

Some legal aspects of Russian policy towards neighbouring countries

Wybrane aspekty prawne rosyjskiej polityki wobec państw sąsiednich

Отдельные правовые аспекты политики России в отношении соседних государств

Окремі правові аспекти російської політики щодо сусідніх держав

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Summary: Russia's policy towards neighbouring countries and nations has always been dictated by imperialist and expansionist goals. To achieve them, Russia used brutal methods, including direct military aggression, inciting ethnic conflicts, genocide and ethnic cleansing. There are many examples of this in history in the form of the genocide of the Caucasian nations in the 19th century, the Holodomor against Ukrainian people, Soviet repressions, the ethnic cleansing of Georgians in the Abkhazia and Tskhinvali region at the end of the 20th and the beginning of the 21st century, and others. Nevertheless, Russia has not been held accountable for its actions. The war against Ukraine, which started in February 2022, dispelled all illusions of the democratic world towards Russia. Today, the democratic world is united, and the primary basis of this unity is the values, which it must bear responsibility for protecting. For this purpose, all international legal levers and institutions should be used. Russia's leadership must be brought to justice, and the country must be held financially accountable. The only way for peace between Russia and the world is the democratisation of Russia, which is only possible through international legal coercion, as happened in the case of Nazi Germany. This article is an attempt to present the specific facts of Russia's aggressive and imperialist policy towards neighbouring countries, especially towards Georgia, the specific legal levers for combating this policy, and future perspectives.

Key words: Russia, Nazi, genocide, ethnic cleansing, responsibility, Ukraine, Georgia, Abkhazia, South Ossetia

Streszczenie: Polityka Rosji wobec sąsiednich państw i narodów zawsze była podyktowana imperialistycznymi i ekspansjonistycznymi celami. Aby osiągnąć te cele, Rosja stosowała brutalne metody, w tym uciekała się do bezpośredniej agresji zbrojnej, podżegania do konfliktów etnicznych, ludobójstwa i czystek etnicznych. Jest na to wiele przykładów z historii, takich jak ludobójstwo narodów kaukaskich w XIX w., Holodomor na Ukrainie, represje sowieckie, czystki etniczne Gruzinów w Abchazji i regionie Cchinwali pod koniec XX i na początku XXI w. Rosja nigdy nie została pociągnięta do odpowiedzialności za swoje działania. Wojna przeciwko Ukrainie, która rozpoczęła się w lutym 2022 r., rozwiła wszelkie złudzenia demokratycznego świata wobec Rosji. Dziś demokratyczny świat jest zjednoczony, a główną podstawą tej jedności są wartości, za których ochronę musi wziąć odpowiedzialność. W tym celu należy wykorzystać wszystkie międzynarodowe instytucje i instrumenty prawne. Winni przywódcy Rosji muszą zostać postawieni przed sądem, a państwo musi zostać pociągnięte do odpowiedzialności finansowej. Jedynym sposobem na osiągnięcie pokoju w Rosji i na świecie jest demokratyzacja Rosji, która jest możliwa tylko za sprawą międzynarodowego przymusu prawnego, tak jak to miało miejsce w przypadku nazistowskich Niemiec. Artykuł jest próbą przedstawienia poszczególnych faktów agresywnej

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i imperialistycznej polityki Rosji wobec państw sąsiednich, zwłaszcza wobec Gruzji, oraz konkretnych instrumentów prawnych służących zwalczaniu tej polityki, jak również perspektyw na przyszłość.

Слова ключовые: Россия, нацизм, геноцид, этнические чистки, ответственность, Украина, Грузия, Абхазия, Осетия Южная

Резюме: Политика России в отношении соседних государств и народов всегда диктовалась империалистическими и экспансионистскими целями. Для достижения этих целей Россия использовала жестокие методы, в том числе прибегала к прямой вооруженной агрессии, разжиганию межнациональных конфликтов, геноциду и этническим чисткам. Примеров тому из истории много: геноцид кавказских народов в XIX веке, Голодомор на Украине, советские репрессии, этнические чистки грузин в Абхазии и Цхинвальском регионе в конце XX – начале XXI века. Россия никогда не была привлечена к ответственности за свои действия. Война против Украины, начавшаяся в феврале 2022 года, разрушила все иллюзии демократического мира в отношении России. Сегодня демократический мир объединен, и главной основой этого единства являются ценности, за защиту которых он должен взять на себя ответственность. Для этого должны быть задействованы все международные институты и правовые инструменты. Виновные руководители России должны быть привлечены к ответственности, а государство – нести финансовую ответственность. Единственным путем достижения мира в России и во всем мире является демократизация России, которая возможна только путем международного правового принуждения, как это было в случае с нацистской Германией. Данная статья является попыткой представить отдельные факты агрессивной и империалистической политики России в отношении соседних стран, особенно Грузии, и конкретные правовые инструменты противодействия этой политике, а также перспективы на будущее.

