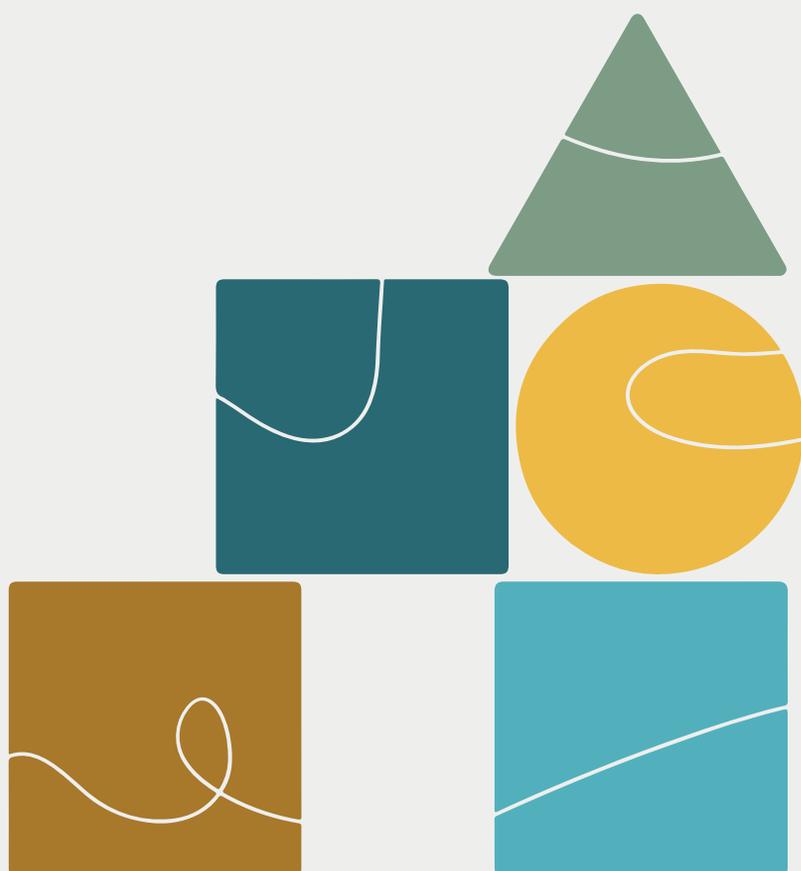


Evaluating the best interests of deported orphans and children deprived of parental care in anticipation of their potential return



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According to Ukrainian authorities, as of March 2024, the Russian Federation has deported or forcibly transferred 3,790 Ukrainian orphans and children deprived of parental care¹. The actual number of such deported minors may be higher, accounting for those displaced by Russian agents from the occupied territories prior to the full-scale invasion², as well as those who lost guardians due to the aggression.

At least 380 Ukrainian orphans and children deprived of parental care have been transferred to Russian families for foster care³. An additional 46 minors, including those from recently occupied territories, have been adopted⁴. Unlawful changes in the personal status of Ukrainian children persist, alongside ongoing cases of deportation and forcible displacement.

As of March 2024, only 388 children have been returned to Ukraine⁵. This number includes orphans and those deprived of parental care, who were either placed in Russian institutions or taken in by Russian citizens. The purpose of this analytical report is to collectively assess the best interests of this particular category of minors.

The authorities of Ukraine do not maintain separate statistics on returned 'status' children⁶. Similarly, there is no unified approach or mechanism for conducting collective or individual assessments of the best interests of deported and forcibly transferred Ukrainian orphans and children deprived of parental care. This deficiency prevents the effective facilitation of the return of such minors in accordance with current international standards and practices. The aim of the analytical piece is to address this deficiency, employing a flexible and adaptive approach. Should new factual circumstances arise, the results of the best interests assessment may be subject to revision. Additionally, in some cases, the conclusions drawn from collective assessments may differ from those derived from individual assessments, owing to the unique circumstances of each deported and forcibly transferred child.

