



UKRAINIAN CHILDREN UNDER RUSSIAN CONTROL: ADDRESSING ABDUCTION DEPORTATIONS, REPATRIATION, AND JUSTICE

Policy Brief

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This document is prepared by a group of experts from South Africa and Ukraine in support of the African peace mission to Ukraine and Russia, with the aim to support the defending mechanisms for children in current armed conflicts on the African continent and beyond.

1. INTRODUCTION

1.1. In a war, children are the first victims.

The armed conflicts have irreplaceable impacts on children. International legislation, such as the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocol on the Involvement of Children in Armed Conflict, protects children during armed conflicts. The UNCRC mandates safeguarding children from violence, abuse, and exploitation, while the Optional Protocol prohibits the recruitment of children under 18 in hostilities. The Geneva Conventions and their Additional Protocols require humane treatment of children, family reunification, and necessary care. The Rome Statute of the International Criminal Court classifies the use of children under 15 in hostilities as a war crime. These frameworks prioritise the rights and well-being of children, including those in war.

Children's rights have always been a priority for the continent, which has the youngest population. The African Union has established the African Charter on the Rights and Welfare of the Child (ACRWC) as the primary legislation to protect children across the continent. Adopted in 1990, the ACRWC provides a comprehensive framework for safeguarding children's rights, including protection from violence, exploitation, and discrimination. It emphasises the right to education, healthcare, and a safe environment conducive to the child's physical, mental, and social development.

Unfortunately, despite the developed legislation, the number of armed conflicts and children that are affected remains high.¹ Children's matters have to be addressed urgently as childhood cannot be relived. However, many existing international and regional mechanisms are often not swift enough to effectively defend children facing immediate threats. Strengthening and expediting these mechanisms is essential to ensure timely protection and support for vulnerable children worldwide.

1.2. African Peace Mission

The Russian invasion of Ukraine in 2014 and its subsequent full-scale invasion in 2022 have added multiple pressures on the African continent. The high-level Africa Peace Mission was formed in 2023, marking the first mission by African states to address a conflict outside the continent. The mission reflects Africa's growing role in global peacekeeping efforts and underscores the interconnectedness of international conflicts on regional stability and security strategies.

The leaders from seven countries introduced a “10-point”, which indicates a willingness to work together on resolving the conflict and addressing humanitarian issues. The peace mission placed special emphasis on returning Ukrainian abducted children. South African President Cyril Ramaphosa, in his remarks to the press following the meeting with Russian authorities, stated:

*“there should be confidence-building measures that could create a sense of confidence towards the resolution of this conflict. In this regard, we said issues such as the children who were removed from Ukraine should be returned”.*²

¹ Armed Conflict Survey 2023. IISS. 2023 <https://www.iiss.org/publications/armed-conflict-survey/>

² “Zelensky tells Ramaphosa the African peace mission is bearing fruit”, Amanda Khosa, Business Day, accessible at: https://www.businesslive.co.za/bd/world/americas/2023-09-19-zelensky-tells-ramaphosa-the-african-peace-mission-is-bearing-fruit/#google_vignette.

The African plan is closely related to the Ukraine peace formula suggested by the Ukrainian president in November 2022 (Table 1), which works as a platform for collaboration between states. On 15-16 June 2024, as an important step towards finding peace, the Global Peace Summit in Switzerland, also known as the Summit for Peace in Ukraine among 101 countries and international organisations, there were numerous representatives from the African continent.³ The children's rights issues were addressed in the Summit Communique, signed by over 90 countries countries:

'All deported and unlawfully displaced Ukrainian children, and all other Ukrainian civilians who were unlawfully detained must be returned to Ukraine.'

Table 1. Ukraine Peace Formula proposed by Ukrainian President V. Zelensky⁴

1. <u>Radiation and nuclear safety</u> , focusing on restoring security around Europe's largest nuclear power plant, Zaporizhzhia in Ukraine, which is now Russian-occupied.
2. <u>Food security</u> , including protecting and ensuring Ukraine's grain exports to the world's poorest nations.
3. <u>Energy security</u> , with a focus on price restrictions on Russian energy resources, as well as aiding Ukraine with restoring its power infrastructure, half of which has been damaged by Russian attacks.
4. <u>Release of all prisoners and deportees</u> , including war prisoners and children deported to Russia.
5. Implementation of the UN Charter and <u>restoration of Ukraine's territorial integrity</u> and the world order
6. Withdrawal of Russian troops and the cessation of hostilities, the <u>restoration of Ukraine's state borders</u> with Russia.
7. <u>Justice</u> , including the establishment of a special tribunal to prosecute Russian war crimes.
8. Immediate <u>protection of the environment</u> and the prevention of ecocide, with a focus on demining and restoring water treatment facilities.
9. Prevention of an escalation of conflict and <u>building security architecture</u> in the Euro-Atlantic space, including guarantees for Ukraine.
10. <u>Confirmation of the war's end</u> , including a document signed by the involved parties.

