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Situation of the children of Ukraine

Report[1]
Committee on Social Affairs, Health and Sustainable Development
Rapporteur: Ms Olena KHOMENKO, Ukraine, European Conservatives Group and Democratic Alliance

Summary

No Ukrainian child has been spared by the war. Ukrainian children, who are particularly vulnerable victims, should never be used as means of exerting pressure, or as war trophies. The report emphasises that all Ukrainian children have the right to enjoy the rights and freedoms enshrined in relevant international human rights instruments and that the rights and best interests of the child must prevail in decision-making concerning them.

The report expresses particular concern about the fate of children forcibly transferred and deported to the temporarily occupied territories of Ukraine, the Russian Federation, and Belarus. As of today, the "Children of War" platform run by the Ukrainian Government states that it has collected information on more than 19 546 children which have been signalled to the platform as having been deported or forcibly transferred from various locations, and only 388 of whom have returned home.

The report highlights the need for enhanced co-operation among various existing parties and mechanisms to pool efforts for the return of children, relying in particular on third-party intervention which can offer guarantees of impartiality and effectiveness. It is crucial to have access to the territories of the Russian Federation, Belarus, and occupied territories of Ukraine, in order to speed up the process of identification, location and repatriation of deported and forcibly transferred Ukrainian children. The Assembly should commit itself to continuing its role as a facilitator, and consider what Assembly structure or mechanism(s) could be used to support the Ukrainian authorities and the different international actors and organisations in determining the most rapid means to identify and facilitate an effective search for children, on the basis of access to as much information as possible about their identity and the conditions of their deportation or forcible transfer.

1. Reference to committee: Bureau decision, Reference 4784 of 22 January 2024.

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A. Draft resolution[2]

1. Recalling its Resolution 2495 (2023) “Deportations and forcible transfers of Ukrainian children and other civilians to the Russian Federation or to temporarily occupied Ukrainian territories: create conditions for their safe return, stop these crimes and punish the perpetrators,” the Parliamentary Assembly firmly reiterates its condemnation of the full-scale war of aggression being waged by the Russian Federation against Ukraine and the massive violations of the rights of Ukrainian children, who are particularly vulnerable victims of this war. Children should never be used as means of exerting pressure, or as war trophies.

2. No child in Ukraine has been spared by the war, and the Assembly emphasises that all Ukrainian children have the right to enjoy the rights and freedoms enshrined in relevant international human rights instruments and that the rights and best interests of the child must prevail in all decision making concerning them.

3. The Assembly expresses its gratitude to the member States of the Council of Europe that have put in place good conditions to welcome Ukrainian children, some benefiting from the temporary protection system granted by the European Union countries.

4. The Assembly emphasises the essential need for these children to receive education and healthcare, including mental health support, that are tailored to their specific situation, to maintain their connections with their language and culture, which will facilitate their future return to Ukraine, taking into account the best interests of the child.

5. In this regard, the Assembly supports the Council of Europe Consultation Group on the Children of Ukraine and stands ready to fully co-operate in the activities of this group.

6. The Assembly welcomes Ukraine's efforts to return deported or forcibly transferred children, including the implementation of the “Bring Kids Back UA” action plan and the creation of the International Coalition of Countries for the Return of Ukrainian Children contained in President Zelenskyy's Peace Formula.

7. The Assembly recognises Ukraine's commitment to protecting vulnerable children, including by establishing the Child Rights Protection Centre, which operates under the supervision of the Ukrainian Parliament Commissioner for Human Rights and addresses issues related to documenting crimes against children subjected to forcible transfer and deportation, assesses the needs of children, places them in family-based care, if necessary, and undertakes other actions aimed at their reintegration.

8. The Assembly is particularly concerned about the fate of children forcibly transferred and deported to the temporarily occupied Ukrainian territories, the Russian Federation, and Belarus. These practices constitute war crimes, crimes against humanity and, as noted by the Assembly in its Resolution 2482 (2023) “Legal and human rights aspects of the Russian Federation’s aggression against Ukraine”, possible genocide, since acts “such as killings and forcible transfer of children of one group to another group for Russification purposes through adoption by Russian families and/or transfer to Russian-run orphanages or residential facilities like summer camps” could fall under Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

9. The Assembly deplores and condemns the deportations and forcible transfers of Ukrainian children, practices which are fundamentally contrary to international law, in particular Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War and the Additional Protocol relating to the Protection of Victims of International Armed Conflicts, to which the Russian Federation and Ukraine are signatories.