¹ <https://www.youtube.com/watch?v=xtx7-HgJ694>

² <https://rk.gov.ru/articles/0ddd2bac-ad4c-4466-ab27-13761f149e44>

³ <http://deti.gov.ru/detigray/upload/documents/April2023/QYQjDIVHtlNu74bQuDAF.pdf>

⁴ <https://meduza.io/feature/2024/03/11/oni-mogut-nachat-protivodeystvovat>

⁵ <https://childrenofwar.gov.ua/>

⁶ In this piece, the term 'status' children includes orphans and children deprived of parental care

The concept of the best interests of the child

The principle of the best interests is fundamental in promoting and protecting the rights of the child. It prioritizes the safety, social, economic, and humanitarian needs of the child, as well as the preservation of their identity, in the development and implementation of policies, laws, and decisions that directly or indirectly affect them.

The principle of the best interests of the child has been incorporated into the national laws and practices of Great Britain, Zimbabwe, India, Canada, the USA, and France concerning the resolution of family disputes and custody issues⁷. At the international level, it is enshrined in various legal instruments, including the 1924 Geneva Declaration of the Rights of the Child⁸, the 1959 UN Declaration on the Rights of the Child⁹, the 1979 Convention on the Elimination of All Forms of Discrimination against Women¹⁰, the 1989 UN Convention on the Rights of the Child¹¹, as well as in regional human rights instruments.

The principle of the best interests of the child is also enshrined in Ukrainian national law, including the Law of Ukraine 'On the Protection of Childhood' of 2001¹², the Family Code of Ukraine of 2002¹³, and in the jurisprudence of the Constitutional Court of Ukraine¹⁴ and the Supreme Court¹⁵. This principle is upheld in disputes concerning the determination of a child's place of residence, the deprivation of parental rights, the establishment of guardianship, and the granting of permission for travel abroad.

⁷ https://www.unicef-irc.org/publications/pdf/is_best_interest_low_eng.pdf

⁸ <https://www.geneve-int.ch/1923-geneva-declaration-rights-child>

⁹ <https://digitallibrary.un.org/record/195831?ln=ru>

¹⁰ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

¹¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

¹² <https://zakon.rada.gov.ua/laws/show/2402-14#Text>

¹³ <https://zakon.rada.gov.ua/laws/show/2947-14#Text>

¹⁴ <https://zakon.rada.gov.ua/laws/show/v003p710-09#Text>

¹⁵ See, but not exclusively <https://supreme.court.gov.ua/supreme/pres-centr/news/546879/>, https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/2022_09_27_Ogliad_KCS_2.pdf

The principle of the best interests applies both individually and to identifiable groups of children when developing any measures related to them. The UN Committee on the Rights of the Child has emphasized that the best protection of children's interests occurs when both collective and individual rights are considered simultaneously. Additionally, the determination of the best interests of the child must occur through the lens of the specific circumstances in which the minor finds themselves¹⁶.

According to the experts of the Committee, an adult's judgment of a child's best interests cannot override the obligation to respect all the child's rights, among which there is no hierarchy. Simultaneously, there can be no abuse of young children or children with disabilities who can not express their opinions. Distortion and manipulation of the interpretation of the principle by States, parents, and other individuals under the child's control are prohibited during the determination of the best interests¹⁷. The European Court of Human Rights concluded that the best interests of the child which, 'depending on their nature and seriousness, may override those of the parent.'¹⁸

¹⁶ https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf, para.32

¹⁷ *ibid*, para. 4, 34

¹⁸ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-78410%22%5D%7D>], para.54

Components of the child's best interests and factors affecting their assessment

The components of the child's best interests evolve alongside the concept itself. Internationally, following the Second World War, three components were considered when determining the best interests, especially for deported minors: physical, emotional, and legal safety. Establishing the last two elements proved challenging, sparking public discussions and politicization of assessment results, where the interests of the State often took precedence over the needs of the child¹⁹.