³ As of 11 July 2024, thirteen African states have signed the Summit Communique: Benin, Cabo Verde, Comoros, Côte d'Ivoire, Gambia, Ghana, Kenya, Liberia, Republic of Malawi, Republic of Mauritius, Sao Tomé and Príncipe, Somalia, and Zambia

⁴ Ukraine's Peace Formula Philosophy. President Zelenskyy Peace Formula. Nov 2022. https://www.president.gov.ua/storage/j-files-storage/01/19/53/32af8d644e6cae41791548fc82ae2d8e_1691483767.pdf

1.3. Key objectives of this policy brief

- Highlight **successful measures implemented by African states** in returning and re-integrating children affected by deportation and abduction during armed conflicts.
- Identify **gaps in international instruments** concerning unlawful deportation, transfer, abduction, and adoption of children, with a focus on providing recommendations for improvement.
- Present a detailed **case study on the unlawful deportation and transfer of Ukrainian children by the Russian authorities**, emphasising the grave human rights violations committed against children in armed conflicts globally.
- Advocate for **African states to lead** efforts in preventing and addressing violations of children's rights in global armed conflicts, supported by recommendations for regional and international action.

2. Case Study: Unlawful removal, abduction and transfer of Ukrainian children by the Russian Federation

2.1. Abduction of Ukrainian children by Russian authorities

As of June 2024, Russian agents have unlawfully and forcibly deported and transferred 19,546 Ukrainian children from Ukraine⁵ to 57 regions of the Russian Federation: from Rostov to Murmansk, Astrakhan, Siberia, Vladivostok, as well as to Belarus and even occupied South Ossetia.⁶ Among these children, 3,790 are orphans and children deprived of parental care.⁷ Under Russian control, Ukrainian children are placed in foster families or orphanages. At least 380 minors were put under guardianship,⁸ and 78 children⁹ were adopted by Russian citizens. The personal data of these children were altered, including their first name, last name, date, and place of birth.¹⁰ This alteration significantly complicates their identification and reunification with their families of origin and caregivers. While placed in orphanages, deported orphans and children are included in the regional database of children without parental care, the information from which is reflected in the unified federal database of the Russian Federation. It allows families from any part of Russia to adopt Ukrainian children following the usual procedure in accordance with Russian legislation. The core purpose of the unlawful and forcible deportation and transfer of Ukrainian children is to eradicate their national identity and instead assume a pan-Russian identity. They are forced to take on Russian citizenship, their Ukrainian documents are destroyed, and they are re-educated, indoctrinated, and militarised.

Already in 2014, after the invasion of Crimea and of eastern parts of Ukraine, Russia began the process of unlawful abduction and illegal adoption of Ukrainian children. 12 cases of forced transfer of Crimean orphans to Russian families were reported in 2014. 43 orphans were adopted in 2015. Children were deported by their “new parents” to the Krasnodar and Trans-Baikal regions, as well as the Leningrad region. The Trans-Baikal region is located more than 7 thousand kilometres from Crimea and has significantly different, rather harsh climatic conditions and cultural features. The same processes of deportation and adoption before the full-scale invasion took place in Donetsk and Lugansk regions.

Russian authorities abducted children that can be classified into three main categories (Table 2): children deported together with a legal representative who might be acting not in a child’s best interest; unaccompanied children and children separated from their parents.

5 The Children of War” platform Updated in July 2024 <https://childrenofwar.gov.ua/>

6 Stenogram of the 529th meeting of the Russian Federation Council. September 28, 2022, available in Russian at <https://docs.google.com/document/d/1YzLsandGTZVKvkh15-xUPt0IqtjMWf6hoa4dIjPGKM/edit?usp=sharing>

7 ‘Round Table Deported Ukrainians in “temporary accommodation points” - a place of stay or new camps?’ 30 Oct 2023 <https://www.youtube.com/watch?v=xtx7-HgJ694>

8 Bulletin on the protection of children’s rights. Issue No. 2. October, 2023 [In Russian] <https://deti.gov.ru/Deyatelnost/documents/258>

9 “They may start to oppose” Russian authorities are afraid of children forcibly taken from Ukraine. They are trying to “re-educate” them and put them under strict digital control. Meduza investigation. 11 March 2023 <https://meduza.io/feature/2024/03/11/oni-mogut-nachat-protivodeystvovat>

10 Missing Ukrainian child traced to Putin ally. BBC. 23 November 2023 <https://www.bbc.com/news/world-europe-67488646>

Table 2: Categories of affected children

1. Children deported together with a legal representative, some of them acting against the child's best interest
2. Unaccompanied children, including but not limited to:
• orphans and children deprived of parental care
• children who were in boarding institutions due to difficult life circumstances
• minors whose parents' fate is unknown
• children with disabilities
• minors held in camps or sanatoriums for the purpose of "re-education"
• children transferred for medical intervention
3. Children in the occupied territories of Ukraine who have been separated from their parents due to military operations or at the filtration camp (This group falls into two legal categories: unaccompanied children and separated children)

2.2. Russian legislation to abduct Ukrainian children

Russian authorities have been notably transparent about their actions concerning Ukrainian children. For instance, the meeting between Vladimir Putin and Commissioner for Children's Rights Maria Lvova-Belova on March 9, 2022, was broadcast on national television. During the meeting, Putin emphasised the integration of Ukrainian children into Russian society and advocated for changing their citizenship without consent.¹¹ On May 30, 2022, Vladimir Putin signed a decree to streamline the adoption process for Ukrainian orphans and children without parental care, granting them Russian citizenship.¹² This legislation allows for changes to the citizenship and personal data, including names, surnames, and dates of birth, without consent. The decree facilitates the permanent placement of Ukrainian children in Russian families, effectively integrating them into Russian society and reducing the likelihood of their return to Ukraine.

