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## **THE STATUS OF A CHILD AFFECTED BY MILITARY ACTIONS: SOME ASPECTS OF LEGAL REGULATION AND APPLICATION PRACTICE**

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**The purpose of the article:** to analyse some aspects of the legal regulation and practical implementation of the protection of children's rights in Ukraine during wartime, with a particular focus on the impact of the armed aggression by the Russian Federation and on the mechanisms for determining and realising the legal status of children affected by military actions and armed conflicts. **Research methods:** the research applies a combination of formal-legal, comparative and analytical methods, as well as a systemic approach to examining national and international legal frameworks and their application in wartime conditions. **Results:** the article highlights inconsistencies in national legislation and the lack of coordination among state bodies responsible for protecting the children's rights. **Discussion:** an author argues that effective protection of children in wartime requires the revision of existing legislation, harmonisation with international humanitarian and human rights standards, and the introduction of an integrated system of legal and social guarantees for children who have become victims of war.

**Key words:** armed conflict; military actions; children's rights; victims of war; international standards; social protection; social assistance; charitable organisations; status for children; child affected by military actions and armed conflicts; child of war.

### **Problem statement and its relevance.**

UNICEF figures indicate that in December 2023 approximately 473 million children were living in wartime. This figure accounts for more than one in six children worldwide and represents the highest number ever recorded. Thus, the share of children who live in areas of armed conflict has doubled – from about 10% in the 1990s to nearly 19% today. The report lists deadly dangers, risks of injury, limited access to education and vaccinations, acute malnutrition among the challenges. Catherine Russell, UNICEF Executive Director, described 2024 as “one of the worst years” for children in conflict situations in UNICEF's history – both in terms of the number of children who suffered and the impact on their lives.

The report also highlights the consequences of the war of the Russian Federation against Ukraine.

UNICEF reports that every day two children are killed and four are injured in Ukraine. Moreover, during the first nine months of 2024, the number of child victims exceeded the total figure for the entire 2023 [1].

In wartime, children suffer from many violations, including killing, injury, forced deportation, unlawful adoption, sexual violence, torture, forced “political re-education” camps, russification, militarization, forced labour and exploitation in propaganda. These are only part of systemic harm caused by the Russian aggressor. Undoubtedly, the legal status of such children in Ukraine should be clearly defined by recognizing them as victims of war, both now and during the future post-war recovery [2].

### **Analysis of recent research and publications.**

International organizations, including UNICEF and the UN, provide systematic data on violations such

as forced displacement, abduction, illegal adoption and russification. These studies highlight both the scale of harm experienced by children and the gaps in existing legal and social protection mechanisms. The accumulated knowledge from academic research and institutional reports forms a foundation for developing the effective legal, institutional and social frameworks to ensure the rights, safety, and well-being of children in wartime and in the post-war recovery period.

**Presentation of the main material of the research.** The escalation of the armed aggression by the Russian Federation, systematic shelling of Ukrainian cities and public coverage of war crimes have a significant impact on the physical and psychological well-being of children. During hostilities and occupation, there are systematic violations of the fundamental children's rights, in particular, the right to life, to safety in wartime, to education, to health care and personal development, to preservation of family ties, as well as the right to proper care and protection by the state [3].

In this context, to ensure consistent and effective law enforcement and human rights protection, it is crucial for today's lawyers and lawmakers to understand the main types of violations of the children's rights during military aggression, among which the following should be highlighted:

*a) taking the lives of children and causing them serious physical harm:*

Firstly, during artillery and rocket attacks, the Russian troops use the prohibited types of weapons, in particular, cluster and phosphorus munitions, which pose a deadly threat to the civilian population, including children.

Secondly, there are numerous documented cases of mass killings, serious injuries, mutilations, as well as loss of sight and hearing among children as the result of military actions on civilian infrastructure, housing, educational establishments and health care facilities in various regions of Ukraine.

Thirdly, newborns come into the world in extremely difficult conditions, increasing the infant mortality rates.

Fourthly, children who spend long periods of time in bomb shelters often do not have access to the adequate food, drinking water and proper sani-

tation and hygiene conditions, which negatively affects their physical condition and survival rates.

Fifthly, in wartime socially dangerous and infectious diseases spread, immunisation programmes are reduced and children's access to medical care has deteriorated [4].

