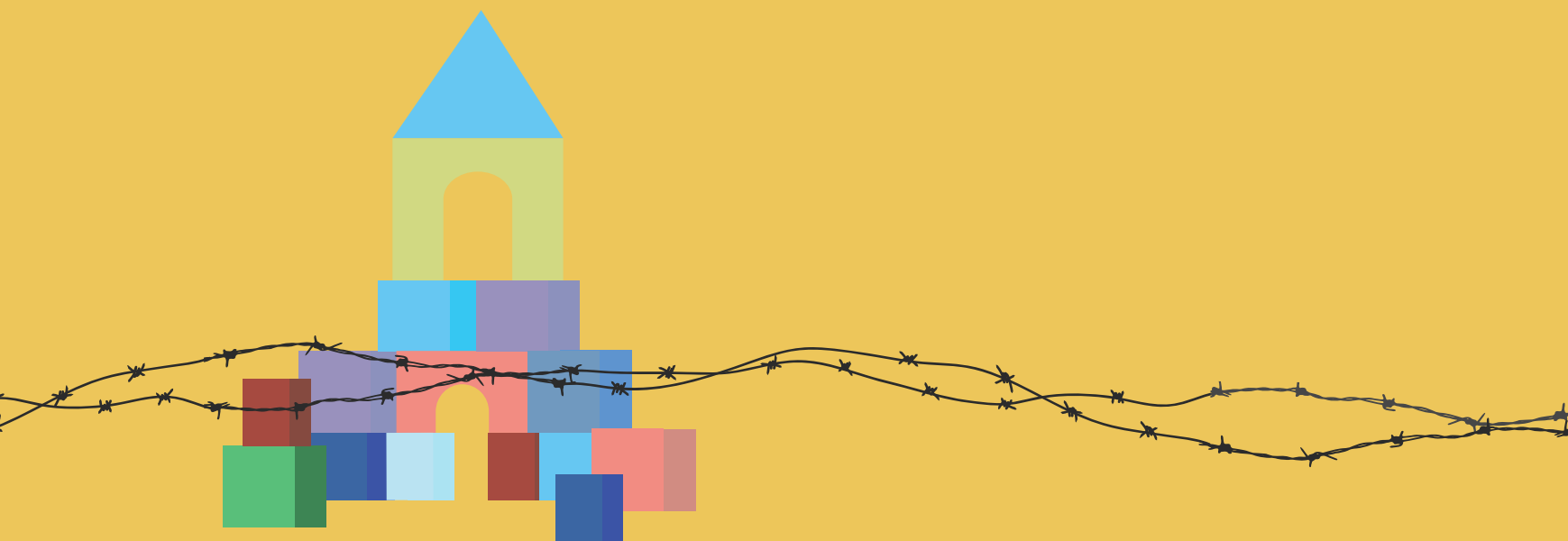


(Non)return of children: Ukraine in the face of the greatest challenge since the Independence



This publication has been prepared jointly by the Regional Center for Human Rights, the Ukrainian Child Rights Network and the Voices of Children Charitable Foundation and produced with the support of the Partnership Fund for a Resilient Ukraine, which is funded by the governments of Canada, Estonia, Finland, the Netherlands, Sweden, Switzerland, the United Kingdom, and the United States of America.

The contents of this publication are the sole responsibility of the Regional Center for Human Rights, the Ukrainian Child Rights Network and the Voices of Children Charitable Foundation and do not necessarily reflect the views of the Fund and/or of its financing partners.

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INTRODUCTION

Throughout the ten years of aggression against Ukraine, the Russian Federation has consistently implemented a policy of eradicating the Ukrainian identity of children from the occupied territories. Deportations, forcible transfer, separation from parents, transfer to Russian families, imposition of citizenship, political indoctrination, Russification, and militarization are the tools used to compel Ukrainian children to become enemies of their own nation.

Since February 24, 2022, the deportation and forcible transfer of Ukrainian children by Russian agents has become systematic and widespread. The aggressor state managed to remove thousands of young Ukrainians, in particular, due to the fact that a significant number of them resided in institutional care facilities and subject to mostly objective circumstances had not been evacuated by Ukraine. Another 1,000 orphans from the occupied Crimean peninsula were deported and put up for adoption by Russians between 2014 and 2022. Given the scale of the forcible displacement of Ukrainian children and the intention of Russian agents to maintain permanent control over them, on March 17, 2023, the International Criminal Court issued arrest warrants for Russian President Vladimir Putin and the Russian Commissioner for Children's Rights in the Office of the President of the Russian Federation Maria Lvova-Belova.

As of August 2024, 388 children who had experienced deportation and/or forcible transfer had been returned to Ukraine.¹ The process of return was carried out by civil society organizations, charitable foundations, and volunteers in cooperation with government agencies in the face of unjustifiable delays in the repatriation of young Ukrainians by the Russian Federation. The significant duration of the process, the abuse by Russian agents of the vulnerable situation of children and their legal representatives, the refusal of the Russian Federation to return orphans and children deprived of parental care in an orderly manner, the risk that children will suffer from other international crimes make it urgent to develop and implement a transparent and understandable algorithm for the return, social and psychological rehabilitation and reintegration of Ukrainian children from the control of the Russian Federation within the framework of the state policy of Ukraine with a clear division of responsibilities, strategic planning and implementation of the financial and human resources.

The physical return of a child back under the control of Ukraine requires special efforts to adapt him or her to Ukrainian society. The long-term nature and gravity of the consequences of crimes committed by Russian agents against Ukrainian children requires the establishment of a separate framework of services focused on the best interests of children and meeting their unique needs to address the effects of Russification, political indoctrination, and militarization.

This present report is a compilation of the results of the research of the public association “Ukrainian Child Rights Network” (hereinafter — UCRN), the public organization “Regional Center for Human Rights” (hereinafter — RCHR), and the charitable foundation “Voices of Children” (hereinafter — Voices of Children) in the legal, service, and psycho-rehabilitation areas. The document contains an analysis of the legal situation of Ukrainian children under the control of the Russian Federation, the causes that led to the capture of children by Russian agents, in particular, the failure to achieve the goals of deinstitutionalization prior to the full-scale invasion, challenges of the return of children to Ukraine, and their further reintegration into Ukrainian society.

¹ <https://childrenofwar.gov.ua/>

SECTION 1

The situation of Ukrainian children under the control of the Russian Federation from the perspective of international law

Ukrainian children are particularly vulnerable to the destructive power of Russian aggression. The physical, sexual, and emotional violence that children endure during the armed conflict instigated by the Russian Federation has a negative impact on their legal, humanitarian, social, and economic situation. Russian aggression undermines the very foundations of children's lives by destroying their homes, disrupting the society they live in, and undermining their faith in adults.

The imposition of citizenship of the aggressor state became the basis for the illegal change of the civil status of Ukrainian children under the control of the Russian Federation and a tool for committing abuses of their rights. President Vladimir Putin performed a fundamental role in the said process, signing Decree No. 330 on May 30, 2022, at the request of the Commissioner for Children's Rights Maria Lvova-Belova. Under this instrument, Russian citizenship was forcibly imposed on deported Ukrainian children. On July 11, 2022, Vladimir Putin's new Decree No. 440 extended the possibility of obtaining Russian citizenship "under a simplified procedure" to all citizens of Ukraine, and on December 26, 2022, in accordance with Presidential Decree No. 951 a procedure for registration of minors' 'unwillingness' to retain Ukrainian citizenship was introduced. Finally, the provisions of all the above regulations were combined in one Decree No. 11 of January 4, 2024, and reproduced in the new federal law on citizenship².

Initially, senior Russian officials justified the need to impose Russian citizenship on Ukrainian children by seeking to fully ensure the rights of orphans³. However, having analyzed the Russian legislation on citizenship⁴ in detail, it becomes evident that had Russian officials intended to act solely on humanitarian grounds, they would have adopted laws to facilitate access to medical care and remove obstacles to obtaining education and social benefits instead of amending the legislation to simplify the process of obtaining Russian citizenship. Thus, the genuine goal of the Russians was to essentially "appropriate" Ukrainian children and gain full control over the determination and change of their legal status.

² <http://www.kremlin.ru/acts/bank/49216>

³ Vladimir Emelianenko. 120 Russian families have applied to adopt orphans from Donbass and Ukraine. RgRu. URL: <https://rg.ru/2022/06/01/120-rossijskih-semej-podali-zaiavki-na-usynovlenie-sirot-donbassa-i-ukrainy.html>

⁴ <https://www.lemkinstitute.com/ukraineproject/icc-communication>

It is important to emphasize that the imposed Russian citizenship entails a range of obligations for children: to serve in the armed forces of the Russian Federation upon reaching the age of majority, to study in schools under Russian educational standards, and to demonstrate loyalty to the aggressor state.

The actions of the Russian Federation aimed at imposing its citizenship on Ukrainian children in the absence of an alternative to retaining Ukrainian citizenship may indicate the existence of a special intent on the part of the perpetrators to commit the crime of genocide in the form of forced transfer of minors to the Russian national group. The scale and systematic nature of the relevant acts further indicate the existence of signs of a crime against humanity — discriminatory persecution. The latter often caused children and their parents to seek ways to leave the occupied territory before the imposition of the citizenship of the aggressor state.