Currently, the fundamental elements for assessing best interests are outlined in General Comment No. 14 (2013) of the UN Committee on the Rights of the Child. However, when evaluating compliance with these components, it is essential to consider the unique circumstances in which Ukrainian children find themselves due to the aggression of the Russian Federation. The non-exhaustive list of components identified by the Committee includes:

- Child's views,
- Child's identity and belonging to a specific age and gender group,
- Care, protection, and safety,
- Welfare,
- Preservation of the family environment and maintaining relations,
- Socio-cultural context,
- Situation of vulnerability,
- Child's development,
- Educational, medical, and other unique needs²⁰.

In addition, the results of assessing the best interests of a child or group of children are influenced by various factors related to

¹⁹ <https://dokumen.pub/in-the-childrens-best-interests-unaccompanied-children-in-american-occupied-germany-1945-1952-1487521944-978-1487521943.html>

²⁰ https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf, paras 52-84

their circumstances. Such factors include nationality (particularly citizenship), upbringing, ethnic, cultural, and linguistic background. According to the UN Committee on the Rights of the Child, granting a minor access to their place of origin is a crucial condition for conducting a best interests assessment. This assessment should take place in a friendly and safe environment, facilitated by qualified specialists trained in dealing with children affected by armed conflict²¹.

Ensuring the principle of a well-informed expression of the child's opinion requires providing the child with comprehensive information about their rights beforehand. This includes the right to communicate with relatives and friends, knowledge about their family's situation, and the current state of affairs in their country of origin. This provision is crucial because the best interests of the child are closely linked to their culture and language, as well as the preservation of the family environment, which encompasses parents (or guardians), other relatives, friends, school, and community²². Another important factor influencing the evaluation of the best interests is maintaining stability in the child's daily life and assessing their ability and willingness to integrate into a new environment²³.

Ensuring the right to education is a crucial factor in assessing the best interests of the child. The recognition of the indivisibility of these two categories is evident in the legislation and practices of the States of Africa²⁴. In this context, the concept of 'education' extends beyond formal schooling to encompass various life situations and cognitive processes. These processes enable children, both individually and in groups, to develop their identities, talents, and abilities. Education, essential in times of peace, becomes even more critical during armed conflict²⁵. Integral to the best interests of the child is the implementation of the Dakar Framework for Action, which advocates for educational programs aligned with goals of promoting peace, tolerance, and preventing violence and conflict²⁶.

²¹ <https://www2.ohchr.org/english/bodies/crc/docs/gc6.pdf>, para.20

²² <https://www2.ohchr.org/english/bodies/crc/docs/gc6.pdf>, para.25

²³ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%5D%22%5D%7B%22001-175140%22%7D>, paras. 83-84

²⁴ <https://www.cedol.org/wp-content/uploads/2012/02/222-226-2007.pdf>

²⁵ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

²⁶ <https://unesdoc.unesco.org/ark:/48223/pf0000121147>

The best interests of Ukrainian deported orphans and children deprived of parental care

Deported and forcibly transferred orphans, and children deprived of parental care remain citizens of Ukraine, with obligations of this State towards them established in international treaties and national law. The same applies to 'status' minors in occupied territories. The imposition of Russian citizenship on these children by Russia holds no legal validity²⁷ and is disregarded in the assessment of their best interests.

According to Constitutional Court Decision No. 3-pn/2009, Ukraine is responsible for the welfare of orphans and children deprived of parental care²⁸. It should take all necessary measures to locate and repatriate children who have been unlawfully taken abroad, especially in situations related to hostilities and armed conflicts²⁹. Additionally, it is the duty of both the State and every adult member of society to protect these children³⁰.

According to General Comment No. 6 (2005) of the UN Committee on the Rights of the Child, returning minors to their country of origin, specifically Ukraine, requires an assessment of compliance with the best interests of the child³¹. However, this assessment becomes challenging in territories under control of the Russian Federation or Belarus due to the lack of conditions for the proper expression of the child's opinion. A 'friendly and safe atmosphere' is essential for a well-informed expression of will, which is impossible in territories controlled by aggressor states. Additionally, children in such conditions lack access to comprehensive and truthful information about the

