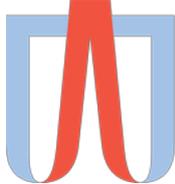


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ЛЮДИНИ**

**GROWING UP AT GUNPOINT
CHILDREN'S RIGHTS IN THE LIGHT OF
THE MILITARY CONFLICT IN THE
EASTERN UKRAINE**

Kyiv
2016

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Growing up at Gunpoint: Children's Rights in the Light of the Military Conflict in the
Eastern Ukraine/ O.A. Bida, A. B. Blaha, O.A. Martynenko, P. I. Parkhomenko, M. H.
Stankevych, S.V. Tarabanova; under general editorship of A. P. Bushchenko / the
Ukrainian Helsinki Human Rights Union.

The issue is focused on the comprehensive analysis of how children's rights are upheld in
the light of the military conflict in the Eastern Ukraine. The essence of the process for
incorporating rules of the international law into children's rights was conveyed. European legal
standards and legal mechanisms for child protection were analyzed. Specifics of legal and
judicial remedies for children's rights in the light of the military conflict in Ukraine. Concerns
regarding upholding children's rights in the light of the military conflict in the Eastern Ukraine
were considered.

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P.I. Parkhomenko, M.H., Stankevych, S.V.
Tarabanova, 2016

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CHILDREN'S RIGHTS IN THE LIGHT OF THE MILITARY CONFLICT IN THE EASTERN UKRAINE

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By recognizing that children being a specific population group are unable to protect themselves the global community acknowledged the need to provide them with special protection. This is promoted by the Declaration of the Rights of the Child (1924), the Universal Declaration of Human Rights (1948), Declaration of the Rights of the Child (1959) and a whole range international conventions and pacts.

The next step to defining the children's status was recognizing that children as people not only have the right to care and protection but also to take part in deciding their own fate. That is why UN Convention on the Rights of the Child 1989 (sometimes referred to as a 'Magna Carta' for Children) and other international instruments on children's rights are founded on the new understanding of a child as a separate person.

Prominent public and cultural figures contributed greatly to this cause. Thus, a world famous Swedish writer and humanitarian Astrid Lindgren in her acceptance speech for the Peace Prize of the German Book Trade, which she was awarded in 1978, called for protection of children's rights. "We all know," Lindgren noted "that children who are beaten and abused will beat and abuse again, so let us stop this vicious cycle."

The issue of childhood protection due to increasing vulnerability and discrimination is especially aggravated in times of crises, as well as military conflicts. That is why survey brought to your attention is focused on the comprehensive analysis of how children's rights are upheld in the light of the military conflict in the Eastern Ukraine.

We would like to thank Global Affairs Canada for the financial support of this publication.

Arkadii Bushchenko, *Executive Director of the Ukrainian Helsinki Human Rights Union (UHHRU)*



Having ratified the UN Convention on the Rights of the Child and Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict Ukraine has assumed responsibility to its young citizens to uphold rights. Unfortunately, during armed hostilities in the East of Ukraine children witnessed war, destruction, death, were psychologically and some even physically traumatized, some children were involved in military actions, others were physically and sexually abused etc. Most children, mainly from Donetska and Luhanska oblasts, are still deprived of the option of receiving the full range of services such as social, humanitarian, and medical and other.

In the view of the long-term military conflict in the Eastern Ukraine, which especially affects children, the issues of children's rights cannot be pushed aside. If we are trying to build a state based on the rule of law, we should constantly take care of its future following the principles of respect to human dignity providing the basis for standards of upholding human rights. Since the children are our future, Ukraine should primarily comply with international standards for children's rights and act according to best interests of its young citizens.

Kostiantyn Rieutskyi, Chairman of the Board of Postup Human Rights Center.
Oleksandra Dvoretzka, Chairman of the Board of Vostok-SOS Charitable Foundation.



Today, Ukraine faced the problem of failure to perform its obligations on human rights especially in relation to children. Numerous problems of children's rights through intensified military operations in the East and the annexation of the Crimea.

Previous methods of socialization and education of orphans, all of the educational process, lack of deliberate evacuation system in terms of military action and security have led to blatant aggravation of survival and child development, safeguarding the right to grow up in a family environment, the process of deinstitutionalisation, freedom from discrimination, such basic issues as consideration of the best interests of the child and his thoughts - all receded into the background.

The country was faced with new challenges associated with ensuring the right to life for children - the presence of child-combatants, unaccompanied children and a large number of children in need of providing basic primary needs of children among the IDPs. NGOs record facts constantly increasing violence and situations of child exploitation, including child trafficking. All these issues show obvious unavailability Ukraine to fulfill their obligations under the Convention on the Rights of the Child and its Optional Protocol.

Despite the fact that the full implementation of the Convention provides an analysis of legislation for its impact on children, the issue of children's rights do not become the subject of a coalition agreement between the government and the ruling parties. Coalition "Children's Rights in Ukraine" has repeatedly stressed the need for immediate action to change the situation with the implementation of children's rights in Ukraine. We can welcome next NGOs' attempt to compile information about the situation of children's rights in terms of military conflict and hope that the state still pay attention to the existing problem and it will not be the only subject of discussion in terms of human rights and international venues but also get real planning address the pressing needs of child's rights in the country.

Maria Yasenovska, president of the Kharkiv Regional Foundation "Public Alternative", Coalition "Children's Rights in Ukraine"

1. PROTECTION OF CHILDREN'S RIGHTS UNDER THE INTERNATIONAL LAW

1.1. Incorporation of rules of the international law into children's rights

Almost no civic rights were typical for the social and legal status of children during the entire period of its evolution. Authors of "Children's Rights in Terms of Human Rights" textbook highlight the following periods of attitude to children.

In **Ancient times (1000 BC – 500 AD)** the father was the sole owner of a child; child upbringing is horse training; children are raised to be future warriors, state officials, and philosophers.

In **the Middle Ages (500-1500)** children presented economic value and contributed to the family income; children had no other choice but to follow in their parents' footsteps in terms of profession.

During **the Renaissance period (1500-1750)** children are born in sin and to make them better they need to be punished (1500-1600); first social attempts to protect children from the evil of the grown-up world (1600); change in upbringing methods from severe physical punishment (this tradition goes back to the Ancient Greece) to humane once that protect children and induce grownups to communicate with them.

Starting from XVIII century children gained a special status i.e. children of all social classes knew how to read and write; childhood became a transition to the future.

During **the Age of Enlightenment and the Romantic Period (1750-1850)** each child has the right to childhood; children are the future; children were being taken care of by guilds and monks.

After **the Industrial Revolution (1850-1950)** many children were forced to work in factories; children had no rights only obligations; the discussion on children's rights started.

After **the Digital Revolution and Globalization (1950 to the present day)** children are full-fledged members of society; children's rights are acknowledged everywhere in the world¹.

Apparently, it took mankind many thousands of years to realise the existence of children's specific needs and the necessity to provide them with additional help and support. And the development of the concept of human rights resulted in that children's rights have been recognised as a separate category.

The commencement of activities of international legal regulation in the sphere of protection of children's rights is considered to be the creation of the

¹ Children's Rights in terms of Human Rights: textbook for employees of education institutions / author and compiler T.V. Voitsiakh; under editorship of V.H. Panka. – Cherkasy: Cherkasy Regional Institute of Postgraduate Education of Teachers, 2011 – 116 p.c.

International Save the Children Alliance in 1923². In those times children's rights were regarded mainly in the context of measures required to be taken in relation to slavery, child labour, sale of children. The Alliance has developed the first international instrument known as the **Declaration of the Rights of the Child** (or the Geneva Declaration), which, owing to the efforts of Eglantyne Jebb, the pioneer in the children's rights, was adopted by the Fifth Assembly of the **League of Nations** in 1924. Since in those times the use of child labour in the form of exploitation of children in the production without consideration of their physical condition was widespread, the Declaration raised the issue of the prohibition of forced child labour. In general, the Geneva Declaration consists of five basic principles:

1. The child must be given the means requisite for its normal development, both materially and spiritually.

2. The child that is hungry must be fed, the child that is sick must be nursed, the child that is backward must be helped, the delinquent child must be reclaimed, and the orphan and the waif must be sheltered and succoured.

3. The child must be the first to receive relief in times of distress.

4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.

5. The child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men³.

After the end of World War II instead of the League of Nations, which ceased to exist, the **United Nations** was established. As M.V. Buromenskyi notes, the formation of the universal legal standards on the protection of children is associated with the implementation by the United Nations during its first year of existence of large-scale measures to create a legal framework for the protection of human rights and freedoms⁴. The first and the ultimate document on the protection of children's rights is reputed to be *the Universal Declaration of Human Rights* of 1948, which states that the enjoyment of basic human rights does not depend on age and focuses on the need for special protection of motherhood and childhood (Art. 25), and originally formulated the basic requirements to obtainment of education (Art. 26)⁵. The core international legal instruments on human rights, adopted by the UN and those that are deemed to have started a new stage in the development of children's rights, also include: *Convention on the Prevention and Repression of the Crime of Genocide* (1948); *International Covenant on*

² Linnyk N. V. Historical background of the protection of rights and freedoms of the child at different stages of social development [Electronic resource] / N. V. Linnyk // University scientific notes. – 2006. – No. 2 (18). – P. 41–45. – Way to access: www.univer.km.ua

³ the Geneva Declaration of the Rights of the Child [Electronic resource]: Information from Wikipedia, the free encyclopaedia. – Way to access: http://ru.wikipedia.org/wiki/Женевская_декларация_прав_ребёнка

⁴ International Law [Electronic resource]: study guide / M. V. Burimenskyi, I. B. Kudas, A. A. Maievska; [et al] ; under general editorship of M. V. Burimenskyi. – Kyiv: Urinkom Inter, 2005 – 335 p. – Way to access: <http://www.twirpx.com/file/862113/>

⁵ The Universal Declaration of Human Rights [Electronic resource] Adopted and proclaimed by resolution 217 A (III) of the General Assembly resolution of 10 December 1948. – Way to access: http://zakon3.rada.gov.ua/laws/show/995_015

Economic, Social and Cultural Rights (1966); *International Covenant on Civil and Political Rights* (1966); *Optional Protocol to the International Covenant on Civil and Political Rights* (1966); *Convention on the Elimination of all Forms of Discrimination Against Women* (1979) and a number of others⁶.

In 1957 the Human Rights Commission began working on draft Declaration of the Rights of the Child⁷, which was unanimously approved by all 78 members of the UN General Assembly in 1959 and acquired the highest moral authority in the world.

Compared to the Geneva Declaration, the Declaration of 1959 was improved and broader. It concerned not only the vital needs of the child, but also the need for love and understanding; it stressed the need to preserve the family unity, to provide pre- and post-natal care to the mother and the child, proclaimed the right to a name and a nationality. In addition, the Declaration provided for free, compulsory primary education, prohibition of child labour to a certain age, the right of the child to play and recreation. In general the Declaration of 1959 includes 10 principles that can be summarised as follows:

1. Every child shall be entitled to enjoy the rights, proclaimed by the Declaration, without discrimination in any form.

2. The child shall enjoy special protection, and shall be given opportunities and facilities to enable him to develop in a healthy and normal manner and in conditions of freedom and dignity.

3. The child shall be entitled from his birth to a name and a nationality.

4. The child shall enjoy the benefits of social security, including adequate pre-natal and post-natal care to be provided both to him and to his mother. The child shall have the right to adequate nutrition, housing, recreation and medical services.

5. The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

6. The child shall, wherever possible, grow up in the care and under the responsibility of his parents in an atmosphere of affection and of moral and material security. A child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support.

7. The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. The child shall have full opportunity for play and recreation.

8. The child shall in all circumstances be among the first to receive protection and relief.

⁶ Linnyk N. V. Historical background of the protection of rights and freedoms of the child at different stages of social development [Electronic resource] // University scientific notes. – 2006. – No. 2 (18). – P. 41–45. – Way to access: www.univer.km.ua

⁷ The Declaration of the Rights of the Child: Adopted and proclaimed by the United Nations General Assembly resolution 1386 (XIV) of 20 November 1959 [Electronic resource] – Way to access: http://zakon0.rada.gov.ua/laws/show/995_384

9. The child shall be protected against all forms of neglect, cruelty and exploitation. The child shall not be admitted to employment before an appropriate minimum age.

10. The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood.

The preamble to the Declaration states that the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth. Therefore, the Declaration urged parents, men and women in person, non-governmental organisations, authorities at local and national level authorities to recognise these rights and ensure their implementation through a legal reform and otherwise. At the same time, the Declaration considers the child to be a legal actor, that is, it recognises the right of the child to independently enjoy his rights⁸.

By the end of the 1970s, the level of development of the society, the situation of children, new problems have shown that declarative principles alone were not enough. The documents which would, based on legal norms, formalise the measures and methods for protection of children's rights were required. To this end, *the Declaration on the Protection of Women and Children in Emergency and Armed Conflict* was adopted in 1974, in 1986 – *the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and (host family – compatriots) and Internationally (host family – foreigners)*.

For 10 years (1979 to 1989), experts from around the world participating in the UN Commission on Human Rights, have developed the text of the new provision on the rights of the child, which would take into account to the maximum possible extent all the aspects of the child's life in society⁹. This document was called *the Convention on the Rights of the Child* and was adopted by the UN General Assembly on 20 November 1989¹⁰.

Unlike the Declaration of the Rights of the Child, which simply proclaimed certain principles, the Convention set the minimum standards in morality and law. These standards are binding on all countries that have ratified the Convention. The Convention was the first international document outlining children's rights to the fullest extent possible. In particular, within the group of *civil rights* it is possible to identify the right to a name and a nationality, the right to identity, the right to life, the right to protection from physical violence, the right to privacy; within the group of *political rights* – the right to freedom of thought, freedom of speech, freedom of

⁸ Every child has the right ... [Electronic resource]. – Way to access:

http://libgonchar.org/index.php?option=com_content&view=article&id=140:q-q&catid=104:q---q&lang=uk

⁹ Rights of the child [Electronic resource]. – Way to access:

http://encyclopedia.bigra.ru/enc/liberal_arts/PRAVA_REBENKA.html

¹⁰ The Convention on the Rights of the Child [Electronic resource]. – Way to access:

http://zakon0.rada.gov.ua/laws/show/995_021

associations, expression and religion, free access to information; within the category of *social rights* – the right to education, the right to health protection, the right to social security; from among *cultural rights* – the right to rest, leisure, participation in cultural and artistic life; from among specific rights – the right not to part from parents, right to play, protection of children with special needs (right to association). Instead, the authors of the “Social and Pedagogical Framework for the Protection of Children’s Rights” methodological textbook indicate that the Convention virtually does not contain the explanation of children’s economic rights, since education is defined as a priority – the child should study, not work. Accordingly, from among *economic rights* only protection from exploitation was recognised¹¹.

Positive aspects of the Convention are referred to the fact that, firstly, it introduces the concept of “participation rights” for children and recognises the importance of informing children about their rights. Secondly, the Convention raises questions that have never been considered in international documents: the right of children – victims of violence and exploitation, to rehabilitation and the obligation of governments to take steps to eliminate traditional practices that harm the health of children. Thirdly, it includes principles and rules that have previously appeared only in legally non-binding texts, in particular issues relating to the adoption and administration of juvenile justice.

The Convention also introduces two concepts of great importance:

- ensuring the best interests of the child (Article 3) becomes mandatory criterion for “all actions or decisions concerning children”;
- the principle according to which parents (or others responsible for the child) shall provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the Convention (Article 5).

The most controversial provision of the Convention is considered to be prohibition for call-up and recruitment to armed forces and participation in hostilities of children under the age of only 15. Although this provision actually complies with existing norms of humanitarian law, but most countries, as well as UNICEF and all non-governmental organisations believe that this age limitation is not appropriate. Many NGOs note that the child’s right to choose religion contained the Convention is more restricted compared to the same guaranteed to all people in the International Covenant on Civil and Political Rights. Concern was also expressed in connection with the fact that the Convention does not specifically deal with such issues as protection from medical experimentation and the right to the preschool education.

Although, there is, apparently, no organisation or government which could say they are completely satisfied with the text, there is also no doubt that the

¹¹ Social and Pedagogical Framework for the Protection of Children’s Rights: methodological textbook / S. V. Zinchenko, M. V. Yevsiukova, O. A. Kalashnyk [et al]; under general editorship of K. B. Levchenko and O. A. Udalova. – K. : Skydeck, 2008 – 224 p.

Convention recognises much more rights for children and to a much greater extent than any of the documents adopted earlier¹².

In 2000 the Convention was complemented by *the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* and *the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*.

The first one defines the sale of children, child prostitution and child pornography, and member states undertake to criminalise these acts, to take the appropriate measures to protect the rights and interests of child victims and the like¹³. The second document recognises it unacceptable to call-up persons below the age of 18 to military service, and given that such a call-up is carried out in the country, it must be strictly voluntary. Recruits shall be fully informed of the duties involved in such military service and they shall provide reliable proof of age prior to acceptance into national military service. Such recruitment is carried out with the informed consent of the person's parents or legal guardians. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years¹⁴.

The concept of ensuring the "best interests" of the child was formalised in a number of international instruments (in particular, apart from the Convention on the Rights of the Child of 1989, also in *the Convention on the Civil Aspects of International Child Abduction* of 1980, *the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* of 1993; *the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children* of 1996) and was detailed in *the General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration* – document of the UN Committee on the Rights of the Child¹⁵.

The Committee on the Rights of the Child has identified the following articles as the "guidelines", which constitute the basis for all of the rights contained in the Convention:

- Article 2 (Non-discrimination);
- Article 3 (Best interests of the child);
- Article 6 (on the right to life, survival and development);
- Article 12 (Respect for the views of the child).

¹² Rights of the child and the mechanism for their protection [Electronic resource]. – Way to access: <https://docviewer.yandex.ua/?url=http%3A%2F%2Fwww.romny-mcss.edukit.sumy.ua%2Ffiles%2Fdownloads%2Fbook2.pdf&name=book2.pdf&lang=uk&c=567001819a1d&page=1>

¹³ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography [Electronic resource]. – Way to access: http://zakon0.rada.gov.ua/laws/show/995_b09

¹⁴ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/ru/995_795

¹⁵ General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (para. 1 of Article 3) [Electronic resource]. – Way to access: http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC.C.GC.14_ru.pdf

In addition, the following international instruments are also focused on the protection of children's rights: *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime*¹⁶; *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*¹⁷; *World Declaration on the Survival, Protection, and Development of Children*¹⁸; *Declaration and Plan of Action – “A world fit for children”*¹⁹; *Declaration of the Commemorative High-level Plenary Meeting devoted to the Follow-up to the Outcome of the Special Session on Children*²⁰.

The International Labour Organisation (ILO), created by the decision of the Paris Peace Conference on 11 April 1919, being today one of the specialised UN agencies, gave rise to international efforts to limit child labour in its conventions. From among the ILO regulatory documents *the ILO Declaration on Fundamental Principles and Rights at Work*, which was adopted by the International Labour Conference at Its 86th Session in Geneva of 18 June 1998, is notable. This instrument proclaimed a set of conceptual provisions in the field of employment and social policy. The International Labour Conference declared that all Members of the Organisation, even if they have not ratified the fundamental Conventions, have an obligation arising from the very fact of membership in the Organisation to respect, to promote and to realise, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour;
- (d) the elimination of discrimination in respect of employment and occupation²¹.

All these principles to various extents relate to the rights of the child. In particular, *the principle of the effective abolition of child labour* has been enshrined

¹⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/995_791

¹⁷ United Nations Rules for the Protection of Juveniles Deprived of their Liberty: Adopted by the General Assembly resolution 45/113 of 14 December 1990 [Electronic resource]. – Way to access: http://www.un.org/ru/documents/decl_conv/conventions/juveniles_liberty.shtml

¹⁸ World Declaration on the Survival, Protection, and Development of Children: Adopted by the World Summit for Children in New York, 30 September 1990 [Electronic resource]. – Way to access: http://www.un.org/ru/documents/decl_conv/declarations/decl_child90.shtml

¹⁹ Declaration and Plan of Action – “A world fit for children” : Adopted by resolution S-27/2 of the special session of the UN General Assembly of 10 May 2002 [[Electronic resource]. – Way to access: http://www.un.org/ru/documents/decl_conv/declarations/worldchild.shtml

²⁰ Declaration of the Commemorative High-level Plenary Meeting devoted to the Follow-up to the Outcome of the Special Session on Children: Adopted by the General Assembly resolution 62/88 of 13 December 2007 [Electronic resource]. – Way to access: http://www.un.org/ru/documents/decl_conv/declarations/child_sp_sess.shtml

²¹ ILO Declaration on Fundamental Principles and Rights at Work: Adopted by the International Labour Conference at Its 86th Session in Geneva of 18 June 1998 [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/993_260

in several ILO conventions. General act on this issue, which has gradually replaced a number of conventions and aims to achieve the total elimination of child labour, is *the Convention No. 138 on Minimum Age* (of 1973, ratified by the USSR of 07 March 1979). Each State undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to rise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. According to paragraph 3 of Article 2 of the Convention the minimum age shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 16 years; and the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years (Art. 3)²². It should be noted that this Convention has played a crucial role in the development of standards for the protection of children's rights and, in fact, defined the basic provisions on the protection of children's economic rights.

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No. 182 (ratified by the Law of Ukraine of 5 October 2000 No. 2022-III) was developed due to the need to adopt new regulations to prohibit and eliminate the worst forms of child labour as the main priority for national and international actions. According to Article 3 of the Convention the "worst forms of child labour" include:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children²³.

From the above, although in general the child's right to work and to protection against exploitation is in sufficient detail governed at the international level, it still has some certain gaps. In particular, the question about the precise definition of child labour remains open, especially since it may be of various nature: domestic, non-domestic, paid, unpaid, official, unofficial (shadow economy), etc.

Summarising the above, it should be noted that now international children's rights law is developing as an independent institute of international legal regulation

²² Bolotina N. B. Labour law of Ukraine: course book [Electronic resource] / N. B. Bolotina. – Way to access: http://pidruchniki.com/1584072058168/pravo/trudove_pravo_ukrayini

²³ Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No. 182 of 17 June 1999 [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/en/993_166

and includes both the standards which determine the child's rights derived from the rights of adults (universal human rights and freedoms), and the standards defining juvenile rights in particular (rights that may belong exclusively to a the child).

1.2. European legal standards and legal mechanisms for child protection

In parallel with the process of formation of international human rights law and standards for the protection of children's rights within the United Nations the international and regional legislation on the protection of children's rights is also developing. According to T. L. Syroid, the most significant results in this field have been achieved in Europe: On the one hand, the legal context is ensured under the auspices of the Council of Europe, on the other – the political context – by the Organisation for Security and Cooperation in Europe (hereinafter – OSCE). The researcher stresses that the process of development of the regional standards on human rights, in particular, on the protection of certain categories of persons (e.g., national minorities, linguistic minorities, etc.) is of long continuance. Its essence lies not only in developing, updating the legal framework, but also in creating by the international community of additional supervisory bodies, expanding the range of their powers and improving the focus areas²⁴.

Human rights and fundamental freedoms within **the Council of Europe** are enshrined in international treaties and additional protocols to them. Treaties contain a list of rights, the exercise of which shall be guaranteed to every person who is under the jurisdiction of a state party and establish European supervision procedures and guarantees of compliance with the provisions of these treaties. One of the most important instruments of the Council of Europe is *the Convention for the Protection of Human Rights and Fundamental Freedoms* of 1950, as supplemented by the additional protocols in various areas of cooperation for the protection of human rights and freedoms²⁵. Although the Convention for the Protection of Human Rights and Fundamental Freedoms practically does not contain articles that would directly govern and protect children's rights (except for Articles 5, 6 of the European Convention, Article 5 of Protocol No. 7 thereto), yet its provisions may be applied to a child who is the subject of international law along with other participants of the international legal relations²⁶.

Judicial protection of the rights of the child is carried out primarily by the European Court of Human Rights (ECtHR) established under the Convention. As is known, the legal force of ECtHR judgements in the hierarchy of legal standards is equivalent to the international treaty, resulting in the need to analyse the existing practice of the Strasbourg Court on the violation of children's rights.

²⁴ Syroid T. L. Legal framework and mechanisms for the protection of human rights at the international and regional level [Electronic resource] / T. L. Syroid. – Way to access: <http://www.pravoznavec.com.ua/period/article/28980/%D2#chapter>

²⁵ Convention for the Protection of Human Rights and Fundamental Freedoms [Electronic resource]. – Way to access: <http://www.coe.ru/main/echr>

²⁶ Tumanova L. V. Protection of Family Rights in the European Court of Human Rights / L. V. Tumanova, I. A. Vladimirova. – M.: Gorodets Publishing House, 2007. – 208 p. – P. 87.

First of all it should be noted that any natural person, a group of natural persons, non-governmental organisation can appeal to the European Court of Human Rights. This right to file an individual complaint is recognised including for such natural persons who are deprived of legal standing under the national law: minors, mentally ill, persons who are in the country illegally and for some others. For filing a complaint it does not matter whether an applicant has reached the age of majority, or has his legal capacity been subjected to any restriction from the part of the national authorities. It is necessary that the applicant consider himself a victim of a violation of rights provided for by the Convention for the Protection of Human Rights and Fundamental Freedoms or Protocols thereto (art. 34 of the Convention). Indeed, in the *case of X and Y v. The Netherlands, the judgement of 26 March 1985*, the minor mentally ill girl was recognised as the applicant and a victim of violation of human rights²⁷. In the *case of Assenov and Others v. Bulgaria, judgement of 28 October 1998*, which concerned ill-treatment from the part of the police in relation to the arrested teenager, one of the applicants was 14 years old²⁸. The judgement *in the case Nachova v. Bulgaria of July 6, 2005* manifested a new approach to identification of the marginal position and discrimination of persons (applicants identified themselves as representatives of the ethnic community of the Gipsies or Roma) and recognised no age requirement as a criterion of admissibility of the complaint for consideration (at the time the complaint the applicant was 3 years old)²⁹. However, in view of the established practice of the ECtHR on the protection of children's rights, it should be noted that normally the interests of minors in the European Court are represented by their parents³⁰.

The subject matter of consideration of the ECtHR are various cases of children's rights violations, in particular ***the right to education*** (Article 2 of Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the European Convention)); ***child abuse and neglect*** (Articles 3 and 8 of the European Convention); ***family rights*** (Art. 8 of the European Convention); ***freedom of conscience; the right to freedom of expression and freedom of association*** (Articles. 9, 10, 11 of the European Convention); ***restrictions on the freedom of expression of views; the right to receive and disseminate information for the purposes of protection of health or morals*** (paragraph 2 of Article 10 of the European Convention); ***protection from discrimination*** (Art. 14 of the European Convention) and the like. At the same time, except for standards developed directly by the European Court, when substantiating violations of children's rights references to other international legal

²⁷ X and Y v. The Netherlands [Electronic resource]. – Way to access: http://www.rroi.narod.ru/echr/translation/translation/x_y_nd.htm

²⁸ Assenov and Others v. Bulgaria [Electronic resource]. – Way to access: <http://www.srji.org/resources/search/33/>

²⁹ Nachova v. Bulgaria [Электронный ресурс]. – Way to access: <http://www.srji.org/resources/search/21/>

³⁰ Skakun O. S. The interest of the child as the main criterion for the protection of children's rights in the practices of the European Court of Human Rights [Electronic resource]. – Way to access: <http://www.studfiles.ru/preview/4603072/>

instruments enshrining children's rights are permitted and encouraged³¹, for example, these may be references to the UN Convention on the Rights of the Child of 1989, which is the fundamental document in the field of children's rights protection.

S. I. Klim focuses on the fact that the ECtHR resolves the issues on the reasonability of government intervention in the family lives of individuals and establishes the framework for such an intervention in order to create appropriate conditions for the physical and moral development of the child. Thus, the scope of the concept of "the best interests of the child" covers *administrative* (for example, cases on the appealing the decisions of the guardianship authorities on determining the way of participation of a parent in the education of a child; decisions on granting permission to the alienation of property; decisions on the determining the place of residence of the child; on the obligations of the authority, agency or public officer to take certain actions, namely to amend the record of birth, etc.) and *civil* (in particular, cases on the determining the place of residence of the child; adoption; deprivation of parental rights; assignment of guardianship and custody; collection of child support payments, etc.) *legal proceedings*, issues on the implementation of the standards of *family law*³².

The judgements of the ECtHR generally regard the interest of the child as the main criteria of children's rights protection. In awarding judgements on cases related to the *determining the place of residence of the child*, the ECtHR relies upon from the concept of the "best interests" of the child. The European Court draws attention to the religious beliefs of parents and other features, recognises restrictions imposed on them by the national courts as discriminatory, but at the same time the ECtHR judges from the priority of interests of the child, the best serving of which may, in the opinion of the Court, conflict with religious beliefs.