According to experts from the UN Human Rights Monitoring Mission in Ukraine, Ukrainian children find themselves “in an entirely Russian environment, including language, customs, and religion and are exposed to pro-Russian information campaign often amounting to targeted re-education as well as being involved in military education.”⁵

In June 2022, the Minister of Education of the Russian Federation announced that starting at the beginning of the 2022-2023 school year, all schools in the occupied territory of Ukraine would operate according to Russian standards. The imposed curriculum approved by the Russian Ministry of Education does not portray Ukraine as an independent and united state⁶. Primary, general, and secondary education in the occupied territory is aimed at forcing Ukrainian children to recognize themselves as part of the Russian people, as patriots of the “Motherland” - the Russian Federation, and as willing to fight and give their lives for it. Propaganda narratives are not only found in textbooks but are also imposed during extracurricular yet compulsory classes, such as Talking about Important Things and Lessons of Courage. Schools also have “cadet and Cossack classes” that aim to prepare students for military education and military service.

The militarization and political indoctrination of Ukrainian children is a violation of the right to education under Article 29 of the UN Convention on the Rights of the Child. The reinforcement of pre-conscription training for young men and other elements of the so-called “defense of the fatherland” discipline, along with the potential encouragement of students to voluntarily join the armed forces of an adverse state upon reaching the age of majority, contradict the goals of education and the human rights values enshrined in Article 29 of the said Convention⁷. The militarization of

⁵ https://www.osce.org/files/f/documents/0/1/546560_0.pdf, p.1-2

⁶ Human rights situation during the Russian occupation of territory of Ukraine and its aftermath. (24 February 2022 - 31 December 2023). Report by the Office of the High Commissioner for Human Rights, 20 March 2024. <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/2024-03-20-OHCHR-Report-Occupation-Aftermath-UKR.pdf>, para.131

⁷ <https://www2.ohchr.org/english/bodies/crc/docs/crc-c-opac-isr-co-1.pdf>, para. 22-23

education and the propaganda of military service since childhood are among the reasons that foster the involvement of children from the occupied territories of Ukraine in the activities of the armed forces of the Russian Federation, which is a violation of Article 51 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and Article 38 of the Convention on the Rights of the Child⁸.

One of the manifestations of political indoctrination and militarization of Ukrainian children is the operation of so-called patriotic and military-patriotic movements. These include the Yunarmy [Yunarmiya], Leader [Lider] (Wagnerionok), Young Guard [Molodaya Gvardiya], Young Republic [Molodaya Respublika], Vympel, Warrior [Voen], etc. In addition, there are more than 5,500 military-patriotic clubs⁹ in the Russian Federation involved in the implementation of the Strategy for the Development of Education until 2025¹⁰, including in the occupied territories of Ukraine.

In addition, “re-education camps” are designed to eradicate Ukrainian national identity, de facto assimilate Ukrainian children, and turn them into loyal citizens of the Russian Federation. In 2023, the network of “re-education” of Ukrainian children included more than 55 camps and sanatoria in Russia, 9 camps in the occupied Crimean peninsula, and 13 camps in Belarus¹¹. A record 68 billion rubles were allocated for their operation¹². In 2024, expenditures from the federal budget of the Russian Federation on children’s ‘recreation’ again increased by 11.6%, reaching 76.8 billion rubles. According to representatives of the occupation administrations, up to 40,000 Ukrainian children are planned to be taken away during the summer season of 2024 as part of the Good Holidays [Poleznye kanikuly] project. The number is almost twice as high as last year. In particular, the children will go on propaganda trips to Moscow, Rostov-on-Don, and Tula as part of the Cultural Map 4+85 [Kulturnaya karta 4+85], Route for Youth [Marshrut dlia molodiozhy], and University Shifts [Universitetskie smeny] programs, as well as participate in the patriotic summer program Time of Heroes [Vremia geroev] at the Avangard defense and sports camp in Volgograd¹³.

During the Time of Heroes [Vremia geroev] program, Ukrainian children take “a course of disciplines aimed at preparing for service in the armed forces of the Russian Federation, raising courageous, physically strong and spiritually empowered patriots of the country [of the Russian Federation].”¹⁴ According to the Committee of Education, Science and Youth Policy of the Volgograd Region, the Time of Heroes [Vremia geroev] program includes educational, sports recreational, leisure, and educational modules. Children are required to take classes in basic safety,

⁸ <https://unesdoc.unesco.org/ark:/48223/pf00000378910>, p.13

⁹ <https://theins.ru/politika/260134>

¹⁰ <http://council.gov.ru/media/files/41d536d68ee9fec15756.pdf>

¹¹ <https://yaledailynews.com/blog/2023/12/01/yales-humanitarian-research-lab-finds-belarus-complicit-in-the-relocation-of-ukrainian-children/>

¹² <https://archive.ph/kMpZP>

¹³ <https://gorod-lugansk.com/2024/05/28/leonid-pasechnik-ob-organizacii-letnego-otdyha-dlja-detej-respubliki.html>

¹⁴ <https://school81.oshkole.ru/news/139388.html>

engineering, tactical and firearms training, tactical medicine, unmanned aerial vehicle management and countermeasures, and parachute training. Children participate in military and historical reenactments and the Zvezdnitsa game. The teenagers also attend competitions, take part in ropes courses and obstacle courses, and fulfill the RWD (Ready for Work and Defense [Gotov k trudu i oborone]) standards. In addition, the children have Conversations about Important Things and meet with “Heroes of Russia” and participants of the “special military operation” from the Volgograd region.¹⁵

The longer a Ukrainian child studies in Russian educational programs, the more such narratives become embedded in their minds. This leads to the assimilation of the Ukrainian population with the Russian population, the destruction of the Ukrainian national group in the occupied territories, and complicates future de-occupation and reintegration.¹⁶ Such actions can be viewed as a violation of the UN Convention on the Rights of the Child, according to which education should be aimed at fostering respect for the cultural identity, language, and national values of the child’s country of origin. Withholding information about a child’s real family and ethnic origin causes irreparable damage to the child’s identity.¹⁷

In addition to children in the occupied territories of Ukraine, deported and forcibly displaced young Ukrainians are also under the control of the Russian Federation.

A deported child is a child forcibly taken outside the state of permanent residence. It differs from a **forcibly displaced** child only by the fact of crossing the state border, violent in nature.

In order to establish the fact of deportation or forcible transfer of a Ukrainian child as a war crime and/or crime against humanity, an element of coercion by Russian agents must be established. The element may include the use or threats of physical force, fear of violence, psychological pressure, abuse of power, and the use of a coercive environment. Deliberately created humanitarian or environmental crises in certain occupied cities and regions should also be considered as a manifestation of coercion by the aggressor state.¹⁸ This includes, for example, the siege of Mariupol or the destruction of the Kakhovka hydroelectric power plant.

Despite the fact that parents or other relatives may have consented to the transfer together with the child or the child alone, the voluntariness of the expression of will should be assessed in light of the existing circumstances.¹⁹ Consent given by persons who are not the child’s legal representatives, such as grandparents, aunts, and other

¹⁵ <https://archive.is/iGEtI#selection-515.0-519.388>

¹⁶ <https://krymbezpravil.org.ua/wp-content/uploads/2023/03/Doslidzhennya-Shkilna-osvita-prykhovana-zbroya-RF-proty-Ukrayiny.pdf>, p. 89

¹⁷ In Search of Origins: The Experiences of Adopted People. By John Triseliotis. London: Routledge and Kegan Paul. 1973.

¹⁸ <https://cld.irmct.org/assets/filings/Judgement-Stakic.pdf>, para. 287

¹⁹ <https://www.casematrixnetwork.org/cm-n-knowledge-hub/elements-digest/art-7/7-1-d/3>, para. 489

relatives, as well as persons whose actions show signs of collaboration, does not legitimize the illegal removal. A child can never be considered to have consented to deportation or forcible transfer.²⁰

A child can be deported or forcibly displaced and separated from his or her parents at the same time. In such a case, the child is only temporarily deprived of parental care as a result of the aggression of the Russian Federation. The parents of such a child cannot properly care for them due to their professional activities, arbitrary detention by Russian agents, removal of the child from the family due to the actions of the occupation authorities, and other circumstances. Such a child is at risk of being forcibly transferred to a foster family or an institution in the territory under the effective control of the Russian Federation. They may stay with other family members in the occupied territory or in Russia.

Family members other than parents are not legal representatives of the child under national law,²¹ although they may participate in the child's upbringing.²² Accordingly, they do not have the right to decide on the change of the child's place of residence if it would harm the child's best interests or be done against the will of the child and their parents. If one of the parents moves a child to the territory controlled by the Russian Federation without the consent of the child and the other parent, the legal status of such a child, including guarantees of return to the territory controlled by Ukraine, should be on par with the legal status of a forcibly displaced or deported child.

As of August 2024, the competent authorities of Ukraine have identified 19,546 deported and forcibly displaced children. Russia managed to remove at least this number of young Ukrainians, in particular, because a significant number of them were in institutional care and, due to mostly objective circumstances, had not been evacuated by Ukraine.