The Russian government created a register of Russian families that can adopt Ukrainian children and a hotline for those interested in adopting children from Donbas. Adoptive families receive a cash payment for each Ukrainian with the Russian citizenship they adopt.¹³

¹¹ <http://en.kremlin.ru/events/president/news/67949>

¹² Amendments to executive order on categories of persons with right to apply for Russian citizenship under simplified procedure. May 30, 2022 <http://en.kremlin.ru/acts/news/68476>

¹³ El Deeb, Sarah; Shvets, Anastasiia; Tilna, Elizaveta (13 October 2022). "How Moscow grabs Ukrainian kids and makes them Russians". Associated Press. <https://apnews.com/article/ukrainian-children-russia-7493cb22c9086c6293c1ac7986d85ef6>

2.3. International response to the abduction of Ukrainian children

The openness of the Russian authorities about the abduction of Ukrainian children resulted in a response from international institutions. In March 2023 the International Criminal Court, considering the scale of unlawful deportation and forcible transfer and their long-term negative consequences, issued arrest warrants against the President of the Russian Federation, Vladimir Putin, and the Commissioner for Children's Rights under the President of the Russian Federation, Maria Lvova-Belova.¹⁴ The unlawful displacement and unjustifiable delay in repatriation were recognised as reaching the threshold of war crimes by the International Commission of Inquiry on Ukraine.¹⁵ Cases of abduction and deportation of Ukrainian children were confirmed and condemned by the Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict.¹⁶ The UN Security Council has repeatedly discussed the unlawful displacement of Ukrainian children, the imposition of Russian citizenship on them, and their transfer to Russian families. However, due to Russia's veto, it did not adopt any resolution that could improve the situation of Ukrainian children and ensure their reunification with their families. Deportations, forcible transfer, and Russification of Ukrainian children have been condemned at the regional level, particularly by the Organization for Security and Co-operation in Europe (OSCE)¹⁷ and the EU¹⁸. The Parliamentary Assembly of the Council of Europe recognised such acts as genocide.¹⁹

In the judgment of the International Court of Justice on January 31, 2024, in the case of eradication of racial discrimination, initiated by Ukraine's complaint against Russia in 2017, it was recognised that Russia violated its obligations under Articles 2(1) and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination due to restrictions on access to school education in the Ukrainian language.²⁰ The UN Committee on the Rights of the Child reached a similar conclusion in its concluding observations.²¹

On June 25, 2024, the European Court of Human Rights held that there had been a violation of Article 2 of Protocol No. 1 to the Convention on account of an administrative practice of suppression of the Ukrainian language in schools and persecution of Ukrainian-speaking children at school.²²

14 Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova 17 March 2023 <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>

15 A/HRC/52/CRP.4: Conference Room Paper of the Independent International Commission of Inquiry on Ukraine 29 Aug 2023. paras. 722-725 https://www.ohchr.org/sites/default/files/2023-08/A_HRC_52_CRP.4_En%20%28003%29.pdf

16 Children and armed conflict. Report of the Secretary-General A/78/842-S/2024/384 3 June 2024 <https://www.un.org/unispal/wp-content/uploads/2024/06/n2409507.pdf>, paras. 327, 334

17 OSCE Moscow Mechanism, 'Report on Violations and Abuses of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity, related to the Forcible Transfer and/or Deportation of Ukrainian Children to the Russian Federation'. OSCE. 4 May 2023. <https://www.osce.org/odihr/542751>

18 Deportation of Ukrainian children by Russia: joint statement. 1 June 2023 https://reliefweb.int/report/ukraine/deportation-ukrainian-children-russia-joint-statement-enuk?gad_source=1&gclid=CjwKCAjwkJm0BhBxEiwAwT1AXJcvKogd7MkL3dTnV-u00U1fBO46B-UDHeQCbIDL1uOn8DZg_0UuIhoCubwQAvD_BwE

19 Resolution 2529. Situation of the children of Ukraine. PACE. 2024. <https://pace.coe.int/en/files/33348/html>

20 Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation). ICJ. 31 Jan 2024 <https://www.icj-cij.org/case/166>

21 Concluding observations on the combined sixth and seventh periodic reports of the Russian Federation. UN Convention on the Rights of the Child. Mar 1, 2024 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FRUS%2FCO%2F6-7&Lang=en

22 Case of Ukraine v. Russia (Re Crimea) (Applications nos. 20958/14 and 38334/18) 25 Jun 2023 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-234982%22>

2.4. Russian state policies to erase national identity and militarise

Alongside unlawful deportations and forcible transfers to Russian families, Russia has consistently sought to **erase the national identity** of Ukrainian children. Russian compulsory education aims to forcibly impose on Ukrainian children a pan-Russian identity.²³ Minors are fostered in a spirit of patriotism for the Russian Federation as their homeland, while their Ukrainian or other national origins are ill-spoken of to get the children to develop deep hatred towards Ukraine.