In particular, according to information from the "Children of War" platform, as of 27 September 2025, there were 654 recorded cases of child deaths in Ukraine, 2 161 children were injured, 19 546 children were deported and/or forcibly displaced outside the country, and 2 169 are considered as missing [5].

*b) causing the psychological harm to children:*

Children who grow up in areas of armed conflict regularly encounter traumatic events that lead to the long-term psychological and psychiatric consequences, including the post-traumatic stress disorder, anxiety and depression, behavioural disorders and cognitive development disorders.

*c) the conflict-related sexual violence against children:*

This type of violence covers a wide range of criminal acts, including the rape, sexual slavery, forced prostitution, forced pregnancy or abortion, sterilisation, forced marriage, forced undressing and other equally serious acts of sexual violence committed against women, girls, men and boys during armed conflict. This list is not exhaustive. Such sexual violence may be used by the various armed groups as a tactic to humiliate, terrorise, subjugate or establish control over the population [6].

In wartime in Ukraine, which has been ongoing since 2014, and especially after the full-scale invasion in 2022, cases of sexual violence have become more frequent. The consequences of such crimes for children are extremely severe, as they include physical and psychological trauma, social stigmatisation and loss of health [4].

*d) militarisation of children:*

One of the key threats to children in wartime are their involvement in military operations, their use for gathering and transmitting the information, their use as "human shields" or their detention at military facilities for protection against attacks, as well as their involvement in information warfare and the dissemination of propaganda materials [7].

*e) abduction and deportation of children to the territory of the russian federation and the republic of belarus:*

The abductions took place in various ways, in particular, because a significant number of boarding schools and orphanages were located in the occupied zone.

As for deportation of Ukrainian children, the researchers identify its five main scenarios: 1) children are forcibly taken after their parents are killed; 2) children are separated from their parents during “filtration” procedures; 3) children are taken from care institutions; 4) children are removed from their families when parents are deprived of their parental rights on trumped-up grounds; 5) parents are pressured to sign a consent for sending their children to so-called “health camps,” from which they never return [8].

*f) forced displacement of children:*

The internal displacement of the population in Ukraine caused by the armed aggression of the russian federation is one of the largest in Europe. At the same time, the exact number of internally displaced persons remains uncertain, as some citizens have not registered their legal status. According to available data, the number of children who were forced to leave their places of permanent residence and who acquired the status of internally displaced persons exceeds 1 million [4].

Forced displacement of children, even if it is carried out for the purpose of rescue, not only violates a number of children’s rights and legitimate interests, but also causes long-term psychological trauma, complicates the process of adaptation to a new place of residence and negatively affects further socialisation [9].

Under martial law, in order to ensure the protection of children in areas of armed conflict and military actions, regional military administrations, in agreement with the military command in the relevant territory and the Coordination Headquarters for the Compulsory Evacuation of the Population, may decide to forcibly evacuate children together with their parents, guardians or other legal representatives from settlements where active hostilities are taking place. At the same time, evacuation may be carried out without the consent of parents or legal representatives in the event of a direct threat to

the child’s life. Most often, such decisions are applied to orphans, children deprived of parental care or children whose parents refuse evacuation [4].

Legal protection of the children’s rights in Ukraine in wartime and introduction of martial law is based on regulatory and legal acts, which may be classified into three groups:

1<sup>st</sup> group – international acts that define international standards for protection of the children’s rights under conditions of armed conflicts;

2<sup>nd</sup> group – the Ukrainian laws that regulate protection of the children’s rights under conditions of martial law;

3<sup>rd</sup> group – secondary legislation that regulate protection of the children’s rights under conditions of martial law.

To ensure the children’s rights effectively, the state is obliged to create reliable mechanisms for implementation of these rights under conditions of martial law, to perform social functions, particularly, in the spheres of health care, education and social protection and to develop effective means of protecting the rights of children who have become victims of war [10]. However, at present, Ukraine’s national legal system may only solve some of the problems related to protection of the children’s rights under conditions russian aggression, while international law continues to play here a leading role. It should be noted that international standards for protection of the children’s rights under conditions of armed conflict remain limited and underdeveloped, although the preconditions for their improvement existed earlier and remain in place today.

A system of state bodies responsible for protecting the children under conditions of armed conflicts is complex and multi-level, covering the institutions with different competences in all branches of power: legislative power is represented by the Verkhovna Rada of Ukraine, which establishes the grounds for protection of the children’s rights; executive power is represented by a system of bodies responsible for protection of children under conditions of armed conflicts; the Ukrainian Parliament Commissioner for Human Rights and the Presidential Adviser on Children’s Rights and Rehabilitation perform the control and supervisory functions.