With regard to the content of *the right to education* and the scope of the obligations it imposes, the Court in the case "*relating to certain aspects of the laws on the use of languages in education in Belgium*" (*Belgian linguistic case*), *judgement of 23 July 1968*, stated that the first the sentence of Article 2 of Protocol 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which provides that "no person shall be denied the right to education", does enshrine the right to education". The negative formulation indicates, ... that the Contracting Parties do not recognise such a right to education as would require them to establish at their own expense, or to subsidise, education of any particular type or at any particular level. However, it cannot be concluded from this that the State has no positive obligation to ensure respect for such a right as is protected by Article 2 of the Protocol to the Convention. As a "right" does

³¹ Kravchuk N.V. Protection of Children's Rights through the Courts // State and Law 2004. – No. 6. – P. 66 – 73.

³² Klim S. I. Procedural rights of the child in the context of judgement of the European Court of Human Rights [Electronic resource] / S. I. Klim // Scientific Bulletin of Kherson State University. Series: Legal Sciences. – 2014. – V. 4, issue 6-1. – P. 203-206. – Way to access: http://www.lj.kherson.ua/2014/pravo06/part_4/42.pdf

exist, it is secured, by virtue of Article 1 (art. 1) of the Convention, to everyone within the jurisdiction of a Contracting State³³.

Later the European Commission noted in a number of judgements that “the right to education contained in Article 2 applies, above all, to primary education, and not necessarily to training at an advanced level, such as in technology” (Judgement of the European Commission in the case *X v. United Kingdom of 13 March 1975*; Judgement of the European Commission in the case of *Kramelius v. Sweden of 17 January 1996*). In more recent cases the European Commission, leaving the door open to the application of Article 2 of Protocol No. 1 to the Convention on the university education, considered the legality of some of the restrictions on access to higher education institutions (Judgement of the European Commission in the case of *X v. United Kingdom of 9 December 1980*; on suspension and expulsion from educational institutions – Judgement of the European Commission decision in the case of *Yanasik v. Turkey of 6 January 1993* and the Judgement of the European Commission in the case of *Sulak v. Turkey of 17 January 1996*)³⁴.

The European Court of Human Rights in its judgements gradually condemned **corporal punishment**: firstly – within the criminal system, then – at school, and not so long ago – in the family. Further judgements of the Court led to the understanding that the prohibition of corporal punishment could not be regarded as an encroachment upon private family life or religious norms of behaviour. Thus, in 1982 the European Commission of Human Rights announced its rejection of *a complaint filed by a group of parents from Sweden*. They argued that the prohibition to apply corporal punishment to their children set in the Swedish Code of Parenthood violated both their right to respect for family life, so as the punishment within home was the area of exclusively parental jurisdiction, and the freedom of religion: being the members of community of Free Protestant Church of Stockholm, the applicants were convinced of the need for corporal punishment, justifying their beliefs referring to biblical texts. The Commission admitted that parenting was an essential internal aspect of the family life, but emphasised that the code was “designed to protect potentially weaker and vulnerable members of society”³⁵.

In addition, the ECtHR appealed the notion of “moderate corporal punishment” of the child by his parents. In September 1998 the Court awarded unanimous judgement that corporal punishment the minor Englishman had been subjected to by his stepfather, was a degrading act in violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Judgement of the Court in the case of *A v. United Kingdom of 23 September 1998*). Indeed, British court refused to initiate criminal proceedings

³³ Case “Relating to certain aspects of the laws on the use of languages in education in Belgium” [Electronic Resource]. – Way to access: [http://hudoc.echr.coe.int/eng#{"dmdocnumber":\["695402"\],"itemid":\["001-57525"\]}](http://hudoc.echr.coe.int/eng#{)

³⁴ Leyla Sahin v. Turkey [Electronic resource]. – Way to access: http://www.pravosudie.biz/base1/data_dy/sudqsgfbv.htm

³⁵ SEVEN INDIVIDUALS v. SWEDEN [Electronic Resource]. – Way to access: <http://hudoc.echr.coe.int/eng?i=001-73804>

against the stepfather on the grounds that the act he had committed was qualified as “moderate corporal punishment” of the child. The Court concluded on the responsibility of the UK Government, so as British law that allowed parents to apply “moderate corporal punishment” to children did not provide the adequate protection to the child and did not provide for “effective deterrence”. In the judgement in the said case the ECHR provided references to articles of the UN Convention on the Rights of the Child and, in particular, to Art. 19 which required the states parties to take all appropriate measures to protect the child from “all forms of physical or mental violence” while in the care of parent(s), legal guardian(s) or any other person who had the care of the child³⁶.

Essential are cases related to the ***protection of the right of the child to communication (contact) with parents***. The legal literature states that the Court drew attention to the importance of communication between parents and children at a time when children are in the custody of them. That is why the Court often finds that a decision on the establishment of custody is consistent with Art. 8, while the restriction or rejection of contact with parents during the time of the effect of order are incompatible. Any restrictions imposed on private communication in relations between parents and children shall be based on justified reasons related to the case, put forward to protect the child’s interests and for the further unification of the family. In particular, proportionality between the restrictions imposed on contact and the goals that these restrictions pursue shall be observed³⁷. Thus, the case of *Eriksson v. Sweden, judgement of 22 June 1989 (series A, No. 156)* was about the child who spent the first few years of her life in an orphanage, until order for her transfer under custody was cancelled. Biological mother was forbidden to take her daughter from the orphanage and their contacts were limited. The Court noted the lack of serious efforts that would unite the family and admitted that such an intervention was not “necessary in a democratic society”³⁸.

Regarding ***the violation of the right of the child to live in family where the child is taken from parents and transferred under custody***, the judgement in the case of *Saviny v. Ukraine of 18 December 2008* generates interest³⁹. Courts of all instances of Ukraine deprived husband and wife Saviny of parental rights regarding several of their seven minor children. Parents were born blind and that is why it was recognised that they were “unable to provide the children with proper nutrition, clothing, sanitary environment and health care, or to ensure their social and educational adaptation”. The Court, while recognising such motives in making the said decision by the public authorities although relevant, considered them as

³⁶ CASE OF A. v. THE UNITED KINGDOM [Electronic Resource]. – Way to access: <http://hudoc.echr.coe.int/eng?i=001-58232>

³⁷ Kilkeli U. European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 8. The right to respect for private and family life, home and correspondence. Precedents and comments: study guide / Ursula Kilkeli, E. A. Chefranova. – Moscow: Russian Academy of Justice, 2001. – 161 p.

³⁸ Eriksson v. Sweden [Electronic resource]. – Way to access: http://europeanecourt.ru/uploads/ECHR_Eriksson_v_Sweden_22_06_1989.pdf

³⁹ Case of Saviny v. Ukraine (Application No. 39948/06) [Electronic resource]. – Way to access: http://zakon4.rada.gov.ua/laws/show/974_454

inadequate and “not sufficient to justify such a serious intervention with the applicants’ family life”. Therefore, it was recognised that the deprivation of parental rights of spouses Saviny was a violation of Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (right to respect for private and family life).

In the category of cases related to *the protection of the rights of children born out of wedlock* the case of *Marckx v. Belgium, judgement of 13 June 1979 (series A, No. 31) has become a textbook*⁴⁰. In the said case the subject-matter of dispute was the fact that the legislation of the country provided for more complicated procedure for establishing legal relationship between mother and her child in the event of the child born out of wedlock. To that end it was required to go through the procedure of recognition of the child and its subsequent adoption. As a result, there was created such a situation that for some time the child, in legal terms, did not have mother at all⁴¹. According to the facts of the case of Alexandra Marckx was daughter of Paula Marckx, an unmarried woman. According to Belgian law in respect of children born in wedlock motherhood was recorded automatically (upon birth). However, in the case of Miss. Marckx, whose child was born out of wedlock, the mother was required to file a statement of recognition to the civil registrar. Such an act was merely declaratory and did not create sufficient evidence of motherhood. Accordingly, the applicant, having received such recognition, a year after the birth of her daughter initiated the adoption procedure (it should be noted that the Civil Code of Belgium substantially restricted the inheritance and some other proprietary rights of the child born out of wedlock). The applicants Marckxs argued that such registration system violated their rights under Article 8 of the Convention, taken separately and in conjunction with Article 14. In its judgement the Court stated: “when the State determines in its domestic legal system the regime applicable to certain family ties, ... it must act in a manner calculated to allow those concerned to lead a normal family life”. According to the Court, “as envisaged by Article 8, respect for family life implies in particular, in the Court’s view, the existence in domestic law of legal safeguards that render possible as from the moment of birth the child’s integration in his family”. In addition, the Court finds, that “acting in a manner calculated to allow the family life of an unmarried mother and her child to develop normally the State must avoid any discrimination grounded on birth: this is dictated by Article 14 taken in conjunction with Article 8” of the Convention. As stated in the judgement, “at the time when the Convention of 4 November 1950 was drafted, it was regarded as permissible and normal in many European countries to draw a distinction in this area between the “illegitimate” and the “legitimate” family. However, ... in the instant case, the Court cannot but be struck by the fact that the domestic law of the

⁴⁰ Judgement of the European Court of Human Rights in the case of *Marckx v. Belgium* of 13 June 1979 [Electronic resource] // The European Court of Human Rights. Reference and Information Centre: Russian Federation. – Way to access: <http://european-court.ru/resheniya-evropejskogo-suda-na-russkom-Yazyke/Marks-Protiv-Belgii-Postanovlenie-Evropejskogo-Suda/>

⁴¹ Tumanova L. V. Protection of Family Rights in the European Court of Human Rights / L. V. Tumanova, I. A. Vladimirova. – M.: Gorodets Publishing House, 2007. – 208 p. – P. 87.

great majority of the member States of the Council of Europe has evolved and is continuing to evolve, in company with the relevant international instruments, towards full juridical recognition of the maxim “mater semper certa est”. Thus, the Court gave crucial importance to the standards that were generally accepted at the time of proceedings in the case, and not to the same at the time of the Convention⁴².

A year after the judgement on the case of *Marckx v. Belgium* the Committee of Ministers adopted the European Convention on the Legal Status of Children Born out of Wedlock⁴³. According to G. Van Bueren, the adoption of the Convention appeared a necessary to step due to the discrepancies between the legislations of Member States on the kinship relations outside the marriage relationship. As a result, the Convention is twofold: to ensure that illegitimate children have equal legal status and to harmonise legislation concerning ties of kinship within the Council of Europe⁴⁴.

In 1961 The Council of Europe adopted *the European Social Charter* (revised in 1996), which represented the further development of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, which protects the civil and political rights of citizens. The Charter guarantees social and economic rights, including: the right to housing, health protection, education, employment, freedom of movement, non-discrimination and legal protection. In particular, this Charter enshrined the provisions concerning employment of children and their protection.

Thus, Article 7 contains ten points that provide for specific safeguards to protect children and young people, particularly in regard to employment⁴⁵. Requirements established by this Article are rather tough as evidenced by the fact that only few contracting parties have committed themselves to a certain number of points in this Article, and the observance of the commitments is poor. According to the Article, the contracting parties undertake to set a minimum um age of admission to employment – 15 years, and with respect to prescribed occupations regarded as dangerous or unhealthy; employment associated with unsafe and unhealthy conditions – 18 years. States undertake to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education; to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations; to ensure special

⁴² Principles of interpretation of the Convention for the Protection of Human Rights and Fundamental Freedoms [Electronic resource]. – Way to access:

<http://asylan.org/potra/Принципи+тлумачення+конвенції+про+захист+прав+людини+та+основоположних+сво+бода/main.html>

⁴³ European Convention on the Legal Status of Children Born out of Wedlock of 15 October 1975 No. ETS85 [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/994_568

⁴⁴ Van Bueren G. International Laws: Children’s Rights / G. Van Bueren; transl. from Eng. by H. Y. Krasnokutskyi; science editor M. O. Baimuratov. – O.: BAKHVA JSC, 2006 – 524 p.

⁴⁵ European Social Charter of 1961 [Electronic resource]. – Way to access: <http://www.memo.ru/prawo/euro/eusoc.htm>

protection against physical and moral dangers and particularly against those resulting directly or indirectly from their work, etc.⁴⁶

Based on the Charter a system for monitoring the states parties' compliance with its provisions – the Committee of Experts was established⁴⁷. In 1991 the Charter was complemented by the Protocol on Collective Complaints, according to which appeals concerning violations of its provisions should be considered by the *European Committee of Social Rights*. Judicial practice of the European Committee of Social Rights, which monitors the compliance with the provisions of the European Social Charter (revised), requires that states parties have banned all forms of corporal punishment and any other forms of degrading punishment or treatment of children by taking vigorous measures both of administrative and educational nature aimed at the recognition and realisation of children's rights to protection⁴⁸.

The object of the *European Convention on the Exercise of Children's Rights* (of 1996) is to promote their rights, to grant them procedural rights and to facilitate the exercise of these rights by ensuring that children are, themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority⁴⁹. In accordance with the provisions of the Convention procedural steps to be taken by the states to facilitate the exercise of children's rights in the proceedings by a judicial authority of family affairs are established, in particular those related to the implementation by parents of their parental responsibility, the determination of the place of residence of the child and access with a view to take into consideration the opinion and interests of the child to the best possible extent.

In 1989 the Council of Europe adopted *the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and Additional Protocols thereto*. The Convention provided for establishment of a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Committee"). The main objective of the Committee is to assist states parties in the prevention of ill-treatment of persons deprived of liberty. Activities of the Committee intended to be part of the Council of Europe human rights system, which is a non-judicial preventive mechanism with the existing supervisory mechanism – the European Court of Human Rights⁵⁰.

The object of *the Convention on Contact concerning Children* of 2003 is to determine the general principles to be applied to the contact between children and

⁴⁶ Syroid T. L. International legal aspects of the protection of social and economic rights of children [Electronic resource]. – Way to access: <http://www.pravoznavec.com.ua/period/article/34111/%D2>

⁴⁷ European Social Charter (revised) [Electronic resource]. – Way to access: <http://www.coe.ru/doc/ESC.php>

⁴⁸ Corporal Punishment in the Light of European Standards in the Field of Human Rights – Way to access: <http://megasite.in.ua/40851-tilesni-pokarannya-u-svitli-chvroejjskih-norm-u-galuzi-prav-lyudini.html>

⁴⁹ European Convention on the Exercise of Children's Rights [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/994_135

⁵⁰ Syroid T. L. Legal framework and mechanisms for the protection of human rights at the international and regional level [Electronic resource] / T. L. Syroid. – Way to access: <http://www.pravoznavec.com.ua/period/article/28980/%D2>

their parents and other persons having family ties with children, as well as to fix appropriate safeguards and guarantees to ensure the proper exercise of such contact and the immediate return of children at the end of the period of contact and to establish cooperation between all the bodies and authorities concerned⁵¹. Convention actually effectively settles the question of the right of the child to communicate with a parent who resides separately and persons who are not her parents (grandparents, adult siblings, etc.). The convention establishes appropriate safeguards and guarantees to ensure the proper exercise of such contact. According to the Convention each contracting state provides safeguards and guarantees to ensure enforcement of decisions and to ensure the return of the child or to prevent his improper removal and facilitates their use.

In order to prevent sexual exploitation and sexual violence against children and to combat these phenomena; to protect the rights of child victims of sexual exploitation and sexual abuse; to promote national and international cooperation against sexual exploitation and sexual abuse of children in October 2007 *the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse* was adopted⁵². Aimed to protect children from all forms of sexual abuse that can be committed by a person from the inner circle of the victim (in the family circle, in institutions for children or orphanages) or by an unknown person, the Convention is a significant step forward in the field of prevention of crimes, protection of victims and prosecution of perpetrators regardless of the country in which the crime was committed, as well as international cooperation. The Convention also provides for measures to combat crimes committed on the Internet, such as child pornography in direct broadcast (online) and “grooming” (when adults try to make contact with children or teenagers with sexual intent, for example through chat rooms)⁵³.

The first report on monitoring the situation in 26 countries that have ratified the Convention was published by the Council of Europe on 7 December 2015. Available data of the Council of Europe suggest that one in five children under the age of 18 years in Europe is victims of sexual violence. In 70% to 85% of cases the abuser is somebody the child knows and trusts. Children mostly hide their suffering, because they are afraid to talk about them out loud, and 90% of cases remain unknown to the police.

The document also notes that of all the countries reviewed only Spain has led the criminalisation of sexual abuse of children in line with the Convention. “Most states do not cover all possible culprits – parents, friends and colleagues, older brothers, friends and neighbours; and it endangers the right of the child to

⁵¹ Convention on Contact concerning Children of 15 May 2003 No. ETS 192 [Electronic resource]. – Way to access: http://zakon4.rada.gov.ua/laws/show/994_659

⁵² Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25 October 2007 [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/994_927

⁵³ Another country has ratified the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse [Electronic resource]. – Way to access: http://v-perspektyvy.com.ua/news/shhe_odna_krajina_ratifikovala_konvenciju_radi_evropi_pro_zakhist_ditej_vid_seksual-noji_ekspluataciji/2010-03-23-50

security”, – said the chairman of the Committee Lanzarote Braga Gudbrandsson. In particular, Ukraine is recommended to review legislation to specify that the child’s age for engaging in sexual activities is irrelevant in the case of sexual abuse.

In addition, the Committee notes that all parties, except for Ukraine, “have implemented legislation on the basis of which legal persons, such as commercial companies, associations and legal entities, can be held liable for acts of child sexual exploitation and sexual abuse, as provided for in Article 26 of the Convention”⁵⁴.

Recognising that domestic violence against children is a widespread phenomenon, and the findings of researches confirm the connection between domestic violence against women and physical abuse against children and the trauma that a child sustains when becomes a witness of domestic violence, *the Council of Europe Convention on preventing and combating violence against women and domestic violence* was opened for signature in Istanbul (Turkey) on 11 May 2011. The Convention recognises that the physical, sexual and psychological abuse and violence between parents or other family members in front of the children have severe consequences for the latest. It inspires fear, traumatises and seriously affects their development. Consequently, Article 26 of the Convention imposes an obligation with regard to the due account of the rights and needs of child witnesses in the provision of services and assistance. The term “child witnesses” applies not only to the children who were present during the violence and became active witnesses of what happened, but also to those who heard the screams and other noises from their hiding place, or those who have become a hostage to the long-term consequences of such violence. It is necessary to recognise and work with the issues of victimisation of children who have witnessed all forms of violence covered by this Convention and to ensure their right to support. Accordingly, it points to the need for qualified psychological interventions in accordance with the age and developmental stage, specifically focused on overcoming the effects of traumatic experience by the children if required. All services shall give due consideration to the best interests of children⁵⁵.

Children’s rights are also the institutionalised subject of dialogue in the activities of **the Organisation for Security and Cooperation in Europe** or **OSCE** (until 1995 – Conference on Security and Cooperation in Europe or CSCE). In particular, *the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE* in 1990 was the first of its kind to consider the human dimension to that extent. It remains the most important source of obligations of the OSCE in the field of human dimension. It establishes that the

⁵⁴ Report of the CE: Every fifth child becomes an object of sexual abuse, there are incisive comments to Ukraine [Electronic resource] // European Truth. – 2015. – December. – Way to access: <http://www.eurointegration.com.ua/news/2015/12/7/7041876/>

⁵⁵ The Council of Europe Convention on preventing and combating violence against women and domestic violence. Opened for signature in Istanbul (Turkey) on 11 May 2011 and the explanatory report [Electronic resource]. – Way to access: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680093d9e>

protection and promotion of human rights is one of the fundamental purposes of government, and that the recognition of these rights is the foundation of freedom, justice and peace. The document mentions many human rights and fundamental freedoms which have never been considered formally in the context of the CSCE (i.e. the right to peaceful assembly and demonstration, the right to peaceful use of the property, rights of the child), and also includes far-reaching provisions concerning national minorities, commitments related to elections. Indeed, Art. 13 states that states the participating states decide to accord particular attention to the recognition of the rights of the child, his civil rights and his individual freedoms, his economic, social and cultural rights, and his right to special protection against all forms of violence and exploitation. They will consider acceding to the Convention on the Rights of the Child, if they have not yet done so, which was opened for signature by States on 26 January 1990. They will recognise in their domestic legislation the rights of the child as affirmed in the international agreements to which they are Parties⁵⁶.

1.3. Protection of children's rights under the international humanitarian law

Protection of children involved in armed conflicts, taking into account the absence of a special agreement dedicated to children's issues, is currently regulated, firstly, by the rules of international law in the field of rights of the child; secondly, by the rules of general humanitarian law treaties, which focus attention both on adults and children; thirdly, by global and regional agreements governing actions of states both in peacetime and in situations of armed conflicts; fourthly, by the rules of customary international law. Although traditionally it is believed that the above mentioned rules establish the minimum standard of children's rights in armed conflicts, it should be noted, however, that, unfortunately, there actually is a conflict between them due to inconsistencies on establishment of higher and lower standards of the same issues. In addition, since children may be involved in armed conflicts both as civilians and as combatants, the legal status of civil children and children-combatants, respectively, differs.

The principle of humanity was detailed and obtained its legal basis *in particular in the Hague Conventions of 1899 and 1907*. Preambles of the above said Conventions included "Martens reservation", which stipulates that in cases not covered by international agreements, civilians and combatants (participants of combat operations) remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from dictates of public conscience⁵⁷. In addition, *the Convention (IV) respecting the Laws and Customs of War on Land of 1907* (Annex VI to the

⁵⁶ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 29 June 1990 [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/994_082/page

⁵⁷ Artsybasov I.N. Kukashuk I.I. The Law of Armed Conflict // International Law Course in 7 volumes. Volume 6. Branches of International Law. – M.: Hauka, 1992. – P. 72

Convention (IV) respecting the Laws and Customs of War on Land of 1907) also contained certain guarantees provided to civilians in time of war (Art. 23, 28, 43–47, 50–53)⁵⁸. These principles have been reaffirmed and developed in *the Geneva Convention and Protocols*. Article 48 enshrined the basic rule under which the conflicting parties shall distinguish not only civilians and participants of combat operations (combatants), but the “civilian objects and military objectives and accordingly shall direct their operations only against military objectives”⁵⁹.

Articles 38 and 39 of *the Convention on the Rights of the Child* contain requirement to states parties to respect for rules of international humanitarian law applicable to children and to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of armed conflict⁶⁰.

The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) provides the general protection for children as the civilians. Articles 14, 17, 23–26, 38, 49–51, 68, 76, 81, 82, 89, 94, 132 of the said Convention are dedicated to special protection of children. It should be noted that this protection applies to civilian children living both on unoccupied and occupied territories⁶¹. *The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts* (Protocol I) enshrines the special attitude to children in Articles 8, 70, 74, 75, 77, 78⁶². Special protection of children in armed conflicts not of an international character is regarded in Articles 4 and 6 of *the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts* (Protocol II)⁶³. Provisions of the above mentioned rules relate to various aspects of improving the situation of children, as one of the most vulnerable categories with regard to ensuring greater protection of children against the negative impact of armed conflicts and governing the participation of children in it.

Already mentioned *Declaration on the Protection of Women and Children in Emergency and Armed Conflict* (of 1974), although has not itself brought anything new to improve the international legal standards on protection of children in armed conflict, nevertheless has had diplomatic significance and attracted the

⁵⁸ Herasymchuk M. V. Evolution of International Humanitarian Law on the Protection of the Civilian Population [Electronic resource]: Clarification of the Ministry of Justice of Ukraine of 10 March 2011. – Way to access: <http://zakon3.rada.gov.ua/laws/show/n0020323-11>

⁵⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 August 1977 [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/995_199/print1445513238947784

⁶⁰ The Convention on the Rights of the Child [Electronic resource]. – Way to access: http://zakon0.rada.gov.ua/laws/show/995_021

⁶¹ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 [Electronic resource]. – Way to access: <https://www.icrc.org/rus/resources/documents/misc/geneva-convention-4.htm>

⁶² Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 August 1977 [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/995_199/print1445513238947784

⁶³ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 August 1977 [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/995_200/print1444915939586086

world's attention to the victims of armed conflict and reaffirmed the standards of warfighting⁶⁴.

The only regional instrument for the protection of children which paid attention to armed conflicts is the *African Charter on the Rights and Welfare of the Child*, which has become a breakthrough in the case of expanding the scope of international humanitarian law as it applies to children. Article 22 (3) applies not only to children involved in international and internal armed conflicts, but also reduces the level of violence to "conflict and struggle." Thus, the developers of the project of the African Charter were far-sighted enough to recognise that in particular the best interests of the child should prevail in international law and should not lead to conflicts⁶⁵.

Rules 55, 93, 105, 118, 120, 129, 131, 135–137 of *Customary international humanitarian law* applicable during both international and non-international armed conflicts are also aimed at the protection of rights of the children affected by armed conflict⁶⁶.

We consider it necessary to pay particular attention to the specific use of the term "child" in international humanitarian law. It is known that under Article 1 of the Convention on the Rights of the Child "child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier"⁶⁷. On the other hand, in the framework of modern international humanitarian law, six age stages of childhood have been defined, each of which provides its own special rights and protection mechanisms. These are *new-borns, infants, children up to the age of 7, children up to the age of 12, children up to the age of 15 and children aged 15 to 18*.

Thus, although international law has no concept or a separate status of a new-born baby, Protocol I includes new-born babies as persons who may be in need of medical assistance or care under paragraph "a" of Article 8 are in the concept of "wounded" and "sick"⁶⁸. The Geneva Convention (IV) provides for mothers of children under seven the ability to use hospital and safety zones (Article 14). The age of twelve is the upper age limit with respect to identification, since in accordance with Article 24 of this Convention, "Parties to the conflict shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means". The age of fifteen years is the upper age limit for the protection in hospital and safety zones (Article 14), the right to assistance (Article 23), as well as the criteria used in the system of social

⁶⁴ Declaration on the Protection of Women and Children in Emergency and Armed Conflict [Electronic resource]. – Way to access: http://zakon3.rada.gov.ua/laws/show/995_317

⁶⁵ Van Bueren G. International Laws: Children's Rights / G. Van Bueren; transl. from Eng. by H. Y. Krasnokutskyi; science editor M. O. Baimuratov. – O.: BAKHVA JSC, 2006 – P. 395.

⁶⁶ Henckaerts J.-M. Customary International Humanitarian Law. Rules [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. – Way to access: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

⁶⁷ The Convention on the Rights of the Child [Electronic resource]. – Way to access: http://zakon0.rada.gov.ua/laws/show/995_021

⁶⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 August 1977 [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/995_199/print1445513238947784

security of the child (Articles 24, 38, 50, 89); 18 years is the age below which it is prohibited to use the forced labour (Article 51) and the death penalty (Article 68)⁶⁹.

Now we will take a closer look at the specifics of the protection of children affected by international and internal armed conflicts. The basic principle – *the right to special respect and protection* – for children affected by an armed conflict is primarily concerned with providing them with food, clothing and hygiene products, as well as care for orphans and children separated from their families, treatment in the event of deprivation of liberty and distribution of humanitarian aid. This principle has been enshrined in many provisions of the above mentioned international acts and in several resolutions of the UN Security Council and the UN General Assembly. Thus, in **Resolution 1261 of 25 August 1999** relating to children in armed conflict the Security Council called upon the parties to armed conflict “to undertake feasible measures during armed conflicts to minimise the harm suffered by children” in armed conflict⁷⁰.

It is also established as rule 135 of Customary international humanitarian law, the practice of which evidences that special respect and protection, in particular, include:

- *protection against all forms of sexual abuse;*
- *detention separately from adults in the case of imprisonment, unless they are members of the same family;*
- *access to education, nutrition and health services;*
- *evacuation from the area of combat operations in order to ensure safety;*
- *reunification of street children with their families.*

The prohibition of sexual violence is recognised by international humanitarian law (rule 93) and is established in international and national legislation. Thus, in accordance with Article 7 of *the Rome Statute of the International Criminal Court*, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of a comparable gravity committed against victims of war are considered as crimes against humanity⁷¹. According to the Ukrainian criminal legislation, responsibility for the commission of sexual violence is stipulated in Articles 152, 153, 154, 155, 156, 301, 303 of the Criminal Code⁷². At the same time commission of these acts against children are either classified as separate elements of crimes or as specific circumstances aggravating punishment.