²⁷ <https://zakon.rada.gov.ua/laws/show/1207-18#Text>
<https://zakon.rada.gov.ua/laws/show/362-2019-%D1%80#Text>
<https://www.europarl.europa.eu/news/en/press-room/20221118IPR55715/meps-vote-not-to-accept-passports-issued-by-russia-in-occupied-areas>

UN General Assembly, Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, G.A. Res. 72/190, 19 December 2017, p. 2
Human Rights Committee, Concluding Observations on the Seventh Periodic Report of the Russian Federation, U.N. Doc. CCPR/C/RUS/CO/7, 28 April 2015, para. 23

²⁸ <https://zakon.rada.gov.ua/laws/show/v003p710-09#Text>

²⁹ <https://zakon.rada.gov.ua/laws/show/2402-14#Text>, стаття 32

³⁰ <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations2005.doc>, para. 653

³¹ <https://digitallibrary.un.org/record/566055>

situation in Ukraine, as it would require the aggressor states to admit their unlawful actions. Moreover, Russian agents deliberately distort reality. There have been several recorded cases where children were misinformed about Ukraine's situation³², threatened with criminal prosecution, violence against family members, or even against themselves upon return³³. Some children faced pressure from Russian special services, leading to their refusal to repatriate³⁴.

It is worth considering that Ukrainian children were under control of the Russian Federation due to international wrongful acts, including aggression, annexation of occupied territories, deportation, or forcible transfer. It implies that the State responsible for these actions is not an appropriate entity to independently assess the best interests of minors. The judgments of Russian agents — such as high-ranking officials, psychologists, social services, and 'foster parents' — regarding the best interests of the children are not aligned with their actual interests and should be rejected. To be guided by such judgments could lead to the violation of other rights of the child.

Among such rights, according to the UN Committee on the Rights of the Child, the right to life, as well as the right to preserve one's identity—including nationality, name, and family relations—are decisive for the assessment of best interests³⁵.

The Russian Federation consistently imposes its citizenship on Ukrainian children under its effective control. Decree No. 330 by the President of the Russian Federation³⁶ (later replaced by Decree No. 11³⁷) authorizes third parties and organizations appointed by Russian authorities or occupation administrations to decide on the forcible imposition of citizenship. Children born in the occupied territories after February 24, 2022, automatically acquire Russian citizenship³⁸.

Commissioner for Children's Rights of the Russian Federation Maria Lvova-Belova³⁹ asserts that children retain Ukrainian citizenship and

³² See, but not exclusively <https://www.youtube.com/watch?v=58vAb9aS8Vo>

<https://www.pravda.com.ua/articles/2023/05/3/7400386/>

<https://tsn.ua/ukrayina/bili-tih-hto-za-ukrayinu-vikradeniy-hlopchik-rozpoviv-yak-okupanti-znuschayutsya-nad-ditmi-2292202.html>

³³ See, but not exclusively, <https://www.radiosvoboda.org/a/eksklyuzyvne-intervyu-povernutoho-z-rosiyi-bohdanayermokhina/32720969.html>

<https://life.pravda.com.ua/society/2023/06/1/254619/>

<https://meduza.io/feature/2023/05/04/oni-uchat-nenavidet-roditeley-i-ukrainu-a-potom-lyubit-rossiyu>

<https://www.helsinki.org.ua/articles/chomu-batky-deportovanykh-ditey-boiatsia-zvynuvachen-u-spivpratsi-z-vorohom-eksperty-prezentuvaly-doslidzhennia/>

³⁴ <https://grivna.ua/publikatsii/ya--zagublena-dusha-istoriya-vikradenogo-hersonskogo-pidlitka-yakogo-povernuli-z-rf-ale-e-pitannya>

³⁵ https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf

³⁶ <http://www.kremlin.ru/acts/bank/47886>

³⁷ <http://publication.pravo.gov.ru/document/0001202401040003>

³⁸ <https://tass.ru/mezhdunarodnaya-panorama/14924159>

³⁹ <https://web.archive.org/web/20230410183035/https://deti.gov.ru/detigray/upload/documents/April2023/QYQjDlVHtINu74bQuDAF.pdf>

can avail themselves of both legal statuses. However, this assertion contradicts Article 10 of the Federal Law 'On Citizenship of the Russian Federation,' which stipulates that a citizen with dual or multiple citizenship is recognized solely as a citizen of the Russian Federation, regardless of their place of residence, unless provided otherwise by federal law or an international treaty of the Russian Federation⁴⁰. No such treaty was concluded between Ukraine and Russia.