10. As of today, the “Children of War” platform run by the Ukrainian Government states that it has collected information on more than 19 546 children which have been signalled as having been deported, or forcibly transferred from various locations, and only 388 of whom have returned home.

11. The Assembly notes that the longer time passes, the more the chances of finding these children diminish, potentially leading to the irreversibility of their situation. It emphasises the particular vulnerability of orphans who have no support or legal representation. The dramatic consequences on the mental and physical health and well-being of children are crystallising. The citizenship and name of these children have sometimes been changed by Russian authorities. Some have been adopted illegally. Many are untraceable and have no means of contact with their country or their family. All have been subjected to some form of indoctrination, and a new culture and a new language have been imposed on them. Children have experienced psychological

2. Draft resolution adopted unanimously by the committee on 23 January 2024.

and/or physical aggression. These acts constitute violations of their rights to preserve their identity, including nationality, name, and family relations, to express their views freely, as well as the right to education and to enjoy their own culture as guaranteed by the United Nations Convention on the Rights of the Child.

12. In view of these elements and the urgency of putting an end to these crimes, the Assembly reiterates its call on the Russian Federation and Belarus to immediately cease these illegal deportations, detention, and forcible transfers of children and to facilitate the return of children as soon as possible and under the best possible conditions.

13. The Assembly welcomes the discussions and conclusions arising from the meeting held by the *ad hoc* committee of its Bureau on 15 December 2023 in Paris, which focused on the return of Ukrainian children forcibly transferred and deported to the temporarily occupied Ukrainian territories, Russian Federation, and Belarus, as well as on the situation of children temporarily residing under the protection of Council of Europe member States and other host countries.

14. Consequently, the Assembly reiterates its call on the Russian Federation and Belarus to:

14.1. cease immediately and unconditionally these practices of deportation and forcible transfer to the temporarily occupied Ukrainian territories, the Russian Federation, and Belarus, stop the transfer of Ukrainian children for adoption or foster care, stop the imposition of Russian citizenship and name changes, and restore contact between these children and their parents or carers, or, in cases of loss of parents or carers, the competent Ukrainian authorities, with a view to their immediate repatriation to their home land or to release them to a safe third country;

14.2. provide the Ukrainian authorities or a third party (a State or an international organisation) with comprehensive and reliable information about the number and the whereabouts of Ukrainian children in this situation, their names and surnames, their origin and the destination of the deportation, in order to ensure their safe return to Ukraine;

14.3. provide representatives of the relevant United Nations bodies and other international humanitarian intervention and human rights protection organisations, such as the United Nations International Children's Emergency Fund (UNICEF), United Nations High Commissioner for Refugees, United Nations High Commissioner for Human Rights, and other competent UN agencies, and the International Committee of the Red Cross (ICRC) with unhindered, immediate and safe access to the children.

15. The Assembly considers that ensuring the return of deported and forcibly transferred children to Ukraine, especially in cases where family reunification is impossible, is in line with the principle of the best interests of the child.

16. The Assembly calls on member States as well as observer States and States whose parliaments enjoy observer or partner for democracy status with the Assembly, as well as on the entire international community acting in good will, and their diplomatic services to:

16.1. adopt, at the level of national parliaments, statements and/or resolutions condemning the war crimes against children and recognising deportations, forcible transfers, and unjustifiable delay in repatriation of Ukrainian children, including orphans, children deprived of parental care, and other unaccompanied children under the control of the Russian Federation, as a crime of genocide, while emphasising the need for the swift return of deported and forcibly transferred children to Ukraine in line with the principle of the best interests of the child;

16.2. make every effort to trace the fate of the thousands of missing children, namely to identify, locate and return them to Ukraine, and to reunify them with their parents and carers;

16.3. support Ukraine in its efforts to document and establish the situation of each child, including the identification of deported or forcibly transferred orphans, children with disabilities, and children deprived of parental care, and to establish a substantiated, comprehensive, and usable list of missing children;

16.4. collaborate with the law enforcement authorities of Ukraine and establish mechanisms for documenting cases of forcible transfers and deportation of Ukrainian children;

16.5. have recourse to instruments of universal jurisdiction to record the facts of crimes committed, ensure justice, and create the conditions to prevent that similar crimes occur in the future, and employ various forms of international legal co-operation to exchange data on the facts of forcible transfers and deportation of Ukrainian children;