Prior to the full-scale invasion, there were more than 105,000 children in a network of 751 institutional care facilities (orphanages or boarding schools). This is more than 1% of Ukraine's child population, the highest level of institutionalization in Europe.²³ 80% of children in institutional care facilities were so-called social orphans²⁴: their parents did not fulfill their responsibilities for various reasons (unemployment of both or one of the parents, and as a result, the inability to support the child, lack of permanent housing, vagrancy, drug or alcohol addiction, long absences, separation of parents from their children).²⁵ According to UNICEF, before the full-scale invasion, almost half of the children in orphanages in Ukraine had disabilities.²⁶

²⁰ <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-children-en-web.pdf>, p.16

²¹ <http://surl.li/toaev>

²² <https://zakon.rada.gov.ua/laws/show/2947-14#Text>, Article 257

²³ <https://www.reuters.com/graphics/UKRAINE-CRISIS/ORPHANS/dwpkrxzwvm/>

²⁴ <https://orphanshope.org/ukraine/>

²⁵ <https://www.hsa.org.ua/blog/pry-zhyvyh-batkah-dity-syroty-sotsialni-syroty>

²⁶ <https://sos-ukraine.org/novyny/mizhnarodnyj-den-lyudej-z-invalidnistyu-skilky-takyh-ditej-v-internatah-i-yak-yim-dopomogty/>

A significant number of children placed in institutional care due to the lack of comprehensive support of families, early detection, and overcoming of difficult life circumstances faced by families with children is directly related to the unimplemented deinstitutionalization reform, which, according to the European Commission, “is a matter of serious concern and requires urgent resolution.”²⁷ This need is particularly urgent in connection with the armed aggression of the Russian Federation, as “status” (children with the legal status of “orphan” or “child deprived of parental care”) children who are in institutional care due to the continued existence of the phenomenon of social orphanhood are at serious risk of harm and human rights violations. One such violation is deportation or forcible transfer. There is evidence of further forcible transfers of Ukrainian children to Russian boarding schools or foster families.

In the occupied territories of Ukraine, the processes of deprivation of parental rights by the decision of Russian authorities on the basis of Russian legislation are ongoing. According to the “final reports” of the Ministry of Education of the Russian Federation “on the identification and placement of orphans and children left without parental care” covering the three quarters of 2023, 1,020 children “left without care” were identified in the so-called “Luhansk People’s Republic” (“LPR”), “Donetsk People’s Republic” (“DPR”), and parts of Zaporizhzhia and Kherson regions controlled by Russian agents. Some of them had been taken away from their blood relatives under the pretext of ‘an immediate threat to life or health’ with no further details provided. 78 of these children were given up for adoption by Russian citizens. At the same time, this data may be significantly understated, as information about children removed from their families in the occupied Kherson region only appears in the reports of the Russian Ministry of Education in the third quarter of 2023.²⁸ The relevant dynamics of processes in the occupied territories indicate a potential continuation of deportation and forcible transfer of “status” children.

For more information about the situation of Ukrainian children under the control of the Russian Federation from the perspective of international law, see the UCRN Report here:

<https://childrights.org.ua/en/news/presentation-of-the-study-nonreturn-of-children-ukraine-in-the-face-of-the-greatest-challenge-since-the-independence/>

²⁷ <https://www.hrw.org/news/2023/06/15/key-recommendations-reform-ukraines-child-protection-and-care-system>

²⁸ <https://meduza.io/feature/2024/03/11/oni-mogut-nachat-protivodeystvovat>

SECTION 2

Returning Ukrainian children from Russia and the temporarily occupied territories: current situation and challenges

Ukrainian children who find themselves under the control of the Russian Federation have the right to family reunification and/or return to their state of citizenship. Article 74 of Additional Protocol I to the Geneva Conventions (1977) enshrines the obligation of states to facilitate by all possible means the reunification of families dispersed as a result of armed conflicts and to encourage the work of the humanitarian organizations engaged in this task. Article 85(4)(b) of the aforementioned treaty prohibits unjustifiable delay in the repatriation of children, which constitutes a war crime.²⁹

Article 13, paragraph 2, of the Universal Declaration of Human Rights provides for the right of everyone to return to his country.³⁰ Article 12, paragraph 4, of the International Covenant on Civil and Political Rights, guarantees that no one shall be arbitrarily deprived of the right to enter his own country.³¹ Article 9 of the UN Convention on the Rights of the Child contains the obligation of states to inform parents and other family members of the whereabouts of a child who has been separated from them, in particular as a result of deportation. Article 10 of the latter Convention enshrines the right of a child and his or her parents to leave any country, including their own, and to return to their country. It is implied from the provisions of the Article that states, in turn, should facilitate the process of family reunification in a positive, humane, and expeditious manner by simplifying procedures for entering and leaving the state.³²

The issue of the return of children separated from their families to their country of origin and their right to reunification is elaborated in the practice of the UN Committee on the Rights of the Child. General Comment No. 6 to the Convention states that family reunification should take place if it is in the best interests of the

²⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 https://zakon.rada.gov.ua/laws/show/995_199#Text

³⁰ https://zakon.rada.gov.ua/laws/show/995_015#Text

³¹ https://zakon.rada.gov.ua/laws/show/995_043#Text

³² Convention on the Rights of the Child, 20 November 1989 https://zakon.rada.gov.ua/laws/show/995_021#Text

child. States have the obligation, whenever possible and in the best interests of the child, to reunite separated and unaccompanied children with their families as soon as possible. In no case should a child be separated from his or her parents against their will, and states should make every effort to return an unaccompanied or separated child to his or her parents.³³

In 2022, the UN Committee on the Rights of the Child issued a decision on an individual complaint filed by French citizens whose grandchildren, nieces, and nephews are currently being held in camps in Syria under the control of illegal paramilitary groups. In its conclusion on the case, the Committee noted that France's refusal to repatriate children who have been held in Syrian camps for years in life-threatening conditions violates their right to life, as well as the right to freedom from inhuman and degrading treatment.

The Committee's experts argue that whilst the Convention does not explicitly establish a specific positive obligation to repatriate children, such an obligation can be derived in this case from the State Party's positive obligation to ensure the rights of the child. The only way a State Party can fulfill its positive obligations under international law is to repatriate children.³⁴

As of July 2024, according to the Children of War portal, 388 children have been returned to Ukraine, but on July 9, the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, Dmytro Lubinets, reported 736 children.³⁵

Ukrainian children still seeking return from the control of the Russian Federation include, but are not limited to

- children whose parents were killed or arbitrarily detained by Russian agents, including while attempting to evacuate;
- children (orphans, deprived of parental care, removed from families, transferred at the request of parents) who were in institutional care at the beginning of the full-scale invasion and were forcibly transferred to the territory under Russian control to boarding schools or foster families;
- children with disabilities who were in institutional care at the beginning of the full-scale invasion and were forcibly transferred to the territory controlled by the Russian Federation to boarding schools or foster families;
- orphans or children deprived of parental care who, at the beginning of the full-scale invasion, were students of vocational schools located in the newly occupied territories;

³³ General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin. <https://www2.ohchr.org/english/bodies/crc/docs/gc6.pdf> p. 13, 81

³⁴ Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communications Nos. 77/2019, 79/2019 and 109/2019 https://digitallibrary.un.org/record/3995705/files/CRC_C_89_D_77_2019--CRC_C_89_D_79_2019--CRC_C_89_D_109_2019-EN.pdf

³⁵ <https://frontnews.eu/ua/news/details/81643>

- children who were placed with relatives for security reasons at the beginning of the full-scale invasion;
- children who have fallen under the control of the Russian Federation and whose parents are Ukrainian military personnel or work in government agencies.

The return of Ukrainian children is carried out by public organizations, charitable foundations, and volunteers in partnership with government agencies. For example, one of the first organizations to start working on the return of Ukrainian children from the Russian Federation and the temporarily occupied territories was the international charitable organization Charitable foundation SOS Children's Villages Ukraine. As early as February 2022, the organization facilitated the actual evacuation of family-type orphanages, in particular from Donetsk and Luhansk regions and Kharkiv region, and the reunification of families separated as a result of hostilities.

Later, in May 2023, the initiative was further developed by the UCRN in partnership with the international humanitarian organization Save the Children in Ukraine, the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, the Office of the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, within the framework of the Way Home project. Government stakeholders are also involved in the cooperation: The Office of the President of Ukraine, Advisor to the Presidential Commissioner for Children's Rights and Child Rehabilitation Daria Gerasymchuk, the State Migration Service of Ukraine, and Ukrainian diplomatic missions in different countries.

In practice, the process of return is initiated with the identification of the child's location (at the request of an adult) and/or their legal representative (if there is information about the child and their actual location). The return can also be initiated by the adolescent child themselves, who is aware of their desire to return to Ukraine, but in such cases, it is still important to obtain information about adults — parents or legal representatives, relatives or close associates of the child, as their participation is necessary both to clarify the circumstances and to participate in the return process. The most vulnerable are "status" children under the age of five, who, first of all, cannot seek help and report themselves, and second, are particularly attractive to potential adoptive parents from Russia.³⁶

Upon identification of the child's location, the initial analysis of the situation begins, which consists of establishing contact with family members to determine

³⁶ <https://www.0629.com.ua/news/3791602/diti-z-mariupola-vidmovilisa-povertatisa-z-batkami-v-okupaciu-voni-obrali-ukrainu-intervu-z-dareu-kasanovou>

the circumstances of the child's entry into the territory of the Russian Federation or the temporarily occupied territories, the conditions of his or her stay there, and collecting documents that may be helpful in planning and implementing the return. Documents that allow the organization to act in the interests of the child and his or her parents or legal representatives are required.

The next step is to prepare documents and develop the logistics of return — the so-called individual trajectory (plan) for the child's transportation from the occupied territory or Russia. For the most part, the route to the occupied territories or to Russia is made through several European countries. Therefore, the legal representative must have a passport, which is usually issued for the first time and under an expedited procedure. Difficulties at this stage may arise if the legal representative, due to circumstances, cannot travel to collect the child in person. In this case, a power of attorney must be issued for another person, whose powers may not be recognized by the Russian authorities.³⁷ Such circumstances will lead to a refusal to hand over the Ukrainian child, and, consequently, to repeat all the previous stages.