In terms of the right to a name, complete changes are rare and primarily affect children under 3 years⁴¹. Older children sometimes chose the surname of a Russian 'guardian.'⁴² Ukrainian names are always transliterated into Russian, which violates the right to use one's culture and language.

In terms of preserving family ties, it's important to note that, according to the UN Committee on the Rights of the Child, maintaining the family environment extends to fostering connections with grandparents, aunts, uncles, as well as friends, school, and the broader community. For children who cannot reunite with their families, facilitating care within the community is crucial, as it aligns with local culture and promotes progressive development in education and socialization⁴³. From this perspective, repatriation to Ukraine is in the best interests of its underaged citizens.

Handing Ukrainian children over to Russians for upbringing and maintaining such guardianship contradicts the best interests of minors. Firstly, Russians are citizens of the aggressor state. Residing in the homes of such individuals, sometimes thousands of kilometers away from the child's country of origin⁴⁴, disrupts stability and continuity of care. Secondly, measures must be taken to prevent the exploitation of children by any party involved in an armed conflict. On the other hand, there have been documented cases of children being engaged in propaganda activities⁴⁵, and militarized associations,

⁴⁰ <http://www.kremlin.ru/acts/bank/49216>

⁴¹ <https://istories.media/stories/2023/11/23/mironov-i-deti/>

⁴² <https://dzen.ru/a/Zcg7xdQCrygQnv-A>

⁴³ https://www.icrc.org/en/doc/assets/files/other/icrc_002_1011.pdf

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqIkirKQZLK2M58RF%2F5FOvEAXPu5AtSWvliDPBwwUDNU%2BXzNo%2BP87FA3t6o0hLTWqi3zDRy4oCA3DO7%2FTHxE70da0GupUJShCbh9%2FH1atulz>

⁴⁴ <https://dzen.ru/a/ZAf445DTsBHsVpTj>

⁴⁵ <https://www.rbc.ua/ukr/news/spasibo-dyadya-yura-rosiyani-viveli-kontsert-1677354903.html>

<https://360tv.ru/news/mosobl/malchik-iz-dnr-prinjal-uchastie-v-shestvii-bessmertnyj-polk-vo-vnukove/>

<https://www.ntv.ru/novosti/2756174/> <https://www.google.com/url?sa=i&url=https%3A%2F%2Fks-yanao.ru%2F%2Fnarrativ%2F%2Fobschestvo%2Fsemja-kolesnik-roditelskaja-mudrost&psig=AOvVaw0oJAX7NQKAm6yDeYsP-6-f&ust=1711468353175000&source=images&cd=vfe&opi=89978449&ved=0CBQQJhxqFwoTCOjO4tPij4UDFQAAAAAdAAAAABAD>

such as the Yunarmy⁴⁶, and displaying symbols of the enemy⁴⁷, or writing letters to Russian soldiers⁴⁸. Ukrainian children become victims of political and religious indoctrination⁴⁹, often influenced by their Russian 'adoptive parents'. It's crucial that guardianship not be granted to individuals directly or indirectly involved in an armed conflict. However, Ukrainian children have been placed under the care of individuals involved in⁵⁰ or related to the conflict in Ukraine⁵¹. Care of many children, especially young ones, was established without considering their opinion. Furthermore, due to coercive conditions created by the Russian Federation, even expressed opinions do not justify the forcible transfer to Russian families, though they may impact the degree of responsibility of guilty persons.

The placement of Ukrainian children in institutional care facilities in the Russian Federation is not in their best interests. This is partly due to their inclusion in the Federal database of orphans, allowing for adoption and guardianship by Russian citizens⁵². Additionally, Russian agents sometimes relocated deported minors multiple times arbitrarily⁵³, hindering their recovery from the trauma of aggression. The Russian educational system, both formal and informal, imposed on Ukrainian children violates international law. It aims at political indoctrination, Russification, and militarization, which contradicts the principle of best interests⁵⁴.