16.6. inform the competent authorities of Ukraine, via a duly-designated partner authority in each country, in cases of border crossings by citizens of the Russian Federation who have unlawfully adopted or established guardianship over a Ukrainian child, with the aim of returning that child to the territory of Ukraine;

16.7. provide political, logistical, and financial support for the establishment of an effective, rapid, and safe legal mechanism for the identification, tracing, and repatriation of children, and to strengthen co-ordination with all relevant Ukrainian national institutions and the Ukrainian Parliament Commissioner for Human Rights;

16.8. provide comprehensive support to the competent Ukrainian governmental and non-governmental organisations dealing with such categories of children as internally displaced, those in need of institutional care, orphans, children of fallen soldiers and veterans, and those physically and psychologically affected by war, in particular in their efforts to secure full access to education and healthcare, including physical and psychological rehabilitation, and reintegration;

16.9. impose and further comply with sanctions against the Russian Federation and Belarus, as well as to include in the sanctions lists individuals involved in the deportation, forcible transfer, and unjustifiable delay in repatriation of Ukrainian children;

16.10. assess, via their competent national authorities, the participation of journalists or other media representatives in propaganda campaigns organised by the Russian Federation or Belarus concerning Ukrainian children deported and forcibly transferred by the Russian Federation, with a view to applying appropriate measures in such cases, for example as regards refusal of accreditation and of access to public events;

16.11. foster a full exchange of information concerning Ukrainian children in institutional care and ensure close co-operation in this respect between the competent authorities of Ukraine and the member States.

17. The Assembly emphasises the need for enhanced co-operation among various existing mechanisms, including civil society, to pool efforts for the return of children, relying in particular on third-party intervention which can offer guarantees of impartiality and effectiveness. In this respect, it calls on the various organisations whose neutrality-based mandate allows them to gain access to the territories of the Russian Federation, Belarus, and occupied territories of Ukraine, to contribute to the process of identification, location and repatriation of deported and forcibly transferred Ukrainian children and to work closely with Ukraine and all States which could facilitate the return of children.

18. In this regard, the Assembly is committed to continuing its role as a facilitator, including by considering what Assembly structure or mechanism(s) could be used to support the Ukrainian authorities and various international organisations, such as the ICRC, in determining the most rapid means to identify and facilitate an effective search for children, with access to as much information as possible about their identity and the conditions of their deportation or forcible transfer by the Russian Federation.

B. Draft recommendation[3]

1. The Parliamentary Assembly refers to its Resolution … (2024) “Situation of the children of Ukraine”. It welcomes the setting up of the Council of Europe Consultation Group on the Children of Ukraine, whose mandate covers unaccompanied and separated minors arriving in the member States of the Council of Europe, children evacuated from residential care facilities and accompanied by adults, and children accompanied by a parent or caregiver.

2. The Assembly recommends that the Committee of Ministers establishes a mandate of Special Rapporteur on the situation and return of Ukrainian children deported and forcibly transferred by the Russian Federation and Belarus. The Rapporteur's mission should include proposals to facilitate the return of all children of Ukraine, considering their best interests, especially orphans and children deprived of parental care, including siblings, and all unaccompanied children who are currently under the control of the Russian Federation.

3. The Assembly recommends that the Committee of Ministers creates and ensures the functioning of a joint registry of individuals who have been included in the sanctions lists of Council of Europe member States, as well as in the EU sanctions list, in connection with their involvement in the deportation, forcible transfer, unjustifiable delay in repatriation of Ukrainian children as well as in unlawful adoption or establishment of guardianship over Ukrainian children. Such a registry would serve the purpose of harmonising sanctions policy and monitor and enhance the effectiveness of the imposed restrictive measures.

4. The Assembly recommends that the Committee of Ministers pays due consideration to the specific educational, medical, and social needs of Ukrainian children. It recognises Ukraine's commitment to transitioning from a system based around institutional care to one which seeks to ensure every child's right to be raised in a family environment. It recommends that, when implementing its Strategic Framework, the Council of Europe member States which are party to the Partial Agreement on the Council of Europe Development Bank (CEB) consider the establishment of a comprehensive joint programme between Ukraine and the CEB aimed at addressing the individual needs of Ukrainian children in the arrangements for their rehabilitation, reunification with families or placement in family-based care, and their reintegration into their home country, implemented by the Ukrainian competent authorities in accordance with relevant international standards.