There are cases when the authorities of the Russian Federation demand to supplement the previously agreed package of documents, thus causing an unjustifiable delay in the return.³⁸ Some of the documents that a child's legal representative is "obliged" to provide are specific to the Russian legal system, which the aggressor state, contrary to international humanitarian law, has extended to the occupied territories. The "conflict" of laws artificially created by the Russians leads to an unreasonable delay in family reunification. It should be noted that the documents must be notarized and translated into Russian. Although representatives of the Russian Federation claim that they help Ukrainian parents and legal representatives with the appropriate paperwork³⁹, in the practice of the UCRN within the framework of the Way Home project, there has not been a single case of such "assistance".

It can take anywhere from two weeks to two months to get the child back. The process takes longer if the child is in the occupied territory of Ukraine. This is due to the fact that the occupation administrations do not act independently, but are actually accountable to the federal authorities and the Office of the Presidential Commissioner for Children's Rights, where decisions on the return are made. In addition, the transfer of a child is complicated by the passage of a number of checkpoints, and thus interrogations, intimidation, and repeated traumatization.⁴⁰

³⁷ <https://rozmova.wordpress.com/2023/11/13/dariya-kasyanova-2/>

³⁸ <https://childrights.org.ua/shlyah-do-povernennya-dytyny-mozhe-zajmaty-vid-dvoh-tyzhniv-do-dvoh-misyaciv-darya-kasyanova/>

³⁹ <https://deti.gov.ru/Deyatelnost/documents/307>, p. 6

⁴⁰ <https://hromadske.radio/podcasts/shlyakh-dodomu-iaak-povernuty-dytynu-z-deportatsii/yak-povernuty-dytynu-z-deportatsii-abo-vyvezty-z-okupatsii>

One return case costs an average of 2,000 euros, which includes logistical and administrative costs, including the salaries of the team of specialists involved in the return of young Ukrainians. Upon return, children and their families are placed under social support, which is implemented according to the case management methodology, in which a social work specialist assesses the needs of children, organizes, coordinates, monitors, evaluates and facilitates the provision of various services to meet the needs of children and their families, helps them adapt to new conditions and promotes family development for the well-being and comfort of children. The duration of support is up to three months and the cost is on average 9,000 euros.

In early 2023, the Russian Federation intensified its information campaign to portray *“active efforts”* to reunite Ukrainian families and return deported and forcibly displaced Ukrainian children. Having analyzed the examples of such “efforts”, which are given in Annex 1 to the third issue of the Bulletin “On the activities of the Russian Presidential Commissioner for Children’s Rights Maria Lvova-Belova to protect children during a special military operation,”⁴¹ it can be concluded that the Russians deliberately distort the actual circumstances of the return and conceal the obstacles that were created on the way of Ukrainian parents or other legal representatives.

For example, in case 18, about 14 months passed from the moment the girl was taken to Russia until *“together with the ICRC, the Commissioner [Maria Lvova-Belova] helped the grandmother and granddaughter to reunite, assisted in their transportation and accommodation in Russia, [...] accompanied them to the Russian-Latvian border.”* Throughout this period, the girl’s grandmother, with the help of non-governmental organizations, unsuccessfully tried to return her granddaughter to Ukraine, undergoing 18-hour interrogations at the border with Russia and facing threats from Russian agents. At the same time, in order to delay the child’s departure from Russia, she was made a party to a criminal proceeding on attempted rape, of which the “victim” herself learned only from Russian law enforcement agencies. Consequently, the family was only reunited on the second attempt and only after the girl’s mother reported the obstacles to her return to the UN Security Council.

In cases 7-11, where it is stated that *“after the children were handed over to their mother, she decided to stay in Russia,”* it is worth elaborating on the circumstances that influenced this decision. In particular, the Office of the Commissioner Maria Lvova-Belova provided the large family with housing and social benefits. This was reported by the mother to a non-governmental organization that was involved in the process of organizing the return of the children to Ukraine, explaining why they remained in Russia. It is important that the woman initially refused the idea

⁴¹ <https://deti.gov.ru/uploads/magic/ru-RU/Document-0-307-src-1718871066.5662.pdf>

of helping to repatriate her daughters with their grandmother, who was with them on the territory of the aggressor state. Instead, she was interested in receiving funds for their return, which may indicate that profit was the primary driver of her decision.

Case 12 refers to the ***“work done by [Maria Lvova-Belova]”*** to reunite sisters whose mother died in Russia. At the same time, the main obstacle to the repatriation of children was the aggressor state’s failure to comply with its international obligations. In particular, the Russian competent authorities did not establish a national bureau, as provided for in Article 136 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War⁴², which would accumulate information, including on the deaths of civilians, and transmit such information through the Central Tracing Agency of the International Committee of the Red Cross to Ukraine. Therefore, the girl’s older sister did not immediately learn about her mother’s death and later had difficulty fulfilling the request of the Ombudsman’s Office to have her mother’s death documented by the competent authorities of Ukraine. The authorities of the Russian Federation could not but know that it was almost impossible to issue the document, which they had conditioned on the return of the children, without access to the body of the deceased and any information on the circumstances of her death. However, owing to the efforts of a Ukrainian non-governmental organization in partnership with the Ukrainian authorities, the sisters were able to overcome this challenge and repatriate to their homeland.

In case 20, which refers to the return of her minor brother by his sister only as ***“helping the family to reunite,”*** several important details are left out. First, the transfer of the child lasted more than a month, during which Russian agents repeatedly detained the family at the border, stating that the brother was a Russian citizen (as a result of the forced imposition of citizenship of the aggressor state), and his sister was not. Secondly, Russian agents threatened to take the child away, leaving the minor in the Russian Federation, and either deporting the sister to Ukraine or imprisoning her for “kidnapping.” Thirdly, while their return was unjustifiably delayed, the girl and her brother were persuaded to move to Russia permanently, stimulated by intimidation from border guards and the federal security service. At the same time, the sister was ordered to ‘renew’ her custody documents under Russian law, which would also lead to the imposition of Russian citizenship on her and her brother. The experience of such “assistance” from the Office of the Commissioner in reunification led to an exacerbation of chronic diseases of the children’s mother (diabetes), as well as a nervous breakdown of the sister herself.

⁴² https://zakon.rada.gov.ua/laws/show/995_154#Text

In case 33, according to the testimony of Commissioner Maria Lvova-Belova, **“the grandmother and grandson were arranged to undergo a DNA test to confirm their relationship”**, it is not stated that the return process took approximately 2 months, and the delay was not only caused by the genetic testing. The administration of the institution in Skadovsk (occupied Kherson region), to which the boy was forcibly transferred, together with the occupation social services and police, demanded that the grandmother present a Ukrainian court order to establish custody of her grandson. The above form of the ruling is neither typical for Ukrainian legislation⁴³ nor for the legislation of the Russian Federation,⁴⁴ which it had unlawfully extended to the occupied territories. Therefore, such a requirement was only a way to delay the child’s return and attempt to convince the grandmother to remain under Russian control. It was only after agreeing on the family reunification process with the Office of the Commissioner [Maria Lvova-Belova], receiving the results of a DNA examination, and being filmed in a propaganda video that the grandmother and grandson managed to leave the occupied territory.

Case 59, which requires further detailed study in the context of the actual shooting of civilians during the evacuation, also lacks a description of the process of **“handing over the boy”** to his aunt from Ukraine. Attempts to return the child date back to July 2022, although the boy was repatriated to Ukraine only in February 2024. A few months after the deaths of the child’s mother and older brother, his aunt in the government-controlled territory of Ukraine formalized all the necessary documents to establish custody. Initially, the occupation authorities delayed the return, citing the boy’s health condition. However, in September 2022, when the proper transportation and medical support of the child to Ukraine was arranged, the chief physician of the institution where he was held unreasonably banned the transfer and began threatening social services and the police. Then, despite the fact that the child had a guardian in Ukraine, the boy was appointed a “legal representative” under Russian law. The child was only brought back to Ukraine through the mediation of Qatar.

For more information on the return of Ukrainian children from the Russian Federation and the temporarily occupied territories, see the UCRN Report here:

<https://childrights.org.ua/en/news/presentation-of-the-study-nonreturn-of-children-ukraine-in-the-face-of-the-greatest-challenge-since-the-independence/>

⁴³ <https://zakon.rada.gov.ua/laws/show/z0387-99#Text>, para. 1.3. Rules of guardianship and custody

⁴⁴ https://www.consultant.ru/document/cons_doc_LAW_76459/512e4c7606acd1bef6241d6120aea969882ac86a/, article 11

SECTION 3

Algorithm for the return of deported orphans and children deprived of parental care on the basis of international standards

The Russian Federation has consistently obstructed the return of Ukrainian children under its control. Russia manipulates international law loopholes, in particular the lack of a return mechanism, as well as the vulnerability of children and their legal representatives, effectively appropriating children and making their repatriation impossible. The Russian Federation presumes that such children are Russian citizens and should remain under Russian control, allowing for rare exceptions in cases where Ukrainian legal representatives can provide all the documents required under Russian legislation.

The algorithm for the return of Ukrainian children from under the control of the Russian Federation must be developed on the basis of the concept of a unified legal mechanism for return⁴⁵, with respect for the best interests and individual needs of the child as its guiding principles. Ukraine must exert every effort to return institutionalized children in respect of whom it acts as a *parent patriae*.

Such an algorithm shall consist of several steps, the implementation of which determines its performance.

