k-drugim-stranam/>

Levada Center. (2022, December 23). Conflict with Ukraine: December 2022 evaluation. Levada Center. <https://www.levada.ru/2022/12/23/konflikt-s-ukrainoj-otsenki-dekabrya-2022-goda/>

<sup>31</sup> Putin, V. (2022, February 24). Address by the President of the Russian Federation. Kremlin: Events. <http://kremlin.ru/events/president/news/67843>; Putin, V. (2024, February 29). Message of President to Federal Assembly. Kremlin: Events. <http://kremlin.ru/events/president/news/73585>

genocide in terms of judicial linguistics. To establish such criteria, the following issues are clarified in the next sections:

Do the expressions “nation, nationality” in the meaning of the phrase “political nation” correspond to the concept a “national group,” which is considered by international law as one of the protected groups in the definition of the crime of genocide?<sup>32</sup>

What methodology should be used to identify speech structures that lexically and grammatically meet the criteria for incitement to genocide?

### Definition of the Basic Concepts

Experts thus need to define the following concepts used by the journalists in their narratives regarding Ukrainians:

- › *Ukrainian community*
- › *Political Ukrainian community*
- › *Ukrainian political nation*

Because all of these texts are written in Russian, the journalists’ native language, understanding the sense of concepts “*nation*,” “*political nation*,” and “*nationality*” must be based in the context of the Russian mentality and through an overview of Russian sources and documents, including dictionaries, encyclopedias, scientific articles, and official state documents.

#### *Nation, political nation*

According to the philosophical encyclopedia of the Russian Academy of Sciences, the words “nation” and “people” are synonymous in the political sense, so a nation is understood as a group of citizens of a certain state.<sup>33</sup> According to Russian language dictionaries, the people are the population of the state—that is, the inhabitants of the country; synonyms of the word *people* include *nation*, *nationality*, or *ethnic group*.<sup>34</sup> When explaining the term “political nation”, experts can refer to the Great Russian Encyclopedia, which states that a political nation

<sup>32</sup> United Nations. (1998, July 17). Rome statute of the International Criminal Court. United Nations, Treaty Series, vol. 2187, No. 38544. <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>  
UN General Assembly. (1948, December 9). Resolution 260 A (III): Convention on the prevention and punishment of the crime of genocide. <https://bit.ly/2JC00oo>

<sup>33</sup> Institute of Philosophy, Russian Academy of Sciences. (n. d. ). People [online]. In New philosophical encyclopedia. Institute of Philosophy, Russian Academy of Sciences. <https://iphlib.ru/library/collection/newphilenc/document/HASH3d2ea45e4294a99c279a3d?p.s=TextQuery>

<sup>34</sup> S. v. “people” in Ozhegov, S. I., & Shvedova, N. Y. (2006). Russian language dictionary. ITI Tekhnologii.

is identical to the concept of a nation **as a group of citizens of one state**.<sup>35</sup> **Statehood as basic nation attribute** was also mentioned in the strategy for the state national policy of the Russian Federation until 2025, which declared that a multi-national community in Russia is united in one “Russian” nation.<sup>36</sup>

### *Nationality*

To understand and compare the meanings of the concepts *nation* and *nationality*, the definitions of the concept “nationality” from Russian dictionaries and encyclopedias were used. Analysis of key sources demonstrated that these concepts are identical:

- 1) According to the Ushakov’s Russian Language Dictionary, *nationality* means the same thing as *nation*—that is, membership in any *nation*, ethnic group.<sup>37</sup>
- 2) According to Ozhegov and Shvedova’s Russian Language Dictionary, *nationality* means membership in any *nation*, ethnic group.<sup>38</sup>
- 3) The Demographic Encyclopedic Dictionary states that, in terms of demography, the population is grouped by nationality<sup>39</sup> (geographical principle), and it defines *nationality* as present-day ethnic communities, *nations*, and other ethnic groups inhabiting the country.
- 4) According to the Russian Sociological Encyclopedia, the term *nationality* originated from the word “*nation*” but is wider in meaning—that is, it encompasses an ethnic group, nation, and other ethnic groups inhabiting the country; the membership of a person or a group of persons in any ethnic group or nation is indicated, *inter alia*, in the censuses.<sup>40,41</sup> This definition also includes geographical and self-identification principles (by census) that are also mentioned in the calls made by Russian journalists.