The requirement of holding children deprived of their liberty in quarters separate from those of adults is provided as rule 120 of international humanitarian

⁶⁹ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 [Electronic resource]. – Way to access: <https://www.icrc.org/rus/resources/documents/misc/geneva-convention-4.htm>

⁷⁰ Henckaerts J.-M. Customary International Humanitarian Law. Rules [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. – Way to access: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

⁷¹ Rome Statute of the International Criminal Court [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/995_588/page

⁷² The Criminal Code of Ukraine [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/2341-14>

law and is contained in many international instruments relating to both international and non-international armed conflicts. However, as stated in this rule, children must only be separated from adults to the extent that this does not involve a violation of the right of families to be housed together.

According to the requirements of international humanitarian law, “the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control” (rule 55). In the above-mentioned Resolution 1261 the UN Security Council called upon all parties to armed conflict “to ensure the full, safe and unhindered access of humanitarian personnel and the delivery of humanitarian assistance to all children affected by armed conflict”⁷³.

The need to ensure the safety of children as vulnerable members of the civilian population in both international and non-international armed conflicts, or urgent military reasons (for example, removing people from the zone of hostilities) require their evacuation at the time of such reasons. These cases are recognised as an exception to prohibition of full or partial deportation or forced displacement of the civilian population stipulated in international humanitarian law (rule 129).

The importance of family reunification, especially in connection with the reunification of children with their parents, both in international humanitarian law and in human rights law, has been reflected in treaties and in other international instruments, case law and resolutions⁷⁴.

In addition to the above said, *the Committee on the Rights of the Child* reminded that the most important provisions of the exercise of rights of the children affected by armed conflict include:

- protection of children and family;*
- *guarantees of the necessary care and assistance;*
- *availability of food, medical care and education;*
- *prohibition of torture, ill-treatment or neglect against children;*
- *prohibition of the death penalty;*
- *preservation of the cultural environment of the child;*
- *protection in case of deprivation of liberty;*
- *providing humanitarian aid and access to humanitarian organisations for children in armed conflict*⁷⁵.

Important rules of international humanitarian law that protect children during armed conflicts, both of international and non-international nature, are *the*

⁷³ Henckaerts J.-M. Customary International Humanitarian Law. Rules [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. – Way to access: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

⁷⁴ Henckaerts J.-M. Customary International Humanitarian Law. Rules [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. – Way to access: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

⁷⁵ Henckaerts J.-M. Customary International Humanitarian Law. Rules [Electronic resource] / J.-M. Henckaerts, L. Doswald-Beck // International Committee of the Red Cross. – Way to access: <https://www.icrc.org/rus/assets/files/other/customary.pdf>

prohibition of recruitment of children to armed forces or armed groups (Rule 136) and *the prohibition to allow children to participate in hostilities* (Rule 137). At that, according to Article 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000) States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities. In addition, according to Article 4 of this Protocol armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years. States Parties shall take all feasible measures in order to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalise such practices⁷⁶. Article 8 of the Statute of the International Criminal Court recognises conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities to be war crimes in armed conflicts, both international and non-international⁷⁷.

2. LEGAL AND JUDICIAL REMEDIES FOR CHILDREN'S RIGHTS IN THE LIGHT OF THE MILITARY CONFLICT IN UKRAINE

Based on the realities of the present, a part of the territory of our country got in a situation that no one could ever imagine, that is in armed conflict to which our society appeared to be unadapted.

As a result of this, the standards of current legislation, designed to ensure respect for human rights, turned out to be unable to resolve the “human standards” in the relationship between the state and the individual in the current context of armed conflict.

It acquires particular importance in addressing the issues on children's rights who by nature are a special vulnerable group requiring greater attention from the state.

Indeed, on the one hand, the legislation regarding the protection of children's rights is built in a hierarchical manner (vertically) and enshrines the basic children's rights at the level of the Basic Law with their further itemisation in laws and regulations, but on the other hand, it has a number of gaps, especially on issues relating to the protection of children's rights in armed conflict.

According to Article 52 of *the Constitution of Ukraine* children are equal in their rights regardless of their origin and whether they are born in or out of wedlock.

⁷⁶ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict [Electronic resource]. – Way to access: <http://www.yur-info.org.ua/doc/1668773/Fakultativnii-protokol-do-Konventsii-pro-prava-ditini-shcho-stosuietsia-uchasti-ditei-u-zbroinikh-konfliktakh>

⁷⁷ Rome Statute of the International Criminal Court [Electronic resource]. – Way to access: http://zakon5.rada.gov.ua/laws/show/995_588/page

Any violence against a child, or his or her exploitation, shall be prosecuted by law.

*The maintenance and upbringing of orphans and children deprived of parental care is entrusted to the State. The State encourages and supports charitable activity in regard to children*⁷⁸.

The provisions of the constitutional rules were embodied in a special legislative act – the Law of Ukraine “On Protection of Childhood” of 26 April 2001 No. 2402-III, which defines the child protection in Ukraine as a strategic national priority and to ensure the exercise of children’s rights to life, healthcare, education, social protection and comprehensive development, establishes the basic principles of the state policy in this area⁷⁹. Also, legal, organisational and social principles and guarantees for government support for orphans and children deprived of parental care, and those from among them, which are component part of the legislation on the protection of childhood, have been identified by the Law of Ukraine “On Ensuring Organisational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care” of 13 January 2005 No. 2342-IV⁸⁰.

In turn, the Cabinet of Ministers of Ukraine in order to improve the financial security, education, training and social protection of orphans and children deprived of parental care adopted the relevant secondary legislation – resolutions: **“On improving the education, training, social protection and material support for Orphans and children deprived of parental care”** of 5 April 1994, No. 226⁸¹ and **“On improving the financial security of orphans and children deprived of parental care”** of 16 June 1998 No. 909.⁸²

These statutory instruments are the basic laws of the “special nature” concerning securing children’s rights that are fully focused on their identification and have been designed to implement them.

Thus, Section II of the Law of Ukraine “On Protection of Childhood” formalises the list of rights and freedoms of the child: Article 6 “Right to life and health care”; Article 7 “Right to name and citizenship”; Article 8 “Right to sufficient living standard”; Article 9 “Rights to free expression of opinion and obtaining information”; Article 10. “Right to protection from all forms of violence”.

⁷⁸ The Constitution of Ukraine [Electronic resource]. – Way to access:

<http://zakon3.rada.gov.ua/laws/show/254к/96-вп>

⁷⁹ The Law of Ukraine “On Protection of Childhood” of 26 April 2001 No. 2402-III [Electronic resource]. – Way to access: <http://zakon2.rada.gov.ua/laws/show/2402-14>

⁸⁰ The Law of Ukraine “On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care” of 13 January 2005 No. 2342-IV [Electronic resource]. – Way to access: <http://zakon5.rada.gov.ua/laws/show/2342-15>

⁸¹ Resolution of the Cabinet of Ministers of Ukraine “On improving the education, training, social protection and material support for Orphans and children deprived of parental care” of 5 April 1994, No. 226 [Electronic resource]. – Way to access: <http://zakon0.rada.gov.ua/laws/show/226-94-п>

⁸² Resolution of the Cabinet of Ministers of Ukraine “On improving the financial security of orphans and children deprived of parental care” of 16 June 1998 No. 909 [electronic resource]. – Way to access: <http://zakon0.rada.gov.ua/laws/show/909-98-п>

In addition, other sections of the Law define the scope of children's rights: Article 15 "Right to contact with parents who reside separately; Article 16 "Right to contact with parents, other family members and relatives who reside in other countries"; Article 17 "Right of the child to property"; Article 18 "Right of the child to housing"; Article 19 "Right to Education"; Article 22 "Right to engage in entrepreneurial activities"; Article 23 "Right of association in children's and youth organisations".

This list of rights and freedoms of children is not exhaustive, but only indicative, it is supplemented and detailed by a number of legislative acts, in particular, along with the "special laws" there is a series of "comprehensive" statutory enactments covering the regulation of various spheres of public life, including the legal status of children.

For instance, the rules of the *Family Code of Ukraine* define rights and responsibilities of the mother, the father and the child (Section III), specifics of placement of orphans and children deprived of parental care (Section IV), peculiarities of adoption of children by citizens of Ukraine residing abroad, and foreigners (section VI) and others. In addition, this Code governs the family relations in order to ensure family education, the possibility of spiritual and physical development for every child⁸³.

The Civil Code of Ukraine provides for the regulation of personal property and non-property relations, including those relations, where children are participants (e.g. Articles 24–35 relating to legal capacity and exercise, Articles 55–79 relating to custody and guardianship, articles 1178–1183, relating to the procedure for compensation of damage caused by a juvenile or a minor; Articles 1241, 1260, 1261, relating to the rules of inheritance, etc.)⁸⁴.

Provisions of the new *Criminal Procedure Code of Ukraine* contributing to the protection of rights of the children subject to criminal responsibility are positive, as they govern matters of criminal proceedings against minors (Chapter 38), setting specifics of such proceedings, requirements for persons involved in such proceedings (judge, investigator, prosecutor), especially the protection of such persons⁸⁵.

Peculiarities of criminal responsibility and punishment of minors are enshrined in the *Criminal Code of Ukraine* (Section XV)⁸⁶, and administrative responsibility – in the *Code of Ukraine on Administrative Offences* (Article 24-1)⁸⁷.

⁸³ The Family Code of Ukraine [Electronic resource]. – Way to access: <http://zakon4.rada.gov.ua/laws/show/2947-14>

⁸⁴ The Civil Code of Ukraine [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/435-15>

⁸⁵ The Criminal Procedure Code of Ukraine [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/4651-17>

⁸⁶ The Criminal Code of Ukraine [Electronic resource]. – Way to access: <http://zakon4.rada.gov.ua/laws/show/2341-14>

⁸⁷ The Code of Ukraine on Administrative Offences [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/80731-10>

At that the General part of the Criminal Code contains a number of rules that are designed to ensure the normal physical and mental development of minors. In particular, the commission of an offense by a minor is a circumstance mitigating punishment (paragraph 3 of part 1 of Article 66). In addition, life imprisonment is not imposed on persons who committed offenses under 18 years of age (part 2 of Article 64).

The special status of a minor who has committed an offense is enshrined in Section XV of the Criminal Code of Ukraine “Specific Features of Criminal Liability and Punishment of Minors”. Provisions of this Chapter: 1) set more extensive conditions for exemption from criminal responsibility, compared to those for adults, including the use of compulsory measures of educational nature; 2) contain restrictions on the severity of types and scopes of criminal penalties and other measures of criminal justice response; 3) provide for softer requirements (conditions) for exemption from criminal penalty; 4) establish requirements for cancellation and expungement of conviction of minors⁸⁸.

Organisational and legal principles of social work with families, children and youth are identified by the *Law of Ukraine “On Social Work with Families, Children and Youth”* of 21 June 2001 No. 2558-III⁸⁹.

In turn, the *Law of Ukraine “On Promotion of Social Development of Youth in Ukraine”* of 5 February 1993 No. 2998-XII identifies the general principles of creation of organisational, social and economic, political and legal conditions of social formation and development of young citizens of Ukraine in the interests of individual, society and the state, the main directions of implementation of the State Youth Policy in Ukraine on the social formation and development of youth⁹⁰.

A separate sphere, financial support to families with children, is regulated by the *Law of Ukraine “On State Assistance to Families with Children”* of 21 November 1992 No. 2811-III⁹¹.

Legal and organisational frameworks of prevention of domestic violence; bodies and establishments, which are in charge of taking measures on prevention of domestic violence are determined in the Law of Ukraine “On Prevention of Domestic Violence” of 15 November 2001 No. 2789-III⁹².

In order to implement the constitutional provisions that childhood, motherhood and fatherhood are under the protection of the State (Article 51 of the Constitution of Ukraine) the Resolution of the Verkhovna Rada of Ukraine of 17 September 1999 No. 1063-XIV approved the *State Family Policy Concept*, which

⁸⁸Scientific and practical commentary of the Criminal Code of Ukraine of 05 April 2001. / [under editorship of M. I. Melnyk, M. I. Khavroniuk]. – K. : Kannon; A.S.K., 2003 – P. 223.]

⁸⁹The Law of Ukraine “On Social Work with Families, Children and Youth” of 21 June 2001 No. 2558-III [Electronic resource]. – Way to access: <http://zakon1.rada.gov.ua/laws/show/2558-14>

⁹⁰The Law of Ukraine “On Promotion of Social Development of Youth in Ukraine” of 5 February 1993 No. 2998-XII [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/2998-12>

⁹¹The Law of Ukraine “On State Assistance to Families with Children” of 21 November 1992 No. 2811-III [Electronic resource]. – Way to access: <http://zakon0.rada.gov.ua/laws/show/2811-12>

⁹²The Law of Ukraine “On Prevention of Domestic Violence” of 15 November 2001 No. 2789-III [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/2789-14>

has been developed based on the need to create appropriate conditions for family life in Ukraine, and defines the overall strategy and priorities of the state policy in relation to the family, provides for the implementation of an integrated system of measures with the best possible consideration of the new realities: market economy, social partnership, political democracy, everything that is designed to make the life of society, of each family full-fledged and effective⁹³.

The provisions of Article 53 of the Constitution of Ukraine concerning the right to education found their Implementation in some legislative acts on education: Laws of Ukraine “*On Education*”⁹⁴, “*On Preschool Education*”⁹⁵, “*On General Secondary Education*”⁹⁶, “*On Out-of-School Education*”⁹⁷, “*On Vocational Education*”⁹⁸, “*On Higher Education*”⁹⁹.

Truly, on the one hand, we should agree with the idea that the conflict in Eastern Ukraine dramatically worsened the situation in all areas of childhood protection, where Ukraine has made considerable progress, and exacerbated those problems that have not been solved yet (the spread of socially dangerous and infectious diseases, reduction of immunisation programs, worsening of abuse and violence against children and in children’s environment, complication of access to educational services, health care and social sphere)¹⁰⁰.

And on the other hand, despite the existence of a wide range of laws governing various aspects of children’s rights, today Ukraine has very few provisions of law establishing the peculiarities of legal regulation of children’s rights under the conditions of armed conflict.

Virtually the only special legal rules providing for regulation in the light of the military are the provisions of Article 30 of the Law of Ukraine “On Protection of Childhood” (prohibition of participation of children in hostilities and armed conflicts), pursuant to which *the participation of children in hostilities and armed conflicts, the creation of children’s paramilitary organisations and groups, advocacy of war and violence among children are prohibited.*

The State shall take all feasible measures to ensure the protection of the rights of children in the zone of military operations and armed conflicts, and care

⁹³Resolution of the Verkhovna Rada of Ukraine of 17 September 1999 No. 1063-XIV “On Approval of the State Family Policy Concept” [Electronic resource]. – Way to access: <http://zakon1.rada.gov.ua/laws/show/1063-14>

⁹⁴The Law of Ukraine “On Education” [Electronic resource]. – Way to access: <http://zakon0.rada.gov.ua/laws/show/1060-12>

⁹⁵ The Law of Ukraine “On Preschool Education” [Electronic resource]. – Way to access: <http://zakon1.rada.gov.ua/laws/show/2628-14>

⁹⁶ The Law of Ukraine “On General Secondary Education” [Electronic resource]. – Way to access: <http://zakon4.rada.gov.ua/laws/show/651-14>

⁹⁷ The Law of Ukraine “On Out-of-School Education” [Electronic resource]. – Way to access: <http://zakon2.rada.gov.ua/laws/show/1841-14>

⁹⁸ The Law of Ukraine “On Vocational Education” [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/103/98-bp>

⁹⁹ The Law of Ukraine “On Higher Education” [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/1556-18>

¹⁰⁰ Kochemyrovskaya O. O. Regarding Ukraine’s compliance with the international standards for the protection of children’s rights in armed conflicts: Policy Brief [Electronic resource] / National Institute for Strategic Studies under the President of Ukraine. – Way to access: www.niss.gov.ua/articles/1660/

for them. They shall be provided with financial, medical and other assistance, as needed they shall be housed in institutions for orphans and children deprived of parental care, healthcare establishments and so on.

Moreover, in such a situation Article 31 “Protection of refugee children and children in need of additional or temporary protection”; Article 32 “Protection of the child from illicit transfer”; Article 33 “Protection of children’s rights to personal liberty” are of key importance. However, these provisions, according to their content, cannot always be applied to our reality and do not relate to Ukrainian children.

In the light of *the Decree of the President of Ukraine “On urgent measures to provide additional social guarantees for certain categories of citizens”* of 29 October 2014 No. 835/2014 (paragraphs 3-5) attention has been drawn to the problem of placement of children whose rights have been limited due to the conduct of Anti-Terrorist Operation. In particular, this relates to the education and placement of children whose parents were killed¹⁰¹.

Yet, another problem is the fact that as of the present day in our reality no laws and regulations concerning protection of children’s rights under the conditions of conduct of the Anti-Terrorist Operation, which would define in detail the procedures for their protection, have been developed and adopted, and in connection with this fact, in order to ensure the protection of children’s rights general provisions, which are not always adapted and often do not take into account the circumstances arising during armed conflicts, are applicable¹⁰².

Although, on 15 April 2014 the Law of Ukraine No. 1207-VII “*On guaranteeing the rights and freedoms of citizens and on the legal regime on the temporarily occupied territory of Ukraine*” was adopted, its rules enshrined only general, but not detailed provisions. In particular, Article 7 states:

Elderly citizens, individuals with disabilities, children with disabilities, and other citizens of Ukraine experiencing hardship and residing in the temporarily occupied territory shall have the right to receive social services in accordance with the legislation of Ukraine.

Homeless persons located in the temporarily occupied territory shall have the right to social protection in accordance with the legislation of Ukraine.

Citizens of Ukraine who reside in the temporarily occupied territory shall have the right to obtain a degree or continue their certain degree studies in the territory of other regions of Ukraine at the expense of the State Budget funds with the provision of places in dormitories for the period of study.

Citizens of Ukraine identified in paragraph one of this section shall have the right to study for certain educational level at the expense of the State Budget funds

¹⁰¹ Decree of the President of Ukraine “On urgent measures to provide additional social guarantees for certain categories of citizens” of 29 October 2014 No. 835/2014 [Electronic resource]. – Way to access: <http://zakon4.rada.gov.ua/laws/show/835/2014>

¹⁰² Lutkovska V. Appeal to the Prime Minister of Ukraine Arseniy Yatsenyuka [Electronic resource] / Lutkovska V.// The Ukrainian Parliament Commissioner for Human Rights. – Way to access: http://www.ombudsman.gov.ua/index.php?option=com_content&view=article&id=4056:2014-10-03-06-39-09&catid=14:2010-12-07-14-44-26&Itemid=75

in state and municipal institutions in accordance with the terms of admission to the higher education institutions in the respective academic year, approved by the central executive authority, providing for development of the state policy in education and science.

If according to the results of the competition such persons were not offered the admission to the places funded by the state, the central executive body governing the respective educational establishment, upon the request of the higher educational establishment shall provide (increase) the number of the places funded by the state taking into consideration the major chosen by the enrollee according to the procedure stipulated by the Cabinet of Ministers of Ukraine¹⁰³.

The Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” of 20 October 2014 No. 1706-VII established the guarantees for the respect of rights, freedoms and legitimate interests of internally displaced persons¹⁰⁴.

The said Law defines the concept of internally displaced persons (Article 1), enshrines the provision to ensure the exercise of rights of registered internally displaced persons to employment, pension coverage compulsory state social insurance, social services, education (Article 7), identifies other rights of internally displaced persons (Article 9).

The rights of children, orphans, children deprived of parental care, including of those from the areas of conduct of Anti-Terrorist Operation are the subject of amendments to the Resolution of the Cabinet of Ministers of Ukraine of 27 January 1995 No. 57 and of 21 December 2005 No. 1251 on the strengthening of control over the departure of orphans and children deprived of parental care who are under 16 years of age and are in the areas of conduct of Anti-Terrorist Operation, outside of Ukraine¹⁰⁵ and amendments to the Resolution of the Cabinet of Ministers of Ukraine of 24 September 2008 No. 866 on the peculiarities of activities of the guardianship authorities related to the protection of the rights of the child, moved from the temporarily occupied territory or from the area of conduct of Anti-Terrorist Operation¹⁰⁶.

Thus, based on the analysis of the provisions of the current legislation, the rights of children may be divided into two large groups: common rights, i.e. the general number of human rights, and special that are specific to children due to their “special status”, and at that a set of rights is not exhaustive and is constantly complemented both by legislative changes and challenges of the present day.

In turn, the exercise of children’s rights is impossible without the proper performance of the duty to protect them by the state and its authorised bodies.

In particular, as noted above, the state is obliged to take all feasible measures to ensure protection of the rights of children in the area of hostilities and armed conflict, and care (Article 30 of the Law of Ukraine “On Protection of Childhood”). In addition, Article 35 of the said law specifies that persons guilty of

¹⁰³The Law of Ukraine “On guaranteeing the rights and freedoms of citizens and on the legal regime on the temporarily occupied territory of Ukraine” of 15 April 2014 No. 1207-VII [Electronic resource]. – Way to access: <http://zakon3.rada.gov.ua/laws/show/1207-18/page>

¹⁰⁴The Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” 20 October 2014 No. 1706-VII [Electronic resource]. – Way to access: <http://zakon4.rada.gov.ua/laws/show/1706-18/page>

¹⁰⁵ Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 27 January 1995 No. 57 and of 21 December 2005 No. 1251 [Electronic resource]. – Way to access: <http://zakon4.rada.gov.ua/laws/show/534-2014-п>

¹⁰⁶ Amendments to the Resolution of the Cabinet of Ministers of Ukraine of 24 September 2008 No. 866 [Electronic resource]. – Way to access: <http://zakon0.rada.gov.ua/laws/show/624-2014-п>

violation of legislative requirements on child protection shall bear civil, administrative or criminal responsibility in accordance with the laws of Ukraine.

On the other hand, part 2 of Article 19 of the Constitution of Ukraine obliges bodies of state power and bodies of local self-government and their officials to act only on the grounds, within the limits of authority, and in the manner envisaged by the Constitution and the laws of Ukraine.

Speaking about the responsibility of the state and its authorised bodies, indeed, in our realities it is very difficult to bring them to criminal responsibility, although such persons may be subject to specific crimes (e.g. it relates to officials).

One of the features of child protection by means of criminal law is application of more severe penalties for the perpetrators of crimes against children.

According to Article 67 of *the Criminal Code of Ukraine* circumstances aggravating punishment, in particular, include: the commission of an offence against a minor (item 6); the commission of an offence through the use of a minor (item 9); the commission of an offence by taking advantage of a martial law or a state of emergency or other extraordinary events (item 11).

Provisions of the Criminal Code of Ukraine do not distinguish a separate category of crimes against children, and moreover, they do not contain specific formal elements for definition of crimes against children during armed conflicts.

Although, incurrance of criminal responsibility does not completely bypasses the scope of violations of children's rights, in particular Article 137 provides for liability for improper of duty with regard to children's life safety and health care; Article 148 – for substitution of a child; Article 150 – for exploitation of children; Article 150-1 – for the use of a minor for begging; Article 155 – for sexual intercourse with a sexually immature person; Article 156 – for debauchery of minors; Article 164 – for failure to pay alimony for support of children; Article 166 – for persistent failure to perform duties related to the care of a child or a person under guardianship or in the custody; Article 167 – for abuse of the rights of guardian; Article 168 – for disclosure of the secrecy of adoption; Article 169 – for unlawful actions for the purpose of adoption; Article 175 – for failure to pay salary, scholarship, pension or any other statutory payments; Article 183 – for violation of the right to education; Article 301 – for Article 303 – for . pimping or engaging person in employment prostitution; Article 304 – for engaging minors in criminal activity; Article 315 – for inducement to use narcotics, psychotropic substances or their analogues; Article 323 – for inducement of minors to the use of dope; Article 324 – for inducement of minors to the use of intoxicating substances.

This list of articles of the Criminal Code of Ukraine on the issue of criminal responsibility for violations of children's rights is not exhaustive, because depending on the specific situation the general provisions of criminal responsibility shall be applied.

For example, the penalty for the use of children in armed conflict might arise out of Articles 149 and 447 of the Criminal Code of Ukraine. Articles determine the penalty for trafficking in human beings and other illegal transfer deals in

respect of a human being and recruitment, transportation, hiding, transfer or receipt of a person committed with the purpose of exploitation, which includes, in particular, the use in armed conflict. Part 2 and third 3 of Article 149 establish responsibility for illegal actions concerning minors and children of tender age respectively.

However, even for these types of crimes *statistics from current reporting available to the general public regarding criminal offences, unfortunately, do not make it possible to determine precisely how many children have become victims of such offences and how many of them have been committed against children in Donetsk and Luhansk oblasts*. Below, for comparison, we present the dynamics of the total number of some of the above named types of crimes committed in Ukraine for the period 2013-2015, on the basis of which we can establish at least an approximate picture (Tables 1, 2).

Table 1

Dynamics of the total number of identified victims of crimes in the military sphere in Ukraine for the period 2013-2015

	2013	2014	2015
Total number of persons affected by crimes in the military sphere	584	1446	853
Including:	1	2	8
- pupils of secondary education institutions;			
- pupils of vocational-technical schools;	2	3	2
- students of higher education institutions	4	7	5
By human trafficking or other illegal agreements on transfer of a human, Art. 149	0	0	0
from among them: 2, 3 of Article 149	0	0	0

Table 2

Dynamics of the total number of certain types of crimes in Ukraine accounted for the period 2013-2015

	2013	2014	2015
Human trafficking or other illegal agreement on transfer of a human, Art. 149 of the Criminal Code of Ukraine	131	118	110
from among them:			
Part 2 of Article 149	88	92	73
Part 3 of Article 149	16	12	21
Violation of the right to education, Art. 183	10	12	4
Violation of the right to free medical care, Art. 184	36	23	15

Violence against the population in the area of military operations, Art. 433	0	4	5
Mercenary activities, Art. 447	0	1	0

Speaking about the legal and administrative measures for the protection of children's rights, we shall emphasise that the Law of Ukraine "On Protection of Childhood" prohibits the use of any physical punishment by parents of the child, as well as the use of any other forms of punishment degrading child.

Parents or persons in loco parentis are responsible for the violation of rights and restriction of legitimate interests of the child to health care, physical and spiritual development, education, failure to fulfil or and evasion from parental duties in accordance with the law.

The responsibility of parents is stipulated by: the Family Code of Ukraine (Articles 141, 155, 164-166, 170, 180, 181); the Law of Ukraine "On Education" (article 59 "Responsibility of parents for development of the child").

It should be emphasised that the Code of Ukraine on Administrative Offences provides for administrative responsibility for the following violations of children's rights:

Article 173-2 – in the case of domestic violence, failure to comply with a protective order or failure to undergo a correctional program;

Article 180 – finishing of the minor to state of drunkenness;

Article 180-1 – violation of the order of stay of children in institutions in which the activities in the field of entertainment is carried out or in catering establishments;

Article 184 – default by parents or persons in loco parentis of duties concerning education of children;

Article 184-2 – violation of the order or timing for submission of the information on orphans and children deprived of parental care (custody);

Article 212-1 – filing of false conformation to the civil registry offices and untimely registration of birth.

The subjects of such administrative offenses may be parents or persons in loco parentis and in certain circumstances – officials who are responsible for ensuring the rights of the child.

In addition, violation of children's rights may entail civil liability, which has the legal basis stipulated in Article 56 of the Constitution of Ukraine and Articles 1173 1174 of the Civil Code of Ukraine relating to compensation for harm inflicted by a public authority, official or officer of the body of state power, authority of the Autonomous Republic of Crimea or bodies of local self-government. Existence or non-existence of a fault of the causer has no legal significance in this case.

Based on the foregoing analysis and considering dictates of the time it can be concluded that *in order to avoid contradictions and to fully secure children's rights under the conditions of armed conflict, national legislation requires the implementation of rules of international humanitarian law regarding the protection of children's rights, so as the dispersion of provisions concerning measures to protect children in the texts of the Geneva Conventions and their Additional Protocols, the lack of*

*consistency in their presentation directly and quite negatively influence on compliance and adherence to these by member states*¹⁰⁷.

Also, for the implementation of these provisions of international humanitarian law *it is advisable to establish criminal responsibility for the recruitment and involvement of children in armed conflicts*, so as the existing articles of the Criminal Code of Ukraine do not cover these specific elements of crimes to the full extent, and accordingly, cannot protect children's rights during armed conflicts, creating the conditions for guilty persons to avoid criminal responsibility.

The Ukrainian legislation does not contain specific provisions with regard to children affected by armed conflict, making it difficult to determine their status and secure the rights, and in connection with this there is an urgent need to adapt the legislation on protection of children's rights taking into account the peculiarities of the conduct of the Anti-Terrorist Operation in some territories of Ukraine.