⁴⁵ <https://krymbezpravil.org.ua/materialy/way-home-mekhanizm-povernennia-nezakonno-deportovanykh-i-prymusovo-peremishchenykh-ditey/>

STEP 1.

Adoption of a UN General Assembly resolution on the return of children including orphans and children deprived of parental care to their country of origin

According to Baroness Helena Kennedy, co-chair of the international task force Bring Kids Back UA, Ukraine's experience in returning children will become the basis for the advancement of international law.⁴⁶

Guarantees for the protection of orphans and children deprived of parental care are limited in international humanitarian law. Moreover, international treaties dealing with the law of armed conflicts do not actually distinguish between "status" children and other children. Only Article 24 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War contains an obligation for the parties to the conflict to take the necessary measures to ensure that children under the age of fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and to facilitate, under all circumstances, their care, the performance of rites connected with their religion, and their education according to their cultural traditions.⁴⁷

Deportation and forcible transfer of orphans and children deprived of parental care is prohibited.⁴⁸ Instead, the parties to the conflict must facilitate the hosting of these children by a neutral state to ensure their safety.⁴⁹

International standards include an absolute prohibition of the adoption of displaced children during wartime.⁵⁰ Simultaneously, they mandate that no child should be without the support and protection of a legal guardian or other recognized responsible adult or competent public body at any time. In the context of repatriation, this poses several obstacles for orphans and those deprived of parental care compared to children who have a guarantee of family reunification, including the legal representation law applicable to individuals other than biological parents.

Currently, international humanitarian law does not establish procedures for addressing violations by one of the parties regarding its obligations concerning the treatment of orphans and children deprived of parental care, whom it has forcibly transferred or deported. This includes issues such as adoption, name changes, and/or resettlement to locations far from the state of origin. Consequently, the offending party effectively appropriates the "status" children of the opposing party, rendering their return impossible due to the absence of a mechanism provided for by international law.

⁴⁶ <https://www.president.gov.ua/en/news/mehanizmi-napracovani-ekspertnoyu-grupoyu-bring-kids-back-ua-88157>

⁴⁷ https://zakon.rada.gov.ua/laws/show/995_154#Text, Article 24

⁴⁸ *ibid*, Article 49

⁴⁹ *ibid*, Article 24

⁵⁰ https://digitallibrary.un.org/record/673583/files/A_RES_64_142-EN.pdf, paras 19 and 151

The resolution adopted at the level of the UN General Assembly can contribute to filling the indicated gaps, particularly in the context of:

- identification of orphans and children deprived of parental care. Establishment of laws governing the powers of legal representatives,
- guarantee of the principle of equality of all children in the right to family reunification, regardless of whether the parents are biological or adoptive,
- ensuring the right to return to the country of origin in cases where the child suffered from forcible transfer or deportation,
- assessment of the best interests of 'status' children regarding the initiation of the process of return to the country of origin, etc.

The adoption of a relevant resolution by the UN General Assembly will pave the way for the return of 'status' children who were forcibly transferred or deported not only from Ukraine but also from other states in conditions of armed conflict, expediting the implementation of all subsequent steps.

STEP 2.

Conclusion of a series of international agreements in the format of "Ukraine — third party" and "third party — Russia"

It is only cooperation based on a legally binding agreement that can fully ensure the rights and the child's best interests in the return process. Legal regulation of the process guarantees greater effectiveness and provides additional tools for pressure in case of a violation of the agreement, such as the application of countermeasures (sanctions).

The third party to the agreement can be any entity acceptable to the parties to the armed conflict or their combination, including:

- another State,
- a group of States,
- an international organization or its body (such as the UN or UNICEF),
- the UN Secretary-General, or the Special Representative of the UN Special Representative of the Secretary-General for Children and Armed Conflict, or
- a non-governmental organization.

The third party shall act as a guarantor of the return of all deported and forcibly transferred orphans and children deprived of parental care.

The agreements themselves should include provisions for:

- methods of identification by the parties of deported or forcibly transferred Ukrainian children,
- an exhaustive list of documents to be provided by the child's legal representative. Terms and logistics of return. Return financing,
- spheres of cooperation with specialized governmental and non-governmental organizations,
- monitoring and evaluation of the effectiveness of the return process,
- methods of resolving disputes regarding the interpretation and implementation of agreements,
- responsibility in case of non-fulfillment and violation of agreements.

At the same time, the agreements must ensure the pace and scale of the process of returning children and eliminate the requirement for the physical presence of a legal representative in the occupied territory and in the Russian Federation.

STEP 3.

Conducting an independent and impartial assessment of the child's best interests

According to the results of the study⁵¹ of international standards and practices, the Regional Center for Human Rights found that in the vast majority of cases, returning to Ukraine is in the best interests of 'status' children. This conclusion is confirmed in the Resolution of the Parliamentary Assembly of the Council of Europe.⁵²

Orphans and children deprived of parental care are more often victims of transfer to Russian families for guardianship or adoption compared to other categories of deported Ukrainian children. Ukrainian children are imposed with Russian identity, and they are integrated into the Russian educational system and socio-cultural space. "Guardians" and "adoptive parents" play a significant role in this process. They, along with Russian officials, should be excluded from the process of assessing the child's best interests since they obtained their status unlawfully.

Russia, as a state, cannot be the subject of an assessment of the best interests of Ukrainian children, as they came under its control as a result of the commission of international crimes by Russian agents. Entrusting the assessment of the best interests to the Russian authorities would lack objectivity, given the systematic

⁵¹ <https://krymbezpravil.org.ua/materialy/otsinka-naykrashchykh-interesiv-deportovanykh-ditey-syrit-ta-ditey-pozbavlenykh-batkivskoho-pikluvannia-z-metoiu-ikhnoho-povernennia/>

⁵² https://pace.coe.int/en/files/33348/html?__cf_chl_tk=NRgyYfTcHL7zSAsj6s_bFG5OCzOG4vZh2_9yRLW1Xwo-1715239886-0.0.1.1-1621

unlawful nature of the actions of the highest officials of the Russian Federation and their subordinates, denial of forcible displacement and forcible transfer to families, as well as Russia's attempt to shift responsibility for its own wrongful acts to Ukraine.

Therefore, the competent authorities of Ukraine should conduct an individual assessment of the best interests of the "status" children with the aim of their return. Russia can only be provided with a third-party opinion on the appropriateness of conducting such an assessment.

STEP 4.

Development of individual child return trajectories

Elaborating an individual return plan (trajectory) for orphans and children deprived of parental care is a complex task that requires the allocation of more resources from the state than in the case of children who have parents or other blood relatives.

The Constitution of Ukraine stipulates that the maintenance and education of orphans and children deprived of parental care are entrusted to the state.⁵³ The Family Code of Ukraine establishes that the state takes under its protection every orphan and child deprived of parental care.⁵⁴ This role of Ukraine is further reinforced by the *parens patriae* doctrine, which mandates that the state must act as the legal representative of a person in need of protection.

At the same time, the body responsible for protecting the rights of deported and forcibly transferred orphans and children deprived of parental care has not yet been identified at the national level, particularly in the context of developing individual return trajectories. The Coordination Council for the Protection and Safety of Children under the President of Ukraine is engaged in synchronizing the implementation of the Bring Kids Back UA action plan.⁵⁵ The Office of the Ukrainian Parliament Commissioner for Human Rights is 'tasked' with logistical, security, and other aspects of return, as well as providing psychological and humanitarian assistance to children and cooperating with partners.⁵⁶ The Ministry of Reintegration of Temporarily Occupied Territories coordinates the interaction of local and central executive authorities, local self-government bodies, the National Information Bureau, and nongovernmental organizations on the return and social protection of deported or forcibly transferred children.⁵⁷ The Ministry of Social Policy⁵⁸, the National Social Service⁵⁹, and the Coordination Center for the

⁵³ <https://www.president.gov.ua/documents/constitution>, Article 52

⁵⁴ <https://zakon.rada.gov.ua/laws/show/2947-14#Text>, Article 5

⁵⁵ <https://www.president.gov.ua/news/prezident-oznajomivsyia-z-planom-povernennya-nezakonno-deport-83261>

⁵⁶ https://www.ombudsman.gov.ua/news_details/ombudsman-ukrayini-dmitro-lubinec-dodomu-vdalosya-povernuti-11-ukrayinskih-ditej

⁵⁷ <https://zakon.rada.gov.ua/laws/show/376-2016-%D0%BF#n10>, para. 3, section 9-1

⁵⁸ <https://zakon.rada.gov.ua/laws/show/423-2015-%D0%BF#Text>

⁵⁹ <https://nssu.gov.ua/polozhennya-pro-nacsocsluzhbu>

Development of Family Upbringing and Child Care are responsible for organizing the placement of children in family forms of upbringing.⁶⁰

In the case of “status” children affected by deportation and forcible transfer, placement in family forms of upbringing after return is of paramount importance. At the State level, it is necessary to establish a registry of families willing not only to foster but also to participate in the return of a ‘status’ child from the territory under the control of the Russian Federation. When developing an individual return trajectory, it is also crucial to avoid locating the child near the war zone or in regions under constant Russian shelling.

The individual trajectory should include a plan for addressing learning setbacks (the gap between the competence that the student should acquire and what they actually know and can do), along with providing necessary psychological, financial, and legal assistance separately.