Ключевые слова: Россия, нацизм, геноцид, этнические чистки, ответственность, Украина, Грузия, Абхазия, Южная Осетия

Резюме: Політика Росії щодо сусідніх держав і народів завжди була продиктована імперіалістичними та експансіоністськими цілями. Для досягнення цих цілей Росія використовувала жорстокі методи, включаючи пряму збройну агресію, розпалювання міжнаціональних конфліктів, геноцид та етнічні чистки. Існує багато прикладів з історії, таких як геноцид кавказьких народів у 19-му столітті, Голодомор в Україні, радянські репресії та етнічні чистки грузинів в Абхазії та Цхинвальському регіоні наприкінці 20-го та на початку 21-го століть. Росія ніколи не була притягнута до відповідальності за свої дії. Війна проти України, що розпочалася в лютому 2022 року, зруйнувала будь-які ілюзії демократичного світу щодо Росії. Сьогодні демократичний світ єдиний, і головною основою цієї єдності є цінності, за захист яких він має взяти на себе відповідальність. Для цього мають бути задіяні всі міжнародні інституції та правові інструменти. Винні керівники Росії мають бути притягнуті до відповідальності, а держава – нести фінансову відповідальність. Єдиний спосіб досягти миру в Росії та світі – це демократизація Росії, яка можлива лише через міжнародно-правовий примус, як це було у випадку з нацистською Німеччиною. Ця стаття є спробою представити окремі факти агресивної та імперіалістичної політики Росії по відношенню до сусідніх країн, особливо до Грузії, та конкретні правові інструменти боротьби з цією політикою, а також перспективи на майбутнє.

Ключові слова: Росія, нацизм, геноцид, етнічні чистки, відповідальність, Україна, Грузія, Абхазія, Південна Осетія

Introduction

Russian aggression in Ukraine exposed the whole civilised world to the cruelty of Russia's imperialist aspirations. If this was somewhat of a shock to the Western democratic countries, this was nothing new for Russia's neighbouring countries and peoples, who, throughout the history of their relations with Russia, have re-

peatedly faced Russian aggression. Yet, the aggressor has never been punished for it. Moreover, the victims of the aggression tended to need a lot of time and energy to prove the veracity of their claims.

Terms such as ethnic cleansing, genocide and crimes against humanity are increasingly being used in reference to Russia, the Russian military or high-ranking officials, including, most importantly, the Russian president. These terms are used not only by politicians for political purposes but, first of all, from a legal point of view, by international courts. In this regard, there have been several important decisions of the International Criminal Court and the European Court of Human Rights. It can be said with confidence that this is only the beginning. The time is coming when the organisers and direct perpetrators of crimes against humanity will be held accountable for the atrocities committed, and Russia, as an aggressor and sponsor of terrorism, will fully compensate for the damage caused to neighbouring countries.

On 7 June 2023, the conference called *The Crime of Genocide in International Law and in the Work of the European Parliament*, organised by the European Conservatives and Reformists Group and the Faculty of Law, Canon Law and Administration, John Paul II Catholic University of Lublin, was held at the European Parliament in Brussels. Despite the general title, the conference was devoted mainly to Russian aggression. The fact that a conference with such focus was held in the office of the European Parliament is in itself an important event itself. Perhaps, before the Russo-Ukrainian war, no one in Western Europe thought of such a conference, not to mention the place where it would be held, despite Russia's numerous acts of aggression in Georgia, Crimea and other parts of the world during the last two decades.

In fact, the topic is so extensive that it is impossible to tackle it within the framework of one article. Hundreds of dissertations can be written on it. Thus, this article is an attempt, on the basis of the academic literature and factual data, to present the specific facts of Russia's aggressive and imperialist policy towards neighbouring countries, especially Georgia, the specific legal levers for combating this policy, and future perspectives.

1. Crimes against humanity in the Russian history

1.1. Genocide of the Circassians

On 20 May 2011, the Parliament of Georgia adopted Resolution no. 4701-I recognising the genocide of the Circassians by the Russian Empire, due to which "Georgia

became the first country to recognise as genocide Tsarist Russia's nineteenth century mass deportations and massacres of the Circassians of the Northwest Caucasus.¹ According to the resolution, based on international norms, the mass destruction and expulsion of Circassians (Adyghe) from their historic homeland during the Russo-Caucasian War (1763–1864) were recognised as an act of genocide, and the Circassians deported during the said war were later declared refugees. The resolution states that it is based on long-term research that has established both the fact and intent of genocide in this case and that even many official documents of the Russian Empire itself confirm the aggressive actions of the military units of the empire during the Russo-Caucasian War, in particular, artificially arranged hunger strikes and epidemics, which were aimed at the physical destruction of the civilian population of the Circassian nationality. The political and military leadership of the Russian Empire pre-planned and subsequently carried out ethnic cleansing in the Circassian territories and deliberately settled other ethnic groups in the areas emptied of them. As a result of numerous punitive military expeditions, more than 90% of the Circassian population was physically destroyed or expelled from their homeland.²

It must be said that the persecution of Circassians did not end in 1864. Historians distinguish a second phase when, in 1878, the Russians chased nearly half the survivors out of their new homes in the Balkans.³

Genocide and ethnic cleansing is one of the proven methods of Russian imperialism. Therefore, Circassians were not an exception. Many other nations have also experienced Russian brutality.

1.2. Similarities between Nazism and the Soviet system

Nazism is a symbol of extreme evil and cruelty in the history of humankind, but no less evil was the Soviet system. Both systems deliberately exterminated the civilian population. Even comparing the Holocaust and the Holodomor is sufficient as an example of the similarities between Communism and Nazism. The Nazis organised the Holocaust, which, according to various estimates, killed 5 to 6 million people.⁴

¹ M. Catic, *Circassians and the Politics of Genocide Recognition*, Europe-Asia Studies 2015, vol. 67, no. 10 (December), p. 1685.

² See: Resolution no. 4701-I of the Parliament of Georgia of 20 May 2011 on the Recognition of Genocide of the Circassians by the Russian Empire.

³ W. Richmond, *The Circassian Genocide*, New Brunswick 2015, p. 8.

⁴ *The Holocaust Encyclopedia*, eds. W. Laqueur, J.T. Baumel-Schwartz, New Haven 2001, p. XIV.