In particular it is required to provide legislative definition to the categories of children who are somehow connected with the conduct of the Anti-Terrorist Operation. This will contribute to the determination of their special status, and as a result it will contribute to their protection by putting clarity into their situation. For example, it is possible to establish the concepts of "a child – the victim of an armed conflict," "a child, which is in the area of an armed conflict" in the Law of Ukraine "On the Protection of Childhood", and as a consequence, it is necessary to determine the conditions for their social protection and the authorities responsible for it.

It is necessary to determine the ratio of such persons with the categories of children who need additional protection, children, separated from the family.

It would be practicable that **the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons"** define "the child – internally displaced person" as a separate category with the simplification of procedures for obtaining such status.

At present, legal protection of children's rights guaranteed by Articles 55, 124 of the Constitution of Ukraine, where the right to a fair trial is absolute and is not subject to restriction, remains the most effective in terms of its legal nature and purpose.

In the context of armed conflict certain judicial practice in the protection of children's rights taking into account the special conditions in which the children appeared to be in connection with Anti-Terrorist Operation began to take shape.

Today the question of establishing the facts of birth in the territory of conduct of Anti-Terrorist Operation often arises, as the applicants, whose children were born in the temporarily occupied territory, when applying to civil registration offices face with the following problem: in order to register birth it is required to submit a duplicate of a medical certificate of birth or a court decision establishing

¹⁰⁷ Al-Nsur M.A.K. M. International Legal Protection of Women and Children during Crises: abstract of thesis in support of candidature for a Candidate of Juridical Sciences: major 12.00.11 : "International Law" / M.A.K. M. Al-Nsur – O., 2002. – P. 11.

the fact of birth. Invalidity of child's birth certificate is due to the fact it was issued without the use of the Register and the authority to its issuance. Thus, the applicants apply to the municipal hospital where the child was born on the receipt of duplicate of a medical certificate of birth, but in response they find out that for issuance of the said certificate a written request from the civil registration body is required. In turn, civil registration bodies refer to the fact that they are unable to send such a request, so as the area of location of the hospital is temporarily occupied territory and is not controlled by the Ukrainian authorities, and therefore relations with government bodies and agencies in this territory are not possible. Therefore, persons in the existing situation are forced to file petitions to the court to establish the fact of birth of the child, so as they do not have possibility to receive a new birth certificate of the child in any another way.

For example, the judgement of Krasnohradskyi District Court of Kharkiv oblast of 8 June 2015 established the fact of birth of the child in the city of Donetsk¹⁰⁸, and the judgement of Zavodskyi District Court of the city of Zaporizhzhia of 2 July 2015 established the fact of birth of the child in Hirnytskyi district of the town of Makiivka of Donetsk oblast of Ukrainian State¹⁰⁹.

In the case reviewed on 13 May 2015 by Zarichnyi Court of the city of Sumy the plaintiff noted that she was married to a man who was killed in Eastern Ukraine, and they had daughter in wedlock. According to paragraph 9 of the judgement of Sumy Regional Council of the sixth convocation of thirty sixth session "On Making Amendments to the Regional Program of Social Protection of Citizens for 2013-2016", she, in the interests of her minor daughter, filed an application on obtaining material assistance as a family member of the person deceased, however, the defendant expressly refused to provide written consent for the payment of maintenance.

The Court concluded that the defendant completely denied the plaintiff's right to the payment of material assistance and refused to grant consent to the payment of material assistance stipulated by the decision of Sumy Regional Council. In this regard the rights of a minor were violated and became subject to protection.

In particular, the Court considered it necessary to declare unlawful the refusal to grant consent for the payment of material assistance to the family member of the deceased person and to his daughter. As an authorised representative of the family of the deceased person was recognised a person acting in the interests of the minor, with the right of receiving of a part of material assistance to the persons affected and families of the persons who deceased (died) in the line of duty during the Anti-Terrorist Operation without the consent of the defendant¹¹⁰.

¹⁰⁸ Judgement of Krasnohradskyi District Court of Kharkiv oblast of 8 June 2015 in the case No. 626/1162/15-П [Electronic resource]. – Way to access: <http://www.reyestr.court.gov.ua/Review/44961099>

¹⁰⁹ Judgement of Zavodskyi District Court of the city of Zaporizhzhia of 2 July 2015 in the case No. 332/2036/15-П [Electronic resource]. – Way to access: <http://www.reyestr.court.gov.ua/Review/46395250>

¹¹⁰ Judgement of Zarichnyi District Court of the city of Sumy of 13 May 2015 in the case No. 591/7872/14-П [Electronic resource]. – Way to access: <http://www.reyestr.court.gov.ua/Review/44116612>

There are cases where the existence of armed conflict in Eastern Ukraine is taken into account by the court for granting permission to child's departure abroad without the consent of the father. In particular, the court took into account the fact that since in the territory of Popasnianskyi district of Luhansk oblast Anti-Terrorist Operation (ATO) has been being conducted, the town of Hirske appeared to be near the demarcation line of the ATO forces and illegal armed groups, and therefore the threat of aggravation of military operations could not be excluded. The said posed a potential danger to life and health of the town dwellers, excluded normal conditions for the life and development of children and was damaging to their psyche.

Given the above and given the fact that the defendant did not provide his objections to the Court, the Court found it possible to allow the departure of the child abroad without the permission of his father, because it would help to create adequate conditions for life and development of the child. However, the requirement to provide such permission prior to attaining majority by the child is unreasonable and may deprive the father of further participation in the education of the child¹¹¹.

Analysis of the data contained in the Unified State Register of Court Decisions evidences that at present there are no court decisions concerning the criminal proceedings related to the violation of the rights of minors in connection with the conduct of Anti-Terrorist Operation.

Thus, for the proper protection of children's rights in armed conflict it is required that many state institutions draw attention to this issue and produce systematic and interrelated steps in this direction, regulate the status of such persons in more details considering the specific conditions of armed conflict, ensure strict social and legal protection of such persons.

3. UPHOLDING CHILDREN'S RIGHTS IN THE LIGHT OF THE MILITARY CONFLICT IN EASTERN UKRAINE

3.1. Evacuation of children form the anti-terrorist operation area

According to the Ministry of Social Policy of Ukraine, as on 10 July 2015 the number of registered displaced persons in Ukraine amounted to 1,381,953, including 174,442 children¹¹². However, the beginning of the armed conflict in the east of Ukraine has shown the unwillingness both of public authorities and the leadership of illegal groups of the so-called "DPR" and "LPR" to take effective measures to protect the rights of civilian population in general and of children in particular, provided for in the rules of international law. Thus, despite the fact that the mass evacuation began after the outbreak of hostilities (April 2014), it was

¹¹¹ Judgement of Popasnianskyi District Court of Luhansk oblast of 15 October 2015 in the case No. 423/941/15-п [Electronic resource]. – Way to access: <http://www.reyestr.court.gov.ua/Review/52637944>

¹¹² Crisis in Ukraine [Electronic resource]. – Way to access: http://www.unicef.org/ukraine/ukr/children_26266.html

carried out mainly due to effort of the dwellers and with the help of volunteers. And only in June 2014 the issue on the arrangement of “humanitarian corridors” in order to create the necessary conditions for the civilian population willing to leave and to prevent new victims in the area of conduct of Anti-Terrorist Operation was raised at the level of the state by the President of Ukraine Petro Poroshenko. As noted in the report “Trapped civilians. Obstruction of evacuation of civilians during the armed conflict in the Donetsk and Luhansk regions”, prepared by the Centre for Civil Liberties and the Ukrainian Helsinki Human Rights Union under the auspices of the Coalition of non-governmental organisations and initiatives “Justice for Peace in Donbas” the routes of permanently existing humanitarian corridors for civilians out of Luhansk, Donetsk and Horlivka were published by ATO press centre only on August 4, that is four months after the start of mass evacuation¹¹³. The authors also noted that overall during the year of constant fighting in Donetsk and Luhansk oblasts the local civilian population, who showed a desire to leave the zone of armed clashes, faced with various forms of attempts to limit their evacuation from the temporarily occupied territories to the territory controlled by Ukraine. In particular it is about:

1. Attempts to prevent civilians from leaving the combat zone (through physical obstruction and/or intimidation). This phenomenon gained special scope in summer 2014 in relation to children deprived of parental care and guardianship.

2. Artillery shelling and shootings of locations, known as places of gathering civilians for further evacuation.

3. Artillery shelling and shootings of transport columns with civilians during evacuation through the “humanitarian corridor” (or in conditions of an undeclared “humanitarian corridor”).

4. Demotivation of people who want to leave through intimidation or violent alienation of immovable property (in language of IAG – “nationalisation”), which belonged to those who left; announcing displaced persons as “traitors” of “young republics”.

5. Extortion of money for the opportunity to leave the war zone.

6. Illegal alienation of transport for the evacuation of civilians, belonging to volunteers.

The above-mentioned forms of obstructing of the evacuation of civilians carried out by the IAG operating in the territory of both “DPR” and “LPR”, in other words, are common throughout the temporarily occupied territory. They were carried out in different locations and at different time intervals – at least from May 2014 to March 2015. Often they were carried out with a special media support, and therefore they can be called tools of information war and propaganda, the elements of special operations. Obstructing the evacuation of the civilian population into other settlements of Ukraine, members of IAGs encouraged people to move to temporarily occupied territories and/or the Russian Federation, sometimes offering

¹¹³ “Trapped civilians. Obstruction of evacuation of civilians during the armed conflict in the Donetsk and Luhansk regions” [Electronic resource]. – Way to access: http://ccl.org.ua/wp-content/uploads/2013/07/CCL_Zvit_MF_v5.pdf

transport for evacuation to the east direction. Especially expressive this trend was in the case with children deprived of parental care and guardianship and persons with disabilities and other socially vulnerable groups who were at special institutions¹¹⁴.

Perhaps a significant number of children affected in the ATO zone is partly associated with this. Thus, according to the WHO data, for the period from March 2014 to 8 July 2015 in Ukraine 68 children were killed and 182 were injured¹¹⁵. In particular, in the night of 9 May 2014 37-year-old Oleh Burykhin, 42-year-old Iryna Burykhina and their 10-year-old daughter were executed by shooting in the village near Novoborovytsia (Sverdlovsk district of Luhansk oblast). Lisa's family tried to leave native Antratsyt by two cars Toyota FJ Cruiser. At the town's exit they did not obey the request to stop at a checkpoint. Terrorists peppered both cars in 15 km to the border with Russia. There the girl's father wanted to send the family to a safe place – to his sister. Father and mother of the girl died immediately, and the child in serious condition was delivered to the surgery of the Sverdlovsk hospital with a head wound. Liza underwent an operation. She is recovering¹¹⁶.

¹¹⁴ “Trapped civilians. Obstruction of evacuation of civilians during the armed conflict in the Donetsk and Luhansk regions” [Electronic resource]. – Way to access: http://ccl.org.ua/wp-content/uploads/2013/07/CCL_Zvit_MF_v5.pdf

¹¹⁵ Crisis in Ukraine [Electronic resource]. – Way to access: http://www.unicef.org/ukraine/ukr/children_26266.html

¹¹⁶ The girl, whose family was shot by terrorists of “Luhansk Republic”, is recovering [Electronic resource] // Gazeta.ua. – 2014. – 12 May. – Way to access: http://gazeta.ua/ru/articles/np/_devochka-semyu-kotoroj-rasstrelyali-terroristy-iz-luganskoj-respubliki-poshla-na-popravku/557298



Photo:

Oleh and Larysa Burykhins Photo: odnoklassniki.ru

On 20 August 2014 in Luhansk oblast near the village of Khriashchuvate the car with a family trying to escape from the hostilities was shelled. As a result the family with a child was killed. “According to witnesses, the car was going with a large white flag, but this has not stopped militants. Militants fired from the side of the village of Samsonivka of Krasnodonskyi district. The family with a five-year old child was in car” – as noted in the statement the Information Centre of the National Security and Defence Council of Ukraine. The family with a five-year old child was in car. Man and child were killed at the scene, woman died at the hands of Ukrainian military medics¹¹⁷.

Some examples related to the obstruction to evacuation of children from the ATO zone received from open sources are presented below.

On 22 July 2014 the press service of Donetsk Regional State Administration reported that due to actions of militants of “Vostok” terrorist battalion the attempt to evacuate from Donetsk 135 children aged under 4 years failed. “Representatives of the illegal armed group called “Vostok” extremely aggressively responded to all requests and convictions of management and educators of orphanages. Employees

¹¹⁷ Car with refugees fired in Lugansk oblast. Three people killed [Electronic resource] // Correspondent, 21 August 2014, 13:07. – Way to access: <http://ua.korrespondent.net/ukraine/3408626-u-luhanskii-oblasti-obstriliana-mashyna-z-bizhentsiamy-zahynuly-troie-luidei>

of orphanages heard direct death threats”, – Donetsk Regional State Administration informed¹¹⁸.

On 29 July 2014 a video, showing militants of “Vostok” battalion taking part in the evacuation of children from Donetskyi Regional Orphanage to “a safer place”, explaining that the Ukrainian military officers indiscriminately shelled the city, appeared on YouTube. The following day the Ministry of Healthcare published information that the children from the said orphanage were evacuated to Mariupol. “On 28 July 81 children, including 20 children under the age of 1, as well as the medical personnel of Donetsk Regional Orphanage and Donetsk City Orphanage, accompanied by medical personnel were transported to Mariupol”. Such a turn of events provoked a lot of indignation among the militia. “Vostok” battalion provided no comment to the situation¹¹⁹.

On 5 August 2014 the members of the so-called “DPR” did not allow 22 children to leave Alchevskyi Antituberculous Sanatorium No. 1 located in the combat zone. Terrorists arrested the doctor of children’s sanatorium for “attempted illegal export of children from the territory of ‘LPR’”¹²⁰.

According to the speaker of the NSDC Information Centre Andrii Lysenko, as on 7 August 2014 43 family-type orphanages and 85 foster families had moved from Luhansk and Donetsk oblasts to the cities of Ukraine free of terrorists¹²¹.

According to information of the press service of the State Emergency Service of Ukraine with reference to the Interagency Coordination Headquarters, as on 15 August 2014 all children from the child welfare organisations (orphan asylums, centres of social and psychological rehabilitation for children) located in the areas of conduct of Anti-Terrorist Operation, had been evacuated.

In August 2014 negotiations on the arrangement of resettlement of 119 wards of Krasnodonskyi orphanage-boarding school and Children’s Department of Rovenkivskyi orphanage for elderly and disabled people of Donetsk oblast, directly located in the zone of active actions of Anti-Terrorist Operation, to six residential care institutions in Sumy, Kharkiv and Poltava oblasts were on-going.

17 family-type orphanages and 26 foster families, bringing up 43 own children and 130 orphans and children deprived of parental care moved from Luhansk oblast to other oblasts of Ukraine. In total – 173 children.

28 family-type orphanages and 62 foster families, bringing up 78 own children and 294 orphans and children deprived of parental care moved from Donetsk oblast to other oblasts of Ukraine. In total – 372 children.

¹¹⁸ The DPR terrorists intend to take 150 orphans to Russia – tTaruta [Electronic resource]. – Way to access: http://news.liga.net/news/politics/2538736-boeviki_dnr_khotyat_vyvezti_150_sirot_v_rossiyu_taruta.htm

¹¹⁹ ST evacuated children from the DPR orphanage to fascists in Mariupol [Electronic resource]. – Way to access: <http://cont.ws/post/98670>

¹²⁰ In Alchevsk terrorists don’t let 22 children leave the combat zone [Electronic resource] // UNIAN, 12 August 2014. – Way to access: <http://www.unian.net/politics/950167-v-alchevske-terroristy-ne-vyipuskayut-iz-zonyi-boevyih-deystviy-22-rebenka.html>

¹²¹ Ministry of Social Policy begins the evacuation of all children from the ATO zone – NSDC [electronic resource]. – Way to access: http://news.liga.net/news/politics/2848299-minsotpolitiki_nachinaet_evakuatsiyu_vsekh_detey_iz_zony_ato_snbo.htm

As UNIAN reported earlier, in total more than 1,500 orphans from Donetsk and Luhansk oblasts, where combat operations on clearing settlements from the pro-Russian militants continued, were evacuated¹²².

“As on today [18 August 2014] 1,508 Ukrainian children belonging to these categories have been evacuated from Eastern Ukraine. At the same time 119 children are still in Krasnodonskyi and Rovenkivskyi orphanages. At that representatives of terrorist groups create obstacles to the efforts of public authorities of Ukraine to evacuate children. It is possible that terrorists will carry out efforts on abduction and illegal export of children to the Russian Federation again, including under cover of the loud rhetoric of Mr Astakhov”, – the Ministry of Foreign Affairs of Ukraine noted¹²³.

Later, “the children’s ombudsman of ‘DPI’” Yana Chepikova stated that 85 children who had been evacuated from orphanages and boarding schools, had parents residing on the territory of the unrecognised republic and that parents insisted on the return of their children¹²⁴.

On 24 December 2014 Deputy Prime Minister and Minister for Regional Development, Construction Housing and Communal Services Hennadii Zubko stated that 95% of children from orphanages and boarding schools in the Anti-Terrorist Operation zone had been evacuated. He announced that on briefing: “95% of children from orphanages and boarding schools in the ATO zone have been evacuated. There are no more than 100 children left”¹²⁵.

As on January 2015 according to estimates of presidential Commissioner for children’s rights Mykola Kuleba about 4 thousand children shall be evacuated from “hot points” in the ATO zone. It is required to evacuate no more than 1,000 children from Debaltsevo with neighbouring localities, no more than 300 children – from Krasnohorivka, about 200 children – from Mariinka, no more than 600 children – from Avdiivka, no more than 200 children – from Maiorske, no more than 150 children – from Vuhlehirsk, about 1,000 children – from Stanytsia Luhanska, and from 10 to 20 children – from Krymske. As it was noted by the Ombudsman, Ukrainian legislation does not allow bringing children out of ATO zone without parental permission¹²⁶.

¹²² Six orphanages are ready to host 119 orphans and disabled children, who remained in the ATO zone [Electronic resource]. – Way to access: <http://www.unian.net/society/952828-shest-internatov-gotovyi-prinyat-119-detey-sirot-i-invalidov-kotoryie-ostalis-v-zone-ato.html>

¹²³ More than 1.5 thousand orphans evacuated from the eastern oblasts to safe Ukrainian areas [Electronic resource]. – Way to access: <http://health.unian.net/regnews/952537-iz-vostochnyih-oblastey-v-bezopasnyie-regionyi-ukrainyi-evakuirovano-bolee-15-tyisyachi-detey-sirot.html>

¹²⁴ In Minsk DPR will raise the question on the return of 85 children taken by the Ukrainian authorities [electronic resource]. – Way to access: http://reporter.dn.ua/news/politics/dnr_podnimet_v_minske_vopros_o_vozvrashchenii_85_detey_vyvezennykh_ukrainskimi_vlastyami/

¹²⁵ 95% from orphanages and boarding schools evacuated from ATO zone [Electronic resource]. – Way to access: <http://ukranews.com/news/151258.Iz-zoni-ATO-evakuirovani-95-iz-detdomov-i-internatov.ru>

¹²⁶ About 4 thousand children shall be evacuated from the “hot points” – Children’s Ombudsman [Electronic resource]. – Way to access: http://zn.ua/UKRAINE/evakuacii-iz-goryachih-tochek-podlezhit-okolo-4-tyisyach-detey-detskiy-ombudsmen-165207_.html

According to Mykola Kuleba, the Commissioner of the President of Ukraine for Children's Rights, as of 26 January 2015 75 children were managed to take out from Maryinka and Krasnohorivka (Donetsk oblast). Kids were taken out to Dnipropetrovsk oblast for a sanatorium-and-spa treatment according to the consent of their parents. Militants were requested to cease hostilities and OSCE representatives were as well requested to "assist to secure the safety of transportation of kids" by Regional Chief of Ministry of Internal Affairs office. As a result, militants ceased hostilities for some time and kids were escorted by representatives of Department of criminal police for minors^{127,128}.

As of 27 January 2015 more than 500 000 kids live on territories which are not controlled by Ukrainian authorities¹²⁹.

As of 4 June 2015 about 3500 children (150 of which are orphans) remain in foster homes, special schools and boarding schools. According to Kateryna Chumak, Deputy Chief of NPM implementation Department of Secretariat of Commissioner for Human Rights, in case of escalation of the situation in the area of ATO kids in near-front zone are provided only with temporary narrow bomb shelter without appropriate ventilation and potable water supply. On 9 February 2015 Ukrainian PM Arseniy Yatsenyuk issued an instruction to "urgently take necessary steps in order to resolve the issues raised" in submission of Ukrainian Parliament Commissioner for Human Rights concerning settling of a system of evacuation of children organisations from Donetsk and Luhansk oblasts. However, as of August 2015 3585 kids remained in the area of ATO. When NPM monitors asked managers of such organisation where they should take out children in case of danger, they frequently answered that they do not possess such information. It is worth mentioning that 33 municipal and Ministry of Education and Science, Health or Social Policy boarding schools are located in the distance of 70 kilometres from area of military clashes. Thus, currently (as of the time of the report) 86 kids who have the status of an orphan or a child deprived of parental care study in Severodonetsk regional comprehensive boarding school of I-III degree.

319 pupils studies in Dzerzhynsk comprehensive boarding school of I-III degree of Dzerzhynsk city council. 56 among 92 kids who stays in "Tsentr opiky (Centre of care)" located in Mariupol were given up by parents or deprived of parental care.

About 20 new kids were transferred to child care centre in Makiivka which was free after all children from it were relocated to "Antoshka" child care centre in Kramatorsk¹³⁰.

On 10 June 2015 on BBC Ukraine Ruslan Kolbasa, competent of Ministry of Social Policy for children protection and adoption issues, replying to remark of

¹²⁷ 75 children were taken out from Maryinka and Krasnohorivka during "period of silence" [Digital resource]. – Way of access: <http://vesti-ukr.com/donbass/86304-iz-marinki-i-krasnogorovki-v-chasy-tishiny-vyvezli-75-detej>

¹²⁸ Children are evacuated from Maryinka and Krasnohorivka [Digital resource]. – Way of access: <http://podrobnosti.ua/1012952-iz-marinki-i-krasnogorovki-evakuirujut-detej.html>

¹²⁹ The Ombudsman suggested forced evacuation of kids from area of ATO [Digital resource]. – Way of access: <http://vesti-ukr.com/donbass/86498-ombudsmen-predlozhit-prinuditelnuju-jevakuaciju-detej-iz-zony-ato>

¹³⁰ Human rights activists urge to evacuate orphans from the area of ATO [Digital resource]. – Way of access: <http://life.pravda.com.ua/society/2015/06/4/195036/>

NPM representatives said that: “Every institution sent us these evacuations plans, where they will move and how”. He told that local government on the level of oblast, raion administration and institution itself is obliged to prepare such plans. “They submit it by their orders, there is a procedure; plans are not prepared by ministry for every orphanage”. Kolbasa added that these plans are confidential on grounds that evacuation is conducted by rescuers in coordination with law enforcement agencies¹³¹.

As of February 2015 Krasnolymansk special boarding school in Donetsk oblast where 92 kids with special needs, developmental delay and articulation disorders (considering that 3 of them are refugees from occupied Horlivka, Donetsk and Yenakiieve) did not acquired any instructions concerning plans of emergency evacuation¹³².

Another category of children which our state is obliged to care is pupils of juvenile correctional facilities. On our enquiry State Penitentiary Service of Ukraine reported that when Donetsk pretrial detention facility of the SPS of Ukraine in Donetsk oblast located at 10a, Koboziieva str. in Donetsk city became uncontrolled, 17 minors were living there. At the same time, 4 minors were staying in Luhansk penitentiary facility of the SPS of Ukraine in Luhansk oblast located at 4, 23rd Line str., Luhansk city.

According to the SPS of Ukraine, minors kept in these institutions because of circumstances beyond their control were not evacuated to the territory controlled by Ukrainian authorities. Currently the SPS of Ukraine obtains no information about the fate of minors who lived in institutions mentioned above¹³³.

3.2. Child abduction

It is reported that during armed conflict there were cases of abduction of children who were financially supported by Ukraine, namely children-orphans; however, it is known that there was at least 1 case of child abduction for blackmailing of his parents. The problem is that militants present their transportation of children to the Russian Federation as evacuation and the transportation of the Ukrainian authorities as abduction.

On 12 June 2014 fact of orphans’ abduction on uncontrolled territory was reported for the first time. Terrorists abducted 25 children who left Snizhne in Donetsk oblast by bus towards Dnipropetrovsk on vacation. They ordered to turn a bus towards the Crimea, and then they changed the route again towards Russian border crossing point “Dovzhansky” in the Luhansk oblast, later they succeeded to pass it. All children belong to one family. Commissioner of the President of

¹³¹ Ministry of Social Policy: orphan evacuation plans from Donbas are ready [Digital resource]. – Way of access: <http://life.pravda.com.ua/society/2015/06/4/195036/>

¹³² Children of Krasnolymansk special boarding school need protection and changes in living conditions [Digital resource] // National preventive mechanism. – Way of access: <http://www.npm.org.ua/ua/news/diti-krasnohimanskoi-specialnoi-shkoli-internatu-potrebuyut-zahistu-ta-zmin-umov-prozhivannja.htm>

¹³³ Letter of the State Penitentiary Service of Ukraine as of 10 October 2015 ref. #6/2-313/9-15-3III

Ukraine for Children's Rights on his Facebook page noted that 2 of them have parents and other 23 are orphans or deprived of parental care. "Today 25 Ukrainian kids, 23 of which are orphans or deprived of parental care who were going from Snizhne in Donetsk oblast to Dnipropetrovsk oblast for rehabilitation purposes, were forced to cross Ukrainian border with Russia under the guns of representatives of so-called People's Republic of Donetsk. Office of Commissioner of the President of Ukraine for Children's Rights considers such actions of pro-Russian militants nothing else but the international abduction of children and their illegal transfer abroad. We demand from the official authorities of the Russian Federation to stop commit crimes against Ukrainian children and fulfil obligations taken by them", – assaid in a statement.

Later it became known that the mother of the foster family with 9 children flatly refused to cross the border without authorization documents, then she went out from the bus and returned to Ukraine, and two governesses of Snizhne boarding school with children were taken to the Russian Federation in a tent refugee camp in Novoshakhtinsk^{134,135}.

On June 13 the Consul General of Ukraine in Rostov-on-Don Vitaliy Moskalenko stated that children will be returned. "We have agreed that we will return kids to Ukraine. The investigation will continue for another three or four hours, and then we will have the ability to take and return to Ukraine, which we are intended to do", – he stated and added that Russian law enforcement agencies are investigating the illegal movement of 16 Ukrainian orphans from Snizhne of Donetsk oblast to the territory of the Russian Federation. According to the Consul General, children were staying in "Donetskiy" recreation and retreat centre located in the city of Donetsk in Rostov oblast of Russian Federation¹³⁶.

Meanwhile, on June, 13 it was reported that terrorists captured "Antoshka" child care centre in Kramatorsk, Donetsk oblast. "DPR representatives disallowed to transport children from "Antoshka" child care centre in Kramatorsk. About 60 children held there are under the age of 4, most of them are children with special needs", – said Daryna Kasianova, manager of the programme "No to Orphanity!" conducted by Rinat Akhmetov's charity foundation "Development of Ukraine"¹³⁷.

On June 4, 2014 it was reported that militants force headmasters of boarding schools in Donetsk oblast under the gun to process documents for transportation of orphans to Russia. "Armed men come and demand to process documents for legal transportation of children to Russia. Each headmaster performs function of a

¹³⁴ Terrorists kidnapped 25 children from Snizhne and trying to transport them to Russia [Digital resource]. – Way of access: <http://ru.tsn.ua/politika/terroristy-pohitili-25-detey-iz-snezhnogo-i-pytayutsya-vyvezti-ih-v-rossiyu-371035.html>

¹³⁵ Terrorists moved out 2 governesses and 16 Ukrainian kids to refugee camp in Russia [Digital resource]. – Way of access: <http://ru.tsn.ua/ukrayina/terroristy-uvezli-dvuh-vospitatelnic-i-16-ukrainskih-detey-v-lagerya-dlya-bezhencev-v-rossii-371082.html>

¹³⁶ Russia will return Ukrainian orphans abducted by terrorists - Consul General in Rostov-on-Don [Digital resource]. – Way of access: <http://ru.tsn.ua/politika/rossiya-vernet-ugnannyh-terroristami-ukrainskih-detey-sirot-genkonsul-v-rostove-na-donu-371171.html>

¹³⁷ Terrorists kidnapped 25 children from Snizhne and trying to transport them to Russia [Digital resource]. – Way of access: <http://ru.tsn.ua/politika/terroristy-pohitili-25-detey-iz-snezhnogo-i-pytayutsya-vyvezti-ih-v-rossiyu-371035.html>

guardian of children; therefore he has the power to deal with such preparation. According to my information, several boarding houses have been already visited by these people” – such information was reported by “OstroV” media outlet which received this information from the source from boarding schools in oblast on an anonymous basis. The source interconnects these visits with situation when on 12th of June group of orphans who were going to Dnipropetrovsk oblast on vacation was captured by armed militants. Later this bus appeared on the territory of Russian Federation in Rostov oblast. Ukraine submitted an official petition to the European Court with demand to influence on Russia and at long last abducted children were returned to home. “Now they want to return our children in such a way that Russian border guards later would not have any claims in future”, – source noted¹³⁸.