To ensure the development and implementation of an individual trajectory (plan) for the return of Ukrainian children, the Cabinet of Ministers of Ukraine approved the “Procedure for Identifying and Returning Children Deported or Forcibly Displaced as a Result of the Armed Aggression of the Russian Federation against Ukraine” on May 14, 2024.⁶¹ The procedure applies to a wide range of affected children, including those who are at risk of deportation or forcible transfer, and it involves the coordination of efforts among State bodies and non-governmental organizations by the Ministry of Reintegration of Temporarily Occupied Territories. The document establishes an individualized approach and a comprehensive vision of measures to be taken before, during, and after the return.

At the same time, the Order has significant shortcomings:

- objectification of the affected child and the lack of a mechanism for taking into account their opinion,
- development of relations with non-governmental organizations on a subordinate basis rather than a partnership basis,
- declarative nature of certain provisions, for which there are neither necessary regulatory acts nor adequate financial or human resources.

Furthermore, the individual plan’s form must be approved later, which represents an unjustifiable waste of time and raises questions about its potential creation as a whole.

⁶⁰ <https://zakon.rada.gov.ua/laws/show/538-2023-%D0%BF#Text>

⁶¹ https://www.kmu.gov.ua/storage/app/uploads/public/664/4b9/174/6644b91742808316910144.pdf?fbclid=IwZXh0bgNhZW0CMTAAR0-dWAXKbsulop8esq8rpqMevW6McwrheG8ZTqFgAj8eNZDoVrrQ-NK2Dw_aem_AXo4gUUyafOo7_oeSEYbRnpG-8_kYRGjSz4JJWheBAVSJ00-OUF5HHYvHLT8sGohXhLgixvG1u-mSJWPFHGePQ8B

As a result, the adopted act regulates and establishes only the current practice of returning a child from the control of the Russian Federation. Rehabilitation and reintegration of children remains the “responsibility” of non-governmental organizations.

STEP 5.

Rehabilitation and reintegration of returned Ukrainian children

According to General Assembly Resolution (76/147) “The Rights of the Child” (2021), States should take measures aimed at the rehabilitation and reintegration of children in environments that promote their health, self-respect, and dignity, in accordance with the norms of international humanitarian law and international human rights law.⁶² Programs for the rehabilitation and reintegration of returned children should be developed and approved at the national level in close cooperation with non-governmental organizations and international partners, taking into account both general trends and the unique needs of orphans and children deprived of parental care.

The said programs should be comprehensive and justified in terms of duration, extending to each region of the returned child’s actual residence. They should encompass not only psychological and medical assistance but also social support and educational services, and legal aid. Additionally, programs should include mechanisms for monitoring and evaluating their implementation.

For more information on the algorithm for the return of deported orphans and children deprived of parental care on the basis of international standards, see the RCHR report here:

<https://krymbezpravil.org.ua/en/analytics-en/algorithm-for-the-return-of-deported-orphans-and-children-deprived-of-parental-care-to-ukraine/>

⁶² <https://digitallibrary.un.org/record/3954144>

SECTION 4

Approaches to evaluating the best interests of Ukrainian children in the context of the return from under Russian control

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 child.⁶³ However, this assessment becomes challenging in territories under the 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 situation in Ukraine, as it would require the aggressor states to admit their unlawful actions. Moreover, Russian agents deliberately distort reality. Numerous cases have been documented in which children were told about the surrender of Ukraine, the cessation of its existence⁶⁴, and were intimidated by criminal prosecution and violence against family members or the minor themselves in the event of their return.⁶⁵ Some of the children were subjected to pressure at the hands of the Russian special services, which served as one of the reasons for their refusal to be repatriated.⁶⁶

It is worth considering that Ukrainian children found themselves under the control of the Russian Federation due to international wrongful acts, including aggression, annexation of occupied territories, deportation, or forcible transfer. The above implies that the state responsible for these actions is not an appropriate entity

⁶³ <https://digitallibrary.un.org/record/566055>

⁶⁴ 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>

⁶⁵ See, but not exclusively

<https://www.radiosvoboda.org/a/eksklyuzyvne-intervyu-povernutoho-z-rosiyi-bohdana-yermokhina/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/>

⁶⁶ <https://grivna.ua/publikatsii/ya--zagublena-dusha-istoriya-vikradenogo-hersonskogo-pidlitka-yakogo-povernuli-z-rf-ale-e-pitannya>

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 interests.⁶⁷

The Russian Federation consistently imposes its citizenship on Ukrainian children under its effective control. Decree No. 330⁶⁸ by the President of the Russian Federation (later replaced by Decree No. 11⁶⁹) 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 citizenship.⁷⁰

Commissioner for Children’s Rights of the Russian Federation Maria Lvova-Belova asserts⁷¹ that children retain Ukrainian citizenship and 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 Federation.⁷² 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 years.⁷³ Older children sometimes chose the surname of a Russian “guardian.”⁷⁴ 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 socialization.⁷⁵ From this perspective, repatriation to Ukraine is in the best interests of its underage citizens.

⁶⁷ https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf

⁶⁸ <http://www.kremlin.ru/acts/bank/47886>

⁶⁹ <http://publication.pravo.gov.ru/document/0001202401040003>

⁷⁰ <https://tass.ru/mezhdunarodnaya-panorama/14924159>

⁷¹ <https://web.archive.org/web/20230410183035/https://deti.gov.ru/detigray/upload/documents/April2023/QYQjD1VHtlNu74bQuDAF.pdf>

⁷² <http://www.kremlin.ru/acts/bank/49216>

⁷³ <https://istories.media/stories/2023/11/23/mironov-i-deti/>

⁷⁴ <https://dzen.ru/a/Zcg7xdQGrygQnv-A>

⁷⁵ https://www.icrc.org/en/doc/assets/files/other/icrc_002_1011.pdf

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqkirKQZLK2M58RF%2F5F0vEAXPu5AtSWliDPBvwUDNU%2BXzNo%2BP87FA3t6o0hLTWqj3zDRy4oCA3DO7%2FTHxE70da0GupUJShCbh9%2FH1atulz>

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 origin,⁷⁶ 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 activities,⁷⁷ and militarized associations, such as the Yunarmy [Yunarmii]⁷⁸, displaying symbols of the enemy⁷⁹ or writing letters to Russian soldiers.⁸⁰ Ukrainian children become victims of political and religious indoctrination⁸¹, often influenced by their Russian 'adoptive parents'. It's crucial that guardianship not be granted to individuals directly or indirectly involved in⁸² an armed conflict. However, Ukrainian children have been placed under the care of individuals involved in or related to those involved in the conflict in Ukraine.⁸³ 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 citizens.⁸⁴ Additionally, Russian agents sometimes relocated deported minors multiple times arbitrarily⁸⁵, 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 interests.⁸⁶

⁷⁶ <https://dzen.ru/a/ZAf445DTsBHsVpTj>

⁷⁷ <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%2Fnarrative%2F%2Fobschestvo%2Fsemja-kolesnik-roditelskaja-mudrost&psig=AOvVaw0jAX7NqKAm6yDeYsP-6-f&ust=1711468353175000&source=images&cd=vfe&opi=89978449&ved=0CBQqJhxqFwoTCOjO4tPij4UDFQAAAAAdAAAAABAD>

⁷⁸ 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-vyravshegosya-iz-rf-ukrainskogo-podrostka-no-boyashegosya-vozvrashchatsya-v-ukrainu-2539048.html>

⁷⁹ See, but not exclusively <https://rutube.ru/video/4568dae3785f8b25a1767ad557789a9b/>

⁸⁰ See, but not exclusively <https://dzen.ru/a/ZJKXbjjBykUwoNBu>

⁸¹ See, but not exclusively

<https://meduza.io/feature/2023/04/20/ombudsmen-mariya-ivova-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-povernusya-v-ukrainu-detali-20-12-2022.html>

<https://www.google.com/url?sa=i&url=https%3A%2F%2Fks-yanao.ru%2F%2Fnarrative%2F%2Fobschestvo%2Fsemja-kolesnik-roditelskaja-mudrost&psig=AOvVaw0jAX7NqKAm6yDeYsP-6-f&ust=1711468353175000&source=images&cd=vfe&opi=89978449&ved=0CBQqJhxqFwoTCOjO4tPij4UDFQAAAAAdAAAAABAD>
<https://tass.ru/v-strane/17106919>

⁸² See, but not exclusively

<https://istories.media/news/2024/01/26/semya-pskovskogo-desantnika-usinovila-rebenka-viveznogo-iz-donetskoj-oblasti-v-ukraine-voennogo-obvinyayut-v-ubiistvakh-mirnikh-zhitelei/>

⁸³ See, but not exclusively <https://ngs.ru/text/family/2022/10/25/71761355/>

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

⁸⁴ <http://www.bryanskobl.ru/docs/ombudsman/child-report-2023.pdf>, p. 101

⁸⁵ See, but not exclusively <https://www.miloserdie.ru/article/vy-nuzhny-gotovtes-vezut-detej-iz-donbassa/>

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

⁸⁶ https://tbineternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2F%2FRUS%2FCO%2F6-7&Lang=en

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, cultural, and linguistic origin.⁸⁷ It's important to note that the Russian Federation consistently refused to repatriate orphans and children deprived of parental care⁸⁸⁸⁹, creating artificial obstacles that resulted in an unjustifiable delay in their return, amounting to a separate war crime threshold.⁹⁰

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 one to three 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.

Herewith, the extended stay of such children under the care of Russian citizens is only possible provided that the Ukrainian authorities establish the following:

- the child was not forcibly taken from their biological family or abducted,
- the child's blood relatives were not persecuted by Russian agents,
- 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 them,⁹¹
- the child freely expresses consent to remain in the Russian family under conditions conducive to freely expressing their views,
- 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 the country of origin.⁹² 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.