Besides state bodies, a system of subjects involved in protection of the children's rights and freedoms under conditions of armed conflict also includes local self-government bodies, civil society institutions (public, charitable, religious organisations, unions, foundations, etc.), physical and legal entities, international institutions, etc. [4]

In our opinion, a key issue in the context of the problem under study is the lack of coordination and consistency in the interpretation of terms by the subjects involved in protection of the children's rights and freedoms under conditions of armed conflict, which creates confusion in planning and providing the necessary social assistance to children who have become victims of war.

Thus, as of now, there is no clear coordination and harmonisation of actions between state bodies regarding the status and providing the necessary social assistance to children under conditions of armed conflicts. For example, it is unknown how many children need such assistance and what specific needs should be taken into account. At the same time, insufficient funding for the social sphere as a whole makes it impossible to solve fully the problems and to meet the needs of children who have become victims of war.

Now, the Ukrainian legislation defines a single special legal status for children who have become victims of war – “a child affected by military actions and armed conflicts”.

The Law of Ukraine “On Protection of Childhood” N 2402-III of 26 April 2021 and Resolution of the Cabinet of Ministers of Ukraine N 268 of 5 April 2017 “On Approval of the Procedure for Granting the Status of a Child affected by Military Actions and Armed Conflicts” establishes the procedure for granting the status of a child affected by military actions and armed conflicts. Thus, the right to obtain such legal status has a child, as well as a person:

- who during military actions and armed conflicts has not reached the age of 18 (legal age);
- who has suffered injuries, concussion, disability;
- who has suffered physical, sexual or psychological violence;
- who has been abducted, deported or forcibly displaced;

- who has been involved in military formations;
- who has been illegally detained, including in captivity;
- whose parents or one of the parents, other legal representative disappeared under special circumstances or died (perished) from injuries, concussions or mutilations sustained in the result of armed conflict on the territory of Ukraine or abroad;
- who has been deprived of parental care in the result of military actions and armed conflict [11; 12].

The status of a child affected by military operations and armed conflicts is granted by the custody and care authority at the place of application or at the place where the child or person from among children was found by local executive authorities or local self-government bodies.

The impact of military actions and armed conflicts on a child may include one or more of the circumstances mentioned above. But, applying for such status, the applicant identifies the circumstance that had the greatest negative impact on the child's health and development.

The status of a child affected by military actions and armed conflicts is granted by the custody and care body at the place of application or at the place where the child or person from among children was found by local executive bodies or local self-government bodies.

Information on the number of children granted the status of a child affected by military actions and armed conflicts is submitted quarterly by the child welfare services of regional and Kyiv city state administrations (military administrations) to the State Service for Children's Affairs [12].

Article 30-1 of the Law of Ukraine “On Protection of Childhood” N 2402-III of 26 April 2021 provides for the obligation of the state to take all necessary measures to ensure the protection of children located in areas of military actions and armed conflict, children affected by military actions and armed conflicts, to care for them and to reunite them with family members, including search, release from illegal detention, including captivity, and to return of deported and forcibly displaced children to the territory controlled by Ukraine. In addition, all actions of the state on protection of children located in areas of military actions and

armed conflict, children affected by military actions and armed conflicts, are carried out in accordance with the norms of international humanitarian law [11].

As of 1 September 2025, more than 412 000 children obtained the status of a child affected by military actions and armed conflicts, but this is not the final figure. Over a million children have been forced to flee the war and thousands have suffered loss and trauma [13].

Analysing the official sources and court practice we may state that even obtaining the formal (“declarative”) status remains inaccessible for the most children suffered from the war. The main factors contributing to this are imperfection of Resolution of the Cabinet of Ministers of Ukraine N 268 of 5 April 2017 “On Approval of the Procedure for Granting the Status of a Child affected by Military Actions and Armed Conflicts” and its maladjustment to the modern conditions of the full-scale war in Ukraine [2].