On 11 July 2014 it was again reported that militants continue to exert pressure on headmasters of boarding schools in order to make them prepare all documents for transportation of children abroad¹³⁹.

On 12 July 2014 press centre of Ministry of Foreign Affairs of Ukraine stated that militias of “DPR” have intention to move about 150 orphans to Russia. “Ministry of Foreign Affairs of Ukraine received information about latest intention of illegal terrorist organization “People’s Republic of Donetsk” members to forcibly transport about 150 children – pupils of Donetsk and Maryinka boarding schools for orphans and children deprived of parental care from Ukraine to Russia on 13 July 2014”. MFA appealed to the Russian side to keep strictly to their

¹³⁸ Armed men force headmasters of boarding schools in Donetsk oblast under the gun to process documents for transportation of orphans to Russia – [Digital resource]. – Way of access: <http://www.ostro.org/general/criminal/news/449255/>

¹³⁹ Militants continue to make efforts to transport orphans to Russia – MFA [Digital resource]. – Way of access: <http://www.unian.net/politics/938873-terroristy-i-prodoljayut-popyitki-vyivezti-sirot-v-rossiyu-mid.html>

international legal obligations in the sphere of protection of the rights of children and help to prevent cases of their international abduction¹⁴⁰.

On 14 July 2014 Acting Chief of Information Policy and Press Department of Donetsk oblast state administration Olena Maliutina posted the following on her Facebook page: “Children from Maryinka boarding school are taken out. Right now, despite the promises, children from Maryinka boarding school are taken out by DPR representatives by buses towards Russia. They do not have any permission to do so, moreover, they do not have kids’ agreement to do that”¹⁴¹. According to TSN information such permissions were acquired on the grounds of authorisation given by headmasters of boarding schools who were menaced with guns¹⁴².

On 26 July 2014 TSN broadcasted a TV spot where MFA of Ukraine was cited with information that 60 Ukrainian orphans were abducted from boarding school in Luhansk by “Luhansk People’s Republic” militants. MFA claimed that children should always be under medical supervision. There were no authorization documents for children transportation. There were evidences that children were boarded in 2 buses and that they are transported towards the border with Russia. Chief physician of the boarding school is held as a hostage by terrorists. MFA of Ukraine immediately sent a note to the Russian Federation which contained an imperative request to prevent the illegal transportation of Ukrainian orphans to Russia”¹⁴³. 16 among 60 orphans which so-called militias of “LPR” tried to transport to Russia from Luhansk oblast to Russia are under the age of 1 year. According to information collected, yesterday on 17:15 group of terrorists representing so-called “LPR” abducted 61 children from orphanage in Luhansk, 16 of which are under the age of 1 year, and trying to transport them to Russian Federation without any authorization documents. All children should always be under medical supervision”, – Ministry of Health stated in the report. Moreover, it was also stated that 19 employees of boarding school were taken as a hostages¹⁴⁴. MFA and other state agencies of Ukraine succeeded to return children to Ukraine on 27th of July¹⁴⁵. Later guardian of children and chief physician of orphanage told press about how “minister of health of LPR” persuaded her to evacuate children to Crimea. Only on border crossing point Kateryna Mykhailivna got to know that buses with children are planned to be sent to Rostov. She claimed immediately that she will not let this to happen and, should it turn out to be necessary, she will place herself beneath the wheels of the bus. After that, thanks to participation of MFA of

¹⁴⁰ DPR’s militias have intention to forcibly move about 150 orphans to Russia [Digital resource]. – Way of access: http://zn.ua/UKRAINE/boeviki-dnr-namereny-nasilno-vyvesti-v-rossiyu-150-detey-sirot-148874_.html

¹⁴¹ Terrorists abduct orphans in Donetsk oblast and transport them to Russia [Digital resource]. – Way of access: <http://www.unian.net/politics/939491-v-donetskoy-oblasti-terroristy-pohischayut-detey-sirot-i-vyivozyat-v-rossiyu.html>

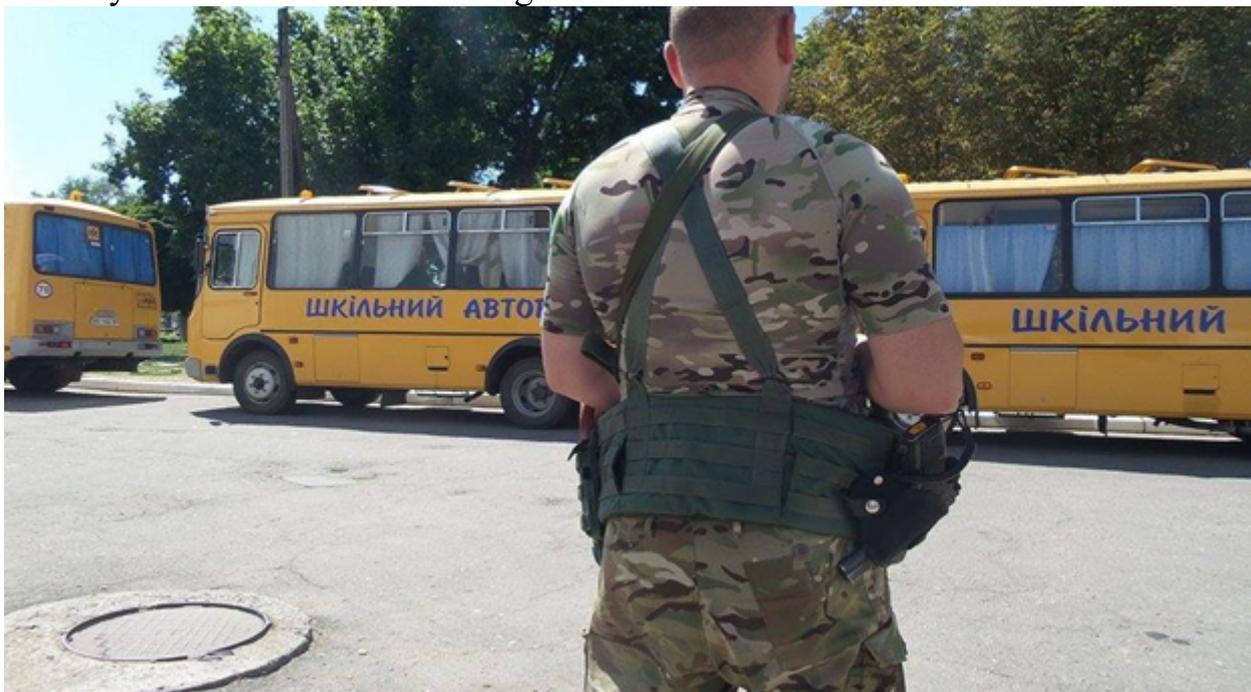
¹⁴² Terrorists transport more than 100 Ukrainian orphans to Russia [Digital resource]. – Way of access: <http://ru.tsn.ua/ukrayina/terroristy-vyvozyat-bolee-sotni-ukrainskih-detey-sirot-v-rossiyu-376963.html>

¹⁴³ Terrorists abducted 60 children from boarding school in Luhansk [Digital resource]. – Way of access: <http://ru.tsn.ua/politika/terroristy-pohitili-60-detey-iz-internata-v-luganske-378794.html>

¹⁴⁴ Militias of “LPR” abducted 16 orphans under the age of 1 year - Ministry of Health [Digital resource]. – Way of access: <http://rian.com.ua/incidents/20140727/355377556.html>

¹⁴⁵ Terrorists abducted 7 children from orphanage in Luhansk (ukr/rus) [Digital resource]. – Way of access: <http://mfa.gov.ua/ua/press-center/comments/2116-+>

Ukraine, Commissioner for Human Rights and considered view of Russian border guards, buses with kids were sent through “Izvaryne” border crossing point and territory of Russia to Ukrainian regional centre named Milove¹⁴⁶.



On 7 August 2014 it has transpired that “DPR” militia representatives in Torez kidnapped kids of Chief of penitentiary facility in Torez No. 28 and forced him to release a 45-years-old Odessa native who was convicted and sentenced to 14 years for terrorism and wilful murder. Militants burst into the administration building of penitentiary facility and demonstrated a “decision” of so-called “DPR Supreme Council” with the statement to set one of the prisoners free. After chief’s refusal he was proposed to talk over the telephone with his wife who told him that she and both of their kids are held as hostages by armed men who threaten them with carnage. Upon that he had no other choice and released the prisoner¹⁴⁷.

On 8 August 2014 terrorists abducted 7 Ukrainian children from orphanage in Luhansk. According to press centre of MFA of Ukraine, 7 Ukrainian children (all are under the age of 2 and have cerebral palsy) were illegally transferred through border crossing point “Izvaryne-Donetsk” to the territory of Russian Federation by representatives of armed terrorist units acting on the Eastern Ukraine. Condition of one child deteriorated during transportation because of neglecting of special needs of these children by terrorists (which should always be under medical supervision due to their diseases)¹⁴⁸. On 12th of August Valeriy Chaly, deputy of head of Presidential Administration of Ukraine announced that

¹⁴⁶ Children from orphanage in Luhansk returned to Ukraine (in pictures) [Digital resource]. – Way of access: <http://informator.lg.ua/archives/14632>

¹⁴⁷ “DPR” militias kidnapped kids of Chief of penitentiary facility and forced him to release dangerous terrorist [Digital resource]. – Way of access: <http://www.segodnya.ua/regions/donetsk/boeviki-dnr-pohitili-detey-nachalnika-kolonii-i-zastavili-ego-osvobodit-opasnogo-terrorista--542666.html>

¹⁴⁸ Terrorists abducted 7 children from orphanage in Luhansk (ukr/rus) [Digital resource]. – Way of access: <http://mfa.gov.ua/ua/press-center/comments/2116-+>

children will be returned to Ukraine. “Terrorists push the boundaries too far. They took these children and transported them to Russia. Fortunately...these children, I hope so, will be returned to Ukraine tomorrow. At this time they stay in hospital because they were shocked. Consul bailed them out and will return them tomorrow”¹⁴⁹.

On 27 February 2015 children from boarding schools of Donetsk and Amvrosiivka were transported to recreation and retreat centre in Pitsunda on vacation by “DPR” representatives. From the very beginning Abkhazia expressed its readiness to admit 30 orphans; however, only 23 went there^{150,151}.

Again, on 5 October 2015 children from recovery centre for disabled children in Snizhne were sent to Abkhazia. Children were returned to “DPR” on 15th of October¹⁵².

3.3. Shelling schools and kindergartens

According to the Ministry of Defence of self-proclaimed DPR, city of Horlivka in Donetsk oblast is continuously shelled by Ukrainian forces. According to Commissioner for children rights of self-proclaimed republic, most of children casualties are the result of Ukrainian shelling during combat activities between militias of DPR and Armed Forces of Ukraine.

As a result of shell-fire on 13 July 2014 comprehensive school No. 51 in Pivdennyi district of Luhansk city was heavily damaged. Shelling killed watchman of school and woman who lost her leg. This school was shelled one more time on 31 August 2014. Territory of school was hit for a total of 13 times, 5 of which hit the building of school itself¹⁵³.

¹⁴⁹ 7 children abducted in Luhansk will be returned to Ukraine tomorrow – Chaly [Digital resource]. – Way of access: http://news.liga.net/news/politics/2884796-zavtra_v_ukrainu_vernutsya_7_detey_pokhishchennykh_v_luganske_chalyy.htm

¹⁵⁰ 30 orphans from “DPR” will go to Abkhazia [Digital resource]. – Way of access: <http://novorossia.su/ru/node/15497>

¹⁵¹ Orphans from boarding schools in “DPR” went to Abkhazia on vacation [Digital resource]. – Way of access: <http://lifenews.ru/news/150480>

¹⁵² Disabled children from “DPR” went to Abkhazia on vacation [Digital resource]. – Way of access: http://reporter.dn.ua/news/society/deti_invalidy_iz_dnr_otpravilis_na_otdykh_v_abkhaziyu/

¹⁵³ Memorial event was held in School #51 in Luhansk which was hit by shells (in pictures) [Digital resource]. – Way of access: <http://cxid.info/v-luganskoy-shkole-51-postradavshey-ot-obstrelov-proshla-akciya-pamyati-foton125500>



Photo: dialog.ua

School No. 1 in town of Krasnohorivka of Donetsk oblast stands idle since 13 July 2014. School hall and exercise room were hit by shells that day. Roof and inner walls are holed, is destroyed, most windows are shattered. Earlier this school hosted 450 children and now teaching and learning process is suspended. School stands near to battle line and is continuously shelled¹⁵⁴.

According to UNIAN who refers to Nataliia Iemchenko, on 5 November 2014 shelling of school No. 63 in Donetsk killed 2 children and wounded another 4¹⁵⁵: “Stadium near school No. 63 in Donetsk (near airport) was hit by shell. Volunteer from “Dopomozhemo” humanitarian office informed us about that. Children were at the stadium at that time. Kids are carried to the school, they wait for an ambulance. According to our source – there are casualties: kids as well as adults”.

National Security and Defence Council of Ukraine presumes that immediate arrival of Russian TV shooting team just after the militias’ shelling testifies that this crime was planned. Spokesman of MFA Yevgen Perebyinis stated¹⁵⁶ that school shelling in Donetsk which caused casualties amongst children was fired from Makiivka which was controlled by militias. This was posted on his Twitter

¹⁵⁴ What is the condition of school in Krasnohorivka after terrorists’ shelling [Digital resource]. – Way of access: http://ru.espresso.tv/news/2015/06/22/kak_vyglyadyt_shkola_v_krasnogorovke_posle_obstrelya_terrorystov

¹⁵⁵ Shell hit school in Donetsk: two dead, four severely injured [Digital resource]. – Way of access: <http://www.unian.ua/society/1005635-u-donetsku-snaryad-vluchiv-v-shkolu-zaginuli-dvi-ditini-chetvero-v-reanimatsiji.html>

¹⁵⁶ School shelling in Donetsk which caused casualties amongst children was fired from Makiivka which was controlled by militias [Digital resource]. – Way of access: <http://www.unian.ua/politics/1005879-obstril-shkoli-v-donetsku-vnaslidok-yakogo-zaginuli-diti-vivsvya-z-okupovanoji-boyovikami-makijivki.html>

page and proofed with photos of analytical journalist with Ukraine@war nickname in Twitter who carried out an investigation in his blog¹⁵⁷.

On 13 November 2014 comprehensive school and kindergarten in Nyzhne Teple (Luhansk oblast) were shelled and the fire started. No injuries caused – school as well as kindergarten were closed¹⁵⁸.

On 8 December 2014 school in city of Artemovo was shelled. According to Vyacheslav Abroskin, Chief of the Main Department of Ministry of Internal Affairs in Donetsk oblast, 50 pupils were at school when shelling began, teacher made it to hide children in basement. However, a boy born in 2006 who was walking around his house got a shell fragment wound in a waist^{159,160}.

International organisation “International Partnership for Human Rights” in its report based on results of field mission in city of Kramatorsk stated that on 10 February 2015 at least nine civilians were killed and another 35 injured in a rocket attack on the city of Kramatorsk. Military facilities were shelled as well as residential buildings, the city hospital, the children’s hospital and school where pupils were staying at that moment¹⁶¹.

In January 2015 comprehensive school in town of Troitske was damaged after shelling. It was shelled again in March 2015. According to Hennadiy Moskal, there were no Ukrainian troops within a radius of several kilometres from school¹⁶².

Exercise room of school No. 3 in town of Avdiivka was severely damaged during massive shelling of this town. Vyacheslav Abroskin, Chief of the Main Department of Ministry of Internal Affairs in Donetsk oblast announced that learning process in schools located in Avdiivka will be suspended from 13th of January¹⁶³.

On 21 January 2015 the city of Stakhanov was under massive shelling. Most severe damage was recorded on Lobachevskoho str., where 6 residential houses were damaged: three – on Lenin lane, two – on Peremohy square and another one on 60 Rokiv Zhovtnya str. House located at Maiskyi was completely destroyed. Windows of kindergartens “Horobyinka” and “Zolotyi kliuchy” were shattered.

Partyzanska, Telmana and Izotova streets were also heavily damaged. 2 residential houses and several sheds were almost completely destroyed, power

¹⁵⁷Rocket that hit School #63 did not come from Piski [Digital resource]. – Way of access: <http://ukraineatwar.blogspot.nl/2014/11/rocket-that-hit-school-no63-did-not.html?m=1>

¹⁵⁸ School and kindergarten were damaged as a consequence of terrorists’ shelling, no injuries [Digital resource]. – Way of access: <http://tyzhden.ua/News/123635>

¹⁵⁹ MIA: Child injured as school in Artemovo in Donetsk oblast shelled by militias [Digital resource]. – Way of access: <http://gordonua.com/news/war/MVD-V-rezultate-obstrela-boevikami-shkoly-v-Artemovo-Noneckoy-oblasti-ranen-rebenok-55087.html>

¹⁶⁰ School shelled in Donetsk region: a boy of eight wounded by shell fragment [Digital resource]. – Way of access: <http://kp.ua/incidents/481482-v-donetskoi-oblasty-obstrelialy-shkolu-oskolkamy-ranen-vosmyletnyi-malchik>

¹⁶¹ Mission report: Rockets hit residential area in Kramatorsk, Ukraine [Digital resource]. – Way of access: http://iphronline.org/wp-content/uploads/2015/05/rockets_hit_residential_area_in_kramatorsk_ukraine.pdf

¹⁶² Comprehensive school in Troitske shelled – for the second time during previous months [Digital resource]. – Way of access: http://www.moskal.in.ua/?category=news&news_id=1530

¹⁶³ Avdiivka is under heavy shelling: shell hit the school [Digital resource]. – Way of access: <http://www.segodnya.ua/regions/donetsk/v-avdeevke-idet-massirovannyi-artobstrel-boevikami-snaryady-popali-v-shkolu-584009.html>

lines, gas pipeline and building of pre-school educational institution named “Sonechko” were partially damaged¹⁶⁴.

According to UNN who referred to press centre of Horlivka city council, school and kindergarten in city were damaged as a result of shelling. “Also, shelling on 22nd of January caused new destructions of education-related buildings. For example, school No. 85 and kindergarten No. 116 were damaged again, windows in schools No. 8 were shuttered as well”, – the statement said.

Representatives of the relevant directorate emphasized that schools and kindergartens in Horlivka will be closed in the period of 26-28 January because of the escalation and pupils of these schools will study remotely. Overall 15 healthcare-related and 65 education-related buildings were damaged for the whole period of military activities¹⁶⁵.

On 22 January 2015 school in Rovenky was shelled when there were lessons. One of the pupils captured the moment of shelling on video. It came to light later that school was damage because of artillery duel between “Cossacks” and militias of DPR in the centre of the city¹⁶⁶.

Schools No. 2 and No. 5 in Avdiivka were damaged on 6th of February because of another shelling. Walls in schools are holed, windows are shattered and trees were broken¹⁶⁷.

¹⁶⁴ Stakhanov is under the shelling again (in pictures) [Digital resource]. – Way of access: <http://www.0642.ua/article/717811>

¹⁶⁵ Children hospital, school and kindergarten were under the shelling in Horlivka [Digital resource]. – Way of access: <http://www.unn.com.ua/uk/news/1429498-u-gorlivtsi-pid-obstril-potrapila-dityacha-likarnya-shkola-ta-ditsadok>

¹⁶⁶ “We swallowed hunta’s bai” - pupils were under shelling when militias in Rovenky made a duel between them. VIDEO [Digital resource]. – Way of access: http://censor.net.ua/video_news/321236/my_poddalis_na_provokatsiyu_hunty_vo_vremya_perestrelki_mejdu_boevikami_v_rovenkah_pod_obstrel_popali

¹⁶⁷ Consequences of the shelling of schools #2 and #5 in Avdiivka [Digital resource]. – Way of access: http://www.dialog.ua/news/40496_1423238009



Photo: dialog.ua

School No. 4 and 2 kindergartens in Avdiivka were damaged on 12 February 2015 because of shelling¹⁶⁸.

School No. 4 and kindergarten No. 4 in the city of Artemivsk were under the shelling on 13 February 2015. Windows in building of school are shattered and inner heating system is damaged: radiator was perforated by shrapnel. Roof in kindergarten is holed, windows are also shattered and basement floor is flooded with water from heat supply station¹⁶⁹.

¹⁶⁸ Terrorists shelled two kindergartens and a school in Avdiivka. Main Department of Ministry of Internal Affairs [Digital resource]. – Way of access:

http://censor.net.ua/news/324499/terroristy_obstrelyali_dva_detskih_sadika_i_shkolu_v_avdeevke_gumvd

¹⁶⁹ On noon all “Zabakhmutka” community will be resupplied with electricity and gas. VIDEO [Digital resource]. – Way of access: <http://www.06274.com.ua/news/740327>

Educational process at school has been suspended for only 10 days, on 23 February classes resumed. Along with the educational process, building and installation work were performed, but only in those premises, which were not used for classes¹⁷⁰.

At night of 6 March, 2015 Avdiivka was shelled again. The shells hit the building of secondary school No. 2. According to local residents, rooms No. 26 and No. 27 were significantly damaged¹⁷¹.

On 24 April, 2015 artillery shells of the “DPR” militants from Horlivka hit school No. 13 in Artemovo near Dzerzhynsk. Shelling damaged the facade of the building. Window glasses in classrooms were broken¹⁷².



Photo: UkrMedia

On 3 June, 2015 as a result of shelling of the town of Krasnohorivka school No. 3 was severely damaged¹⁷³.

¹⁷⁰ In Artemovo school No. 4, hit by shelling on 13 February, restoration works are coming to an end [Electronic resource]. – Way of access: <http://www.06274.com.ua/news/758365>

¹⁷¹ Shell hits school No. 2 in Avdiivka [Electronic resource]. – Way of access: http://www.dialog.ua/news/45119_1425664118

¹⁷² School near Dzerzhynsk after shelling by “DPR” (photo) [Electronic resource]. – Way of access: <https://ukr.media/ukrain/235351/>

¹⁷³ Militants crushed the school in Krasnohorivka (photo) [Electronic resource]. – Way of access: <http://glavcom.ua/news/299498.html>



Photo: informator.lg.ua

On 10 June, 2015 militants shelled the village of Trokhizbienka of Luhansk oblast. As a result of fire, shells hit two private houses and severely damaged them. In addition, a mine exploded in the garden near the kindergarten. There were no injuries¹⁷⁴.

On 14 June, 2015 fighting between Mariinka and Petrovskyi district of Donetsk resumed. As a result of shelling Mariinka in the morning, residential houses, a school and a kindergarten were damaged. According to local residents, one of the shells hit the sports hall of school No. 1. Music hall of a kindergarten was also damaged¹⁷⁵.

On 6 July, 2015 as result of shelling of the village of Telmanovo located on the territory beyond the control of Ukraine, kindergarten “Katiusha” was damaged. Three shells fell on the territory of the kindergarten and caused severe damage. “Katiusha” was the only preschool establishment in the village¹⁷⁶. None of the parties assumed the responsibility for shelling.

On the same day after a massive bombardment of the town of Dokuchaievsk of Donetsk oblast a kindergarten was almost completely destroyed. According to the

¹⁷⁴ Militants shelled a kindergarten in Donbas area [Electronic resource]. – Way of access: <http://www.segodnya.ua/regions/donetsk/boeviki-obstrelyali-detskiy-sadik-na-donbasse-622609.html>

¹⁷⁵ Residential houses, a kindergarten and a school came under fire in Mariinka (photo) [Electronic resource]. – Way of access: http://reporter.dn.ua/news/events/zhilye_doma_detskiy_sad_i_shkola_popali_pod_obstrel_v_marinke_foto/

¹⁷⁶ Even the children couldn't stop the APU: photos of shelling the kindergarten in Telmanovo appeared [Electronic resource]. – Way of access: <http://nahnews.org/274729-vs-u-ne-ostanovili-dazhe-deti-poyavilis-foto-obstrela-detskogo-sada-v-telmanovo/>

Head of Administration of Dokuchaievsk Yevhen Buno the second floor of the building was completely destroyed. He also said that shelling took place on 6 July in the evening and continued for 40 minutes from the side of Mykolaivka. “At approximately 22:00 the kindergarten in joint household of Dokuchaievsk, located on the outskirts, was shelled by tank guns from the side of Mykolaivka and Novotroitske”. At that time kindergarten was closed because of previous attacks¹⁷⁷.

On 4 October, 2015 ATO fighter posted photos of school in Pisky on his Facebook page. One of the comments on the post states that “guys from the first Chernihiv tank brigade, mortar gunners, legendary mortar gunners...” held the line in the said school¹⁷⁸.



Photo: Konstantin Bernatovich via Facebook

On 11 November, 2015 the video with school No. 2 in the town of Krasnohorivka filmed in it appeared on YouTube-channel Dog Blog. School was damaged by shelling: windows broken, the facade of the building, interior plastic doors damaged. Despite that, the learning process at school continued¹⁷⁹.

¹⁷⁷ A kindergarten in Dokuchaievsk destroyed after shelling (photo) [Electronic resource]. – Way of access: http://reporter.dn.ua/news/incidents/v_dokuchaevske_posle_obstrelya_razrushen_detskiy_sad_foto/

¹⁷⁸ Broken windows and broken furniture. Ukrainian military officer showed the appearance of school in Pisky [Electronic resource]. – Way of access: <http://nv.ua/ukr/ukraine/events/vibiti-vikna-i-rozlamana-mebli-ukrajinskij-vijskovij-pokazav-jak-vigljadaje-shkola-v-piskah-72183.html>

¹⁷⁹ Krasnohorivka today: lessons at shelled school with broken windows [Electronic resource]. – Way of access: <http://rian.com.ua/video/20151111/1000099272.html>

On 12 November, 2015 school No. 15, located within the part of the village of Zaitseve (north of Horlivka), occupied by “DPR”, came under fire. According to the director of the institution Olena Kazakova, at the time of the shelling of the school classes were being given, and 33 pupils and 29 members of the staff were in the building. All of them were evacuated from the school¹⁸⁰.

According to the newspaper “Segodnya”, the report of the monitors of the OSCE monitoring mission concerning their findings during the visit to the school at the beginning of December 2015 states that its territory and premises have been occupied by militants, and only armed people could be seen at school. “SMM noted the presence of armed members of “DPR” inside the school, and evidence that they were garrisoned there, and the fact that ammunition of various calibers, small arms and light weapons were stored there”, – as stated in the report. The trench with the depth of 1.5 m connected the school and the checkpoint of militants nearby. There were no teachers or pupils at school. “Monitors did not see textbooks, teaching aids or any other evidence that the school was used for studying. Residents told SMM monitors that the school was not working”, – the mission noted. Having taken the building, militants have repeatedly accused the Ukrainian military officers of shelling non-existent pupils¹⁸¹.