The level of integration of the child in the Russian Federation and the period of their absence from the country of origin cannot justify refusing to return them to Ukraine. Repatriation ensures continuity in the upbringing of a child in line with their ethnic, religious,

⁴⁶ See, but not exclusively <https://kherson-news.ru/society/2023/04/06/116444.html>
<https://tsn.ua/ru/ukrayina/poteryannaya-dusha-i-posledstviya-propagandy-istoriya-vyrvashegosya-iz-rf-ukrainskogo-podrostka-no-boyashegosya-vozvrashchatsya-v-ukrainu-2539048.html>

⁴⁷ See, but not exclusively <https://rutube.ru/video/4568dae3785f8b25a1767ad557789a9b/>

⁴⁸ See, but not exclusively <https://dzen.ru/a/ZJKXbjjBykUwoNBu>

⁴⁹ See, but not exclusively

<https://meduza.io/feature/2023/04/20/ombudsmen-mariya-lvova-belova-govorit-cto-usynovila-rebenka-iz-mariupolya-ego-zovut-filipp-i-u-nego-est-zakonnye-opekuny-v-ukraine>

<https://www.stopcor.org/section-suspilstvo/news-16-richnij-hlopets-z-pid-mariupolya-vtik-vid-rosijskoi-simi-i-povernuvsyia-v-ukrainu-detali-20-12-2022.html>

<https://www.google.com/url?sa=i&url=https%3A%2F%2Fks-yanao.ru%2Fnarrative%2Fobschestvo%2Fsemja-kolesnik-roditelskaja-mudrost&psig=AOvVaw0oJAX7NQKAm6yDeYsP-6-f&ust=1711468353175000&source=images&cd=vfe&opi=89978449&ved=0CBQQjhxqFwoTCOJO4tPij4UDFQAAAAAAdAAAAABAD>

<https://tass.ru/v-strane/17106919>

⁵⁰ See, but not exclusively

<https://stories.media/news/2024/01/26/semya-pskovskogo-desantnika-usynovila-rebenka-vivezennogo-iz-donetskoj-oblasti-v-ukraine-voennogo-obvinyayut-v-ubiistvakh-mirnikh-zhitelej/>

⁵¹ See, but not exclusively <https://hngs.ru/text/family/2022/10/25/71761355/>

<https://omsk.bezformata.com/listnews/hotcenko-vo-vremya-poezdki-v-bolshereche/120661522/>

⁵² <http://www.bryanskobl.ru/docs/ombudsman/child-report-2023.pdf>, p. 101

⁵³ See, but not exclusively <https://www.miloserdie.ru/article/vy-nuzhny-gotovtes-vezut-detej-iz-donbassa/>

<https://www.youtube.com/watch?v=P3eLEw3Nz7o>

⁵⁴ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FRUS%2FCO%2F6-7&Lang=en

cultural, and linguistic origin⁵⁵. It's important to note that the Russian Federation consistently refused to repatriate orphans and children deprived of parental care^{56,57}, creating artificial obstacles that resulted in an unjustifiable delay in their return, amounting to a separate war crime threshold⁵⁸.

At the same time, during the process of returning the child, an individual assessment of their best interests must be conducted alongside the collective assessment. In certain cases, repatriation that involves separation from the 'foster parents' may not be suitable for the child. For instance, Ukrainian children, who were unlawfully transferred to Russian families in 2014 at the age of 1-3 years, and have since been raised exclusively as Russian citizens without a developed Ukrainian identity, may experience disproportionate psychological trauma and long-term consequences on their mental and physical development upon return.

At the same time, the continuation of such children's stay under the care of Russian citizens is contingent upon Ukrainian authorities confirming the following:

- 1) The child was not forcibly taken from their biological family or abducted.
- 2) The child's blood relatives were not persecuted by Russian agents.
- 3) The child was transferred to a Russian family due to the rejection of the child or improper fulfillment of parental or legal representatives' duties to care for them⁵⁹.
- 4) The child freely expresses consent to remain in the Russian family under conditions conducive to freely expressing their views.
- 5) The power of the child's guardian has been reviewed in accordance with Ukrainian national law.