3. Draft recommendation adopted unanimously by the committee on 23 January 2024.

C. Explanatory memorandum by Ms Olena Khomenko, rapporteur

1. Current situation on the issue of deported children: developments since April 2023

1. I refer to the facts described in the report of Mr Paolo Pisco (Portugal, SOC) on "Deportations and forcible transfers of Ukrainian children and other civilians to the Russian Federation or to temporarily occupied Ukrainian territories: create conditions for their safe return, stop these crimes and punish the perpetrators" which was debated during the April 2023 part-session of the Parliamentary Assembly and led to the adoption of Resolution 2495 (2023) and Recommendation 2253 (2023).

2. Developments since April 2023 unfortunately only confirm the findings of this report: children have been deported and forcibly transferred to the Russian Federation or Ukrainian territories temporarily occupied by the Russian Federation, practices constituting war crimes, crimes against humanity and genocide.[4] Additional information indicates that children have also been deported to Belarus or with the assistance of Belarusian authorities. A report from the Yale School of Public Health Research Laboratory dated 16 November 2023, shows Belarus' collaboration with the Russian Federation in the displacement and indoctrination of thousands of Ukrainian children, including on Belarusian territory. Furthermore, this report shows the central involvement of political, security, civil society, and business figures in Belarus in the systematic deportation and re-education of thousands of children from Ukraine.

3. While the exact number of children concerned remains uncertain, according to the "Children of War" platform managed by the Ukrainian government, more than 19 546 children are classified as "deported", only 388 of whom have returned home (according to the National Information Bureau of Ukraine).

4. There are several major problems in the process of children's return:

– Time, given that each new day moves children further away from the possibility of returning as Russian authorities change the identity of Ukrainian children;

– The Russian side keeps requesting for additional documents that are difficult to provide for parents or carers who want to pick up the children;

– The return of orphans who have no relatives in Ukraine is particularly difficult. Given that orphans are under the care of the Ukrainian State, the concept of family reunification cannot be taken as the only principle; ensuring the right to identity as guaranteed by the UN Convention on the Rights of the Child must then prevail;

– The return process may also be hampered by changes in the child's location, status and personal data;

– Children and their parents might have no accommodation to return to because their home is either under occupation or destroyed;

– Children living in the occupied territories or deported to the Russian Federation or Belarus have missed significant periods of education and require considerable support in this respect (tutors, enrolment in educational institutions, etc.);

– Rehabilitation and psychological assistance are an essential need in terms of long-term support.

5. In the Reykjavik Declaration adopted during the 4th Summit (16-17 May 2023), the Heads of State and Government call on "the Russian Federation to immediately release all civilians forcibly transferred or illegally deported to the territory of the Russian Federation or to areas temporarily controlled or occupied by the Russian Federation, especially children, and [urge] the Council of Europe to take action regarding the situation of Ukrainian children, as indicated in Annex II," which refers to the "Declaration on the Situation of Children in Ukraine": member States call for support to Ukrainian authorities to ensure the immediate return of children forcibly transferred and deported by Russian forces. All perpetrators of such crimes against children must be brought to justice. It is also essential to provide assistance to member States temporarily hosting Ukrainian children.

6. I myself participated in the first meeting of the International Coalition for the Return of Ukrainian Children on 8 December 2023, as the Vice-President of the Assembly representing its President. According to Mr Dmytro Lubinets, Ukrainian Parliament Commissioner for Human Rights, this Coalition was created at the

4. See the video produced by the ONG Child Identity Protection (CHIP) entitled "Erasing identities through forcible transfer of children from Ukraine to Russia" containing the opinion of Mr Raul Pangalangan, former judge, International Criminal Court, 6 December 2023.

initiative of the Canadian government and himself during discussions in Malta on the implementation of Ukrainian President Zelenskyy's Peace Formula. It aims to determine practical steps to support Ukraine in its objective of bringing home deported and forcibly transferred children. It also aims to engage Coalition countries in implementing specific projects and ensuring the safe repatriation, rehabilitation, and reintegration of these children.[5] The Commissioner for Human Rights of the Council of Europe also participated in this meeting, emphasising the considerable risk taken by those trying to bring back children and the urgency to address this situation.[6]

7. Today there is a need to identify practical steps for the Coalition countries to support Ukraine in its efforts to bring the deported and forcibly transferred children home, and to engage these countries in participating in specific projects to help ensure the safe repatriation, rehabilitation, and reintegration of these affected children.