Via educational materials shared with abducted children, they are encouraged to perform military duty in the ranks of the Russian armed forces as the highest expression of patriotism to their 'new motherland'. **International law prohibits propaganda for war in education and pressure to enlist the occupied population into the occupying army.**²⁴

Moreover, Ukrainian children are recognised by the occupying power exclusively as Russian citizens because there is no dual citizenship agreement between Ukraine and Russia. At the same time, Russian citizenship imposes several obligations on children and their legal representatives, particularly Russian patriotic upbringing and education,²⁵ service in the armed forces of the Russian Federation after reaching the age of majority,²⁶ etc.

Russian citizenship is needed mainly for what was discussed during the March 9, 2022 meeting in the Kremlin between Vladimir Putin and Maria Lvova-Belova - to simplify the transfer of Ukrainian children to Russian families. According to Commissioner Lvova-Belova, there are already 380 such children.²⁷ However, the process is ongoing. The last case of the transfer of a 7-year-old Ukrainian boy to the family of a Russian soldier, a participant in the so-called special military operation, was recorded in December 2023.²⁸

Russia uses Ukrainian children to gather intelligence, and once they reach adulthood, recruits them into its army. For example, Bohdan Yermohin was 16 when he was deported to Russia from Mariupol. He was placed with a foster family in Moscow Oblast, and in October 2023, a month before his 18th birthday, he received a conscription notice. After two unsuccessful attempts to escape from Russia by himself, Bohdan managed to contact the media and human rights lawyers,

²³ Education under Occupation HRW. Jun 20, 2024 <https://www.hrw.org/report/2024/06/20/education-under-occupation/forced-russification-school-system-occupied-ukrainian>

Review on the restriction of the functioning of the Ukrainian language in the temporarily occupied territories of Ukraine. State Language Protection Commission. Feb 2021 <https://mova-ombudsman.gov.ua/en/review-ukrainian-language-temporarily-occupied-territories-extract>

²⁴ International Covenant on Civil and Political Rights, December 16, 1966, GA Res. 2200 (XXI), art. 20(1-2); Geneva Convention IV (1949), art. 51.

²⁵ Federal Law N 273-FZ (ed. dated June 22, 2024) "On Education in the Russian Federation." Art 44 [In Russian] https://www.consultant.ru/document/cons_doc_LAW_140174/60fe09c87bb91e8dc7f6b7bd271f0a70597bdd28/

²⁶ "Constitution of the Russian Federation" Art 59 [In Russian] https://www.consultant.ru/document/cons_doc_LAW_28399/5004a75d54e54d5824c87ac2b96954f252610504/

²⁷ Children's Rights Bulletin. Issue #2. The Russian Federation Presidential Commissioner for Children's Rights. October 2023 <https://deti.gov.ru/Deyatelnost/documents/259>

²⁸ The family of a Pskov paratrooper took a child from an orphanage, taken from the Donetsk region. In Ukraine, the military is accused of killing civilians. Vazhnye Istorii Jan 26, 2024 [In Russian] <https://istories.media/news/2024/01/26/semya-pskovskogo-desantnika-usinovila-rebenka-vivezennogo-iz-donetskoi-oblasti-v-ukraine-voennogo-obvinyayut-v-ubiistvakh-mirnikh-zhitelei/>

who helped him to raise international awareness about his situation. With the support of the UN Children’s Fund, UNICEF, and authorities in Qatar, Bohdan managed to return to Ukraine and reunite with his sister on the day of his 18th birthday.²⁹

One of the tools of indoctrination and **militarisation** of Ukrainian children is their transfer to so-called re-education camps. The ‘re-education camps’ form a part of the aggressor state’s policy, aimed at completely erasing Ukrainian national identity.³⁰ Such camps operate with the support of the Russian Ministry of Education and the Ministry of Education and Science. They seek to assimilate Ukrainian children, transforming them into loyal Russian citizens. ‘Re-education’ involves the temporary separation of Ukrainian children from their families, followed by displacement and detention in closed institutions. Here, they are instructed according to Russian educational standards and undergo patriotic and military training under the guidance of Russian soldiers. The network of such institutions includes a hundred camps in Russia, occupied Ukraine, and Belarus.

The majority of the Russian families who fostered Ukrainian children are raising orphans from the Russian Federation, known as ‘resource families,’ which allowed the Russian government to involve them in the implementation of forcible transfers. The most prominent category of individuals who have established illegal guardianship over Ukrainian children are educators under the control and influence of principals, local education departments, and ministries. The majority of Ukrainian children forcibly transferred to Russian families belong to the 14-17 age group. Additionally, there are 71% more boys than girls in this age category.³¹ This indicates a specific intent to deport children from Ukraine’s territory who could potentially replenish the mobilisation reserve of the opposing State upon reaching the age of majority while simultaneously attempting to bolster their armed forces through re-education.