The fulfillment of these conditions does not impede the process of holding accountable those responsible for organizing and facilitating the deportation and forcible transfer of Ukrainian children to Russian families.

Furthermore, whether repatriation is in the best interests of the child also hinges on the level of security and the socio-economic situation in

⁵⁵ <https://digitallibrary.un.org/record/566055>

⁵⁶ See, but not exclusively <https://shorturl.at/grR13>

⁵⁷ See, but not exclusively <https://www.radiosvoboda.org/a/deportatsiya-ukrayinskykh-ditey-lvova-byelova-rozmova-faktchek/32676520.html>

⁵⁸ See, but not exclusively [https://www.lemkininstitute.com/ukraineproject/icc-communication \(2nd Addendum\)](https://www.lemkininstitute.com/ukraineproject/icc-communication%20(2nd%20Addendum))

⁵⁹ Mutatis mutandis <https://collections.arolsen-archives.org/en/search/topic/6-1-2-0005?s=DE%20ITS%206.1.2>

the country of origin⁶⁰. In this regard, an individual trajectory (plan) for repatriation should be developed for each minor, outlining the place of residence in regions of Ukraine deemed relatively safe. Returning to front-line settlements is not in the best interests of the child.

A prerequisite for the return of orphans and children deprived of parental care is their initial placement in family-based care. However, temporarily, to facilitate the expression of their views, children can be temporarily placed in institutional care facilities to select a suitable adoptive family⁶¹. Assigning a guardian without considering the child's opinion, if they are able to express it, is not in their best interests.

In Ukrainian practice, there have been positive instances of placing a minor for foster care with individuals from their own community. These families were compelled to flee from their habitual residence due to the aggression of the Russian Federation and/or occupation. After integrating into the new community, they have received appropriate training, possess suitable living conditions, and demonstrate the desire and potential to care for a foster child. Such a practice is indicative of upholding the best interests, as shared origin, experiences, and language contribute to the non-traumatic rehabilitation and reintegration of a minor returning from the control of the Russian Federation.

The requirement for adequate conditions of child care extends not only to the form of upbringing and place of residence but also to proper support from social and medical workers, psychologists, and case managers. National rehabilitation and reintegration programs are necessary to ensure the best interests of returned children, although they may initially exist as pilot projects or through the delegation of powers to non-governmental organizations. Over time, it is important to approve appropriate strategies at the State level.

⁶⁰ <https://digitallibrary.un.org/record/566055>

⁶¹ *ibid*

Conclusions and recommendations

In the vast majority of cases, only the return of Ukrainian children to the territory of the State of origin corresponds to their best interests⁶². Repatriation allows guaranteeing the safety and protection of the rights of minor citizens, their well-being, progressive development, satisfaction of educational, social, cultural, and other unique needs, particularly related to belonging to the category of orphans and children deprived of parental care. Even before the evaluation, it should be assumed that the return to Ukraine is in the best interests of the child. Only the presence of exceptional individual circumstances can nullify this presumption. Conducting an independent and proper assessment of the best interests of the child is, in any case, impossible on the territory under the control of the Russian Federation or Belarus.

A collective assessment of the best interests must be accompanied by an individual. In exceptional cases, questions may arise about the expediency of maintaining ties between a Ukrainian child and Russian 'foster parents.' Clarification of the conditions for this should take place outside the borders of the aggressor state, while ensuring the minor's right to freely express their views.

The return of orphans and children deprived of parental care from aggressor states and occupied territories, in accordance with their best interests, requires proper preparation of Ukraine.