<sup>35</sup> Kravets, S. L. (2005). Great Russian encyclopedia [online]. Ros. Entsykl.

<sup>36</sup> Russian Duma. (2019). State national policy of Russian Federation until 2025: Implementation outcomes and new challenges. Proceedings of “round table”, 29 March 2018. State Duma Publication, p. 10. <http://duma.gov.ru/media/files/2eG008qD1RDyAaLKIEPbjwepLcQUGXgA.pdf>

<sup>37</sup> Ushakov, D. N. (1935–1940). Russian language dictionary. State Publishing House of Foreign and National Dictionaries.

<sup>38</sup> Ozhegov, S. I., & Shvedova, N. Y. (2006). Russian language dictionary. ITI Tekhnologii.

<sup>39</sup> Sovetskaya Entyklopediya (1985). Demographic encyclopedic dictionary. Sovetskaya Entyklopediya.

<sup>40</sup> Osipov, G. V. (ed.) (1998). Russian sociological encyclopedia. NORMA-INFRA.

<sup>41</sup> State **Committee of Statistics of Ukraine**.(2001). On the number and composition of population of Ukraine upon the results of All-Ukrainian Census of 2001. <http://2001.ukrcensus.gov.ua/results/general/nationality/>

For instance, in a Telegram post by Mardan (2022), “*In my view, the de-Nazification of Ukraine is the destruction of the Ukrainian state completely to zero. Any political or geographical manifestation of Ukrainian patriotism in the future should be considered a crime and punished.*”<sup>42</sup> In this message, the journalist thus incites his readers to kill people based on the manifestations of national identity and the geographical territory of Ukraine as a sovereign state.

### Nationality by Self-Identification

Pursuant to Article 300 of the Civil Code of Ukraine,<sup>43</sup> a person has the right to individuality, which includes the right to determine their nationality. According to the last census (2001), 77.8% of the population of Ukraine self-identified as Ukrainians based on their national identity.

In the Russian online space, Ukrainians are now also mentioned using ethnophaulisms and forms of hate speech, including newly created negative notions such as *khokhly*, *Ukry*, *Ukronazis*, and *Banderites*. If these words are used to refer to the citizens of Ukraine, and statements including these terms or incitement to genocide should also be considered incitement to destroy a national group.

Thus, according to the Russian cultural and linguistic tradition, *the concept of nation derives from the attribute of statehood* and is identical to the concept the “political nation” as a group of people united by citizenship of a certain state. In this context, the community of people living on the territory of Ukraine, that are its citizens, and self-identify as Ukrainians constitute a political nation.

**The Russian phrases the “Ukrainian political nation” or “political Ukrainian community” mean the community of Ukrainian citizens and thus denote a national group of Ukrainians.**

### Conclusion

Based on actual linguistic, political, and social factors and with reference to international legal practice,<sup>44</sup> the concepts of the nation, nationality, and politi-

<sup>42</sup> Gladkov, V. (2022, September 17). Putin and state Duma were appealed for outlawing Ukraine politnavigator. S. Mardan [live radio]. Komsomolskaya Pravda Radio <https://www.politnavigator.net/v-rossijskom-ehfire-prizvali-putina-i-gosdumu-obyavit-ukrainu-vne-zakona.html>

<sup>43</sup> CCU. (2023, April 28). <https://zakon.rada.gov.ua/laws/show/435-15#Text>