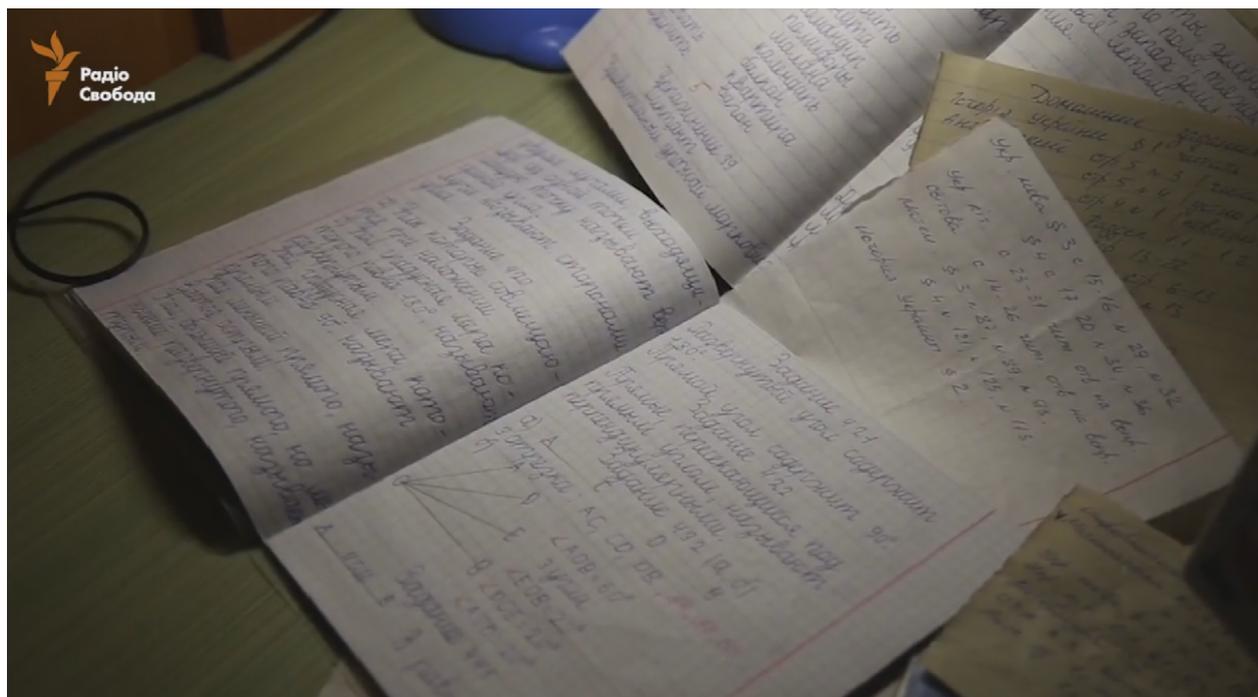
User Tatyana Miroshnichenko wrote the following in comments to the article: “This school has been working since the beginning of the school year. There are no more schools Zaitseve. Militants have been there since summer. Until the shelling occurred. You wrote about it. Before the shelling buses arrived to Zaitseve and Russian television came to film the evacuation of children. Some people known to me told the shelling was obviously staged. They had some suspicions. The village of Zaitseve is partly controlled by the Armed Forces and partly by militia troops. Since September, children from Zhovanka have been going to school, stepping over the mines. They had been put by the militia troops. Just on the roadway. Anti-tank mines. Militants said they felt calmer, because the Armed Forces would not move further, and for people it was safe, and so we could walk. And so we walked: children and local residents. Mines and still there. Children were offered to leave in the end of November to study in Russia, and, to my knowledge, some of the children went there. I am talking not about this. I’m talking about our authorities. The Armed Forces have been in the village since summer. Why haven’t military and civil administration taken measures to give the children possibility to go to school? There is access to the village from the side of Maiorske. It was possible to arrange transportation of children, for example, to Kurdiumivka by bus. It was possible to offer any health camps or boarding school on the territory of Donetsk oblast. Why there is no immediate response to such cases? Why were the children allowed to leave to Russia? How long will it take to provide this liberated territory at least with basic living conditions? Formalities – again. A bunch of excuses and justifications – again. And what about people? Manifest at least elementary care of them from the

¹⁸⁰ School in the suburbs of Horlivka was shelled with APU during the lessons [Electronic resource]. – Way of access: <http://novorossia.su/ru/node/24266>

¹⁸¹ Militants threw the schoolchildren on the street [Electronic resource] // Segodnya. – 2015. – 14 of December (14:16). – Way of access: <http://www.segodnya.ua/regions/donetsk/boeviki-vygnali-shkolnikov-na-ulicu-675367.html>

part of the state, and they will support you. No one blames the Armed Forces. Instead, we are very grateful that they took a part of the village under control. If those “vatnyks” received the alternative, we would still have to see, what could be then”¹⁸².

In confirmation of these words we present the following information from the news item of Radio Svoboda as of 11 January 2016 “Children in the village in Donbas area can’t study, because the school is located on the other side of the front”. In this news peace local 5th grader tells that the nearest school in 5-6 kilometers from Zaitseve is located in the territory under the control of “DPR”. “5-6 kilometers – it is possible to reach, but now it is scary. It is necessary to go through three checkpoints – two of them are Ukrainian and one is of “DPR”. We do not know where to go, where to hide, if they start shooting” – a local schoolboy says. Because of the danger to come under fires 11-year-old Edward doesn’t go to school any more. His parents, as well as relatives of other pupils (they are more than 30), go to the local school themselves. Once a week they receive tasks for children, and bring back fulfilled written works. So as the school, where the children from Zaitseve study, is the only school in this district and it is located on the territory controlled by the “DPR” group, parents do not know what kind of education the pupils will receive and whether Ukraine will ever recognize their educational documents¹⁸³.



¹⁸² User’s profile: Tatyana Mirosnichenko [Electronic resource] – Way of access: <http://www.segodnya.ua/profile/269514.html>

¹⁸³ “Children in the village in Donbas area can’t study, because the school is located on the other side of the front” [Electronic resource] // Radio Svoboda – Kyiv, 2016. – 13 January (10:38). – Way of access: <http://www.radiosvoboda.org/content/article/27480634.html>



Photo by: Radio Svoboda

3.4. Educational process

Since the beginning of active hostilities, many schools in ATO zone have suspended the educational process due to conditions of danger. Shelling of schools and kindergartens directly affected the educational process in ATO zone. Many schools had been damaged and many of them had not been repaired before the beginning of the new school year. According to presidential Commissioner for children's rights Mykola Kuleba, he personally witnessed the unpreparedness of many education institutions for teaching children in the cold season during his last visit to ATO zone in 2015. Windows of many schools had not been glazed and roofs had not been repaired; in some cases heating systems had not passed the appropriate checking¹⁸⁴.

It is also known that as on April 2015 teachers in Luhansk had not received salaries for six months, but only poor food packages¹⁸⁵.

Since the beginning of ATO in Donetsk oblast classes in schools and kindergartens have been suspended. "Today, the 6th of May, due to the conduct of Anti-Terrorist Operation on the territory of Donetsk oblast the educational process in 61 secondary schools and 59 pre-school education institutions in the region has been suspended", – the press service of Donetsk Regional State Administration reported¹⁸⁶.

¹⁸⁴ It is urgent to prepare schools in ATO zone for the heating season – children's ombudsman – Way of access: <http://www.unian.net/society/1164598-neobhodimo-srochno-podgotovit-shkolyi-v-zone-ato-k-otopitelnomu-sezonu-detskiy-ombudsmen.html>

¹⁸⁵ Discontented teachers of Luhansk were "tactfully warned" on the consequences of riots [electronic resource]. – Way of access: <http://vostok.dozor.com.ua/news/lugansk/1175815.html>

¹⁸⁶ Due to ATO the educational process in schools in the area of Donetsk has been suspended [Electronic resource]. – Way of access:

http://censor.net.ua/news/284167/na_donetchine_izza_provedeniya_ato_priostanovlen_uchebnyyi_protsess_v_shkolah

Education process in educational institutions of some towns on the territory of Luhansk oblast has also been suspended since the beginning of ATO. This was reported on 22 May, 2014 by Oleksandr Vostryakov, Deputy Director – Head of the Administration of Pre-School, General Secondary, Vocational Education and Science of the Department of Education and Science, Youth and Sports of Luhansk Regional State Administration.

In particular, the educational process was suspended in five schools of Stanytsia Luhanska, in schools and kindergartens of Lysychansk, Sievierodonetsk, Anthratsyt, Rubizhne, Stakhanov, Svatovo.

Studying there had to be resumed after the normalization of the situation¹⁸⁷.

Since the beginning of ATO lessons were resumed only in Kirovsk since 26 till 30 of May¹⁸⁸.

On 1 September, 2014 school year commenced only in half of the schools in Donetsk oblast. It was reported by the press service of Donetsk Regional State Administration.

“Today the new school year has begun in 547 schools in the region. In total the oblast has 1091 schools. According to the Department of Education and Science of Donetsk Regional State Administration, 155 126 children started classes. This number represents about 50% of the total number of children of school-age, residing in this region. Among the pupils who started studying, 17 272 are first-graders and 8 663 – 9th-graders”, – the report stated¹⁸⁹.

Prior to that, it was reported that those schools in Donetsk that had not opened the doors to pupils on 1 September, developed training materials and posted them on the websites of schools in order to try to work with pupils remotely¹⁹⁰. In case of schools that did not have their own websites, it was possible to find out the home tasks from teachers on the phone¹⁹¹.

As on 1 September, 2014, according to the “Minister of Education of DPR” Ihor Kostenko, less than 10% of schoolchildren remained in Donetsk, others were taken by parents to other regions of Ukraine or to Russia. 54% of pupils stayed within Donetsk oblast, but on the territory controlled by Ukrainian forces. “23 schools, 14 kindergartens in Donetsk, the building and dormitories of Donetsk National Technical University are constantly exposed to bomb attacks. These

¹⁸⁷ Due to ATO schools and kindergartens in some towns of Luhansk oblast were closed [Electronic resource]. – Way of access: <http://irtafax.com.ua/news/2014/05/2014-05-22-65.html>

¹⁸⁸ Kirovsk is preparing to send children to schools and kindergartens tomorrow [Electronic resource]. – Way of access: <http://informator.lg.ua/archives/255>

¹⁸⁹ School year started only in half of schools in Donetsk oblast. Regional State Administration [Electronic resource]. – Way of access: <http://112.ua/obshchestvo/v-doneckoy-oblasti-uchebnyy-god-nachalsya-v-polovine-shkol-oga-109095.html>

¹⁹⁰ In Donetsk school year did not start on 1 September, the students will be working remotely. City Council [Electronic resource]. – Way of access: <http://112.ua/glavnye-novosti/v-donecke-1-sentyabrya-uchebnyy-god-ne-nachalsya-shkolniki-budut-rabotat-distancionno-gorsovet-108937.html>

¹⁹¹ In Donetsk Oblast children will be taught on the phone [Electronic resource]. – Way of access: <http://www.depo.ua/rus/life/v-dnr-ukrainskih-detey-budut-uchit-po-telefonu-26092014154700>

education institutions will be opened neither on the 1st of September, nor on the 15th of September”, said Kostenko¹⁹².

Regarding Luhansk oblast, only 248 schools started the new school year on 1 of September. “On the 1 of September 248 schools in Lysychansk, Rubizhne, Sievierodonetsk and in ten districts of the oblast opened their doors for young residents of Luhansk region. A lot more children came to schools and kindergartens on 1 September. Their number increased nearly by 3350 persons. Since the occupancy of education institutions previously was lower less than 50% compared to the design capacity, we had no specific problems in this regard”, – said the Head of the Department of Education and Science of Luhansk oblast Iryna Tsymbal¹⁹³.

School year 2014-2015 had to be suspended because of shelling. For example, after attacks on the 14 of January classes in Avdiivka stopped¹⁹⁴.

On 1 September, 2015 the Ministry of Education of Ukraine on its official website published a statement in response to the notification of the “DPR” and “LPR” leadership on the beginning of the school year in the captured towns. It was noted: “As it has been repeatedly stated, according to the decision of the local executive authorities, the school year in Donetsk and Luhansk oblasts will begin on 1 September only in the schools, located within the territories controlled by the authorities of Ukrainian State.

The school year in the settlements, temporarily occupied by Russian military units and militants of “DPR” and “LPR”, will begin only after the liberation of these territories. 1 October 2014 was identified as approximate date of the beginning of classes”.

The Ministry noted that the participation in the so-called educational process arranged by the terrorists was life-threatening. In addition, education workers had to take into account that “participation in such provocative actions (attendance of “workplace”, holding “classes”, “educational activities” and so on) was unacceptable and would have legal consequences”¹⁹⁵.

Beginning of the said school year in Donetsk took place on 1 October. 50.9% (31 368) of children came to schools of Donetsk. Others will study off-site and remotely, getting tasks on the phone. At that from among 150 schools 146 are working. The rest are destroyed and closed for renovations, and teachers and pupils were transferred to the buildings of neighboring schools.

For example, in the roof of school No. 33 of Kuibyshevskiyi district was blown off, and pupils and teachers were transferred to the neighboring school No. 32. Celebratory assembly was carried out in the school assembly hall, for the reason of

¹⁹² “DPR”: Less than 10% of schoolchildren remained in Donetsk. School year will not commence on September 1. – Way of access: <http://112.ua/obshchestvo/dnr-v-donecke-ostal-os-ne-bolee-10-shkolnikov-uchebnyy-god-1-sentyabrya-ne-nachnetsya-108795.html>

¹⁹³ New school year: awaiting the heating season and the completion of ATO [Electronic resource]. – Way of access: <http://for-ua.com/article/1051492>

¹⁹⁴ Militants organized a massive shelling of Avdiivka: houses, schools destroyed, the educational process suspended [Electronic resource]. – Way of access: <http://obozrevatel.com/politics/80672-boeviki-ustroili-massovyij-artobstrel-avdeevki-razrushenyi-doma-zal-shkolyi-uchebnyij-protsess-priostanovlen.htm>

¹⁹⁵ The school year in towns controlled by the terrorists begins on 1 October [Electronic resource] / The Ministry of Education of Ukraine. – Way of access: <http://vostok.dozor.com.ua/news/teletype/ukraine/1165675.html>

security of pupils, but children and teachers from school No. 33, despite the invitation to join, came to the building their school, bringing flowers.

Celebratory assembly at school No. 57 ended with a great tragedy. When the children entered to classes and the first lesson on the topic “My favorite city” started, the artillery shelling began near the building.

Teachers rapidly gathered the children and went down to the bomb shelter, but one of the teachers, 49-year-old biologist Andrii Riebonkin, was not in time to hide in the shelter and was killed¹⁹⁶. At the time of shelling there were about 70 children in the school building. Six adults were wounded with varying severity¹⁹⁷.

School, which was destroyed by artillery and mortar shelling in the village of Luhanske, located near Debaltseve, is being restored during the study.

During combat operations one of the shells hit the classroom, and a mortar shell damaged another class. It broke the intermediate concrete slab between the first and second floors of the institution. Locker rooms burnt, and only few windows in the school still have unbroken glass.

Despite this, nearly one hundred and fifty children from Luhanske and the surrounding settlements sat at their desks in the destroyed school on the first of September. Fifteen pupils from grades 1 to 4 have classes in the premises of the kindergarten. But it is possible to study in the destroyed building only up to before winter sets in, so as the heating system of the school is out of order¹⁹⁸.



Photo by: <http://reporter.dn.ua/>

40 children of Stanytsia Luhanska would go to school – that information was contained in the daily report of the Special Monitoring Mission (SMM) of the Organization for Security and Cooperation in Europe.

¹⁹⁶ The Knowledge Day in Donetsk: artillery shelling, the death of the teacher and tears of adult [Electronic resource]. – Way of access: <http://www.depo.ua/rus/life/den-znaniy-v-donetske-artobstrel-smert-uchitelya-i-slezy-01102014151300>

¹⁹⁷ A shell fell on the school territory in Donetsk. Six people injured [Electronic resource]. – Way of access: <http://www.depo.ua/rus/criminal/v-donetske-na-territoriyu-shkoly-upal-snaryad-shest-chelovek-01102014121900>

¹⁹⁸ Children of Luhanske study in the destroyed school (photo) [Electronic resource]. – Way of access: http://reporter.dn.ua/news/society/v_luganskom_deti_uchatsya_v_razrushennomy_shkole_foto/

“Woman and a young girl from the government-controlled Stanytsia Luhanska told the SMM that local school had been destroyed by bombardments, and thus they would be divided and would study in different parts of the city. Talkers said that 40 children would go to school”, – as stated in the report¹⁹⁹.

School year in Mariinka started for 276 children. According to the press-service of the Ministry of Internal Affairs of Ukraine in Donetsk oblast, both schools of the town opened.

According to the Ministry, despite the fact that both schools of the town opened, the number of pupils was lower than it was expected. Indeed, 155 pupils instead of expected 350 came to school No. 2. Classes were incomplete, for example, there were only 10 children in the third class²⁰⁰.

In December 2015 Iryna Horbachova posted photos of the secondary school No. 2 of Mariinka on Photo Chronicles, having added the comment: “And how do your children walk inside the school? Stretched red tape means IT IS FORBIDDEN TO STAND IN THESE PLACES DURING SHELLING. Green tape means IT IS ALLOWED TO STAND THERE”²⁰¹.



¹⁹⁹ 40 children of Stanytsia Luhanska will go to school [Electronic resource] / OSCE. – Way of access: <http://112.ua/ato/v-stanice-luganskoy-v-shkolu-poydet-40-detey-obse-255387.html>

²⁰⁰ 276 children sat at school desks in the front-line Mariinka (photo) [Electronic resource]. – Way of access: http://reporter.dn.ua/news/society/276_detey_seli_za_shkolnye_party_v_prifrontovoy_marinke_foto/

²⁰¹ Irina Gorbachova [Electronic resource]. – Way of access: <https://www.facebook.com/irinagorbachova85/posts/1636692003249047>



*Secondary school No. 2 of Mariinka
Photo: Iryna Horbachova*

According to Oleksandr Khuh, Deputy Head of the OSCE Special Monitoring Mission in Ukraine, the hostilities and their consequences caused children's stress:

“We have directly observed an increase in the militarization of the children's everyday life. SMM saw armed men patrolling the playground in Horlivka. Going to school through the checkpoints has become routine for some children. In some cases children have to wait for a long until they can pass through these checkpoints. Teachers say that the children are suffering from stress caused by this conflict”²⁰².

²⁰² Some schools in DPR and LPR changed the language of tuition to Russian [Electronic resource] / OSCE. – Way of access:

http://reporter.dn.ua/news/society/nekotorye_shkoly_v_dnr_i_lnr_pereshli_na_russkiy_yazyk_obucheniya_obse/

In the town of Avdiivka of Donetsk oblast only 700 pupils from among 3 000 will go to school. The town is located only in 20 km from Donetsk, and almost every day it comes under shelling by militants.

For children who have left, several schools have been repaired. In the event of militants' attacks there are basements equipped for pupils: there are beds, desks and chairs. The children were repeatedly forced to go down there in the previous school year.

“Virtually the school was shelled from all sides. Windows have been glazed for four times. The last time it was in July”, – as it was noted by the Head of the Department of Education of the Town Council of Avdiivka Liudmyla Trehub²⁰³.

According to the mayor's office, only 673 children will go to school in 2015. This is despite the fact that in early August 800 pupils were ready to start studying on 1 September.

Press service of the Town Council of Avdiivka wrote: “Analyzing the situation, which takes place after each shelling, the number of children of school and pre-school age reduces. Children leave the town. Given the above, the Department of Education conducts preparatory works on suspension of activities of general education schools No. 2, 3, and 5 due to the small number of pupils”. Pupils of these schools will be transferred to other schools²⁰⁴.

Meanwhile, the number of students in the schools of the self-proclaimed Donetsk People's Republic increased by more than 15 000 people for September 2015 and reached 150 000. Such information was received by RIA Novosti according to the statements of the “Deputy Minister of Education and Science of the DPR” Iryna Simonova. “The number of pupils increases compared with the beginning of the year. Children begin to come back. On 1 September there were about 132 thousand pupils in schools, and now their number is about 150 thousand. We even have to open boarding schools for blind children, because such a need already exists” – she said and added that the restoration of schools damaged during shelling continued. According to her words, in the nearest future it was planned to open two schools in Ilovaisk and Donetsk after restoration.

“85% of works in school No. 14 of Ilovaisk have been completed. This school was virtually destroyed. School No. 33 of Donetsk will be finished around the corner. Only 8 schools remained closed on 1 September. The school in Horlivka has already opened”, – the representatives of the “Ministry of Education and Science of DPR” said²⁰⁵.

²⁰³ September 1 on the front line: desks in the schools Avdiivka installed in the basements [Electronic resource]. – Way of access: http://ru.espreso.tv/news/2015/09/01/1_sentyabrya_na_lynny_fronta_v_shkolakh_avdeevky_ustanovyly_party_v_podvalakh

²⁰⁴ Three schools of Avdiivka will not open on the 1 September [Electronic resource]. – Way of access: http://reporter.dn.ua/news/events/3_shkoly_avdeevki_ne_otkroyutsya_1_sentyabrya/

²⁰⁵ The Ministry of Education: the number of pupils in DPR has grown to 15 thousand for a month [Electronic resource]. – Way of access: <http://ria.ru/world/20151005/1297114213.html>

But Donetsk has an urgent problem due to the lack of heating in schools. That is why since 3 November, 2015 duration of lesson has been reduced to 30 minutes. Children are allowed to wear outdoor clothes in classes²⁰⁶.

A resident of the village of Brianka of Luhansk oblast, Oleksandr Venediktov told “Obozrevatel” that their school year began on 15 September. Children received Ukrainian textbooks, but they were ordered to seal up all national symbols of Ukraine. They were also informed that children would not have meals at school. “Every morning we prepared breakfast and gave thermos bottles with tea. Luckily, we had food stocks. Our children take food not only for themselves, but also for those children who were in need. Some parents possibly could be not sober in the morning, or they simply do not have money. Some children took with them even a tomato or a cucumber for breakfast. Sandwiches do not grow in the garden. Therefore, our children fed them”, – the man said. In the neighboring school parents began collecting money for lunch, about 3-4 hryvnias. As friends, whose children attended that school, told Venediktov, then a person in charge went to the market to buy the products and brought it to the school cook, who prepared lunch. “Those who could not give brought vegetables – carrots, beets, potatoes. They bring what they have. Children need to eat”, – said Oleksandr. Teachers also helped to feed the children. They brought food from home as well.

In October the terrorists started bringing humanitarian aid to the school. It could be a bag of millet or flour, some cabbage, sometimes some other products. Children were asked to bring products lacking to prepare at least borshch, meatballs or any other dish at the school canteen.

A resident of Donetsk Olena Pustovoitenko said her daughter went to school on 1 October. The school cut breaks and afterschool. Previously it worked till 17:30, and now – till 14:30. Everyone is asked to take children immediately after school for safety reasons.

“The educational program is still Ukrainian, but they started to deliver new Russian textbooks. Teachers told me there were not enough books. There were not enough of books to go round. While studying, they use old textbooks. Children still learn both the Russian and Ukrainian languages”, – Pustovoitenko said.

School canteens were able to provide breakfasts and lunches. But, according to her words, previously breakfasts for primary school were free, and now they had to pay. Costs per day amount to 20 hryvnias as a minimum. Those who were unable to provide money gave the children everything they could²⁰⁷.

However, on 1 September, 2015 “DPR” issued the “Regulation”, under which pupils of 1 to 4 grades and beneficiary pupils were supposed to be fed for free due to receiving of products from humanitarian convoys. Perishable products should be procured at the expense of the budget funds of cities (districts). Pupils of 5 to 11 grades were supposed to be fed partly due to receiving products from humanitarian

²⁰⁶ Duration of lessons in Donetsk has been reduced due to the heating problems [Electronic resource]. – Way of access: http://reporter.dn.ua/news/events/v_donetske_iz_za_problem_s_otopleniem_sokratili_uroki_v_shkolakh/

²⁰⁷ School year in “DPR” and “LPR”: children of Brianka bring carrots for borshch, children of Donetsk – money for lunch [Electronic resource]. – Way of access: <http://obozrevatel.com/crime/12358-uchebnyij-god-v-lnr-i-dnr-v-bryanke-prosyat-morkovku-dlya-borscha-v-donetske-dengi-za-obed.htm?full=1>

convoys and money of parents, who had to pay no more than 20% of the value (lower cost of food). Pupils, attending afterschool, should be fed at the expense of parents²⁰⁸.

Shelling continue even during the educational process, that is why the educational process is temporarily suspended. For example, in early November 2015 administration of schools No. 77 and No. 85 in Donetsk asked parents to immediately take children away from school because of a massive explosion in the village of Abakumov²⁰⁹.

At present pupils residing in the temporarily occupied territory of Ukraine have the opportunity to continue their education in the territory controlled by the Ukrainian authorities according to all existing modes of study. This is stated in the explanation of the Ministry of Education and Science of Ukraine.

Given the situation, which threatens the lives and health of children, the Ministry of Education considers it practicable to enroll pupils to external and distant modes of study.

Referring to the standards of the Regulation on external studies in general education institutions, the Ministry of Education notes that the heads of the relevant education institutions can, in case of need, take decisions on enrolment of external pupils for studying in the relevant school year without limitation of the period for filing applications.

In addition, education institutions have an opportunity to arrange the education and bringing-up process with the use of distance learning technologies for all modes, including external.

At the same time, Ministry of Education and Science emphasizes that enrolment of a pupil to high school shall be made based on a nationally recognized document confirming the pupil's basic secondary education. In the absence of the said document or in the presence of "documents" issued by terrorist organizations or occupation "authorities" of the annexed Autonomous Republic of Crimea and the city of Sevastopol, students may be enrolled only to the basic school.

The Ministry of Education and Science points out that in such cases pupils have the possibility to complete the curriculum for 9th grade externally and in the shortest possible terms, and after obtainment of the relevant document on education – to continue studying in the 10th grade according to the selected mode of study in the same school year.

General education institutions shall ensure the availability of the relevant information on the introduction of the external and distant modes of study on their own websites²¹⁰.

In such a manner in 2015 pupils from the territory of Donetsk oblast uncontrolled by Ukrainian authorities received nearly 21.5 thousand certificates on obtainment of basic secondary education and more than 16 thousand school-leaving

²⁰⁸ Information on the arrangements for feeding of pupils of education institutions in 2015-2016 school year [Electronic resource]. – Way of access: <http://mondnr.ru/?p=27848>

²⁰⁹ School administrations in Donetsk ask parents to take the children away from schools because of shelling the Abakumov Mine village [Electronic resource]. – Way of access: http://reporter.dn.ua/news/events/v_donetske_iz_za_obstrela_poselka_shakhty_abakumova_administratsii_shkol_prosyat_zabrat_detey_sotsse/

²¹⁰ How pupils of Donbas can obtain education [Electronic resource]. – Way of access: <http://ru.osvita.ua/school/47852/>

certificates. This was announced by Deputy Minister of Education Pavlo Polianskyi²¹¹.

According to the statement, made by Deputy Minister of Education and Science Pavlo Polianskyi on 26 August, 2015, starting from the new school year children residing in the temporarily occupied Crimea, as well as on uncontrolled territories of Donetsk and Luhansk oblasts, will be able to study under on-line mode of study, using the capacities of the Internet.

As he noted, currently the Ministry of Education and Science is establishing a platform for technical placement of the relevant resources and considers the issue of legal regulation of vesting these children with official right to pass the state final assessment on-line²¹².

At present the page “For residents of Donbas and Crimea” of the official website of the Ministry of Education and Science of Ukraine contains the “Road Map for graduates”, the list of schools providing education for pupils from the occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and territories of Donetsk and Luhansk oblasts uncontrolled by Ukrainian authorities according to distant and external modes of study; contacts of regional departments (offices) of education and science, of Kyiv City State Administration; information on the procedure for crossing the contact line with the purpose of passing the state final assessment and external independent testing; information materials for educators, parents whose children attend kindergartens, general education institutions and vocational-technical schools, as well as for enrollees and students²¹³.

4. FINDINGS OF MONITORING SURVEY ON CHILDREN’S RIGHTS IN THE CONFLICT ZONE

Here are the findings of the survey of different categories of persons on the assessment of the condition of observance of children’s rights under the conditions of armed conflict. In particular, they were displaced children; children living along the demarcation line; parents of displaced children and children living along the demarcation line; educators (teachers, school leaders, the leadership of education departments). The survey was conducted using personal (face-to-face) interviewing and questionnaires. In particular, the survey included several visits to the territories of Luhansk and Donetsk oblasts controlled by the Ukrainian government, as well as to the village of the village of Karapyshy of Myronivskyi district of Kyiv oblast. In the course of survey we asked different categories of respondents questions on observance of children’s right to special respect and protection that they have under

²¹¹ Pupils from occupied Donbas obtained 16 thousand school leaving certificates [Electronic resource]. – Way of access: <http://ru.osvita.ua/school/47745/>

²¹² Children from Crimea and ATO zone will be able to study on-line [Electronic resource]. – Way of access: <http://ru.osvita.ua/school/47665/>

²¹³ “For residents of Donbas and Crimea” [Electronic resource] – Way of access: <http://mon.gov.ua/activity/dlya-zhiveliv-donbasu-i-krimu/>

conditions of armed conflict, the content of which was explained in previous sections.

4.1. Findings of the monitoring visit to “Zoranyi” children’s recreational institution, the village of Karapyshy of Myronivskyi district of Kyiv oblast

Dates held: November – December 2015



Photo: children’s recreational institution “Zoranyi”

In total 145 children from ATO zone who were on rehabilitation in the children’s institution “Zoranyi” were interviewed, including 69 boys and girls.

