



Doc. 15901 – Compendium of written amendments
24/01/2024

(Final version)

Situation of the children of Ukraine

Contents	Page
A. Draft Resolution	2
B. Draft Recommendation	10

A. Draft Resolution

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 framework of the activities of this group.

Amendment 5 Tabled by the (Former) Committee on Migration, Refugees and Displaced Persons

In the draft resolution, after paragraph 5, insert the following paragraph:

“The Assembly refers to its Resolution 2448 (2022) “Humanitarian consequences and internal and external displacement in connection with the aggression of the Russian Federation against Ukraine”. It deplores the challenges faced by the internally displaced children in Ukraine and calls for specific protection measures to be put in place for them.”

Amendment 6 Tabled by the (Former) Committee on Migration, Refugees and Displaced Persons

In the draft resolution, after paragraph 5, insert the following paragraph:

“The Assembly calls upon member States’ parliaments to enhance their political support towards meeting the objectives of the humanitarian response plan for Ukraine, with a specific emphasis on the needs of internally displaced children and their families. It has been

estimated that a total sum of round US\$4.2 billion is needed to support war-affected communities in Ukraine and Ukrainian refugees and their host communities in the region throughout 2024."

Amendment 7

Tabled by the (Former) Committee on Migration, Refugees and Displaced Persons

In the draft resolution, after paragraph 5, insert the following paragraph:

"The Assembly calls upon member States to step up support to humanitarian organisations, including volunteers, civil-society organisations and other local groups working in Ukraine to protect internally displaced children, recognising their tremendous efforts and contribution."

Amendment 8

Tabled by the (Former) Committee on Migration, Refugees and Displaced Persons

In the draft resolution, after paragraph 5, insert the following paragraph:

"The Assembly will remain seized on this issue with a view to a future debate, which should allow for the building of new alliances to meet the needs of internally displaced children and of their families."

Amendment 9

Tabled by the (Former) Committee on Migration, Refugees and Displaced Persons

In the draft resolution, after paragraph 5, insert the following paragraph:

"The Assembly will strengthen parliamentary co-operation by setting up an ad hoc Committee to allow parliamentarians with diverse political backgrounds and professional expertise to contribute to improving the situation of children of Ukraine, wherever they may be: children who are in Ukraine, those who are internally displaced and those who have found temporary protection in Europe, as well as children who are currently missing or have been deported or forcibly displaced to Russia and Belarus".

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 formation of the International Coalition of Countries for the Return of Ukrainian Children contained in President Zelensky'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

Amendment 1

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Eerik-Niiles KROSS, Mr Oleksii GONCHARENKO, Ms Liisa-Ly PAKOSTA, Mr

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.

Birgir THÓRARINSSON, Mr Pablo HISPÁN, Ms Yevheniia KRAVCHUK, Ms Olena MOSHENETS, Mr Yuriy KAMELCHUK, Mr Davor Ivo STIER, Mr Serhii SOBOLIEV, Ms Carmen LEYTE, Ms Larysa BILOZIR

In the draft resolution, after paragraph 7, insert the following paragraph:

"The Assembly emphasises that Ukrainian children leave Ukraine because of the armed aggression of the Russian Federation. Thus, Ukraine does not create dangerous living conditions for children. They are only to be subjected to temporary protection in the territories of foreign states. Therefore, the provisions of Article 6 of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children are not applicable to Ukrainian children. Meanwhile the application of Article 5 of the same Convention is appropriate. Guided by Article 5 of the Convention, judicial or administrative bodies of Ukraine have the jurisdiction to take measures aimed at protecting the child's person or property."

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 deplors 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.

Amendment 10

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Birgir THÓRARINSSON, Ms Yevheniia KRAVCHUK, Ms Olena MOSHENETS, Mr Yuriy KAMELCHUK, Mr Pavlo SUSHKO

In the draft resolution, after paragraph 9, insert the following paragraph:

"The Assembly underlines the significance of the decision of the International Criminal Court to issue arrest warrants against the President of the Russian Federation, Vladimir Vladimirovich Putin, and the Commissioner for Children's Rights under the President of the Russian Federation, Maria Alekseyevna Lvova-Belova, in connection with the alleged war crimes of unlawful deportation and forcible transfer of children from temporarily controlled or occupied

areas of Ukraine to the Russian Federation, and calls on the Council of Europe member States to further support the Court's efforts in ensuring the inevitability of liability for the Russian Federation for war crimes committed against Ukrainian children."