<sup>44</sup> As in the International Criminal Tribunal for Rwanda (ICTR) case against Jean-Paul Akayesu (ICTR-96-4-T, September 2, 1998): “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.” <https://www.refworld.org/jurisprudence/caselaw/ictr/1998/en/19275> (accessed June 30, 2024).



cal nation used in statements against Ukrainians are identical to the concept of a national group because:

- 1) According to the latest census, 77.8% of citizens of Ukraine self-identified as Ukrainians.<sup>45</sup> This means that, for most of the Ukraine's population, their citizenship (political nation) and national group are the same.
- 2) According to the definitions in the dictionaries, encyclopedias, and other official documents of the Russian Federation, the words *nation* and *nationality* are identical in meaning to the concept of the political nation.

To conclude, speech acts, incitement to destroy *the Ukrainian nation, political Ukrainians, and/or the Ukrainian political nation, in whole or in part*, may be considered identical to calls to destroy Ukrainians as a national group, in whole or in part.

For instance, such calls can be identified in the following statement: “*Bomb Kiev! Bomb Kharkov! Bomb Dnepropetrovsk! Do not spare ammunition! If the Ukrainian political nation wants a war, it must get such a war that will leave no memory of this nation.*”<sup>46</sup> Here the journalist incites his audience to intensive shelling and bombing of civilians to **destroy them as a whole** and uses the concept the “political nation” that is identical to the concept of the national group of Ukrainians.

### Incitement to wage a war of aggression

Incitement to wage a war of aggression means encouraging and justifying acts of military aggression, invasion, and occupation, such as bombing and use of arms against the state attacked. The liability for such acts is fixed by Articles 1, 3, and 4 of UN General Assembly Resolution 3314 (XXIX) (Definition of Aggression) adopted on December 14, 1974, and **the CCU, Article 437 “Planning, preparing, starting and waging a war of aggression.”**

Such incitement can be implemented both through direct speech acts and by spreading hate speech to justify invading or occupation acts, as well as encouragement to aggression, including encouragement to occupy the territory under the guise of “liberation” or incitements to bomb civilian facilities, civil infrastructure, and civilians. The definition of incitement to wage a war of

<sup>45</sup> State Committee of Statistics of Ukraine (2001).

<sup>46</sup> Mardan, S. [@mardanaka] (2022a, March 14). Бомбите Киев! [Telegram post]. Telegram. <https://t.me/mardanaka/7304>

aggression may also be applied to intimidation of the population in occupied territories, public encouragement of violations to the norms of international humanitarian law, and incitement to commit war crimes (see art. 3, which is common to all four Geneva Conventions).

# IDENTIFYING STATEMENTS CONTAINING INCITEMENTS TO COMMIT CRIMES IN RUSSIAN MATERIALS

## Basic Concepts

A person who is monitoring incitements to genocide or crimes against humanity must understand the semantic meaning of the concepts “*speech act*” and “*incitement*.” They must also be able to identify their lexical and grammatical forms. Speech acts may be expressed both directly and indirectly, so it is equally important to analyze statements in the context of the publication and events (i. e., the political situation).

### “Calls” and “incitement” in the context of the crime of genocide and other crimes

In the context of expert assessment of public statements, the concepts a “call” (заклик /Ukr/, “request, demand to start any activity, to behave in a certain manner”; призыв /Rus/, (a political slogan, an appeal, in a concise form expressing a leading political idea, a demand. A request, a plea), “incitement” (підбурювання /Ukr/, “action meaning to incite. Incite (verb) 1. Encourage someone to some actions, deeds by speaking. 2. Prompt somebody’s desire to perform an action, inspire to a deed”; подстрекательство /Rus/, “an encouragement, a call to harmful, dangerous in its consequences or malign, criminal actions”), and “encouragement” (спонукання /Ukr/, побуждение /Rus/) are considered synonymous, as they all indicate that the speaker in the public media space is encouraging or calling the audience to act.<sup>47</sup> Incitement (encouragement) can have different characteristics; it can be a request, wish, advice,