All of them are residents of Luhansk oblast (settlements: Zolote, Hirske, Maloriazantsevo, Ivanivka, Viktorivka, Chikhirove (Toshkivka-1), Toshkivka, Vovchoiarivka, Vrublivka, Komyshuvakha, Trokhizbienka, Popasne, Lysychanske, Krymske, Shchastia, Kruhle, Verkhnie Teple, Petrivka, Krepy, Shyrokyi, Stepne, Verkhniy Lypchenok, Komyshne, Vilkhova, Makarove).

Age distribution of the children surveyed:

- 6 years old – 1 child;
- 7 years old – 1 child;
- 8 years old – 1 child;
- 9 years old – 3 children;
- 10 years old – 12 children;
- 11 years old – 27 children;
- 12 years old – 37 children;
- 13 years old – 19 children;
- 14 years old – 22 children;
- 15 years old – 14 children;
- 16 years old – 5 children;
- 17 years old – 2 children.

Children of primary school age were surveyed using a structured interview, children of middle and senior school age – through questionnaires. All kinds of survey were carried out anonymously so that children could freely express their views without worrying they would say something wrong.



Photo: children in the course of survey



Photo: children in the course of survey

The vast majority of children (almost 89%) – pupils of 5-9 grades. 135 interviewed children study at ordinary schools, 7 children – at gymnasium, 2 – at specialized school, one child – at lyceum.

The quality of school premises (finishing, furniture, technical equipment of classes, heating and lighting, warm toilet, sports hall, library, etc.) was assessed by the children as follows: a) excellent – 28 children; b) good – 73 children; c) satisfactory – 39 children; d) poor – 5 children.

Provision with textbooks, in general, was assessed by the children as above average: 123 children (85%) indicated that they had all the books and that they received the books at school for free. At that, 5 children noted that they had received all the books, but under the old program; parents of 7 children had to buy 5 to 15 books at their own expense; another 2 children pointed that a few books were lacking. Instead, 12 children (17%) indicated that there was insufficient number of books in their classes, for example, “we have only one textbook on labor training for the whole class”; “our school is not provided with English textbooks at all”; “we

received one textbook for 2 pupils”; “we have few textbooks – 5 for the whole class”; and one boy wrote that they studied “via computers”.

Regarding *assessment of the canteen* (quality and variety of food, matching the price and quality, rate of service, etc.) thought the children were divided as follows: a) excellent – 20 children; b) good – 51 children; c) satisfactory – 45 children; d) poor – 3 children; e) very poor – 3 children.

Among other answers there were the following:

- only pupils of 1-4 grades receive meals; we do not receive so as we are older;
- similarly, only pupils of 1-4 grades of our school receive meals, but I am a “state-supported” child, that is why I receive meals;
- our canteen has no dishes, so we only drink tea;
- we do not have canteen at school.

In addition, some children reported that “we bring products to school ourselves, and also receive them from soldiers”, and one girl noted: “the prices are bad, and the food is excellent”.

A significant number of low estimated of quality of school premises and school canteens relates to the fact that “due to hostilities the school is in a critical condition”.

In particular, the school in Toshkivka was destroyed as a result of shelling on 29 October, 2014. As Hennadiy Moskal, the Head of Luhansk Regional State Administration, reported on his site: “Today in the afternoon terrorists from the side of Pervomaisk have shelled the urban-type settlement Toshkivka of Popasnianskyi district. The bombardment was carried out with the use heavy artillery, and one shell hit the secondary school.

Fortunately, the lessons had ended, and the kids had gone home. The school director and deputy head teacher stayed at school, but they were not injured. As a result of the shell the school is partially destroyed, and it is impossible to continue educational process there. Rescue and repair services are on the way to the scene”.

According to Moskal, “Ukrainian military officers are not stationed now and previously have never been stationed in Toshkivka, militants are well aware of this. So the shelling of school was carried out deliberately”.

“We have informed the OSCE mission about this rude fact, and now through the media we want to inform Ukraine and the world community that terrorists of the so-called “LPR” deliberately violate the Geneva Convention of 1949 (Ratified by the USSR in 1954) on the protection of civilians during hostilities. Even direct threat to life and health of children can’t stop them” – as noted in the statement²¹⁴.

²¹⁴The “LPR” militants deliberately shelled operating school [Electronic resource]. – Way of access: <http://www.depo.ua/ukr/life/boeviki-lnr-umyshlenno-obstreljali-deystvuyushchuyu-shkolu-29102014161900>



Photo: General education school of Toshkivka after shelling on 29 October 2014.

Source: dialog.ua

As a result of this incident, the school did not function for a year. As it was noted by the pupils of the school, canteen so far had been destroyed, so they took food from home. However, currently a new canteen is under construction.

38 children assessed *the quality of teaching* at the school as very high, when teachers were able to spark interest in the subject; 47 children – as rather high; another 47 children – as average; 12 children – as low, when the majority of subjects are taught in uninteresting and unclear manner, and 3 children – as very low, when some subjects were not taught at all due to the lack of teachers (in particular, of English teachers). Moreover, two pupils indicated that vast majority of teachers at their schools taught them well, but there were those whose manner of teaching was boring.

Regarding their *achievements at school* the following points were indicated: a) 13 children were excellent pupils; b) 50 children – had mostly excellent and good marks; c) 56 children had mostly good and a pass marks; g) 16 children studied mostly satisfactory; d) 11 children studied poorly. Two children noted that there were subjects in which they were had the best results, and there were subjects in which they had just pass marks.

Regarding the *approximate distance from home to place of study*, it was established it is shorter than 1 km for 68 pupils, for 26 pupils – 1 to 2 km, for 7 pupils – 2 to 3 km, for 10 pupils – 4 to 10 km, for 14 pupils – 11 to 20 km, for 12 students – from 21 to 30 km, and one student said that he lived about 50 km away from home.

The *way from home to school* for 69 children took less than 10 minutes, for 43 children – 11 to 20 minutes, for 25 children – 21 to 30 minutes; for 4 children – 30 minutes to 1 hour. At that the distance to *school children covered as follows*: a) by foot – 104; b) by school bus – 40; c) by public transport – 3; d) parents bring to school by your own transport – 6 children, and one child noted that “it depends”. Since some children selected several ways they could get to school, the total amount of answers to this question exceeded 100%.

To our question, *how safe children felt on the way to school, after school and at school*, the responses were as follows: a) absolutely safe – 57 children; b) safe – 71; c) not securely enough – 17; d) I am afraid to go to school – 1; e) I am very afraid of shelling – 9 children; 7 children found it difficult to answer.

During the last 2 years, 68 children (47%) have *changed the school*. The main reason for this was the conduct of military operations on the territory of Luhansk oblast. In particular, the children pointed out the following:

- I was running from the war – 33 children;
- Shelling of the area – 6 children;
- There were hostilities – 8 children;
- The school was not working – 2 children;
- There has been fire at home, and here it is quiet, so we moved here – 1 child;
- We were not paid money, so we moved – 1 child;
- Studies in Russia because of war – 1 child;
- Poor success, because teachers taught poorly – 1 child;
- There were repairs at school – 1 child;
- Parents were very concerned about me and we left – 1 child;
- There was no possibility to study at previous school – 1 child;
- In connection with the move – 1 child.

For another child memories of that it were very traumatic, and so the child refused to talk about it.

Most children assessed *teachers' attitude to them at the school* as positive. In particular, 66 children rated it as very good, teachers helped them in study, if necessary; 65 – as a good attitude; 16 children stated that teachers treated them moderately; one child “felt a bad attitude (mocking or ignoring)” and one child noted that “all the teachers had rather good attitude, except for one teacher”.

The *attitude on the part of other pupils* was also assessed as positive: a) very good, I have many friends – 86 children; b) good, I have one or two friends, with others I support good relations – 46 children; c) moderate – 10 children; d) bad (clinging, insulting) – 4 children.

Surveyed children answered our question on *the response of teachers on cases of mocking, insulting and even beating* as follows: a) no response, not respond, they say that we are children and we will manage it ourselves – 10 children; b) pretend to know nothing about it, so as not to react – 4 children; c) they react only in words, but in fact nothing has changed, or they shift responsibility on parents – 38 children; d) immediate response (cease it, establish what happened, conduct interviews with pupils) – 51 children; e) it depends – 2 children. Another two children said that they had never faced with such cases. One child also stated that teachers “were doing everything possible, except for beating, to avoid this”.

Among the *major problems that they experienced during the study* the children noted: high study load – 27 children; overstated requirement of teachers – 23 children; difficulties in communicating with teachers – 11 children; difficulties in communicating with their classmates – 5 children; 61 children had not experienced difficulties. Among other answers there were the following: difficulties with certain

subjects (mainly these were the English language and mathematical disciplines), the quality of education (“some teachers do not know their subjects, but they are required to teach”, and also the cannonade was very impeding (military exercises conducted near the school – in 2-3 km).

20 children surveyed pointed out the existence of *serious health problems*; 2 children had not very serious problems; 113 children had no health problems; and 11 children could not answer the question. Among their health problems children named somatic diseases (heart, liver, kidneys); increased levels of acetone; vision problems; frequent cold-related diseases; problems with the locomotive system.

At that 196 children surveyed stated they had a *possibility to receive the required medical assistance*, 25 said that they did not have such an possibility; 6 noted, that there was a medical aid station, but there was no hospital, so they had to go to the district center. Four children could not answer the question.

Regarding the issue *if their family situation has changed after the beginning of ATO*, 38 children answered that “yes, the change is for better” – everyone started to support each other; 79 responded that “no, it has not changed, it remained as good, as it was before”; 3 noted that “no, it remained bad”; 5 – that “yes, after we moved stresses appeared” or “yes, it got worse – everyone started to quarrel”. Another child wrote, parents divorced, and one child could not assess the situation.

What about the *facts of injury of their peer acquaintances in connection with military actions*, known to them, the children indicated:

- a) unlawful imprisonment – 6 cases;
 - b) the use of violence, abuse – 15 cases;
 - c) recruitment to armed groups – 14 cases;
 - d) forced participation in hostilities – 15 cases;
 - e) limitation or failure to provide appropriate treatment, nutrition – 5 cases;
 - f) refusal to evacuate – 10 cases;
 - g) inability to study properly – 33 cases;
 - h) failure to provide humanitarian assistance, inability to appeal to humanitarian organizations – 5 cases;
 - i) the children were left homeless; they are living without adult supervision – 4 cases.
- Fifty children were unaware of such cases.

Several children stated that Ukrainian military officers expressed a very good attitude to them and to residents of their localities and even helped with money.

Among the *most significant problems* identified by the surveyed children the *issues related to the military operations in the east of Ukraine* dominated. In particular, they:

- *have fears and concerns associated with the war*, (“fear of war, shelling” “military officers staying at the village”, “fears for family”, “my cousin (17) who lives in Russia in Rostov oblast has been recruited to the armed group and sent to fight in Donbas. I am very worried and do not want him to die”; “my classmate and her parents were killed”; “some my friends have lost the entire families”; “I am afraid of shelling”; “I’m afraid of losing someone from my family”; “I want the war ended”; “there is no peace in the world”; “I am concerned about the situation in

Luhansk sector”; “military emergency in the village”; “the dog that I loved was killed”);

- *deeply miss their friends or relatives who have left because of combat operations or they have been taken from the occupied territory themselves*; (“I can’t get home because of war”; “many of my friends left”; “my parents left and I stayed with my grandmother”; “there are almost no peers in the village”; “I really miss my friend who moved because of war”; “I am distressed for my father, because he is a military officer and he is constantly involved in ATO”; “I live in ATO zone, and I want to return home to Vesela Hora”; “I do not live at home, I live with relatives”; “I want to go home to Luhansk”; “because of war I do not have a possibility to go to my relatives”; “my mother and godmother stayed in the occupied territory and they can’t come to see me on holidays”; “I see my mother very seldom, because it is very difficult for her to come to me from Luhansk with my little sister”);

- *manifest discontent with the behavior of the soldiers of Ukrainian army* (“military officers walk the town with weapons; they buy all products and get drunk despite the prohibition; they often ask us to show our passports, even though we are aged under 16 years; they check our e-mails on the phone; take away cars; fire during the truce; live in other people’s empty houses and take the people’s property, that is they steal”).

In addition, the children pointed to the existence of *problems of material nature* they are concerned with, such as:

- they point to *financial difficulties in the family* (“when my mother went to receive humanitarian aid, other people got a lot of everything, and nothing left for us. And we have a baby in family”; “it is difficult to find job or there is no work at all”; “I don’t have a PC”; “my father has gone to another city to work and he comes very seldom”; “our house was burnt away”; “roof leaks”; “it’s cold because of broken windows”);

- identify *problems with the infrastructure affected by combat operations* (“there is no heating at home, school is also very cold”; “the bridge on the way to Luhansk has been destroyed”; “the light is often turned off”; “there is poor communication in the village”; “canteen at school is closed”; “bad road”).

They are also concerned with own *health problems* or health problems of their close relatives (“my father died”; “my mother is sick, she will have an operation”; “backache”; “my mother says nobody wants to help me with my health”; “I have a disease (enuresis) and I want to recover”); *problems in relationships with peers* (“boys constantly laugh at me”; “for a long time I still can’t make friends with other children”; “problems with a peer”); *problems with studying* (“problem with the English language”; “problems with geometry”; “our school does not have English teachers”; “problems with the history of Ukraine”); *emotional stress in connection with their future* (“because of the war the number of places where I can go to study is limited”; “I’m a sportsman, but I cannot develop my career in the sphere of sport”).

Forty two children do not have significant problems or have *no problems at all*.

4.2. Findings of the monitoring visit to the town of Mariupol in Donetsk oblast, Pershotravnevyi and Volodarskyi districts of Donetsk oblast

Dates held: 30 November 2015 – 3 December 2015

During the visit, the results of *on-line survey of residents of the occupied territories of Luhansk and Donetsk oblasts regarding distance schooling have been received.*

Questioning has been held by activists of the NGO “Coordination Center of Patriotic Forces “New Mariupol” during the period from September to November 2015.

Number of respondents was **1,245 persons**. Questioning was completed in the social network – Facebook.

1. Would you like your child to obtain education officially confirmed with Ukrainian school leaving certificate?

Yes **1014**

No **231**

2. Does your son (daughter) have the opportunity to study on-line?

Yes **822**

No **192**

3. Would you like your child to obtain Ukrainian education on-line?

Yes **849**

No **165**

4. What language of tuition for your child would you prefer?

Ukrainian **533**

Russian **481**

5. Is the future graduate ready to leave to free Ukrainian territory for passing external independent testing?

Yes **1002**

No **12**

2–3 of December 2015, Mariupol

On the 2nd of December, 2015 a group of monitors with the assistance of NGO “Coordination Center of Patriotic Forces “New Mariupol” conducted **questionnaire survey of 91 children** (aged 8-13) who moved to Mariupol from settlements of Donetsk oblast (Krasnohorivka, Shyrokyne, Horlivka, Donetsk, Berdianske).

Satisfied with moving – 57 children.

Dissatisfied with moving – 34 children (reasons: a strong desire to come back home and to return to normal life).

Among the ***problems with departure from the area of combat operations*** were indicated the following: problems with documents – 19 children; problems with transport – 11 children; were shelled – 10 children; were threatened – 49 children.

4 children indicated that ***during the enrolment*** to new schools they had no problems; 17 children had problems with documents; 24 children noted the unwillingness to enroll them to school. 46 children gave no answer to the question.

15 children emphasized a ***bad attitude towards them in the new school***; 17 – very bad; good attitude – 18 children; very good – 8 children; no answer – 33 questionnaires.

Item ***“the family situation worsened”*** was marked by the majority of children.

46 children ***have health problems***, 34 – ***obtain the required treatment at a new place***.

In their comments some children pointed, that they have a ***moral discomfort*** because they do not have things that all the other children have, such as a tablet. The problem of lack of hobby groups or their remoteness was also repeatedly noted. A number of children said that they ***are aware of cases of child abuse in ATO zone***.

On the 2nd of December a group of monitors conducted a **survey for 8 adults (parents of children aged 9 to 15 years) of Zhovtnevyi and Ordzhonikydzevskiy districts of the town of Mariupol of Donetsk region**. The survey took place at NGO “Coordination Center of Patriotic Forces “New Mariupol”.

Respondents noted the following ***problems related to enrolment of their children to school***: problems with documents (6 persons), unwillingness to enroll the child to school (2 persons).

Five of the eight respondents answered that the school is located within accessible distance, 2 – get to school by public transport.

Two respondents assessed the ***attitude of school teachers to their children*** as “moderate”, and six – as “bad” or “very bad”.

Attitude of classmates to IDP children was rated as: “moderate” – by 3 respondents; “bad” or “frequently offend” and “very bad” – by 5 respondents.

All respondents indicated that ***incur additional financial costs in connection the “needs of school and class” (paint, windows, etc.), textbooks***. Only one respondent said such costs were “affordable”.

4 respondents said that children at school ***“are provided with meals”***; 2 respondents – ***that “there is the possibility of obtaining humanitarian assistance and access to humanitarian organizations”***.

Most respondents noted ***difficulties in obtaining medical treatment (distance, the absence of registration, infrequent access to a doctor)***.

On the 3rd of December, 2015 a group of monitors conducted a **questionnaire survey for children – internally displaced persons**. The survey took place in the premises of the school with enhanced education in English No. 66 of the town of

Mariupol. The total number of pupils in this category – 18. In total **6 children participated in the survey**, two boys and four girls.

In terms of **age groups** all children were aged 14-15.

Children who participated in the questionnaire survey, had moved from the following localities: Donetsk – 4, Khartsyzk of Donetsk region – 1 person, Alchevsk of Luhansk region – 1 person.

All the children said they were **satisfied with their move from the places of permanent residence**. As **the main reasons** the following were named:

- the absence of hostilities;
- the opportunity to obtain Ukrainian education;
- the availability of material goods;
- new acquaintances, interesting educational process.

All **children moved** either with the whole family (mother, father) – two of the respondents, or with a family member – 2 respondents. In 2 cases, the children moved with the relatives and parents stayed in the uncontrolled territory.

At that, all 6 respondents noted that the **family atmosphere** after moving had not changed in connection with the move.

Five respondents indicated that there were no **problems with the departure**. Only one child said that there were problems with transport at the time of departure from the uncontrolled territory.

The **positive** is that all the children surveyed said that:

- they had no problems with the enrolment to school.
- teachers manifested good attitude to internally displaced children; only one child said that teachers treated her moderately;
- at the new place of residence they obtained the medical treatment they needed.

What about the question on awareness of facts of violation of human rights, children's rights, 4 of 6 children surveyed reported that they were unaware of such facts. Answers of two respondents identified the following **facts of violation of children's rights in connection with military operations, which are known to the children to some extent**:

- obstacles to access to education (children did not go to school for a few months during shelling);
- child abuse and sometimes – imprisonment.

Also **unstructured interviews with three teachers who left ATO zone was conducted** (all respondents travelled from other towns of Donetsk oblast).

Deputy head teacher, T. S. Stupak told that all children joined the educational process without any specific problems, they had good success in study, communicated with mates, did not have serious health problems, and had consistently normal family relations (that fact was also confirmed with all questionnaires of pupils surveyed). The children were taken to school via questionnaire survey. At school No. 66 the total number of internally displaced children who moved from the area of combat operations is 18.

The interviewed teachers also arrived to Mariupol from places within ATO zone in Donetsk oblast.

The school does not have a psychologist. The school is stuffed with teachers.

As was pointed out by the primary school teacher working at the school, who moved from the area of combat operations (the town of Krasnohorivka of Mariinskyi district of Donetsk oblast), she was informed by the Local Education Authority, that as on 1 September, 2015 in the town of Mariupol there were 200 teachers lacking, from among them – 26 primary school teachers.

During the survey the *evidence about the children in ATO zone who were injured as a result of shelling and military operations* and who are now being treated in Moscow have been received:

- a boy had a stroke after shelling (Palyvoda Roman, 4-B grade, Donetsk gymnasium No. 92);
- a boy, pupil of the 5 grade, was paralyzed after shelling (Donetsk gymnasium No. 92).

2 December 2015, Pershotravnevyi district of Donetsk oblast

In the premises of Pershotravneva District State Administration the group of monitors conducted an *unstructured interview with the Head of the Department of Education of Pershotravneva District State Administration of Donetsk oblast Terentieva N. I.*

Pershotravnevyi district has 14 operating schools. From among the total number of schools 9 are Ukrainian-speaking and 5 – Russian-speaking. The largest school in the district is Manhushka General Education School No. 2 of (urban-type settlement of Manhush). It is the Russian-speaking school. At the time of the interview 476 children were studying in the aforementioned school, 52 of them – first-graders (school is designed for 460 children).

The respondent noted that during 2014/2015 school year schools in the district were overcrowded due to the arrival of a large number of children of internally displaced persons. In the middle of the 2014/2015 school year, 50% of the children from among internally displaced persons quit.

At the time of the interview 150 children from among internally displaced persons were studying in the schools of the district. Also, according to the respondent's information, the largest number of children from among internally displaced persons lived in the village of Urzuf. Important issue for this school is provision with equipment and furniture.

According to the respondent, a significant number of families with children returned to the places of their permanent residence. Some children who have returned to the places of residence in the uncontrolled territories, *study remotely*. The reason is the appropriate application of parents. Children get tasks via e-mail. Children will have to attend school and submit semester test papers. After successful studying the children will receive a certificate on complete education.

Another issue of concern, according to the respondent, is provision of schools with textbooks, especially for the 1st grade of Russian-speaking schools. Also the

provision with the specialized textbooks on Ukrainian philology and ecology for pupils of in 10-11 grades is outstanding problem too. Inside the district the problem with textbooks is solved through the exchange and reallocation of textbooks holding between schools of the district and of the city of Mariupol.

On the 2nd of December the group of monitors also carried out a **questionnaire survey of 11 children from two schools in Pervomaiskyi district of Donetsk oblast**. Educational institutions, where the pupils participating in the survey study: Manhushka General Education School No. 2 (urban-type settlement of Manhush) and Yaltynska General Education School (the village of Yalta).

At the time of the monitoring visit 150 children from among internally displaced persons were studying in the general education institutions of Pervomaiskyi district of Donetsk oblast. 14 children from the target group studied in the general education school No. 2 of the urban-type settlement of Manhush, 30 children from the target group – in Yaltynska General Education School.

During the interview with Terentieva N.I. (Head of the Department of Education of the Pervomaiska District State Administration), Terstuiakh S. I. (Director of Manhushka General Education School No. 2) and Loizov Y. I. (Director of Yaltynska General Education School) it was established, that currently the number children of internally displaced persons has decreased by several times compared to 2014-2015 school year. The reason for this is the fact that a significant number of families with children return to temporarily uncontrolled territories. Some number of families arranges their lives in the big cities.

During the interview Director of Manhushka General Education School Terstuiakh S.I. noted:

- the number of IDP children in 2014 was 30, in 2015 – 14;
- in 2014 one child studied as an external pupil;
- all children are from Manhush, so there is no need for the school bus;
- at the beginning of the school year the school had 476 pupils. Officially, the school is designed for 460 pupils;
- children studying in 1-4 grades, orphans and children from low-income families receive free meals in the school canteen. According to the school director, the sum of 5 hryvnias is not enough for adequate nutrition. 8 hryvnias are required;
- medical aid station functions.

Director of Yaltynska General Education School Loizov Y.I. pointed that:

The number of IDP children in 2014 was 140, in 2015 – 30. From among them there 19 are of primary school age, 7 – of secondary school age, 4 – of high school age.

- in 2015 3 children studied as an external pupils;
- school bus drives to Bilosaraiska shallow spit and Yuriivka;
- at the beginning of the school year the school had 264 pupils. Officially, the school is designed for 360 pupils;

- free meals in the school canteen are provided for the children studying in 1-4 grades, orphans and children from low-income families receive . Canteen is provided with all necessities.
- medical aid station functions. Medicines are supplied irregularly.

Questionnaire survey covered 11 children and mother of one child.

From among 14 children from the target group in the general education school No. 2 of the urban-type settlement of Manhush, 4 children took part in the survey.

From 30 children from the target group in Yaltynska General Education School 7 children and mother of one child took part in the survey.

In total **11 children participated in the survey**, 5 boys and 6 girls.

In terms of age groups:

- children aged 6 to 10 years – 7;
- children aged 11 to 15 years – 2;
- children aged 16 to 18 years – 2.

All children participating in the survey moved from localities in Donetsk oblast. From among them, 6 persons were from the city of Donetsk, and 2 persons – from the town of Novoazovsk and 2 – from the town of Dokuchaievsk, 1 child – from the village of Oleksandrivka of Mariinskyi district.

More than 50% of children noted that ***the war was the reason of their move.***

Of the 11 children participating in the survey, 7 noted they were ***dissatisfied with the move from places of permanent residence.*** As ***the main reasons*** the following were named:

- someone from family stayed in the uncontrolled territory;
- many friends stayed at home;
- impossibility to live in own home.

Those children who indicated they were satisfied with the move, justified opinions as follows:

- almost all relatives live here;
- here we have cozy home and it is interesting here;
- here is no war.

All ***children surveyed moved*** either with the whole family (mother, father, brother, sister, grandparents) – 9 of the respondents, or with a family member (mostly with mother) – 2 of respondents. At that, 10 of 11 respondents noted that after moving all family members began to support each other or that the family atmosphere had not changed in connection with the move. One child wrote that after moving situation in the family worsened, family members started quarrelling.

Children actually do not have the information about the presence of obstacles related to the departure of the family from the permanent place of residence: Ten respondents indicated that there were no problems with the departure or they were unaware of such problems. Only one child said that there were some problems with document at the time of departure from the uncontrolled territory.

The positive is that all the children surveyed said that:

- they had no problems with the enrolment to school.

- teachers manifested good attitude to internally displaced children;
- at the new place of residence they obtained the medical treatment they needed.

What about the question on awareness of facts of violation of human rights, children's rights, 7 of 11 children surveyed reported that they were unaware of such facts. Answers of four respondents identified the following *facts of violation of children's rights in connection with military operations, which are known to the children to some extent*:

- obstacles to access to evacuation;
- obstacles to access to education.

As for the information provided by the mother of one child during her questioning:

- significant sum of money, "unbearable" for the family, collected for the needs of the class;
- the need to buy textbooks for the child at their own expense.

In addition, as *a fact of violation of the right of the right to medical care* it was mentioned that in one of hospitals of the town of Mariupol a doctor refused to examine her child who needed a consultation of a narrow specialist.

3 December 2015, Volodarskyi district of Donetsk oblast

The group of monitors also carried out a **questionnaire survey of 11 children from 3 schools in Volodarskyi district of Donetsk oblast**. Educational institutions, where the pupils participating in the survey study: Maloianisolska General Education School (urban-type settlement Maloianisol), Starchenkivska General Education School (urban-type settlement Starchenkove), "Sofia" gymnasium-school (the town of Volodarske).

At the time of the monitoring visit the district administration could not specify the total number of children from among internally displaced persons. In the schools visited, the said figure was as follows: Maloianisolska General Education School – 3 children, Starchenkivska General Education School (urban-type settlement Starchenkove) – 17 children, "Sofia" gymnasium-school (the town of Volodarske) – 12 children.

During *the interview with Volodarska S. H. (Deputy Head of the Department of Education of Volodarska District State Administration) and directors Shvedchenkova V. V. ("Sofia" gymnasium-school), Temir V. M. (Maloianisolska General Education School), Kyrei O. M. (Starchenkivska General Education School)* it was established, that currently the number children of internally displaced persons has decreased by several times compared to 2014-2015 school year. The reason for this is the fact that a significant number of families with children return to temporarily uncontrolled territories. Some number of families arranges their lives in the big cities.

Questionnaire survey covered 11 children and father of one child.

From among 12 children from the target group in “Sofia” gymnasium-school of the town of Volodarske, 4 children took part in the survey.

From among 17 children from the target group in the school of the village of Starchenkove, 5 children took part in the survey.

From 3 children from the target group in the school of the village of Maloianisol 2 children and father of one child took part in the survey.

In total **11 children participated in the survey**, 5 boys and 6 girls.

In terms of age groups:

- children aged 6 to 10 years – 1;
- children aged 11 to 15 years – 8;
- children aged 16 to 18 years – 2.

All children participating in the survey moved from localities in Donetsk oblast and the city of Luhansk. From among them 5 persons were from the city of Donetsk, 1 child – from the town of Dokuchaievsk, 1 child – from the village of Hranitne, 1 – from the village of Kozatske, 1 – from the village of Chervonohvardiika, and 1 – from the town of Mariupol. One child came from Luhansk.

More than 50% of children noted that ***the war was the reason of their move***.

Of the 11 children participating in the survey, 4 noted they were ***dissatisfied with the move from places of permanent residence***. As ***the main reasons*** the following were named:

- someone from family stayed in the uncontrolled territory;
- many friends stayed at home;
- impossibility to live in own home.
- regrets for the opportunities offered by a big city.