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 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

Amendment 11

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Liisa-Ly PAKOSTA, Mr Eerik-Niiles KROSS, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Birgir THÓRARINSSON, Ms Carmen LEYTE, Ms Yevheniia KRAVCHUK, Ms Olena MOSHENETS, Mr Yuriy KAMELCHUK, Mr Pavlo SUSHKO, Ms Larysa BILOZIR

In the draft resolution, after paragraph 11, insert the following paragraph:

"The Assembly notes that the lack of a unified legal mechanism profoundly impedes the prompt return of Ukrainian children, potentially prolonging the process for decades. It acknowledges that any delay in the repatriation process not only reduces the likelihood of returning or reunifying all affected children with their families but also disproportionately impacts orphans and children deprived of parental care and who lack any adequate legal representation."

- 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 recognises that 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;

Amendment 12

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Eerik-Niiles KROSS, Ms Liisa-Ly PAKOSTA, Mr Birgir THÓRARINSSON, Ms Yevheniia KRAVCHUK, Ms Olena MOSHENETS, Mr Yuriy KAMELCHUK, Ms María FERNÁNDEZ, Ms Carmen LEYTE, Mr Pavlo SUSHKO, Ms Larysa BILOZIR

In the draft resolution, replace paragraph 16.2 with the following paragraph:

"make every effort to trace the fate of the thousands of missing children, namely to identify, locate and return them to Ukraine, considering in particular the unique needs of

children with disabilities, orphans, children deprived of parental care and other unaccompanied children who have no support or adequate legal representation, and ensure that the repatriation of these children is not only feasible but also conducted with the utmost care as these children require tailored approaches and specific pathways."

- 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 the recurrence of similar crimes 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;

Amendment 2

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Eerik-Niiles KROSS, Ms Liisa-Ly PAKOSTA, Ms Yevheniia KRAVCHUK, Mr Antonio GUTIÉRREZ LIMONES, Ms Olena MOSHENETS, Mr Yuriy

- 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

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In the draft resolution, after paragraph 16.9, insert the following paragraph:

"prevent the participation of their official representatives in propaganda campaigns organised by the Russian Federation or Belarus concerning Ukrainian children forcibly transferred and deported to the temporarily occupied Ukrainian territories, Russian Federation, and Belarus."

Amendment 4

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Eerik-Niiles KROSS, Ms Liisa-Ly PAKOSTA, Mr Birgir THÓRARINSSON, Ms Yevheniia KRAVCHUK, Ms Olena MOSHENETS, Ms Carmen LEYTE, Ms Larysa BILOZIR

In the draft resolution, after paragraph 16.10, insert the following paragraph:

"facilitate the reintegration of children from Ukrainian residential care facilities (1) who were evacuated to Council of Europe member States into their families, or (2) their placement with Ukrainian citizens' families, as determined by the decisions of competent Ukrainian authorities; and ensure the swift acknowledgement of those authorities for executing custody rights over children."

Amendment 3

Tabled by Ms Zanda KALNIŅA-LUKAŠEVICA, Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Eerik-Niiles KROSS, Ms Liisa-Ly PAKOSTA, Mr Birgir THÓRARINSSON, Ms Yevheniia KRAVCHUK, Ms Olena MOSHENETS, Mr Yuriy KAMELCHUK, Mr Pavlo SUSHKO, Ms Carmen LEYTE, Ms Larysa BILOZIR

In the draft resolution, after paragraph 16.11, insert the following paragraph:

"support the implementation of specific measures that insure the protection and well-being of the children of Ukraine, including those in the Council of Europe Action Plan for Ukraine, "Resilience, Recovery and Reconstruction (2023-2026)"."

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

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 appoints a 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. Recognising 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, the Assembly 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.