The number of victims of the Holodomor carried out by the Bolsheviks is several million. According to some scholars, between 1932 and 1933, 3.3 million people died of hunger in Ukraine,⁵ but some historians believe that up to 5 million Ukrainians perished during the Holodomor.⁶ It must be noted that the Communists organised the Holodomor between 1932 and 1933, when the Nazis were starting their criminal activities.⁷ Thus, Communist evil can even be considered a precursor of Nazism. It should be noted that many states, including the USA, France, Belgium, Ireland, the Czech Republic, Brazil and others, have already recognised the Holodomor as a genocide of the Ukrainian people.⁸ The European Union also recognised it as genocide.⁹

Communism was characterised by repression and slaughter. Millions of people were shot in 1936 and 1937 across the nations of the USSR; we can also mention the mass murders known as the Katyn Massacre at the beginning of 1940, involving the mass killing of 25,000 Polish soldiers and officials,¹⁰ etc.

1.3. Imperialist passions of modern Russia

The end of the Cold War and the collapse of the Soviet Union were perceived as the beginning of a new, all-out liberal democratic world,¹¹ but the expectations were not met. It soon became apparent that the Russian Federation, the legal successor of the USSR, instead of becoming a liberal democracy, set the goal of reviving the empire on the ruins of the USSR. This was especially evident during the presidency of Vladimir Putin. Professor John Mearsheimer of the University of Chicago, a renowned representative of *realpolitik*, considers this fact controversial and says that there is no evidence for this.¹² A detailed discussion of Professor Mearsheimer's

⁵ P. Wolny, *Holodomor: The Ukrainian Famine-Genocide*, New York 2018, p. 34.

⁶ *Ibidem*, p. 36.

⁷ Hitler was sworn in as Reich Chancellor on 30 January 1933. See: R.J. Evans, *The Coming of the Third Reich*, New York 2004, p. 307.

⁸ <https://holodomormuseum.org.ua/en/recognition-of-holodomor-as-genocide-in-the-world/> [access: 20.07.2023].

⁹ European Parliament Resolution of 15 December 2022 on 90 years after the Holodomor: Recognising the Mass Killing through Starvation as Genocide, 2022/3001(RSP).

¹⁰ T. Urban, *The Katyn Massacre 1940: History of a Crime*, Barnsley 2020, p. VI.

¹¹ See: F. Fukuyama, *End of History?*, *The National Interest* 1989, no. 16 (Summer), pp. 3–18.

¹² See: J.J. Mearsheimer, *Why the Ukraine Crisis Is the West's Fault: The Liberal Delusions That Provoked Putin*, *Foreign Affairs* 2014, vol. 93, no. 5, p. 85; *idem*, *Uncommon Core: The Causes and Consequences of the Ukraine Crisis*, lecture, University of Chicago, June 2015, <https://www.youtube.com/watch?v=-JrMiSQAGOS4&t=25s> [access: 20.06.2023], etc.

opinions is beyond the scope of this article, especially since his views on the issue have been criticised in the scientific literature in a rather argumentative manner.¹³ However, many facts speak against Mearsheimer.

Russian President Putin's nostalgia for the USSR is well known. In the first year of his presidency, the national anthem of the Russian Federation was changed.¹⁴ The music of the national anthem of the Soviet Union was restored, and the new lyrics were written by one of the authors of the old Soviet national anthem, Sergey Mikhalkov.¹⁵ In 2005, Putin stated that the Soviet Union collapse was the greatest geopolitical catastrophe of the century;¹⁶ the words that the collapse of the Soviet Union was a whole-national tragedy of the greatest scale were also uttered by him.¹⁷

In 2008, Russian scholar Andrey Zakharov wrote that the imperial spirit was rising in Russia, which needed expansionism. In other words, every state that feels like an empire must act accordingly, that is, must acquire new territories, because empire implies a constant expansion of its borders, and the mechanism for packaging this imperial expansionism is federalism.¹⁸ In this period, discussions about Russian imperialism became more frequent in Russian scientific literature, and such an antinomian term as "imperial federalism" is increasingly appearing in the Russian scientific and political lexicon.¹⁹

A famous Sovietologist and historian, Stephen D. Shenfield, notes that Russia certainly has a tradition of autocracy, imperialism, militarism and genocide. Both Ivan the Terrible and Stalin belong to this tradition, not to mention such lesser "luminaries" as Danilevsky and Gumilyov.²⁰ We must consider Russian President Vladimir Putin a successor of this tradition. He became the president of Russia thanks to the cruel "second war" against the Chechen people and the mass

¹³ See: R. Kuźniar, *Mearsheimer and the Poverty of His Realism*, Polish Quarterly of International Affairs 2014, no. 4, pp. 141–152.

¹⁴ See: Federal'nyj konstitucionnyj zakon ot 25.12.2000g. no. 3-FKZ "O Gosudarstvennom gimne Rossijskoj Federacii."

¹⁵ B. Havkin, *Nostal'giâ po stalinskoj imperii v postsovetskom diskurse*, Forum novejšej vostočnoevropejskoj istorii i kul'tury – Russkoe izdanie 2010, no. 1, p. 187, <http://www1.ku-eichstaett.de/ZIMOS/forum/inhaltruss13.html> [access: 20.07.2023].

¹⁶ Poslanie Prezidenta RF V.V. Putina Federal'nomusobraniû RF. 25 aprilâ 2005 g., <http://kremlin.ru/events/president/transcripts/22931> [access: 20.07.2023].

¹⁷ A. Filippov, *Novejšaa istoriâ Rossii 1945–2006gg*, Moskva 2007, p. 325.

¹⁸ A. Zaharov, *Unitarnaâ federaciâ. Pât' Ètûdov o rossijskom federalizme*, Moskva 2008, pp. 127–128.