Raising these children by Russian citizens, as well as political indoctrination, Russification, and militarisation in the education system, which the Ukrainian children are obliged to receive, is a violation of several articles at once of the United Nations Convention on the Rights of the Child, and also have elements of discrimination and a crime against humanity. As explained by a Venezuelan diplomat in the United Nations Sixth Committee debates on the Genocide Convention, the forcible transfer of children to a group where they would be given an education different from that of their group, and would have new customs, a new religion and probably a new language, was in practice tantamount to the destruction of their group, whose future depended on that generation of children.³²

29 Qatar-UN mediation returns orphaned Ukrainian teen home after Russia ordeal. Aljazeera. 20 Nov 2023 <https://www.aljazeera.com/news/2023/11/20/qatar-un-mediation-returns-orphaned-ukrainian-teen-home-after-russia-ordeal>

30 University shift Gertsensky university for Donetsk students 27.07.22 <https://centercoop.ru/press-tsentr/novosti/universitetskie-smeny-gertsenovskogo-universiteta-otkrylis-dlya-donetskikh-shkolnikov/>

31 https://www.facebook.com/photo?fbid=688525446767796&set=pcb.688537093433298&locale=uk_UA

32 <https://www.jurist.org/commentary/2022/04/laurie-blank-russia-invasion-ukraine-genocide/>

Russian authorities are violating their human rights obligations by suppressing the Ukrainian language and injecting propaganda into educational curricula in occupied Ukrainian territories.³³ Children are forbidden to speak and learn the Ukrainian language and attend Ukrainian schools online to prevent the preservation and manifestation of their Ukrainian identity. At the same time, the right to preserve one's identity is a prerequisite for exercising all human rights for children.

In the judgment of the International Court of Justice on January 31, 2024, in the case of eradication of racial discrimination, initiated by Ukraine's complaint against Russia in 2017, it was recognised that Russia violated its obligations under Articles 2(1) and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination due to restrictions on access to school education in the Ukrainian language.³⁴ The UN Committee on the Rights of the Child reached a similar conclusion in its concluding observation.³⁵

On June 25, 2024, the European Court of Human Rights held that there had been a violation of Article 2 of Protocol No. 1 to the European Convention on Human Rights on account of an administrative practice of suppression of the Ukrainian language in schools and persecution of Ukrainian-speaking children at school.³⁶

2.5. Returning Ukrainian children

As of June 2024, only 715 children were returned from territories controlled by Russia despite significant obstacles put in place by Russian authorities. This accomplishment results from the collaborative endeavours of non-governmental organisations and Ukrainian state bodies.

Several competent authorities of Ukraine are involved in the process of returning children from the Russian Federation: the Ministry of Reintegration of Temporarily Occupied Territories, the Office of Ukrainian Parliament Commissioner for Human Rights, the Prosecutor General's Office of Ukraine, and the State Migration Service. The primary role of government agencies in reuniting separated children with their families is to gather information about those who have been deported and facilitate the processing of necessary documents for their return. Additionally, the Commissioner for Human Rights maintains contacts with the Russian side through third States, including Qatar and the Vatican. In May 2023, the 'Bring Kids Back UA' initiative was presented - a 7-step plan for the return of Ukrainian children. The Office of the President of Ukraine carries out control over its implementation.

³³ Education under occupation. Human Rights Watch Report. Jun 20, 2024 <https://www.hrw.org/report/2024/06/20/education-under-occupation/forced-russification-school-system-occupied-ukrainian>

³⁴ Judgement in the case 166 - Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russia). Jan 31, 2024 <https://www.icj-cij.org/index.php/node/203486>

³⁵ Concluding observations on the combined sixth and seventh periodic reports of the Russian Federation. UN Convention on the Rights of the Child. 1Mar 2024

³⁶ Case of Ukraine v. Russia (Re Crimea) (Applications nos. 20958/14 and 38334/18) 25 Jun 2023 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-234982%22>

Active participation in the existing schemes for the return of unlawfully deported and forcibly transferred children is undertaken by non-governmental organisations, particularly Save Ukraine and the Ukrainian Child Rights Network. These NGOs organise trips to Russian-controlled territories, offer legal and psychological support, cover financial costs, and assist with the rehabilitation of children after their return. Instances exist where these NGOs work with parents directly and accompany them into Russian-controlled territories and mainland Russia, where children are being kept. In the case of Serega Kravchuk, his mother, and a journalist travelled to Russia to return her son.³⁷

Unlawful deportation and forcible transfer are accompanied by the imposition of Russian citizenship on Ukrainian children. The Russian Federation authorities claim that this is strictly a humanitarian action.³⁸ But legislative changes made by the Russian authorities to facilitate this as well as the treatment of Ukrainian children who have had Russian citizenship imposed on them, do not back up this claim. Following a thorough examination of Russian citizenship legislation,³⁹ it is clear that if high-ranking officials in the Russian Federation intended to act solely for humanitarian reasons, laws would have been enacted to facilitate medical care as well as remove barriers to education and social benefits rather than amendments to legislation for the simplified imposition of Russian citizenship.

2.6. Children with special abilities

Children with disabilities continue to be disproportionately affected by the conflict between Ukraine and Russia. Of the 19 546 Ukrainian children that have been illegally and forcefully deported to Russia, there are unfortunately no accurate statistics on what percentage of those children are with disabilities. The lack of statistics is not a problem that is unique to the Russia-Ukraine conflict; global disability statistics are inaccurate, and this illustrates to us the fact that persons with disabilities are often 'invisible' on a global scale in the record of casualties. Children with disabilities who have been illegally and forcefully abducted to Russia are unlikely to receive the reasonable accommodations they require to fully and actively participate in society on an equal basis with others. The United Nations Convention on the Rights of Persons with Disabilities (CRPD), which both Ukraine and Russia have ratified, requires that states provide reasonable accommodation measures to ensure the promotion of equality and the prevention of discrimination.⁴⁰ With regards to the right to education, the CRPD requires that States, as much as possible, provide individualised reasonable accommodation measures.⁴¹ Moving children out of their country and homes disrupts their support system and is a gross violation of rights enshrined in the CRPD.