Also, it is important to note that various sources of information, especially the mass media, are currently spreading the misinformation on the possibility of children who have become victims of war to obtain legal status of “a child of war”, mistakenly equating this status with the legal status of “a child affected by military actions and armed conflicts”. A category of “a child of war” and its legal status, defined by the Law of Ukraine “On Social Protection of Children of War” N 2195-IV of 18 November 2004 [14], is an example of legal fiction. Applying the technique of “substitution of concepts” the legislator introduced into the legal field the term which meaning does not correspond to the phenomenon it denotes. Thus, according to Article 1 of the Law, its effect extends not to minors, but to elderly persons – citizens of Ukraine who were under 18 years of age at the end of World War II (2 September 1945). The relevant status is confirmed by social protection bodies by affixing the special stamp to the pension certificate.

Using such a fiction, the legislator obviously pursued a good goal – to create a mechanism of social protection for citizens of Ukraine who witnessed World War II as children by providing them benefits and state social support. However, the modern war in Ukraine points to the need to revise

the Law in order to bring it into line with current social realities and needs [2].

**Conclusions.** The extensive and systematic violations of the children’s rights in the result of the armed aggression by the Russian Federation against Ukraine unequivocally demonstrate that protection of the children’s rights should constitute one of the fundamental priorities of policy priority for Ukraine as a state committed to international humanitarian and human rights law. This imperative should be reflected both at the legislative level – through the adoption and harmonization of normative frameworks in accordance with international standards – and at the practical level. In particular, it necessitates the establishment of effective legal and institutional guarantees for protection of children in wartime, the introduction of comprehensive social support and rehabilitation programmes for children who suffered, and the development of sustainable mechanisms aimed at ensuring the full realization and protection of their rights and fundamental freedoms.

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## СТАТУС ДИТИНИ, ЯКА ПОСТРАЖДАЛА ВНАСЛІДОК ВОЄННИХ ДІЙ: ДЕЯКІ АСПЕКТИ ПРАВОВОГО РЕГУЛЮВАННЯ ТА ПРАКТИКИ ЗАСТОСУВАННЯ

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***Метою** статті є комплексний аналіз правового регулювання та практичної реалізації захисту прав дітей в Україні в умовах воєнного стану, зокрема з урахуванням впливу збройної агресії російської федерації та механізмів визначення й реалізації правового статусу дітей, які постраждали внаслідок військових дій та збройних конфліктів. **Методологічна основа дослідження:** у статті застосовано комплексний підхід, який включає порівняльно-правовий метод для аналізу міжнародних стандартів захисту прав дітей у зонах конфліктів, а також методи аналізу наукових публікацій, офіційних нормативно-правових актів України та судової практики. Використано контент-аналіз даних органів соціального захисту, статистичної інформації UNICEF і платформ на кшталт «Діти війни» для оцінки практичної реалізації прав дітей у воєнний час. **Результати:** дослідження показує, що війна в Україні призводить до системних порушень прав дітей, включно з ризиком для життя та здоров'я, фізичними і психологічними травмами, сексуальним насильством, примусовою депортацією, незаконним усиновленням, утриманням у «політичних таборах перевиховання», русифікацією та мілітаризацією, примусовою працею та використанням у пропагандистських акціях. Аналіз законодавчих актів, таких як Закон України «Про охорону дитинства» та Постанова КМУ № 268, вказує на переваги й обмеження існуючих механізмів надання статусу «дитини, яка постраждала внаслідок воєнних дій», зокрема на складність процедур, їхню неузгодженість та недостатню адаптованість до умов повномасштабної війни. Досліджено, що координація між державними органами, місцевим самоврядуванням та громадськими організаціями є недостатньою, а брак фінансування ускладнює реалізацію прав і надання соціальної підтримки постраждалим дітям. **Обговорення:** стаття підкреслює, що забезпечення прав дітей у воєнний час має бути пріоритетом державної політики як на законодавчому, так і на практичному рівнях. Для цього необхідно удосконалювати нормативно-правову базу, створювати ефективні механізми реалізації прав дітей, забезпечувати комплексну соціальну підтримку, а також інтегрувати міжнародні стандарти у національну систему захисту. Дослідження також вказує на потребу перегляду застарілих законодавчих норм, таких як статус «дитини війни», для відповідності сучасним соціальним реаліям та викликам повномасштабної війни. Результати роботи можуть бути використані у наукових розвідках з міжнародного і національного права, соціального захисту дітей, а також у практичній діяльності органів влади, громадських та міжнародних організацій.*

***Ключові слова:** збройний конфлікт; воєнні дії; права дитини; жертви війни; міжнародні стандарти; соціальний захист; соціальна допомога; благодійні організації; статус дитини; дитина, яка постраждала внаслідок воєнних дій та збройних конфліктів; дитина війни.*

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