¹⁹ For details on Imperial Federalism, see: G. Goradze, *Federalism Prospects in Georgia. Critical Analysis*, Tbilisi 2012, pp. 133–150; idem, *Imperial Federalism, Actual Problems of Law*, in: *Materials of I International Scientific Conference*, 10–11 July, Tbilisi 2014, pp. 80–82.

²⁰ S.D. Shenfield, *Russian Fascism: Traditions, Tendencies, Movements*, New York 2001, p. 46.

extermination of Chechens.²¹ Putin showed a willingness to use violence against perceived enemies, especially in Chechnya, where there were tens of thousands of casualties, both combatant and civilian.²² The tragedies of the Nord-Ost siege and Beslan are connected with his name²³ as well.

The methods used by Putin against neighbouring countries in order to expand Russia's territories are typical of the Soviet and Nazi systems. For example, the so-called "passportisation", which refers to the mass granting of Russian citizenship to the population of other (neighbouring) countries, was used by Russia in Georgia (Abkhazia, South Ossetia), Ukraine (Crimea and Donbas) and Moldova (Transnistria).²⁴ With this, Russia fabricated a precondition to claim the protection of its compatriots abroad.²⁵ It was the passportisation process that became the basis for Russia's statement that it invaded Georgia to protect "Russian citizens."²⁶ "Protecting the Russian-speaking population" has been the main justification for the Russian aggression in Ukraine.²⁷ Hitler also occupied part of Czechoslovakian territory under the pretext of protecting the Sudeten Germans.²⁸

Also, managing the region through conflicts is a Soviet method that modern Russia has always used. During the Soviet period, the tried-and-tested method of the Kremlin was to rehabilitate and resettle various ethnic groups and transfer territories, which created good grounds for conflicts. This was a "reliable lever" in the future if any republic or ethnic group showed "disobedience" to the Kremlin.²⁹ Bolsheviks deliberately created (especially in the South Caucasus) matryoshka-like political institutions in the areas of potential conflict.³⁰ After the collapse of the USSR, through the "mines" planted by the Soviet Union, Russia incited conflicts in many neighbouring countries and then ensured the long-term presence of its

²¹ S. Malashkhia, *Anatomy of Conflicts*, Tbilisi 2011, p. 659.

²² D.J. Kramer, *Back to Containment: Dealing with Putin's Regime*, Washington 2017, p. 20.

²³ S. Malashkhia, *Anatomy...*, p. 659.

²⁴ T. Hoffmann, A. Chochia, *The Institution of Citizenship and Practices of Passportization in Russia's European Neighborhood Policies*, in: *Russia and the EU: Space of Interaction*, eds. T. Hoffman, A. Makarychev, London 2018, p. 226.

²⁵ R. Värk, *Russia's Legal Arguments to Justify Its Aggression against Ukraine*, Tallin 2022, p. 7.

²⁶ *Civilians in the Line of Fire: The Georgian-Russian Conflict*, Amnesty International Publications, 2008, p. 11, <https://www.amnesty.org/en/wp-content/uploads/2021/06/eur040052008kat.pdf> [access: 20.07.2023].

²⁷ O. Tsekhanovska, L. Tsybulska, *Evolution of Russian Narratives about Ukraine and Their Export to Ukrainian Media Space*, p. 13, https://www.estdev.ee/wp-content/uploads/sites/73/2022/06/HWAG_report_Eng_online.pdf [access: 20.07.2023].

²⁸ S. Malashkhia, *Anatomy...*, p. 665.

²⁹ *Ibidem*, pp. 200–201.

³⁰ A. Saparov, *From Conflict to Autonomy in the Caucasus. The Soviet Union and the Making of Abkhazia, South Ossetia and Nagorno Karabakh*, London 2015, p. 126.

military troops in the territory as a peacekeeper or occupier. For example, this happened in Abkhazia, the Tskhinvali region, Transnistria, Nagorno-Karabakh, etc. In these territories, Russia applied various methods, starting from passportisation and ending with terror, occupation, ethnic cleansing, etc. It is significant that as soon as Russia's influence in the South Caucasus weakened due to the war with Ukraine, left without Russia's support, the self-declared republic of Nagorno-Karabakh announced it would cease to exist on New Year's Day 2024.³¹

Due to Russia's invasion of Ukraine and the start of the war in February 2022, the Bucha massacre, the unlawful deportation and transfer of Ukrainian children, the bombing of populated areas and other crimes against humanity, no one doubts that Russia is the aggressor and its leaders are criminals. However, Georgia was aware of it earlier, and the Russian aggression has taken place there much earlier, but it took a long time to prove it anyway.

1.4. Russia's policy towards Georgia

In the late 1980s, in parallel with the activation of the national liberation movement in Georgia, the Kremlin inspired separatist movements in Abkhazia and on the territory of the so-called former South Ossetian Autonomous Region. As a result, long-term conflicts began in which Russia was directly involved.

It should be stressed that both conflicts are the result of the deliberate policy of Russia. Abkhazia is a clear example of this. The related Georgians and Abkhazians lived together for thousands of years, and 70% of modern Abkhazians have Georgian surnames.³² There was no Georgian family in Abkhazia that did not have an Abkhazian relative and vice versa.³³ Before the conflict began, 40% of the marriages registered on the territory of Abkhazia were mixed Georgian-Abkhaz.³⁴ The Abkhazian population had such a high degree of autonomy that nothing comparable could be found anywhere in the world. In particular, on 9 July 1991, the Georgian government made unprecedented concessions. A law was adopted, according to which the majority of mandates in the representative body of Abkhazia's autonomy – the Supreme Council – were given to the ethnic minority when Georgians constituted the majority

³¹ M. Hyde, *The Guardian View on Nagorno-Karabakh's Exodus: Many Have Fled, but Protection Is Still Needed*, The Guardian, 28.08.2023, <https://t.ly/l77Eh> [access: 20.10.2023].