³⁷ Ivleva, V. 'The trip of Ukrainian boy to the Russian Paradise and Back'. Radio Svoboda. Dec 23, 2023 [In Russian] <https://www.svoboda.org/a/puteshestvie-ukrainskogo-malchika-v-rossiyskiy-ray-i-obratno/32741918.html>

³⁸ The Russian Woman Accused of 'Stealing' Ukrainian Children. Interview Vice News. May 1, 2023 <https://www.youtube.com/watch?v=Ei4xLdv2gYE>

³⁹ ICC Communication. RCHR and Lemkin Institute. Oct 25, 2022 <https://www.lemkininstitute.com/ukraineproject/icc-communication>

⁴⁰ Art 5 of the CRPD.

⁴¹ Art 24 (2c) of the CRPD.

In February 2024, **the International Coalition for the Return of Ukrainian Children** was officially launched in Kyiv. The Coalition aims to coordinate joint efforts and cooperation between Ukraine and partner states to address the issue of the unlawful deportation and forced transfer of Ukrainian children by the Russian Federation.⁴² This Coalition is a mechanism to support the return of Ukrainian children with the help of other states.

2.7. Unified legal return mechanism

Only a unified legal return mechanism is capable of ensuring the repatriation of every unlawfully deported or forcibly transferred child in Ukraine and in other conflicts on the African continent. This system should be consistent with existing international rules and practices, as well as ensure that the aggressor is prevented from committing future international crimes against children and their legal representatives. To build such a framework, the entire international community must work together.

The mechanism for the return of children abducted from Ukraine, should involve several interrelated processes, such as:

- Identification of children and determination of their whereabouts.
- The development of an individual return trajectory is based on assessing the child's best interests.
- Ensuring proper repatriation from Russia to and proper reintegration in Ukraine.

The external dimension of this mechanism entails the adoption of a UN General Assembly resolution outlining obligations regarding the repatriation of Ukrainian children. This resolution would address existing gaps in international humanitarian law concerning the return of specific categories of survivors, particularly orphans and children deprived of parental care. Building upon this resolution, legally binding international agreements should be established with the involvement of a third party acting as a coordinator, mediator, and guarantor of the repatriation process.

There is also a need to develop the institutions that are part of the international legal system and have a child at the core of its design.

⁴² https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/response_conflict-reponse_conflits/crisis-crisis/ukraine-children-enfants.aspx?lang=eng

3. Measures successfully implemented on the African Continent relating to the return and reintegration of children subjected to abduction during armed conflicts

During the implementation of each of the outlined processes, attention should be given to best practices derived from the experiences of other States in armed conflicts, adapting them to the Ukrainian context.

Regarding detection and identification, emphasis should be placed on the importance of close inter-agency collaboration and mutual reinforcement between national authorities and international organisations. Close cooperation in the 1990s resulted in the reunification of tens of thousands of Rwandan children with their families after the crisis in the Great Lakes Region in Africa. In 1995, the Inter-agency Working Group on Unaccompanied and Separated Children was established, bringing together key organisations with experience in addressing the issues of children separated from their families.⁴³

In the process of identification, reliance should be placed on local communities, churches, and volunteer organizations. Similar practices have proven effective in other States experiencing armed conflicts. For example, Angola's Norms for the Resettlement of Internally Displaced Populations (2001)⁴⁴ required provincial authorities responsible for social assistance and reintegration to identify children separated from their families. These authorities were also tasked with creating a database of photos of separated children and sharing the information with other provinces to facilitate reunification.

The importance of adopting the UN General Assembly Resolution on Obligations in the Repatriation of Ukrainian Children cannot be overstated, given its potential as a model document for the return of children and the reunification of families affected by armed conflicts in other regions of the world. However, if achieving the adoption of the Resolution at the UN General Assembly level proves unattainable, efforts should be directed towards developing and implementing a similar document in other international platforms. This could include specialised UN institutions such as the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), the UN Refugee Agency (UNHCR), or other international governmental or non-governmental organisations.

For instance, on June 27, 1994, the International Committee of the Red Cross (ICRC), OHCHR, UNICEF, and the International Federation of the Red Cross and Red Crescent Societies (IFRC) collaborated to draft and publish a joint declaration of principles. This declaration emphasised the significance of family reunification and the proper accounting of all evacuated children separated from their relatives. Notably, the declaration stressed the importance of not presuming that unaccompanied children in refugee camps in Rwanda or Burundi were orphans. It advocated for a ban on adopting such children for at least two years, during which active and effective measures to locate relatives should be implemented.⁴⁵

⁴³ Inter-agency Guiding Principles on Unaccompanied and Separated Children. ICRC. Jan 2004 https://www.icrc.org/en/doc/assets/files/other/icrc_002_1011.pdf

⁴⁴ Human Rights Watch report on Angola. 2003 <https://www.hrw.org/reports/2003/angola0803/5.htm>

⁴⁵ RCHR. 'Way Home: Mechanism and policy framework for the return of illegally deported and forcibly transferred children.' 2023 <https://krymbezpravil.org.ua/en/analytics-en/mechanism-and-policy-framework-for-the-return-of-illegally-deported-and-forcibly-transferred-children/>

In the context of repatriation and third-party arrangements, it should be emphasised that this role can be played not only by a State or a group of States but also by an international organisation or its agency. For example, in the early 2000s, UNHCR negotiated with the governments of Eritrea and Sudan regarding the organisation and implementation of an operation for the voluntary repatriation of citizens of both States, the vast majority of whom were children and women.