Those children who indicated they were satisfied with the move, justified opinions as follows:

- almost all relatives live here;
- obtainment of Ukrainian school living certificate will provide a possibility to enter an institute;
- here is no war.

All ***children surveyed moved*** either with the whole family (mother, father/step-father, brother, sister, grandparents) – 7 of the respondents, or with a family member (mostly with mother) – 2 of respondents. In 2 cases, the children moved to their relatives and parents stayed in the uncontrolled territory.

At that, 10 of 11 respondents noted that ***after moving*** all family members began to support each other or that the family atmosphere had not changed in connection with the move. One child pointed that mother was always crying after the move.

Children actually do not have the information about the presence of obstacles related to the departure of the family from the permanent place of residence: Nine respondents indicated that there were no problems with the departure or they were unaware of such problems. Only one child said that there were problems with documents at the time of departure from the uncontrolled territory. Another child noted that at the time of departure they came under fires.

The positive is that all the children surveyed said that:

- they had no problems with the enrolment to school.
- teachers manifested good attitude to internally displaced children;
- at the new place of residence they obtained the medical treatment they needed.

What about the question on awareness of facts of violation of human rights, children's rights, 6 of 11 children surveyed reported that they were unaware of such facts. Answers of five respondents identified the following *facts of violation of children's rights in connection with military operations, which are known to the children to some extent*:

- obstacles to access to evacuation;
- obstacles to access to education;
- forcing of a relative to participation in armed conflict on the side of the armed forces of DPR.

During the survey father of one child noted that school teachers and pupils welcomed his child. The child has friends among pupils and even asks to pick up him/her later to stay at school longer. Child is provided with textbooks. The child is taken to school by a motorcycle. The family is in a very difficult financial situation. Mother is on the leave to care for younger sister of the child, the father does not have work, gets by with temporary jobs. Due to the lack of money the family could not afford to pay for visiting of hobby groups by the child (dancing), despite the fact that it was obvious from conversation with the child that it could possibly be the occupation to distract the child from traumatic memories. According to the father, the family receives some humanitarian aid, which does not allow arranging everyday life of the family, which moved from their home without any belongings. Family does not have accommodation. Housing belonging to them has been destroyed.

During the visit to Maloianisolska school the monitors noticed insufficient material support of the medical aid station, where the survey of children was conducted.





Starchenkivska school does not have a medical aid station at all. Its absence is compensated by the fact that medical care for pupils is provided at the hospital nearby the school.

Director said that the school also did not have a school bus, so as all the pupils were from the village and there was no need to give someone a ride. However, the monitors drew attention to the large number of bicycles at the school. It indicated that it was not convenient for children to get to school (the length of the village was about 6 km).



4.3. Findings of the survey of children who moved from form ATO zone conducted by specialists of UHHRU public reception offices

Dates held: 5 November 2015 – 10 December 2015.

In total 47 children – internally displaced persons surveyed, 22 boys and 25 girls.

Age distribution of the children surveyed:

- 6 years old – 1 child;
- 7 years old – 3 children;
- 8 years old – 3 children;
- 9 years old – 4 children;
- 10 years old – 6 children;
- 11 years old – 3 children;
- 12 years old – 6 children;
- 13 years old – 8 children;
- 14 years old – 3 children;
- 15 years old – 6 children;
- 16 years old – 3 children;
- 17 years old – 1 child.

28 children *left* from the territory of Donetsk oblast (localities Donetsk, Makiivka, Yenakiiève, Horlivka, Opytne, Kominternove, Nyzhnia Krynka, Mariinka, Pavlopil, Vynohradne) and 16 – from the territory of Luhansk oblast (localities Luhansk, Alchevsk).







Photo: children in the course of survey

To the question “*Are you happy that you have left?*” 30 children who responded “yes”, 8 children responded “no”, being unhappy; 5 children although were not happy in particular, but regard the event with understanding as a necessity. Two children could not answer the question.

At the request to explain what exactly caused their attitude, among the responses of children who were *unhappy because of moving*, the reasons such as *losing social contacts* important for them (“close relatives (grandparents, uncle are left there)”); “friends are left”; “my friends, school are left at home”), *the absence of positive contacts in a new location* (“at school teachers are inadequate and evil”), and the loss of significant material valuables (“my toys left there”; “my stuff left at home”) dominated. Some children could not *clearly define the reason of their discontent*, and just pointed out that “it was better at home”; “I do not like to be here”; “It is bad here”. Instead, pupils who were *satisfied with their moving*, explained it with the *reasons of security* (“I’m safe”; “there were unfavorable living conditions”; “there was war”; “there was shelling, it was very scary”); *emergence of new prospects and new friends* (“here we have a place to live”; “I have an opportunity to continue my education”; “I have made new friends”; “I went to school, I have friends”; “Here I have many friends”; “I was hosted very well, everyone made friends with me at once”). Joy of the youngest children was induced by the fact they received new toys.

Among answers to questions *with what family member the children moved with* most of them stated that they travelled with their families (mostly incomplete composition and only one child indicated that entire family moved) or with other relatives. Thus, among the family members, with which the children moved, mothers

(37) take the first place, fathers – the second (20; several children reported that their fathers came later). Further there are brothers and sisters – 24 (moreover, some families appeared to be multiple children families), older family members (grandparents – 7); uncles with aunts (5). Two children reported that they moved with their friend, and one child – that they took their cat.

Regarding the *problems that they faced with during moving* out the respondents indicated the following: there were no problems – 15 children; “I don’t know” – 7 children; problems with documents – 1 child; problems with transport – 12 children; “we were shelled” – 14 children; “we were threatened” – 6 children; it was impossible to go to school – 4 children. Among the other children spoke about the following: “we travelled for a very long time”; “we had no money”; “we were told that should we leave, they would take away the house and it would no longer be ours”; “everyone was terrified, adults said that we should be careful, because the country is in war”.

What about the *problems which arose during the enrolment to new schools* pupils responded as follows: a) there was no problem (25 children); b) “I don’t know” (11 children); c) problems with documents (2); d) “they did not want to enroll me to one school, so we had to find another” (7); d) “at first they did not want to enroll me to this school, but finally they did it” (3).

Teachers’ attitude to them in new schools children generally assessed as positive, in particular: very well, assisting in training if necessary – 11 persons; good attitude – 11 persons as well; “they treat me moderately” – 8 persons; “I feel bad attitude (making fun of me, ignoring me)” – 10 persons; very bad attitude, nagging for no reason – 6 persons; no attitude – 2 children; everything happens: both very good and bad attitude – 1 child; they do not offend me – 1 child.

Assessment of *attitude to them on the part of other pupils* was as follows: “very good, I have a lot of new friends” – 6 children; “good, I have one or two new friends and with others we have good relations” – 23 children; moderate – 14 children; bad and very bad attitude (“they find fault, insult me, because I am a displaced person”) – 5 children; two children indicated that they do not like to be at school (“they all are evil, both teachers and classmates; they do not like us, displaced persons”; “it is very bad at school”).

Concerning the issue *how teachers react if other children laugh at you, bully or even beat you*, pupils told the following: “They do not react, they say that we are children and we will manage it ourselves” – 4 children; pretend that they know nothing about this, so as not to react – 4 children; they react only in words, but in fact nothing has changed – 10 children; once they found it out, they immediately stopped it, attracted a psychologist, parents – 9 children; “we resolve everything ourselves” – 1 child; such cases has never occurred – 12 children.

At the same time one girl wrote: “At first I was afraid to go to school after all insults and bullying, but starting from this academic year I go to another school, there are a lot of displaced persons, it is a bit better there, now we beat the locals”.

To the question *“how do you study at school”*, 6 children responded that they were excellent pupils; 10 – had mostly excellent and good marks; 16 – had mostly good and pass marks; 11 – had satisfactory success; 4 – studied poorly.

Regarding *the biggest challenges arising during the study*, 22 children indicated that teaching in the Ukrainian language was out of the ordinary way, so they did not understand a lot of materials; 7 children said that they were transferred from one school to another several times, and so they did not have time to get used to new situations. Among other answers there were the following: “another program, there is no support from the teachers’ part”; “it is hard to get used to and adapt to a new school”; “I fell far behind in studies, it was difficult to catch up with myself”; “explanations in the old school were better”. 9 children had no problems.

Most respondents do not have *serious health problems* at all (24), or their problems are not serious (4). The presence of health problems was identified by 8 children. In particular, the following problems were indicated: disability; *problems neurological and somatic nature* (“headache”, “blood pressure problems”, “stomach ache, nausea”, “I have sleep disorders, no humor, I really miss grandparents, friends”); *ENT problems; problems with the locomotive system* (back pain, scoliosis, flat foot, hip dysplasia) hematologic problems (anemia); *loop of vision*.

At the same time 17 pupils said that they had a possibility to receive the required medical assistance, if necessary; 12 said that they did not have such a possibility; 3 children did not know, because they had never appealed for medical assistance.

Regarding the issue *if their family situation has changed after their move* 14 children answered that “yes, the change is for better – everyone started to support each other”; 12 responded that “no, it has not changed, it remained as good, as it was before”; 4 noted that “no, it remained bad”; 6 – that “yes, it got worse – everyone started to quarrel”. In addition, children have paid attention to the increase in the parents’ workload, and as a result parents had less communication with children: “mother and father work harder, so they have to be more time at work”; “Dad goes to work to another city, I do not see him for a month”.

To varying extent the children became aware of the facts of the following *kinds of violations of the rights of their peer acquaintances in connection with military actions*:

- a) unlawful imprisonment – 3;
- b) the use of violence, abuse – 7;
- c) recruitment to armed groups – 6;
- d) forced participation in hostilities – 12;
- e) limitation or failure to provide appropriate treatment, nutrition – 9;
- f) refusal to evacuate – 10;
- g) inability to study properly – 14;
- h) failure to provide humanitarian assistance, inability to appeal to humanitarian organizations – 8;
- i) the children were left homeless; they are living without adult supervision – 6.

Among *their most significant problems* named *problems related to the educational process; problems in communication with peers; problems of material nature; difficulties in obtaining of the required medical treatment; frequent family quarrels*.

CONCLUSIONS AND RECOMMENDATIONS

1. The history of establishment of the children's rights concept demonstrates that creation and adoption of specific regulations on this issue by the international community began only in the first half of the twentieth century. And although the first acts were of declaratory in nature, they became the basis for further development of the regulatory framework and implementation of particular actions concerning establishment of standards for protection of children's rights at the end of the twentieth century. Now the international children's rights law is developing as an independent institute of international legal regulation and includes both the standards which determine the child's rights derived from the rights of adults (universal human rights and freedoms), and the standards defining juvenile rights in particular (rights that may belong exclusively to a child). At that *the category of issues requiring final resolution in the framework of international law may include such issues as: prohibition for call-up and recruitment to armed forces and participation in hostilities of children under the age of only 15; the exact definition of child labor; the right to early childhood education; the right of the child to choose a religion and the like.*

2. The adoption of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) allowed for children not only to obtain the status of persons whose rights are protected by adults, but equally with other participants of international relations to become subjects of international law. That is, children were assigned to the same list of inalienable rights that they may independently defend in the European Court of Human Rights. The subject matter of consideration of the ECtHR are various cases of children's rights violations, in particular *the right to education; child abuse; freedom of conscience; the right to freedom of expression and freedom of association; restrictions on the freedom of expression of their views; the right to receive and disseminate information for the purposes of protection of health or morals; protection from discrimination* and the like. At that the judgments of the ECtHR generally regard the concept of the "best interests" of a child as the main criteria of children's rights protection.

3. Protection of children involved in armed conflicts, due to the absence of a special agreement dedicated to children's issues, is currently regulated, firstly, by the rules of international law in the field of rights of the child; secondly, by the rules of general humanitarian law treaties, which focus attention both on adults and children; thirdly, by global and regional agreements governing actions of states both in peacetime and in situations of armed conflicts; fourthly, by the rules of customary international law. Although traditionally it is believed that the above mentioned rules establish the minimum standard of children's rights in armed conflicts, it should still be noted that, unfortunately, there is a conflict between them due to inconsistencies on establishment of higher and lower standards of the same issues. In addition, since children may be involved in armed conflicts both as civilians and as combatants, the legal status of civil children and children-combatants, respectively, differs. In the framework of modern international humanitarian law, six age stages of childhood have

been defined, each of which provides its own special rights and protection mechanisms. These are *newborns, infants, children up to the age of 7, children up to the age of 12, children up to the age of 15 and children aged 15 to 18.*

4. The basic principle – *the right to special respect and protection* – for children affected by an armed conflict is primarily concerned with providing them with food, clothing and hygiene products, as well as care for orphans and children separated from their families, treatment in the event of deprivation of liberty and distribution of humanitarian aid items. Important standards of international humanitarian law that protect children during armed conflicts, both of international and non-international nature, are *the prohibition of recruitment of children to armed forces or armed groups and the prohibition to allow children to participate in hostilities.*

5. Despite the existence of a wide range of laws governing various aspects of children's rights, today Ukraine has very few provisions of law establishing the peculiarities of legal regulation of children's rights under the conditions of armed conflict. Another problem is the fact that as of the present day in our reality no laws and regulations concerning protection of children's rights under the conditions of conduct of the Anti-Terrorist Operation, which would define in detail the procedures for their protection, have been developed and adopted, and in connection with this fact, in order to ensure the protection of children's rights, general provisions, which are not always adapted and often do not take into account the circumstances arising during armed conflicts, are applicable. *Provisions of the Criminal Code of Ukraine do not distinguish a separate category of crimes against children, and moreover, they do not contain specific formal elements for definition of crimes against children during armed conflicts.* The statistics from current reporting available to the general public regarding criminal offences, unfortunately, do not make it possible to determine precisely how many children have become victims of such offences and how many of them have been committed against children in Donetsk and Luhansk oblasts.

6. In order to avoid contradictions and to fully secure children's rights under the conditions of armed conflict, national legislation requires the implementation of the rules of international humanitarian law regarding the protection of children's rights, so as the dispersion of provisions concerning measures to protect children in the texts of the Geneva Conventions and their Additional Protocols, the lack of consistency in their presentation directly and quite negatively influence on compliance and adherence to these international agreements by member states. Also, for the implementation of these provisions of international humanitarian law *it is advisable to establish criminal responsibility for the recruitment and involvement of children in armed conflicts,* so as the existing articles of the Criminal Code of Ukraine do not cover these specific elements of crimes to the full extent, and accordingly, cannot fully protect children's rights during armed conflicts, creating the conditions for guilty persons to avoid criminal responsibility.

7. *Categories of children who are somehow connected with the conduct of the Anti-Terrorist Operation require legislative definition. This will contribute to the determination of their special status, and as a consequence it will contribute to their protection by putting clarity into their situation.* For example, it is possible to establish the concepts of “a child – the victim of an armed conflict”, “a child, which is in the area of an armed conflict” in the Law of Ukraine “On the Protection of Childhood”, and as a consequence, it is necessary to determine the conditions for their social protection and the authorities responsible for it. It is necessary to determine the ratio of such persons with the categories of children who need additional protection, children, separated from the family.

8. Beginning of the armed conflict in the east of Ukraine has shown the unwillingness both of public authorities and the leadership of illegal groups of the so-called “DPR” and “LPR” to take effective measures to protect the rights of civilian population in general and of children in particular, provided for in the rules of international law. Thus, for four months, the mass evacuation of residents from the area of combat operations carried out at their own risk and peril or with the help of volunteers. But even in a year after that the local peaceful population of Donetsk and Luhansk oblasts willing to leave the zones of hostilities, faced with various forms of attempts to restrict their evacuation from the temporarily occupied territories to the territories controlled by Ukraine. Indeed, *the deaths and wounding of children, who were trying to leave the dangerous territory with their families and obstruction to the evacuation of children who were wards of the state were recorded. The fate of 21 minors who were kept in institutions of the State Penitentiary Service of Ukraine, located in Donetsk and Luhansk oblasts, for public bodies remains unclear.* In addition, there have been cases of *illicit transfer of children supported by Ukraine to the territory of Russia.*

9. Because of the placement of military equipment and presence of military personnel in the territory of hospitals, school and pre-school education institutions, as well as carrying out of indiscriminate shelling of the area, facilities of education and healthcare sectors were significantly damaged. The lack of reaction from the part of official authorities regarding the organization of education for children from affected localities in the territory controlled by Ukraine resulted in a situation where children were forced to leave to study in Russia or to study in schools located within the uncontrolled territories. The essential problem for the parents of the said children was the question, whether such educational documents of their children would be recognized in Ukraine. Currently the Ministry of Education and Science of Ukraine *has introduced the procedure for enrolment of pupils from the ATO territory to external or distant modes of study, and has established the procedure for enrolment in the absence of nationally recognized documents.* Complete information about this is posted on the official website of the Ministry.

10. The results of the monitoring showed that in general children’s rights under the conditions of armed conflict are respected. In particular, the quality of school

premises, provision with textbooks and the quality of teaching at school are adequate. Children give satisfactory assessment to relationships with teachers and other pupils. Problems identified in the course of monitoring include the following:

- absence of possibility to have enhanced studying on subjects, to develop artistic and athletic abilities;
- lower quality of education in schools where displaced children study, including due to the lack of teachers in certain disciplines (in particular, the settlements of Krymske, Trokhizbienka do not have specialists in the English language) or teaching of disciplines by non-specialists in these subjects;
- limited opportunities for obtaining the required specialist treatment;
- problems with nutrition;
- the problem of child abuse both at school and in the family environment.

11. Among *the most significant problems* identified by the surveyed children *the issues related to the military operations in the east of Ukraine* dominate (children have fears and concerns associated with the war, they deeply miss their friends or relatives who have left because of combat operations or they have been taken from the occupied territory themselves; they manifest discontent with the behavior of the soldiers of Ukrainian army). In addition, the children pointed to the existence of *problems of material nature* they are concerned with (financial difficulties in the family, problems with the infrastructure affected by combat operations). They are also concerned with own health problems or health problems of their close relatives; problems in relationships with peers; problems with studying; emotional stress in connection with their future.

The presence of this set of problems requires the involvement of professional psychologists in the field of elimination of consequences of post-traumatic stress disorders in the work with children; the intensification of activities of social workers regarding reintegration of the most vulnerable categories of forcibly displaced person – orphans, children deprived of parental care, families with children who found themselves in hardship. In general, the scope of support for children and their families who are victims of war remains imperfect and requires the development of the state policy aimed at resolving of the following issues:

- expansion of a range of services for IDP and the population in the zone of armed conflict;
- proper adaptation of the rehabilitation techniques of other countries having the experience of armed conflicts to domestic conditions, taking into account the ethnic and socio-cultural characteristics of victims;
- public procurement of professional social and psychological services, including from specialists of international and non-governmental organizations;
- raising psychological culture among the population regarding the perception of different types of social assistance.

The regulatory framework for distance schooling

According to part 3 of Article 9 of the Law of Ukraine “On General Secondary Education”

3. General education institutions may arrange in its composition classes (groups) with an evening (part-time), distant mode of study, classes (groups) with enhanced studying of specific subjects, special and inclusive education classes for children with special educational needs.

Regulation on distance learning was approved by the Order of the Ministry of Education and Science of Ukraine dated 25 April 2013 No. 466 and registered with the Ministry of Justice of Ukraine on 30 April, 2013 under No. 703/23235.

1.4. The aim of distance learning is the provision of educational services through the use of modern information and communication technologies in the teaching and learning process according to specific educational or education and qualification levels in line with the state educational standards; according to programs for training of citizens to entrance in education institutions, training of foreigners and professional development for employees.

1.5. The objective of distance learning is to ensure the opportunity of citizens to exercise their constitutional right to education and professional qualification, professional development irrespective of gender, race, nationality, social and property status, type and nature of occupation, philosophical persuasions, membership in parties, attitude to religion, faith, health condition, place of residence in accordance with their abilities.

2.1. Distance learning is implemented through:

- application of distant mode as a separate mode of study;
- application of distance learning technologies in order to provide the study in various forms.

2.2. Introduction of distant mode of study in higher and professional educational establishments is possible in coordination with the Ministry of Education and Science of Ukraine.

Distance learning in general education institutions, vocational-technical schools shall be introduced in accordance with the decision of the teachers council, agreed with the education authority governing the relevant education institution (hereinafter referred to as the education authority) (for education institutions in municipal and state ownership), and in the presence of personnel and system and engineering support, identified by the GEI pursuant to section V of this Regulation.

2.4. For the arrangement of distance learning general education institutions can create in its composition classes (groups) with distant mode of study in coordination with the education authority.

Distance education shall be arranged according to working curriculum of the general education institution, which is approved by the order of the head of the general education institution in coordination with the education authority.

Distance learning is arranged for pupils (wards) who:

- cannot attend classes in the general education institution for any reason (health condition, living beyond the walking accessibility to the general education institution, emergency situations of natural or man-made origin, armed conflict, staying (living) abroad (for Ukrainian citizens) or within the temporarily occupied territory of Ukraine, or in localities, on the territory of which public authorities temporarily do not exercise their powers or exercise the said powers partially, etc.);
- according to the results of the latest annual assessment of educational achievements have mastered the program material of the corresponding grade at a high level (10, 11, 12 grades).

Enrolment (transfer) to distant mode of study shall be completed upon the written request of an adult person and/or parents (one parent) or legal representative of a minor. Submission of the relevant applications of pupils (wards) from graduation grades of the GEI ends prior to the beginning of the second semester. Decision regarding pupil's (ward's) studying according to the distant mode is taken by the teachers council and shall be formalized with the order of the head of the GEI.

The decision regarding the continuation of pupil's (ward's) learning according to the distant mode subject to annual consideration by the teachers council of the GEI when promoting the pupil (ward) to the next grade.

In the event of termination (absence) of reasons (circumstances), identified in items 3 – 5 of this paragraph, a pupil (ward), upon the decision of the teachers council of the GEI ceases studying under distant mode of study and may, according to his/her own decision (in the case of attaining majority) and/or the decision of the parents (one parent) or legal representative and in accordance with the law can continue general secondary education under any other mode of study in the same GEI or in another educational establishment belonging to the system of general secondary education in the community.

2.9. Distance learning technologies can be used in higher and professional educational establishments, vocational-technical schools, GEI during the arrangement and provision of full-time, evening, part-time, individual and external modes of study upon condition of availability of the appropriate personnel and system and engineering support.

2.10. The decision on the use of distance learning technologies in the educational process of GEI, vocational-technical schools, higher and professional educational establishments is taken by the scientific (teachers) council of the education institution.

3.1. The educational process under the distant mode of study is carried out in the following forms: self-directed learning; academic studies; practical exercises.

3.2. The main types of academic studies according to distant mode of study include: lecture, seminar, lesson, practical exercises, laboratory practicals, tutorials and others.

3.3. Lectures, tutorials, seminars, lessons are conducted with students (pupils, attendees) remotely in synchronous or asynchronous mode, in accordance with the curriculum.

3.4. Obtainment of training materials, communication between the subjects of distance learning during training sessions conducted remotely, is provided via transmission of video, audio, graphic and text information in synchronous or asynchronous mode.

3.5. Practical exercise, which provides for completion of a number of practical (control) tests, is performed remotely in synchronous or asynchronous mode. Separate practical tasks can be performed in a synchronous mode that is determined by the curriculum of the relevant discipline.

3.6. Laboratory practical is performed on-site in specially equipped training laboratories or remotely using appropriate virtual simulators and laboratories.

3.7. Other types of training sessions in the implementation of the educational process may include business games, preparation of projects in groups and so on. These types of training sessions can be conducted on-site or remotely in synchronous or asynchronous mode, which shall be identified by the curriculum of the relevant discipline.

3.8. Practical training of students (pupils, attendees) enrolled to the distant mode of study is conducted according to a program, separately approved by the education institution.

3.9. Supervisory measures on the discipline (subject) in the implementation of training of specialists under distant mode of study in GEI, vocational-technical schools, higher and professional educational establishments include formative assessment (concerning a topic, module), the summative assessment and the other types of assessment of knowledge and skills, acquired by a student, pupil (ward), attendee in the course of study, which shall be identified by the relevant GEI, vocational-technical school, higher and professional educational establishment.

All supervisory measures in GEI, vocational-technical schools, higher and professional educational establishments may be taken in accordance with the decision of the education institution remotely using information and communication technologies, in particular of videoconferencing, upon condition of providing authentication of the student, or on-site.

3.10. State attestation in the course of training the specialists according to distant mode of study is held in accordance with Article 7 of the Law of Ukraine “On Higher Education”.

3.11. State qualification attestation in the course of training of qualified working staff according to distant mode of study learning is carried out in accordance with the Regulation on the qualification attestation procedure and awarding qualifications to persons obtaining vocational technical education, approved by order of the Ministry of Labor and Social Policy of Ukraine, the Ministry of Education of Ukraine dated 31 December, 1998 No. 201/469, registered with the Ministry of Justice of Ukraine dated March, 1999 under No. 124/3417.

3.12. State final assessment of pupils (wards) is held in accordance with the Regulation on the state final assessment of pupils (wards) in the system of general secondary education, approved by the Ministry of Education and Science of Ukraine

of 30 December, 2014 No. 1547, registered with the Ministry of Justice of Ukraine dated 14 February, 2015 under No. 157/26602.

4.1. In GEI the use of distance learning technologies is focused primarily on the following categories of pupils (wards):

- persons with special needs;
- gifted children and youth who are able to study independently or to master educational programs faster;
- people living in geographically remote localities or where it is difficult to get access to GEI;
- students of evening schools who, due to working conditions, stay outside the locality where the GEI is situated, for long time, and pupils whose for family reasons (maternity leave, etc.) do not provide for regular attendance of school;
- individuals who wish to gain additional knowledge in parallel with studying at school;
- individuals preparing to enter higher educational establishments;
- Ukrainian citizens temporarily or permanently residing abroad.

4.2. Distance learning technologies can be used in GEI when holding training sessions via the Internet during the quarantine; when studying additional (optional) subjects; teaching pupils during illnesses; performing scientific and research works at the Small Academy of Sciences of Ukraine; participation in distance contests, academic competitions; for tutorials, etc.

4.3. The list of subjects or topics of educational programs, types of training sessions that are taught with the use of distance learning technologies, shall be determined by the GEI in agreement with the legal representatives of the pupil (ward).

5.1. Scientific and methodological support of distance learning includes:

- methodological (theoretical and practical) recommendations for developing and implementing pedagogical and psychological and information and communication technologies of distance learning;
- criteria, means and quality control systems of distance learning;
- informative, educational and methodological content of web-resources (distance courses) of curriculum/educational problem of training.

5.2. Pedagogical and academic staff and teaching methodology experts of education institutions, where distant mode of study has been arranged, shall improve their skills for the arrangement and use of distance learning technologies (at least once every 5 years and no less than 108 hours). Qualification of employees who improved their skills shall be confirmed with the document on professional development on the subjects of distance learning.

5.3. System and engineering support of distance learning includes:

- hardware (personal computers, network equipment, uninterruptible power supplies, servers, equipment for videoconferencing, etc.) to ensure the development and use of web-resources for educational purposes, educational

- process management and appropriate types of educational interaction between participants of distance learning in synchronous asynchronous modes;
- information and communication support with the channel capacity, which provides all participants of distance learning of the educational institution with the round-the-clock access to web-resources and web-services for the implementation of the educational process in synchronous and asynchronous modes;
 - software for general and special purposes (including for persons with special needs), which shall be licensed or built on software products with open source codes;
 - web-resources for training disciplines (programs), which are necessary for the support of distance learning, may include:
 - methodological recommendations for their use, the sequence for completion of tasks, specifics of assessment, etc.;
 - documents of the educational process planning (educational programs, training and thematic plans, timetables);
 - video and audio recordings of lectures, seminars;
 - multimedia lecture materials;
 - terminological dictionaries;
 - practical tasks with the methodological recommendations for their resolving;
 - virtual laboratory works with the methodological recommendations for their performance;
 - virtual simulators with the methodological recommendations for their use;
 - packages of tests to conduct assessment measures, testing with automated checking of the test results, testing with subsequent checking by the teacher;
 - business games with the methodological recommendations for their use;
 - electronic library or links to them;
 - bibliographies;
 - distance course that combines the above mentioned web-resources for the discipline (program) with the single pedagogical scenario;
 - other resources for educational purposes.

The list of web-resources for the disciplines (programs) necessary for the support of distance learning shall be determined by the relevant education institution depending on the profile of the discipline.

For the purposes of support of distance learning for students, pupils, wards and attendees an education institution may create its own web-resources or use other web-resources that shall be subject to checking in this institution.

The list of schools that are supporting the distance learning is posted on the website of the Ministry of Education of Ukraine.

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