³² S. Malashkhia, *Anatomy...*, p. 650.

³³ Ibidem.

³⁴ Ibidem.

of the population.³⁵ In particular, according to the USSR census of 1989, the population of Abkhazia was approximately 525,100. Of those, 45.7% were Georgians, 17.8% Abkhazians, 14.6% Armenians, 14.2% Russians, 2.8% Greeks, 2.2% Ukrainians, etc.³⁶ In such conditions, almost three times less numerous Abkhazians were given 28 seats in the representative body and Georgians – 26 seats. Representatives of other ethnic groups were given 11 seats in total. It was also determined that the chairman of the Supreme Council of Abkhazia should be an ethnic Abkhazian, who would have two deputies – one Georgian and one from another ethnic group, and a Georgian would be appointed as the chairman of the Council of Ministers.³⁷ This law was clearly discriminatory towards Georgians, the largest ethnic group in Abkhazia, which gave disproportionate power to the Abkhaz minority, even though this concession somewhat stabilised the situation³⁸ but only for a short time. Abkhazian schools, theatre, television, Abkhazian sector in state universities functioned in Abkhazia, and Abkhazian language was given the status of official language along with Georgian in the territory of Abkhazian autonomy.³⁹

Later, on 28 March 2008, that is, a few months before the August 2008 Russo-Georgian War, the then president of Georgia, Mikheil Saakashvili, proposed a new peace plan to the proxy regime in Sukhumi. The offer included international guarantees of the unlimited autonomy and security for Abkhazia, as well as a number of constitutional and legal guarantees, including the position of vice president of Georgia, which would be held by an Abkhazian by nationality, guaranteed representation of Abkhazians in the Georgian parliament and government, and granting the Abkhazian deputation the right to veto all bills related to key issues of Abkhazia.⁴⁰ The offer also included the creation of a free economic zone in Abkhazia and more.⁴¹ However, a thorough discussion on the status of Abkhazia never began because, first of all, Russia had an interest in keeping the conflict unresolved.⁴²

³⁵ A. Saparov, *From Conflict to Autonomy...*, p. 157.

³⁶ Judgment of the ECHR of 7 March 2023, *Mamasakhlisi and Others v. Georgia and Russia*, application no. 29999/04, 41424/04 [HUDOC database].

³⁷ S. Malashkhia, *Anatomy...*, p. 95.

³⁸ A. Saparov, *From Conflict to Autonomy...*, p. 157.

³⁹ S. Malashkhia, *Anatomy...*, p. 673. According to Article 2 (3) of the Constitution of Georgia, the Abkhazian language along with Georgian even today is declared the official language in the territory of Abkhazia's autonomy.

⁴⁰ *Ibidem*, pp. 673–674.

⁴¹ S.E. Cornell, J. Popjanovski, N. Nilsson, *Russia's War in Georgia: Causes and Implications for Georgia and the World*, Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center, August 2008, p. 8.

⁴² R.D. Asmus, *A Little War That Shook the World. Georgia, Russia, and the Future of the West*, New York 2010, p. 216.

In response, in August 2008, Russia invaded Georgia and started a war, the real reason of which was Georgia's desire for freedom, getting out of its quasi-colonial relationship with Russia, and trying to become part of the democratic West.⁴³ This Russian aggression was followed by the ethnic cleansing of the Georgian population and the occupation of territories, which many international organisations confirmed. For instance, according to the report of the Independent International Fact-Finding Mission on the Conflict in Georgia, "ethnic cleansing was indeed practised against ethnic Georgians in South Ossetia both during and after the August 2008 conflict."⁴⁴

Moreover, on 26 August 2008, the President of the Russian Federation Dmitry Medvedev signed a decree on the recognition of the independence of South Ossetia and Abkhazia.⁴⁵ This meant that Russia formally recognised Georgia's two breakaway regions as independent states. This recognition not only violated norms of international law regarding the sovereignty and territorial integrity of an independent country, but since the ethnic cleansing of Georgians took place in these territories, which is confirmed by a number of international documents, the recognition of these territories as independent states should be considered, at least, as an encouragement of ethnic cleansing by Russia.

The European Parliament (EP) was one of the first to respond to the Russian aggression. The EP, with its resolution P6 TA (2008)0396 of 3 September 2008, noted the fact of Russia's violation of international law and called on Russia to respect the sovereignty and territorial integrity of Georgia, and therefore strongly condemned the recognition by the Russian Federation of the independence of the breakaway Georgian regions as contrary to international law.⁴⁶ The resolution also mentioned refugees' rights of return and respect for their property (§ N.3.). § N.4 of the resolution was also important, stating that the EP condemned the unacceptable and disproportionate military action by Russia and its deep incursion into Georgia, which violated international law; it stressed that there was no legitimate reason for Russia to invade Georgia, to occupy parts of it and to threaten to override the government of a democratic country.

In terms of recognition of the occupation and ethnic cleansing, the NATO Parliamentary Assembly was one of the first, which, with its Resolution no. 382 of

⁴³ Ibidem.

⁴⁴ *Independent International Fact-Finding Mission on the Conflict in Georgia, Report*, vol. 1, September 2009, p. 27.

⁴⁵ See: Statement by President of Russia Dmitry Medvedev of 26 August 2008, SEC.DEL/213/08.

⁴⁶ European Parliament Resolution of 3 September 2008 on the situation in Georgia, P6 TA (2008)0396, § N.2.

16 October 2010, confirmed the fact of Russia's occupation of Abkhazia and the so-called South Ossetia.⁴⁷ The same resolution recognised the ethnic cleansing of Georgians that took place in these territories.