<sup>47</sup> Ukrainian Language Dictionary. (1972). Заклик. In Ukrainian Language Dictionary (vol. 3, p. 147); Ozhegov, S. I., & Shvedova, N. Y. (1949–1992). Призыв. In Russian Language Dictionary. ITI Tekhnologii; Ukrainian Language Dictionary. (1975). Підбурювання. In Ukrainian Language Dictionary (vol. 6, p. 401); Ozhegov, S. I., & Shvedova, N. Y. (1949–1992). Подстрекательство. In Russian Language Dictionary. ITI Tekhnologii.

order, demand, permission to act, prohibition, expression of the undesirability of an action, an expression of the needlessness of an action (optionality), or a warning.<sup>48</sup>

## Ways of Expressing Calls and Incitement<sup>49</sup>

In the Russian language, calls and incitements are expressed by verbal (lexical, morphological, and syntactic) and non-verbal means—both directly and indirectly. ***It is important to note that not all statements with marker words or grammar forms should be considered incitement to genocide or calls for other crimes. Each case has to be analyzed individually in the context and situation in which the statement is made.***

### Direct expressions

There are various formal criteria for identifying direct calls and incitements to genocide or other crimes. A few basic markers are presented here to help in identifying such speech structures; when monitoring similar words should also be considered if they are used to call and incite.

- 1) If there is a call or incitement to genocide or other crimes in the context of statement, they can include Russian verbs such as *искоренить, уничтожить, ликвидировать, запретить, убить, призывать, or требовать* (exterminate, destroy, liquidate, ban, kill, call, demand).
- 2) Statements can include modal features indicating the author's attitude alongside encouragement to act. Such statements may be identified through the use of marker words such as:
  - a) *должен, надо, нельзя, and необходимо* (must, need, cannot, it is necessary) as well as *пора* or *время* (it is time, it is high time), as in *"it is time to decide," "it is high time to take action."* This appears, for instance, in statements like: *"Banderite leadership should be liquidated, it cannot be re-educated,"<sup>50</sup> "If a 'Ukrainian trace' is found, Kiev must be mercilessly wiped off from the face of the Earth."<sup>51</sup>*

<sup>48</sup> Fateme, N. (2012). Ways to express encouragement in current Russian. PhD Thesis, Moscow

<sup>49</sup> Fateme (2012); Vlasova, O. B. (2016). Signs of appeal in the context linguistic expertise. *International Research Journal*, 9(51). <https://doi.org/10.18454/IRJ.2016.51.021>; Akimova, G. N., Viatkina, S. V., Kazakov, V. P., & Rudniev, D. V. (2009). *Syntax of the Modern Russian Language. Textbook for Higher School Students*. Ed. S. V. Viatkina. St. Petersburg State University.

<sup>50</sup> Sergeytsev, T. (April 2022, April 3). What Russia must do with Ukraine. RIA Novosti.

<sup>51</sup> Sibkray. ru (March 2024, March 23). <https://sibkray.ru/news/2127/980981/>

- b) It can also include statements with marker words expressing the author's opinion about the necessity or importance of certain actions such as *требуется* or *следует* (it is required, should); for instance: *"In order to unite the Russian people, reassemble and strengthen Russia – Ukraine and Ukrainians must be destroyed,"* or *"...Ukraine itself and Ukrainians themselves as a people is a phenomenon that is extremely hostile to us, and everything that is hostile should be destroyed."*<sup>52</sup>
- 3) Such statements can also include adverbs such as *вперед, вон, or долой* (Go Ahead! Out! Down with!) used in slogans, resolutions as demands, and orders to destroy facilities and people defined in national law as national, ethnic, religious group, civilians; for instance: *"Down with sentiments, go ahead, bomb cities."*
- 4) Statements with marker words such as *долг, задача, миссия, необходимость, обязанность, or цель* (duty, task, mission, necessity, obligation, goal) are imperative in a semantic sense and denote a direct incitement to act.