⁸⁷ <https://digitallibrary.un.org/record/566055>

⁸⁸ See, but not exclusively <https://shorturl.at/grR13>

⁸⁹ See, but not exclusively <https://www.radiosvoboda.org/a/deportatsiya-ukrayinskykh-ditey-ivova-byelova-rozmova-faktchek/32676520.html>

⁹⁰ See more [https://www.lemkininstitute.com/ukraineproject/icc-communication \(2nd Addendum\)](https://www.lemkininstitute.com/ukraineproject/icc-communication%20(2nd%20Addendum))

⁹¹ Mutatis mutandis <https://collections.arolsen-archives.org/en/search/topic/6-1-2-0005?s=DE%20ITS%206.1.2>

⁹² <https://digitallibrary.un.org/record/566055>

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 family.⁹³ 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 in 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.

For more information on approaches to evaluating the best interests of Ukrainian children in the context of the return from under Russian control, see the RCHR report here:

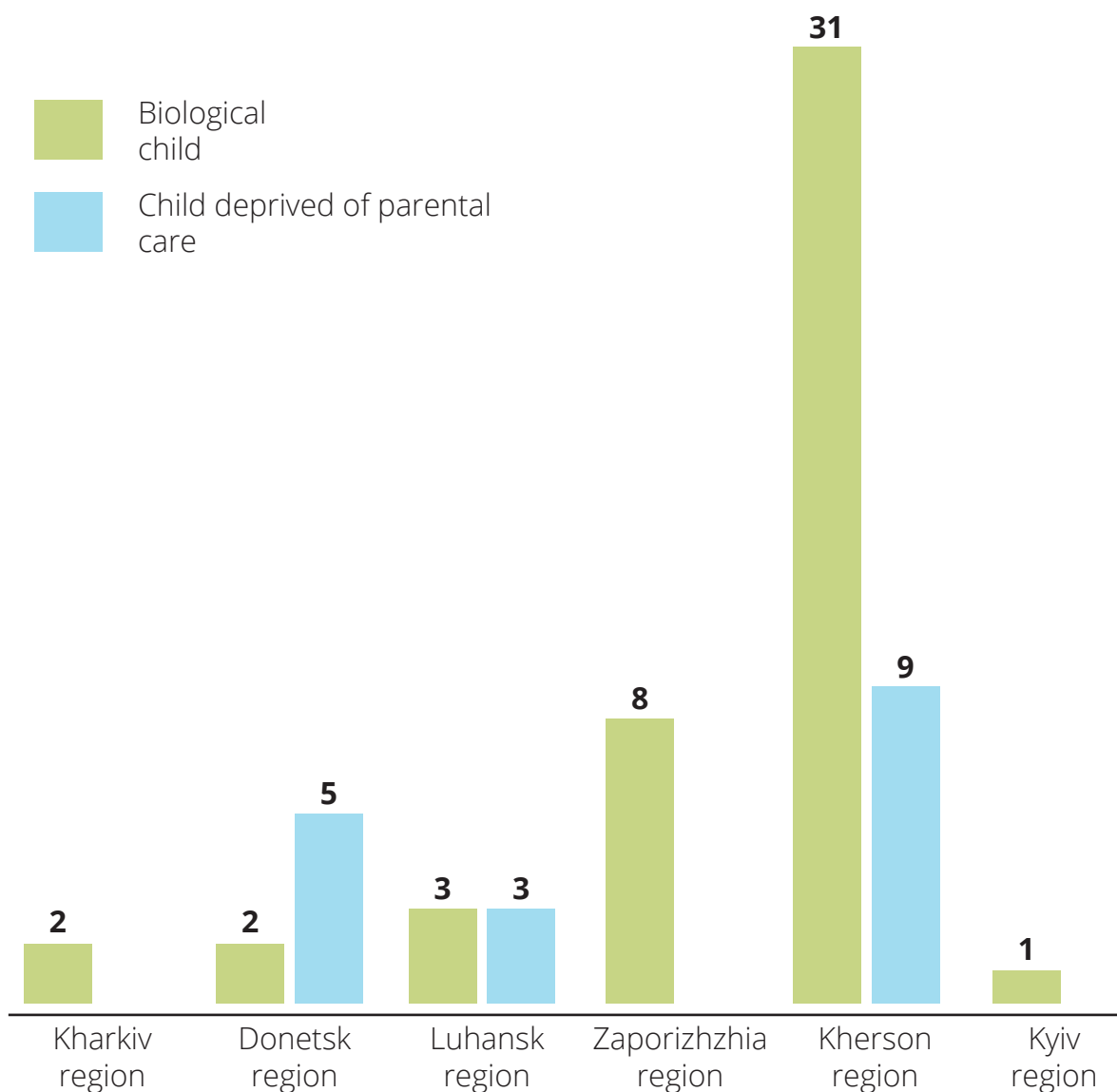
<https://krymbezpravil.org.ua/en/analytics-en/evaluating-the-best-interests-of-deported-orphans-and-children-deprived-of-parental-care-in-anticipation-of-their-potential-return/>

⁹³ *ibid*

SECTION 5

Social profile of children having been returned from the Russian Federation and the temporarily occupied territories

Among the children returned through active facilitation of the UCRN and whose needs have been identified for the present analysis, the majority are from biological families — 47. The largest number of them are from cities or towns of Kherson region — 31 children, from cities or towns of Zaporizhzhia region — 8 children, from cities or towns of Luhansk region — 3 children, from cities or towns of Kharkiv and Donetsk regions — 2 children each, and from a city or town of Kyiv region — 1 child. Mothers act as primary caregivers for the children, and a grandmother cares for one of the children, as their parents are serving military personnel.

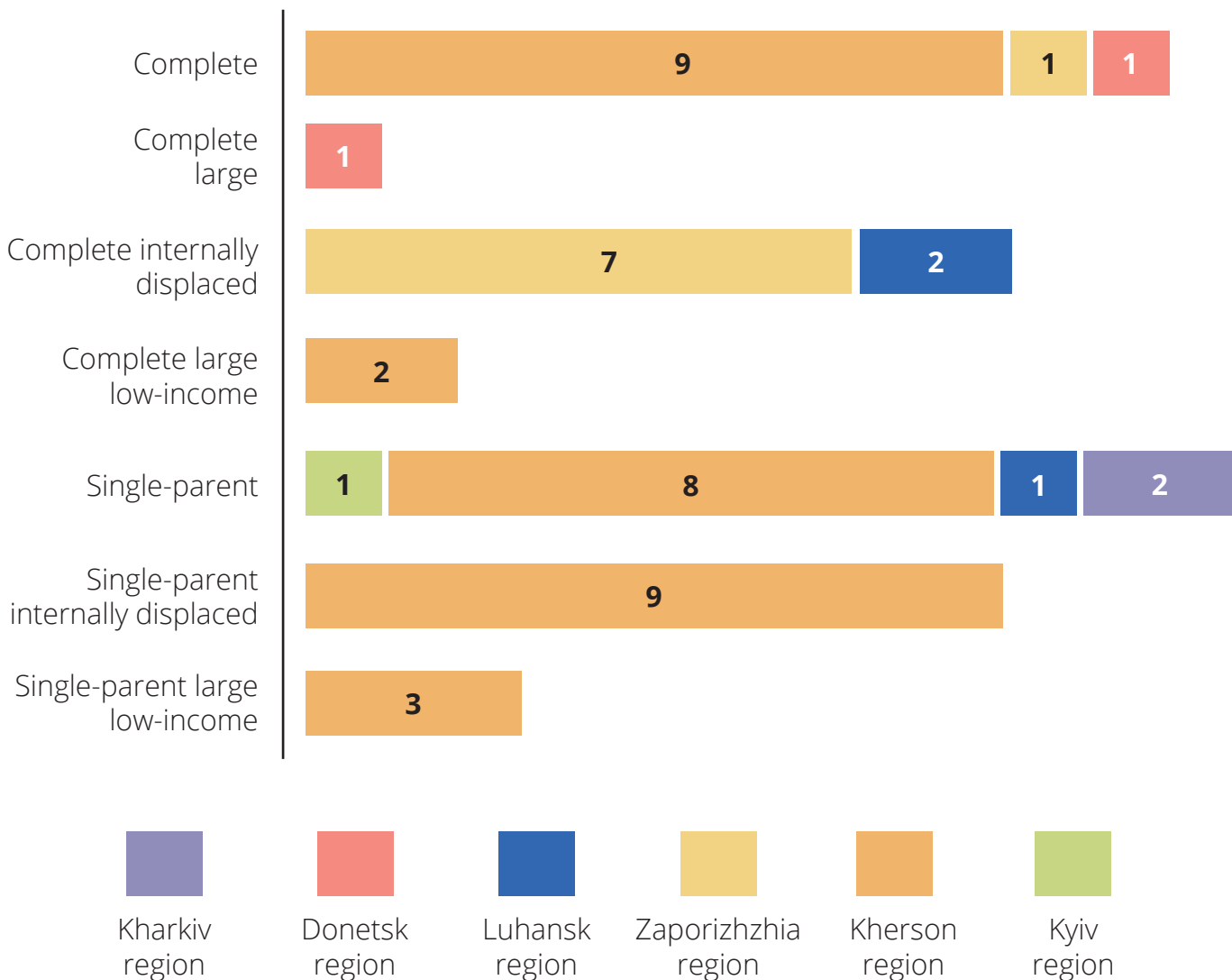


17 children whose needs have been evaluated for analysis are recognized as children deprived of parental care. The largest number of children are from cities or towns of Kherson region — 9 children, from cities or towns of Donetsk region — 5 children, from cities or towns of Luhansk region — 3 children. Among the children, the primary caregiver is a grandmother (3 children), a guardian (4 children), one of whom has a close relative — a sister, foster parents (3 children), a foster mother (2 children), 3 children do not have a permanent or established guardian, and 2 children received a temporary guardian to allow them to leave the occupied territory

The children whose needs assessments were taken for analysis belong to different types of families.