It is very important to note that the European Parliament resolution, passed on 17 November 2011, recognised Abkhazia and South Ossetia as occupied territories. The resolution stated that Russia continued to occupy the Georgian regions, which violated the fundamental norms and principles of international law, noting that ethnic cleansing and forcible demographic changes had taken place in the areas under the effective control of the occupying force, which bore the responsibility for human rights violations in these areas.⁴⁸ Actually, with this resolution, the European Parliament directly stated Russia's responsibility regarding the ethnic cleansing that took place in this territory.

From a legal point of view, the most important thing is the Judgment of the European Court of Human Rights of 21 January 2021 in the case of *Georgia v. Russia (II)*, in which the court recognised the occupation after the Russo-Georgian War of 2008.⁴⁹

With this decision, the European Court, together with the mass violation of human rights and the facts of ethnic cleansing in the Tskhinvali region, established the fact of Russia's occupation of Georgian territories and effective control of these territories after the ceasefire and, therefore, the responsibility of the Russian Federation.

Of particular importance is the Judgment of the European Court of Human Rights of 7 March 2023 in the case of *Mamasakhlisi and Others v. Georgia and Russia*, which for the first time established Russia's responsibility for human rights violations committed in the occupied territories before the 2008 war, as Russia had already exercised effective control over Abkhazia even before the 2008 war. The Strasbourg Court emphasised that according to international law, Abkhazia was an integral part of Georgia, even though it had not been under the control of the central government of Georgia since the 1990s due to decisive military, economic and political intervention by Russia, meaning that Russia exercised effective control and decisive influence on the territory of Abkhazia. It is also worth noting that the occupation of the Democratic Republic of Georgia by Soviet Russia in 1921 and

⁴⁷ S. Malashkhia, *Anatomy...*, pp. 46–47.

⁴⁸ See: European Parliament Resolution of 17 November 2011 containing the European Parliament's recommendations to the Council, the Commission and the EEAS on the negotiations of the EU-Georgia Association Agreement, 2011/2133(INI).

⁴⁹ Judgment of the ECHR of 21 January 2021, *Georgia v. Russia (II)*, application no. 38263/08 [HUDOC database].

Russia's direct involvement in the military conflict in favour of the Abkhazians in the 1990s were already legally confirmed by the same decision.⁵⁰

The fact that the European Court of Human Rights recognised the effective control of the territory of Abkhazia by Russia before the aggression of 2008 and its direct involvement in the military conflict in favour of the Abkhazians in the 1990s is fundamental because, in the 1990s, ethnic cleansing of Georgians took place on the territory of Abkhazia, which is confirmed by a number of documents. For example, this is mentioned in the 1994 Budapest,⁵¹ 1996 Lisbon⁵² and 1999 Istanbul⁵³ documents of the OSCE. It is also worth noting that Resolution no. 62/249, adopted at the 62nd session of the UN General Assembly on 15 May 2008, directly recorded the ethnic cleansing carried out on the territory of Abkhazia and expressed concern about the change in the demographic situation that existed before the conflict, and unambiguously recognised the rights of the internally displaced persons to return to Abkhazia and their property rights. It stressed the urgent need for the rapid development of a timetable to ensure the prompt voluntary return of all refugees and internally displaced persons to their homes in Abkhazia and requested the Secretary-General to submit to the General Assembly at its next session a comprehensive report on the implementation of the present resolution.⁵⁴ This resolution was one of the reasons for Russia's invasion and occupation of Georgia in 2008 because presenting a specific plan for the return of IDPs in the autumn of the same year and then implementing it posed a real threat to Russia's interests in Abkhazia. It should be noted that during the war in the 1990s, due to the exodus, as well as the ethnic cleansing of Georgians, the population of Abkhazia decreased by approximately 85%.⁵⁵

Why are these two cases important?

According to the case law of the European Court of Human Rights, any country that exercised effective control over any territory is responsible for all violations of human rights in that territory.⁵⁶ Based on this statement, the *Georgia v. Russia (II)*

⁵⁰ Judgment of the ECHR of 7 March 2023, *Mamasakhlisi and Others v. Georgia and Russia*, application no. 29999/04, 41424/04 [HUDOC database].

⁵¹ Budapest Decisions, CSCE Budapest Document 1994 "Towards a Genuine Partnership in a New Era", 21 December 1994, p. 7.

⁵² Lisbon Summit Declaration, OSCE Lisbon Document 1996, 3 December 1996, p. 8.

⁵³ Istanbul Summit Declaration, Istanbul Document 1999, January 2000, p. 49.

⁵⁴ See: United Nations Resolution adopted by the General Assembly on 15 May 2008, no. 62/249, Status of Internally Displaced Persons and Refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.

⁵⁵ T. Hoffmann, A. Chochia, *The Institution of Citizenship...*, p. 227.

⁵⁶ See: Judgment of the ECHR of 23 March 1995, *Loizidou v. Turkey*, application no. 15318/89 [HUDOC database]; Judgment of the ECHR of 8 July 2004, *Ilaşcu and Others v. Moldova and Russia*, application no. 48787/99 [HUDOC database].

and *Mamasakhlisi* cases provide the possibility for each displaced person forced to leave their real estate in Abkhazia and so-called South Ossetia and not having an opportunity to use it since the 1990s to apply to the European Court of Human Rights against Russian Federation. Also, any violation of human rights in the occupied territories committed until 16 September 2022 should become the basis for new lawsuits against Russia.⁵⁷

2. The Responsibility of the Democratic World

It took a long time to prove Russia's criminal activities against Georgia. If someone blamed Georgia for starting the war in August 2008⁵⁸ and perhaps explained the reasons for the war with the impulsiveness of the then president of Georgia,⁵⁹ Russia's seizure of Crimea without a fight in 2014 and its subsequent annexation showed that it does not matter to Russia whether a state is behaving "good" or "bad" or "impulsively", Russia simply pursues its expansionist intentions.