The return of children must be followed by rehabilitation and reintegration. In this context, the experience of Sierra Leone regarding the initiatives undertaken to rehabilitate and reintegrate children affected by the decade-long civil war (1991-2002) is highly appreciated by the Africa Platform on Children Affected by Armed Conflicts (AP CAAC) and is particularly valuable for consideration and adaptation.⁴⁶

The development and implementation of a unified legal repatriation mechanism will ensure the immediate and unconditional return of abducted children, as well as Ukrainian children abducted by the Russian authorities, which will meet their best interests and unique needs. Today African Union states and Ukraine can work together to receive approval for the unified return mechanism, more than ever before, needs the support of the African Union states to achieve this immediate goal.

The return of every Ukrainian child must be accompanied by rehabilitation and reintegration in Ukraine. This process must take place separately and in parallel with the prosecution of persons guilty of international crimes against Ukrainian children.

⁴⁶ The Africa Platform on Children Affected by Armed Conflicts undertook a Lessons-learning mission to Sierra Leone on the Rehabilitation and Reintegration of Children affected by Armed Conflicts. 2023 <https://au.int/en/pressreleases/20230913/africa-platform-children-affected-armed-conflicts-undertook-lessons-learning>

4. Recommendations: Africa-led change in developing effective measures to identify and repatriate children abducted by Russia from Ukraine

- The African countries possess important experiences in managing and ensuring the identification, return, rehabilitation, and reintegration of abducted children (e.g. Rwandan genocide, Sierra Leone, Sudan, Democratic Republic of Congo, and the Boko Haram conflict in Nigeria and others). Lessons should be drawn from the UN and the European Union from such similar (conflict) occasions to ensure the return of the abducted children from Ukraine.
- As one of the steps, the UN General Assembly Resolution on “International obligations concerning the repatriation of children” might be adopted. While non-binding, the participation of as many states as possible will contribute to diplomatic pressure on all countries that abduct children from another country, including Russia. Such a resolution would reaffirm the international community members' commitment to their obligations to protect children in armed conflicts under international human rights law and international humanitarian law.
- Ukrainian children abducted by Russia are pressured to change their identity and undergo militarisation. These changes might be irreversible as the children have been in the system for almost three years. Immediate action is needed to return all children. The African Union and African states can support the return of over 19.5 thousand Ukrainian children by joining the International Coalition for the Return of Ukrainian Children.
- It is strongly recommended that the African Union proposes to the United Nations and the global community that an Institution with binding powers similar to that of the International Court of Jurists pronounce on issues around juvenile justice. This mechanism should be a standalone structure and different from the UN Committee on the Rights of the Child and the African Children’s Committee. However, they should inter-relate, and this new mechanism should act as a platform for an appeal if the recommendations of the Committees are not adhered to by State parties, the United Nation’s Convention on the Rights of the Child and the African Charter and other Rights and Welfare of the Child.⁴⁷ In the current cases where children have been abducted, e.g. Nigeria, Ukraine, Democratic Republic of Congo, South Sudan and Somalia, it is further recommended that – this structure should:
 - immediately demand a comprehensive list of the names and whereabouts of all children who have been transferred to the territory of the occupying state;
 - immediately designate a separate official institution responsible for receiving and transmitting data on protected persons under its jurisdiction, including Ukrainian children or, in cases of children abducted by terrorist organisations such as Boko Haram, be transferred to the territory of the countries of origin;

⁴⁷ <https://krymbezpravil.org.ua/en/analytics-en/mechanism-and-policy-framework-for-the-return-of-illegally-deported-and-forcibly-transferred-children/>

- develop and implement clear and transparent procedures for family reunification, relevant international governmental and non-governmental organisations to create and ensure the effective operation of a unified legal mechanism for the return and/or reunification with their families;
 - implement a binding mechanism that calls to immediately stop cooperation with the country that imposes automatic citizenship on children, like Russia is doing with Ukrainian children.
- More knowledge should be shared between Ukrainian and African civil society organisations on conflict management and negotiating the return of abducted children during conflicts.
 - African States shall continue respecting and implementing international law judgements, including the ICC arrest warrants against Vladimir Putin and Maria Lvova-Belova, and call all international partners to do the same.
 - African Parliaments should intentionally and purposefully pronounce and prohibit through the adoption of laws the abduction of children during conflicts in Africa and support Ukraine in its call on Russia to stop the transfer of Ukrainian children and the alteration of their citizenship and national identity.

The authors of this document include:

Dr Elvis Fokala, Centre for Human Rights, Faculty of Law, University of Pretoria

Dr Mispa Roux, Centre for Human Rights, Faculty of Law, University of Pretoria,

Sabeeha Majid, Centre for Human Rights, Faculty of Law, University of Pretoria

Moyahabo Thoka, Centre for Child Law, Department of Private Law, Faculty of Law, University of Pretoria

Kateryna Rashevskya, Regional Centre for Human Rights

Oleksandra Romantsova, Centre for Civil Liberties

Dzvinka Kachur, Ukrainian Association of South Africa

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The platform for expert collaborations was initiated by the Institute of Justice and Reconciliation, the Desmond and Leah Tutu Legacy Foundation, the Democratic Initiatives Foundation (DIF), and the Ukrainian Association of South Africa (UAZA).