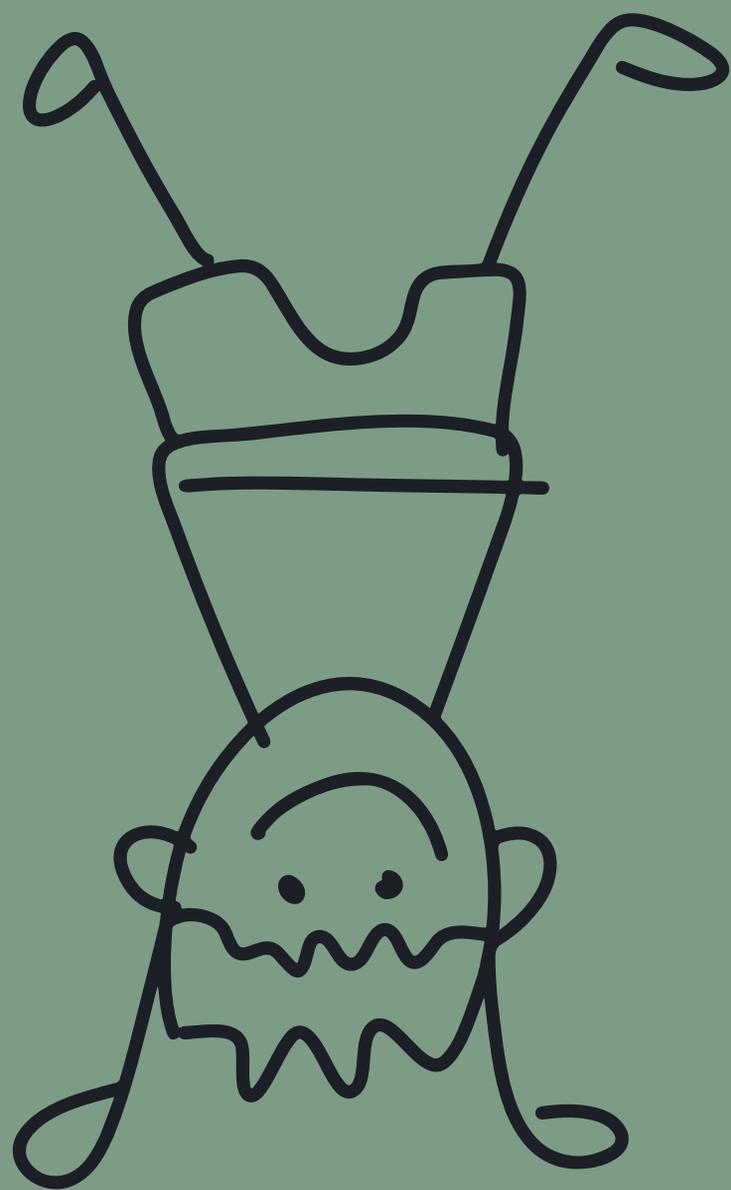
In particular,

1. To strengthen the mechanism for collecting statistical data on such children, ensuring a gender-disaggregated approach and displaying information on age, health status, and the presence of a legal representative of a minor ready to perform their functions.
2. To implement the deinstitutionalization reform with short-term measures for the reunification or placement of children from

⁶² See, but not exclusively <https://www.osce.org/files/f/documents/7/7/542751.pdf?fbclid=IwAROGzKI-GpNUYN1hNPJYQGPYSCxY5Wpm-Xj2zyLQF4lVYZezz1gUrpcaJ-k>
<https://pace.coe.int/en/files/33348>

institutions of institutional care into biological or foster families in conditionally safe regions of Ukraine.

3. To create a separate register of foster parents who are ready to adopt children deported or forcibly transferred by Russian agents.
4. To ensure the development of an individual trajectory (plan) for the return of each orphan and child deprived of parental care, taking into account the results of a collective assessment of the best interests, and with a mandatory individual assessment, as soon as the appropriate conditions are created for this.
5. To take measures for the rehabilitation and reintegration of returned children, particularly through the development and implementation of appropriate State policies, pilot projects, or public-private partnerships.
6. To develop and implement, in partnership with non-governmental organizations, communities, families, and children, a comprehensive national policy on children and families, which will guarantee support in the form of social, medical, legal services, psychological assistance, education, and adequate living conditions.



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