This was finally revealed by Russia's invasion of Ukraine and the start of a full-scale war in February 2022. Due to the atrocities committed in Ukraine, all illusions about Russia have disappeared. Many states have declared Russia a terrorist state or a state sponsor of terrorism,⁶⁰ and several states have recognised Russia's actions in Ukraine as genocide.⁶¹ The resolution of the European Union Parliament of 23 November 2022 is of high importance, as it recognises Russia as a state sponsor of terrorism, as well as a state that has committed war crimes and crimes against humanity in Ukraine, which is very telling. It also calls on the EU and its Member States to provide the appropriate support for the establishment of a special tribunal dealing with the

⁵⁷ Due to the fact that the Russian Federation ceased to be a High Contracting Party to the European Convention on Human Rights on 16 September 2022, the European Court of Human Rights stated that "The Court remains competent to deal with applications directed against the Russian Federation in relation to acts or omissions capable of constituting a violation of the Convention provided that they occurred until 16 September 2022." See: Resolution of the European Court of Human Rights on the consequences of the cessation of membership of the Russian Federation to the Council of Europe in light of Article 58 of the European Convention on Human Rights of 22 March 2022.

⁵⁸ See, e.g.: O. Kobakhize, *Pro-Russian Labels: Georgia's Political Actors in Search of Kremlin Agents*, in: *Georgian-Russian Relations: The Role of Discourses and Narratives*, Tbilisi 2021, p. 15.

⁵⁹ *Ibidem*, p. 16.

⁶⁰ However, some scholars, from a purely legal point of view, question the validity of declaring the state a terrorist. In this regard, see: Z. Parcels, *Opinion – Is Russia a 'Terrorist State'?*, E-International Relations, February 2023, <https://www.e-ir.info/2023/02/26/opinion-is-russia-a-terrorist-state/> [access: 20.07.2023].

⁶¹ *The Evolution of Russia's Genocide against the Ukrainian People, Analytical Report*, Kyiv 2022, p. 39.

crime of aggression by Russia against Ukraine. The resolution also encourages EU Member States to make even wider use of the principle of universal jurisdiction and to step up their support for international efforts to investigate and prosecute all the perpetrators of, and persons responsible for, war crimes in Ukraine.⁶²

Of particular note is the arrest warrant against the President of the Russian Federation, Vladimir Putin, for the war crime of unlawful deportation of population (children) and the unlawful transfer of population (children) from occupied areas of Ukraine to the Russian Federation issued by the International Criminal Court on 17 March 2023.⁶³ The European Union welcomed this effort and declared that the EU sees this decision as the beginning of the process of holding Russian leaders accountable and responsible for the crimes and atrocities they are ordering, enabling or committing in Ukraine.⁶⁴

“Pushing back against Putin’s threatening behavior and policies is not only necessary but also the right, moral thing to do.”⁶⁵ The above-mentioned statement of 17 March 2023 of the European Union, together with the resolution of the European Parliament of 23 November 2022 and the efforts of the International Criminal Court, shows the determination of the democratic world to hold Russia accountable for its crimes. However, Russia, its leaders and other criminals should be tried not only for the war and crimes against humanity committed in Ukraine, but also for all the similar crimes they have committed in other countries, especially for the ethnic cleansing of Georgians in Georgia, which was carried out in several waves. The sentence must also include imposing financial responsibility on Russia for all the destruction and misfortune it has inflicted on other countries. The legal basis for this is, inter alia, provided by the above-mentioned decisions of the European Court of Human Rights. However, it must be said that the special tribunal indicated in the resolution of the European Union Parliament of 23 November 2022 in relation to Ukraine should be extended and cover crimes of aggression and crimes against humanity both in Ukraine and Georgia.

⁶² See: European Parliament Resolution of 23 November 2022 on Recognising the Russian Federation as a State Sponsor of Terrorism, 2022/2896(RSP).

⁶³ International Criminal Court, *Situation in Ukraine: ICC Judges Issue Arrest Warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova*, 17.03.2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> [access: 20.07.2023].

⁶⁴ EEAS Press Team, *Russia/Ukraine: Statement by the High Representative Following the ICC Decision Concerning the Arrest Warrant against President Putin*, 19.03.2023, https://www.eeas.europa.eu/eeas/russiaukraine-statement-high-representative-following-icc-decision-concerning-arrest-warrant_en [access: 20.07.2023].

⁶⁵ D.J. Kramer, *Back to Containment...*, p. 13.

The only way to peace the Russia and the whole world is Russia's democratisation. It is only possible through international legal coercion, as it happened in the case of Nazi Germany. International law must step in with all its might and have the last word. Only this, and not cosmetic changes in the Russian government, is the way to democratise a Russia prone to imperialism.

Conclusion

Russia, be it tsarist, Soviet or modern "democratic" Russia, has always been guided by imperialist and expansionist considerations towards its neighbouring countries. Russia did not shy away from ethnic cleansing, genocide, forced migration of people and more. History knows many examples of the above.

Along with many similarities, there are also differences between the Nazi and Soviet systems: Nazism has been tried (at the Nuremberg trials), while the Soviet system has been spared the same fate. This is one of the main reasons for the revived imperial aspirations in Russia, and until it is held to account, there will always be a danger of relapse. That is why it will never be enough to make only a political assessment of Russia's actions or cosmetic changes in the Russian government. The perpetrators of these heinous crimes against humanity should be tried by an international court/tribunal and the Russian state should be held financially responsible for all the misery it has caused in neighbouring countries.