The topics and experts involved:

Regional Security Architecture and Just Peace - power disbalance of the countries with the veto rights at the UN Security Council and under-representation of the African continent.

Experts from the following institutions involved: the Institute of Justice and Reconciliation, Political Department of the University of Cape Town, Centre for Sustainability Transitions, Stellenbosch University, Democratic Initiatives Foundation, National University of Kyiv-Mohyla Academy

Nuclear safety - risks related to the occupation of the Zaporizhzhia Nuclear Power Station.

Experts from the following institutions involved: South African Institute of International Affairs, Dixi Group, Centre for Sustainability Transitions, Stellenbosch University

Forceful deportation of children – which international and regional mechanisms can be used to prevent children's unlawful and forceful deportation and transfer to Russian territories, and how the national identity of children can be protected during the war.

Experts from the following institutions involved: the Centre for Human Rights, the Centre for Child Law, the Regional Centre for Human Rights, and the Centre for Civil Liberties

If you have suggestions or recommendations about the topics presented in these case studies, please do not hesitate to contact Dzvinka Kachur at info@uaza.co.za

Appendix: Provisions of International Instruments the Russian Federation Violates when (1) Deporting Ukrainians (Adults and Children), (2) Re-educating and (3) Illegally Adopting

The Russian Federation has committed and continues to commit a vast number of war crimes and crimes against humanity. One of the most massive crimes was the abduction of Ukrainian citizens from the occupied regions to the territory of Russia and Belarus.

General rules relating to all aspects

- Article 3 of the Convention on the Rights of the Child
- Position of the UN Committee on the Rights of the Child
- General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (clause 6)
- General Comment №6 of Committee on the rights of the child «Treatment of unaccompanied and separated children outside their country of origin» (clause 20)
- Article 17 of the International Covenant on Civil and Political Rights,
- Article 12 of the Universal Declaration of Human Rights
- the Convention on the Rights of the Child: Article 5; Article 9; Article 12; Article 24; Article 38
- Article 24 of the International Covenant on Civil and Political Rights
- Article 10 of the International Covenant on Economic, Social and Cultural Rights
- Article 77 of Additional Protocol (I) to the Geneva Conventions of 1949

Deportation and repatriation

- Geneva Convention (IV) of 1949: Article 14; Article 17; Article 49
- Additional Protocol (I) to the Geneva Conventions of 1949: Article 85(4)(a); Article 78
- Article 37 of the Convention on the Rights of the Child
- Geneva Convention (IV) of 1949: Article 7, 36, 132; Article 147
- Article 85(4)(a) of Additional Protocol (I) to the Geneva Conventions of 1949,
- the Roman Statute: Article 7(1)(d); Articles 8(2)(a)(vii), 8(2)(b)(viii); Article 8(2)(b)(viii)
- ICTY, Prosecutor v. Krnojelac, IT-97-25-T, Trial Chamber, Judgment, 15 March 2002, para 475
- Article 11 of the Convention on the Rights of the Child
- Article 85(4)(b) of the Additional Protocol (I) to the Geneva Conventions of 1949,

Identification and family reunification

- the Additional Protocol (I) to the Geneva Conventions of 1949: Article 78; Article 74
- Geneva Convention (IV) of 1949: Article 24; Article 25; Article 50; Article 50, 136-137; Article 30, 142-143; Article 26
- the Convention on the Rights of the Child: Article 22; Article 10; Article 9; Article 8
- Position of the UN Committee on the Rights of the Child
- General Comment №6 of Committee on the rights of the child «Treatment of unaccompanied and separated children outside their country of origin» (clause 13)

Adoption

- Article 50 of Geneva Convention IV of 1949
- Article 21 of the Convention on the Rights of the Child
- Article 6(e) of the Roman Statute
- Article 2(e) of the Convention on the Prevention and Punishment of the Crime of Genocide

Educational block

- Article 13 of the International Covenant on Economic, Social and Cultural Rights,
- the Convention on the Rights of the Child: Article 28; Article 27; Article 17; Article 20
- Article 1 of the Convention against Discrimination in Education
- the Convention on the Rights of the Child: Article 30; Article 29; Article 8; Article 31; Article 14
- Position of the UN Committee on the Rights of the Child
- General Comment №6 of UN Committee on the rights of the child «Treatment of unaccompanied and separated children outside their country of origin» (clause 42)
- Geneva Convention (IV) of 1949: Article 24; Article 50
- Article 20 of the Convention on the Rights of the Child
- Article 70 of Additional Protocol (I) to the Geneva Conventions of 1949
- the Roman Statute: Article 7(h); Article 6(e)
- The Prosecutor vs. Radislav Krstic, Judgement, IT-98-33-T, 02 August 2001, The International Criminal Tribunal for the former Yugoslavia. Para 580
- Article 2(e) of the Convention on the Prevention and Punishment of the Crime of Genocide

Cultural and National Identity

- Article 1 of the International Covenant on Economic, Social and Cultural Rights