The major grammatical marker used for calls and incitements is the imperative mood, although other forms of expression also exist:

- 5) The imperative mood (наказовий спосіб /Ukr/, повелительное наклонение /Rus/, imperative) expresses a will, order, request, or piece of advice that encourages the commission of acts of genocide or other crimes. For instance, *убейте!, уничтожьте!, бомбите!* (Kill! Destroy! Bomb!), or *"Bomb Kiev! Bomb Kharkov! Bomb Dnepropetrovsk! Do not spare ammunition! If the Ukrainian political nation wants a war, it must get such a war that will leave no memories about this nation."*<sup>53</sup>
- 6) Grammatical forms using the infinitive (answers questions "what to do" что делать/сделать? /Rus/ (що робити/зробити? /Ukr/) could also be monitored if used with words describing actions of genocide or other crimes and when it expresses an order or instruction and implies a need to perform. For instance, *сжечь, жечь, топить, уничтожить, or запретить* (burn, fire, drown, destroy, forbid): *"And it was necessary to drown such people. To drown these children. Right in Tysyn. [...] Once he*

<sup>52</sup> Vynnychuk, Y. (2021, July 15). Ukraine and Ukrainians must be destroyed. Literaturna Ukraina. <https://litukraina.com.ua/2021/07/15/jurij-vinnichuk-ukrainu-i-ukrainceve-neobhodimo-unichtozhit/>

<sup>53</sup> Mardan, S. [@mardanaka] (2022a, March 14). Бомбите Киев! [Telegram post]. Telegram. <https://t.me/mardanaka/7304>

said that the Muscovites occupied (Ukraine), and you immediately throw him into the river with a stormy flow. [...] And here, straight into this spruce house, fill in and burn.”<sup>54</sup> SOLOVYOV Vladimir: “Let’s drop the nuclear bomb! I was in favor of it from the very beginning. Yes, drop a nuclear bomb. For me, tens of thousands of our wounded fighters and those who were put out are more valuable, yes, if they don’t understand, drop a nuclear bomb.”<sup>55</sup>

- 7) Expressions that present an instruction to commit crimes of genocide or other crimes: “*Throw into the river with a stormy flow*” in the context of a call to kill (see examples under Point 2).
- 8) The future tense can be used for requests, calls, incitement, and encouragement to commit criminal acts or simulate the future act; for instance: “*We will take your Constitution and burn it on Khreshchatyk together with you, on your own fires, as you like. On tires, on tire casings.*”<sup>56</sup>
- 9) Of particular note are statements expressing advice, proposals, or approval of committing crimes of genocide and other crimes, such expressions with the addition of particles *нужь* or *нужай* (/Rus/ let): *Let him kill – Let them kill.*

### Identifying calls and incitements: Difficult cases

Some ambiguous calls may be distinguished only in the context of publication and the situation in which the statement is made. Several examples of indirect incitement are presented below.

- 1) Notable here are **expressions that include euphemisms**, such as *освободить* (to liberate), *денацифицировать* (to denazify), or *зачистить* (to cleanse) in the meaning of “to kill” or “to repress” when included in calls to seize the territories and destroy, in whole or in part, a certain national, ethnic, or other population group, including the use of punitive measures against “political Ukrainians” (see Point 1 in the previous section). For instance, “*We all understand very well that one of the key goals of the special military operation is to cleanse Ukraine from*

<sup>54</sup> Pravo. kz (2022, October 24). Interview with A. Krasovskiy [video]. RT ROSSIYA. <https://www.facebook.com/100072192885952/videos/1461428757699934/>

<sup>55</sup> Solovyov. V. (2024, March 25). Evening with Vladimir Solovyov show [video]. <https://smotrim.ru/video/2780910>

<sup>56</sup> Infoprostrir. (2022, January 15). Interview with A. Krasovskiy [video]. RT ROSSIYA. <https://www.facebook.com/infoprostrirukr/videos/191524619822064/>