2. The commitment of the Parliamentary Assembly to the return of deported or forcibly transferred Ukrainian children

8. The Assembly has supported Ukraine since the beginning of the Russian Federation's war of aggression. It continues to prioritise the situation of Ukrainian children. In its Resolutions 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine" and 2495 (2023) "Deportations and forcible transfers of Ukrainian children and other civilians to the Russian Federation or to temporarily occupied Ukrainian territories: create conditions for their safe return, stop these crimes and punish the perpetrators", the Assembly highlighted and strongly condemned the Russian Federation's systematic policy of deportations and forcible transfers of civilians, including children. As part of the follow-up to these resolutions, it established an ad hoc committee of the Bureau on 15 December 2023, to discuss the situation of Ukrainian children, particularly addressing the issue of deported and forcibly transferred children.[7] The discussions[8] were extremely informative and conclusive, and a fruitful exchange took place during the in camera session with the International Committee of the Red Cross (ICRC).

9. I thank the Assembly for its commitment to Ukraine on this particularly sensitive issue for all Ukrainians and the international community. I hope that beyond this urgent debate, the Assembly will continue its role as a facilitator aiming for a specific and effective solution enabling the return of deported and forcibly transferred children. I therefore propose, to identify the appropriate structure and mechanism within the Assembly to support Ukraine's efforts to repatriate its children.

3. Enhanced co-operation among all stakeholders working together to facilitate the return of children

10. I am well aware that each individual attempt to bring a deported Ukrainian child home is likely to pose considerable danger to the individuals or organisations involved; this was emphasised by the representatives of non-governmental and civil society organisations and the journalists who participated in the ad hoc committee meeting on 15 December and also by the Commissioner for Human Rights of the Council of Europe during her participation in the Coalition.[9] These actions are often hindered by the hostile and extremely challenging context and the subterfuges used by the Russian Federation in implementing these practices. Such actions of the Russian forces may constitute a separate war crime – an unjustifiable delay in the repatriation of Ukrainian children.

11. I join the authorities and NGOs in requesting increased support from the international community for the return of children.

12. I consider it essential to strengthen and improve the conditions for co-operation with the relevant United Nations bodies and other international humanitarian intervention and human rights protection organisations, such as the Unicef, High Commissioner for Refugees, High Commissioner for Human Rights and the ICRC. I

5. See information on website BringKidsbackUA: Kyiv hosts the inaugural meeting of the International Coalition of Countries for the Return of Ukrainian Children.
6. See the speech by the Council of Europe Commissioner for Human Rights, 8 December 2023.
7. See draft programme.
8. See link news including the morning and afternoon recordings of the meeting of the ad hoc committee of the Bureau of the Assembly on 15 December 2023 in Paris.
9. See the report Human Rights Without Frontiers (HRWF) entitled «Ukrainian children in search of a way home from Russia», 15 December 2023, submitted to the United Nations Committee on the Rights of the Child.

emphasise that enhanced trust and smooth communication between Ukrainian authorities, the population, and such organisations is the way to reach the main objective of identifying children, contacting them, and ultimately maximising the chances of their return.

13. Numerous examples reveal that Qatar has played an important role as a mediator in negotiations with Russian and Ukrainian authorities that have led to the return of children. In October 2023, for example, the successful return of four children was negotiated with the assistance of Qatar. Ukraine is open to such mediation initiatives of the international community. At the same time, it is in the best interests of Ukrainian children to strengthen political co-operation through the conclusion of legally binding agreements that will provide clear obligations for the parties with regard to the return, rehabilitation, and reintegration of children. It also seems pertinent that international humanitarian organisations, each within their respective mandates, make their expertise available to all entities, countries, or organisations playing a role in the return of children.

14. For this reason, I insist on the importance of strengthening dialogue with the relevant United Nations bodies and other international humanitarian intervention and human rights organisations to build up the most effective co-operation channels possible with the Ukrainian authorities and any other actor involved in the process of returning children, in particular, to establish a reliable and operational list of missing children.

4. Conclusions

15. As rapporteur I wish to emphasise the desirability for the Assembly to continue putting its rich experience in parliamentary diplomacy at the service of the Ukrainian children. I propose, therefore, that the Assembly facilitates the conditions for co-operation between the Ukrainian authorities and various stakeholders in establishing an effective legal mechanism aimed at the prompt and secure return of Ukrainian children.

16. I also propose that the Committee of Ministers creates the position of Special Rapporteur on the situation and return of Ukrainian children deported and forcibly transferred by the Russian Federation and Belarus.