Today, the whole civilised world is united, and this unity is not based only on economic or political interests but mainly on values, which gives the basis for a firm belief that the democratic world will bring the struggle to an end and finally defeat the last evil empire. In David Kramer's words, Russia and its leaders must be made to understand that those days are over.⁶⁶

Bibliography

- Asmus R.D., *Little War That Shook the World. Georgia, Russia, and the Future of the West*, New York 2010.
- Catic M., *Circassians and the Politics of Genocide Recognition*, *Europe-Asia Studies* 2015, vol. 67, no. 10 (December).

⁶⁶ Ibidem, p. 14.

- Civilians in the Line of Fire: The Georgian-Russian Conflict*, Amnesty International Publications, 2008, <https://www.amnesty.org/en/wp-content/uploads/2021/06/eur040052008kat.pdf> [access: 20.07.2023].
- Cornell S.E., Popjanovski J., Nilsson N., *Russia's War in Georgia: Causes and Implications for Georgia and the World*, Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center, August 2008.
- EEAS Press Team, *Russia/Ukraine: Statement by the High Representative Following the ICC Decision Concerning the Arrest Warrant against President Putin*, 19.03.2023, https://www.eeas.europa.eu/eeas/russiaukraine-statement-high-representative-following-icc-decision-concerning-arrest-warrant_en [access: 20.07.2023].
- Evans R.J., *The Coming of the Third Reich*, New York 2004.
- The Evolution of Russia's Genocide against the Ukrainian People, Analytical Report*, Kyiv 2022.
- Filippov A., *Novejšaâ istoriâ Rossii 1945–2006gg*, Moskva 2007.
- Fukuyama F., *End of History?*, *The National Interest* 1989, no. 16 (Summer).
- Goradze G., *Federalism Prospects in Georgia. Critical Analysis*, Tbilisi 2012.
- Goradze G., *Imperial Federalism, Actual Problems of Law*, in: *Materials of I International Scientific Conference*, 10–11 July, Tbilisi 2014.
- Havkin B., *Nostal'giâ po stalinskoj imperii v postsovetskom diskurse*, *Forum novejšej vostočnoevropejskoj istorii i kul'tury – Russkoe izdanie* 2010, no. 1, <http://www1.ku-eichstaett.de/ZIMOS/forum/inhaltruss13.html> [access: 20.07.2023].
- Hoffmann T., Chochia A., *The Institution of Citizenship and Practices of Passportization in Russia's European Neighborhood Policies*, in: *Russia and the EU: Space of Interaction*, eds. T. Hoffman, A. Makarychev, London 2018.
- The Holocaust Encyclopedia*, eds. W. Laqueur, J.T. Baumel-Schwartz, New Haven 2001.
- Hyde M., *The Guardian View on Nagorno-Karabakh's Exodus: Many Have Fled, but Protection Is Still Needed*, *The Guardian*, 28.08.2023, <https://t.ly/I77Eh> [access: 20.10.2023].
- International Criminal Court, *Situation in Ukraine: ICC Judges Issue Arrest Warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova*, 17.03.2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> [access: 20.07.2023].
- Kobakhidze O., *Pro-Russian Labels: Georgia's Political Actors in Search of Kremlin Agents*, in: *Georgian-Russian Relations: The Role of Discourses and Narratives*, Tbilisi 2021.
- Kramer D.J., *Back to Containment: Dealing with Putin's Regime*, Washington 2017.
- Kuźniar R., *Mearsheimer and the Poverty of His Realism*, *Polish Quarterly of International Affairs* 2014, no. 4.
- Malashkhia S., *Anatomy of Conflicts*, Tbilisi 2011.
- Mearsheimer J.J., *Uncommon Core: The Causes and Consequences of the Ukraine Crisis*, lecture, The University of Chicago, June 2015, <https://www.youtube.com/watch?v=JrMiS-QAGOS4&t=25s> [access: 20.07.2023].
- Mearsheimer J.J., *Why the Ukraine Crisis Is the West's Fault: The Liberal Delusions That Provoked Putin*, *Foreign Affairs* 2014, vol. 93, no. 5.
- Parcels Z., *Opinion – Is Russia a 'Terrorist State'?*, *E-International Relations*, February 2023, <https://www.e-ir.info/2023/02/26/opinion-is-russia-a-terrorist-state/> [access: 20.07.2023].
- Richmond W., *The Circassian Genocide*, New Brunswick 2015.

- Saparov A., *From Conflict to Autonomy in the Caucasus. The Soviet Union and the Making of Abkhazia, South Ossetia and Nagorno Karabakh*, London 2015.
- Shenfield S.D., *Russian Fascism: Traditions, Tendencies, Movements*, New York 2001.
- Tsekhanovska O., Tsybul'ska L., *Evolution of Russian Narratives about Ukraine and Their Export to Ukrainian Media Space*, https://www.estdev.ee/wp-content/uploads/sites/73/2022/06/HWAG_report_Eng_online.pdf [access: 20.07.2023].
- Urban T., *The Katyn Massacre 1940: History of a Crime*, Barnsley 2020.
- Värk R., *Russia's Legal Arguments to Justify Its Aggression against Ukraine*, Tallin 2022.
- Wolny P., *Holodomor: the Ukrainian Famine-Genocide*, New York 2018.
- Zaharov A., *Unitarnaâ federaciâ. Pât' Ètûdov o rossijskom federalizme*, Moskva 2008.
<https://holodomormuseum.org.ua/en/recognition-of-holodomor-as-genocide-in-the-world/> [access: 20.07.2023].