*all this evil, which is invisible to us, their names are similar to ours, they speak the same Russian language, but they can do awful things.*<sup>57</sup>

- 2) **Metaphors** can be used to avoid direct naming the object of linguistic aggression that the speaker is calling to be destroyed, subject to committing other acts that meet the criteria of genocide and other crimes; for example, talking about the citizens of Ukraine as a “*bioreactor*” that must be “*neutralized at all costs*.”<sup>58</sup> They can also be used as a substitute for the verbs in calls to kill and commit other acts that meet criteria of genocide and other crimes; for example, to *cure* instead of *to kill* or *to repress*.<sup>59</sup> Finally, religious metaphors are often used in statements to describe aggression against Ukraine as a “sacred war” or “great jihad.”

The negative associations caused by these metaphors allow Russian propagandists to strengthen the emotional and sensual influence on their audience, which can lead to the acceptance and justification of war and murders. In the texts calling for the killing of Ukrainians, metaphors are also used with such expressions and phrases as “*cut off the grubby hands pawing over our past*,” “*stamp out the plague*,” “*exterminate the hydra*,” “*root out*,” or “*wipe off from the face of the Earth*,” as well as the statement that missile attacks on Ukraine are for “*therapeutic purposes*” and intended to “*to treat*” the brains of Ukrainians. Metaphors are used in incitements to destroy Ukrainian are put forward because Ukrainians as “*dedicated supporters of independence*” are “*demons*.” For example: “*Unfortunately, a part of Ukrainian society is deeply affected by the sarcasm of the Banderism. And I understand very well that neither Kalibrs nor Kinzhals, nor the Iskanders that you see now, of course, will re-educate this Banderism, which for 30 years has been preparing a fierce hatred of every-thing Russian. We are healing ourselves, and we are healing Ukraine.*”

- 3) **Pictures and images** can be used, which, combined with the statement (even if there is no inciting speech in the text), communicate information that is equivalent to such incitement.
- 4) **The infinitive with the particle бы /Rus/** is used in questions to express an implicit incitement to acts of genocide or other crimes; for instance,

<sup>57</sup> Slutskiy, L. (2022, May 21). Solovyov LIVE show [video]. <https://rutube.ru/video/c67226eda1da254c4ea0cb9ab39bf27c/>

<sup>58</sup> Konanykhin, D. (2022, December 12). Telegram channel [video]. <https://smotrim.ru/video/2451488>

<sup>59</sup> Baranets, V. (2022, March 25). Solovyov LIVE show [video]. <https://rutube.ru/video/d86ebb01910dcf0c656c267c8a3c832b/>

*“The military administration should have destroyed everyone who is not loyal and carried out filtration and arrests.”*

- 5) **The delivery of the assumption of how it should have been done** sounds like advice for the future and can be a call to acts of genocide or other crimes’ for instance, *“Instead of filtrating, cleansing and arresting all disloyal people in the city, the new local authorities began with installing billboards. [...] But now it is important to learn lessons.”*<sup>60</sup>
- 6) Statements can present the speaker’s **own opinion** expressed as call to commit acts that would cause death, depopulation, or the creation of conditions unsuitable for life. These generally appear with marker words such as “in my opinion” (на мою думку /Ukr/, думаю /Rus), “I think” (мені здається /Ukr/, по моему мнению /Rus), or “It seems to me” (гадаю /Ukr/, мне кажется /Rus/). For instance, *“I think Kharkov must be de-powered to such an extent that it becomes unlivable, that these 800, 000 people who remain there get into cars, on foot, with bales, in carts, and move to the west. And the same thing should happen with other cities, including Kiev.”*<sup>61</sup>
- 7) In the context of **anti-Ukrainian narratives**, special attention must be paid to the words *нацист, бандеровец, націоналіст, фашист, or антихрист* (Rus) (Nazi, Banderite, nationalist, fascist, anti-Christ) if they are being used as synonyms for *Ukrainians, citizens of Ukraine* in calls for destruction and repression. For instance, *“collaborators of the Nazis, I mean the Banderites and others, precisely in Ukraine [...] We have no right to show any humanity. We have no right to have any mercy toward these people.”*<sup>62</sup>

Expert determination of difficult cases of incitement to genocide and other crimes is complicated because each statement must be analyzed individually in the context of the entire communication, text, and external circumstances. This also involves fact checking in cases of fake accusations of inhumane actions accompanied by calls for destruction to achieve revenge.

<sup>60</sup> Mardan, S. [@mardanaka] (2022b, December 26). New York Times опублікувала величезний текст про українських «партизан» [Telegram post]. Telegram. <https://t.me/mardanaka/12515>

<sup>61</sup> Lugovoy, A. (2024, March 26). Evening with Vladimir Solovyov show [video]. <https://smotrim.ru/video/2781575>

<sup>62</sup> Markov, I. (2022, May 8). Russia 1 [video]. <https://smotrim.ru/video/2408884>

## APPENDIX 1.

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## APPENDIX 2.

### List of information resources selected for the study

#### Media:

Name	Reference to the media website
NTV	<a href="https://www.ntv.ru/">https://www.ntv.ru/</a>
PERVYI	<a href="https://www.1tv.ru/">https://www.1tv.ru/</a>
PERVYI RESPUBLIKANSKIY	<a href="https://rutube.ru/channel/23788980/">https://rutube.ru/channel/23788980/</a>
POLITNAVIGATOR	<a href="https://www.politnavigator.net/">https://www.politnavigator.net/</a>
VESTI FM RADIO	<a href="https://vgtrk.ru/radiovesti">https://vgtrk.ru/radiovesti</a>
KOMSOMOLSKAYA PRAVDA RADIO	<a href="https://radiokp.ru/">https://radiokp.ru/</a>
SPUTNIK RADIO	<a href="https://radiosputnik.ru/">https://radiosputnik.ru/</a>
RUSSIA 1	<a href="https://vgtrk.ru/russiatv">https://vgtrk.ru/russiatv</a>
RUSSIA KULTURA	<a href="https://vgtrk.ru/tvkultura">https://vgtrk.ru/tvkultura</a>
SOLOVYOV LIVE	<a href="https://smotrim.ru/brand/66924">https://smotrim.ru/brand/66924</a>
TELEGRAM	<a href="https://t.me/">https://t.me/</a> <a href="https://t.me/">https://t.me/</a>
ZVEZDA TV CHANNEL	<a href="https://tvzvezda.ru/">https://tvzvezda.ru/</a>
360° TV CHANNEL	<a href="https://360.ru/">https://360.ru/</a>
GORLOVKA 6TV TV CHANNEL	<a href="https://rutube.ru/channel/6270978/">https://rutube.ru/channel/6270978/</a>
UKRAINA. RU	<a href="https://ukraina.ru/">https://ukraina.ru/</a>
RUTUBE	<a href="https://rutube.ru/">https://rutube.ru/</a>
Smotrim. ru	<a href="https://smotrim.ru/">https://smotrim.ru/</a>

## Telegram channels:

Name	Reference to channel	Number of channel subscribers <i>(as of July 2024)</i>
“Kadyrov_95”	<a href="https://t.me/RKadyrov_95">https://t.me/RKadyrov_95</a>	2 036 698
“ROGOZIN”	<a href="https://t.me/rogozin_do">https://t.me/rogozin_do</a>	103 070
“Sheyh Tamir”	<a href="https://t.me/sheyhtamir1974">https://t.me/sheyhtamir1974</a>	446 083
“Soloviev”	<a href="https://t.me/SolovievLive">https://t.me/SolovievLive</a>	1 328 655
“Andrey Medvedev”	<a href="https://t.me/MedvedevVesti">https://t.me/MedvedevVesti</a>	184 539
“MARDAN”	<a href="https://t.me/mardanaka">https://t.me/mardanaka</a>	245 559
“ANTON VIACHESLAVOVICH”	<a href="https://t.me/krasovkin">https://t.me/krasovkin</a>	90 287
“Gasparyan”	<a href="https://t.me/ASGasparyan">https://t.me/ASGasparyan</a>	209 101
“GOLOVANOV”	<a href="https://t.me/romagolovanov">https://t.me/romagolovanov</a>	82 880

## APPENDIX 3.

### List of tv shows where calls for genocide, aggressive warfare, war crimes and crimes against humanity documented

Name	Inform resource broadcasting the show
60 Minut ( <i>60 Minutes</i> )	Russia 1   Smotrim. ru   POLITNAVIGATOR
AntiFeyk ( <i>Anti-fake</i> )	Pervyi   Rutube
Armagedonych	Rutube   Solovyov LIVE
Bolshaya Igra ( <i>Big Game</i> )	Pervyi
Vecher s Vladimirov Solovyovym ( <i>Evening with Vladimir Solovyov</i> )	Smotrim. ru   Russia 1   Solovyov LIVE
Vremia pokazhet ( <i>Time Will Show</i> )	Pervyi   Rutube
Den' Z ( <i>Day Z</i> )	Solovyov LIVE   Rutube
Dialogi ( <i>Dialogues</i> )	Komsomolskaya Pravda Radio   Rutube
Zheleznaya logika ( <i>Cast Iron Logic</i> )	Rutube   VESTI FM Radio   Telegram
Zhyzn i sudba ( <i>Life and Fate</i> )	Russia 1   Russia Kultura
Intervyu na radio Sputnik ( <i>Interviews on SPUTNIK Radio</i> )	Rutube   Radio SPUTNIK
Intervyu na Ukraina. ru ( <i>Interviews on Ukraine. ru</i> )	Ukraina. ru   Rutube
Kategoricheski s Goblinom ( <i>Point Blank with Goblin</i> )	Rutube   Radio SPUTNIK
Labirint Karnaukhova ( <i>Karnaukhov's Labyrinth</i> )	Solovyov LIVE   Rutube   Smotrim. ru   Russia 1
Novyny na telekanali 6TV Horlovka ( <i>News on 6TV Horlovka TV channel</i> )	GORLOVKA 6TV TV Channel

Name	Inform resource broadcasting the show
Otkrytyi efir ( <i>Open Air Talk Show</i> )	ZVEZDA TV Channel
Otkrytyi efir. Tok-shou   Телеграм-канал “Kadyrov_95”   Точка зрения Otkrytyi efir. Kadyrov-95 Telegram channel. Tochka zreniya ( <i>Open Air Talk Show / Kadyrov-95 Telegram channel / Point of View</i> )	Telegram   ZVEZDA TV Channel   Rutube   Pervyi Respublikanskiy
Polnyi kontakt ( <i>Full Contact</i> )	Solovyov LIVE   Rutube   VESTI FM Radio Russia 1
Ponedelniki s Dmitriyem Rogozinym ( <i>Mondays with Dmitriy Rogozin</i> )	Radio SPUTNIK Rutube
Solovyov LIVE	Rutube   Solovyov LIVE
Vremia Golovanova ( <i>Golovanov's Time</i> )	Smotrim.ru   Russia 1
Spetsoperatsiya: glavnoye k vecheru ( <i>Special Operation: Major in the Evening</i> )	360° TV Channel   Rutube





\*Link to the website “Exposing Russian Propagandists”

Information War Crimes: analytical information report on spreading incitement to genocide of Ukrainians and a war of aggression against Ukraine through the Russian information resources covering the armed conflict between the Russian Federation and Ukraine on a regular basis (February 2022 – February 2024).

Under the general editorship by Yana Salakhova.

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