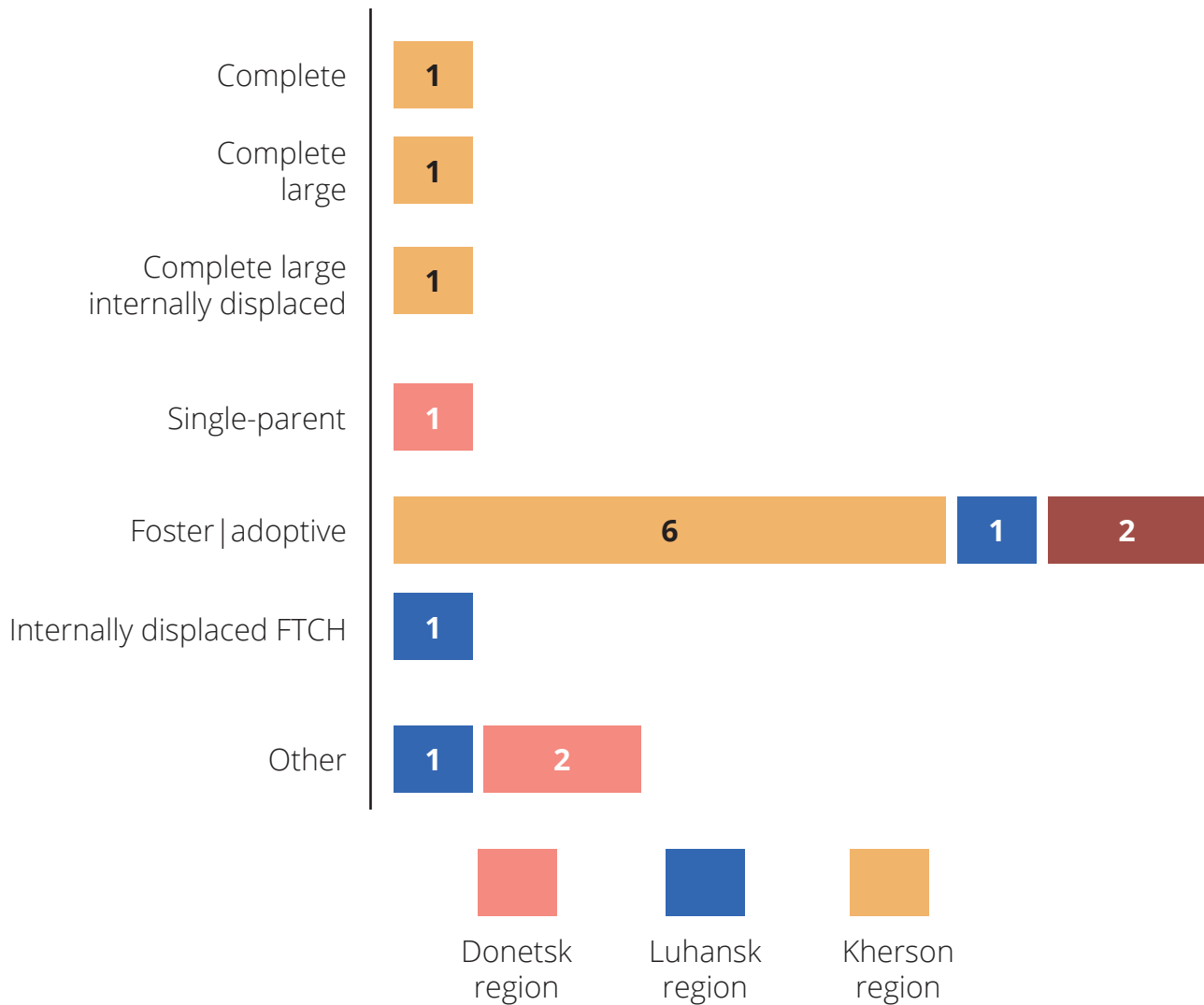
The biological children are members of the following families:

- complete families — 11
- complete large families — 1
- complete internally displaced families — 9
- complete low-income large families — 2
- single-parent families — 12
- single-parent internally displaced families — 9
- single-parent low-income internally displaced large families — 3



Children deprived of parental care are members of the following families:

- complete — **1**
- complete large families — **1**
- complete internally displaced large families — **1**
- single-parent families — **1**
- foster/adoptive families — **9**
- internally displaced family-type children’s homes (FTCH) — **1**
- other — **3**

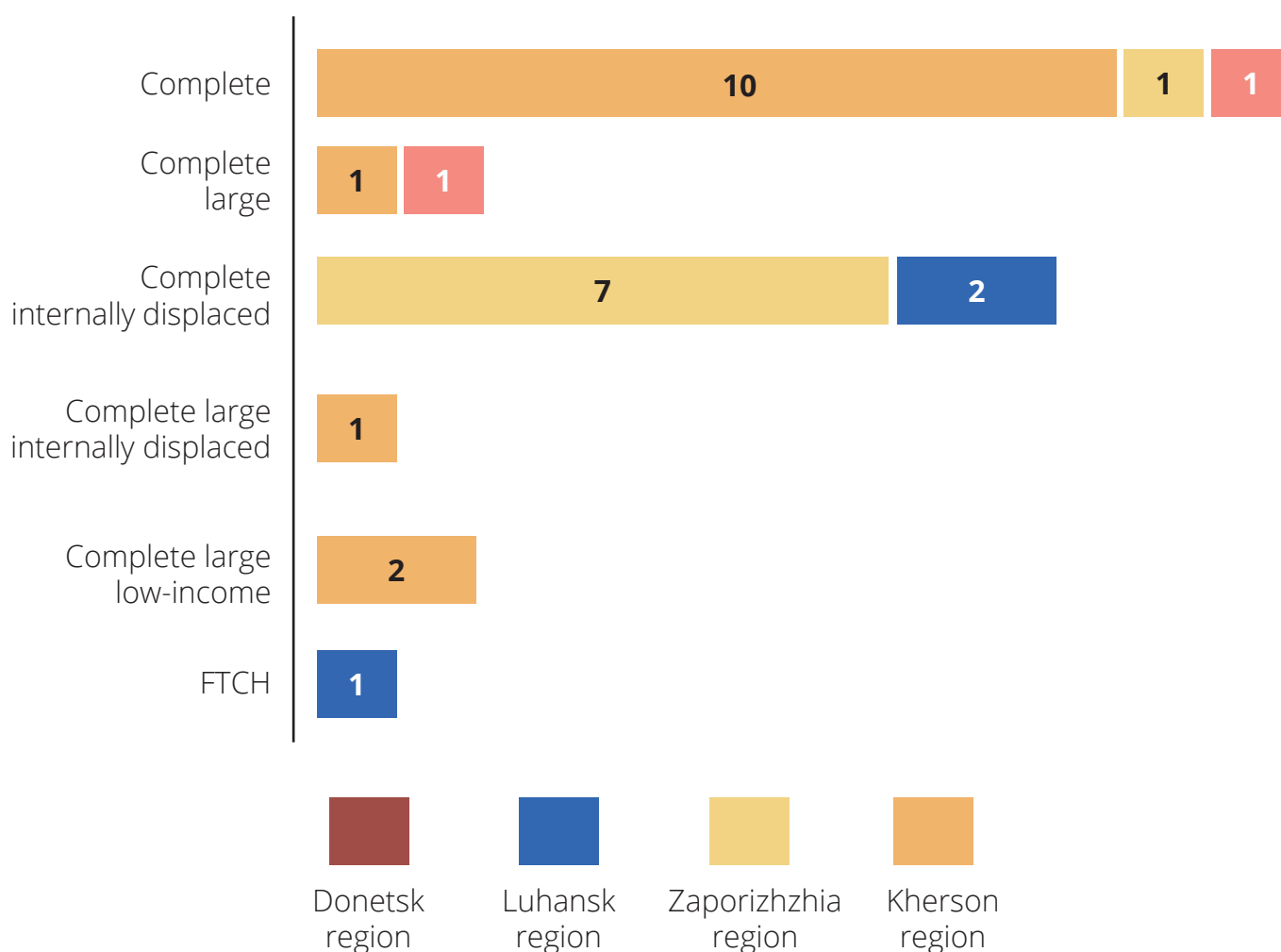


Children categorized as “other” include 1 orphan with no legal representative at the time of return, 1 orphan whose custody was still being established by a close relative — the grandmother — at the time of return, 1 child deprived of parental care receiving full state support in an educational institution and was forcibly transferred to an institution in the occupied territory.

The overall breakdown, according to the type of family in which both biological children and children deprived of parental care lived or continue to live, having regard to the place of residence prior to deportation or departure from the occupied territories, is as follows:

Families with no additional functional characteristics

- children from single-parent families — 12
- children from large single-parent families — 2
- children from single-parent families who are also internally displaced persons — 9
- children from large single-parent families who are internally displaced — 1
- children from families both large and low-income — 2
- children from family-type children’s homes (FTCH) — 1



Families with additional functional characteristics

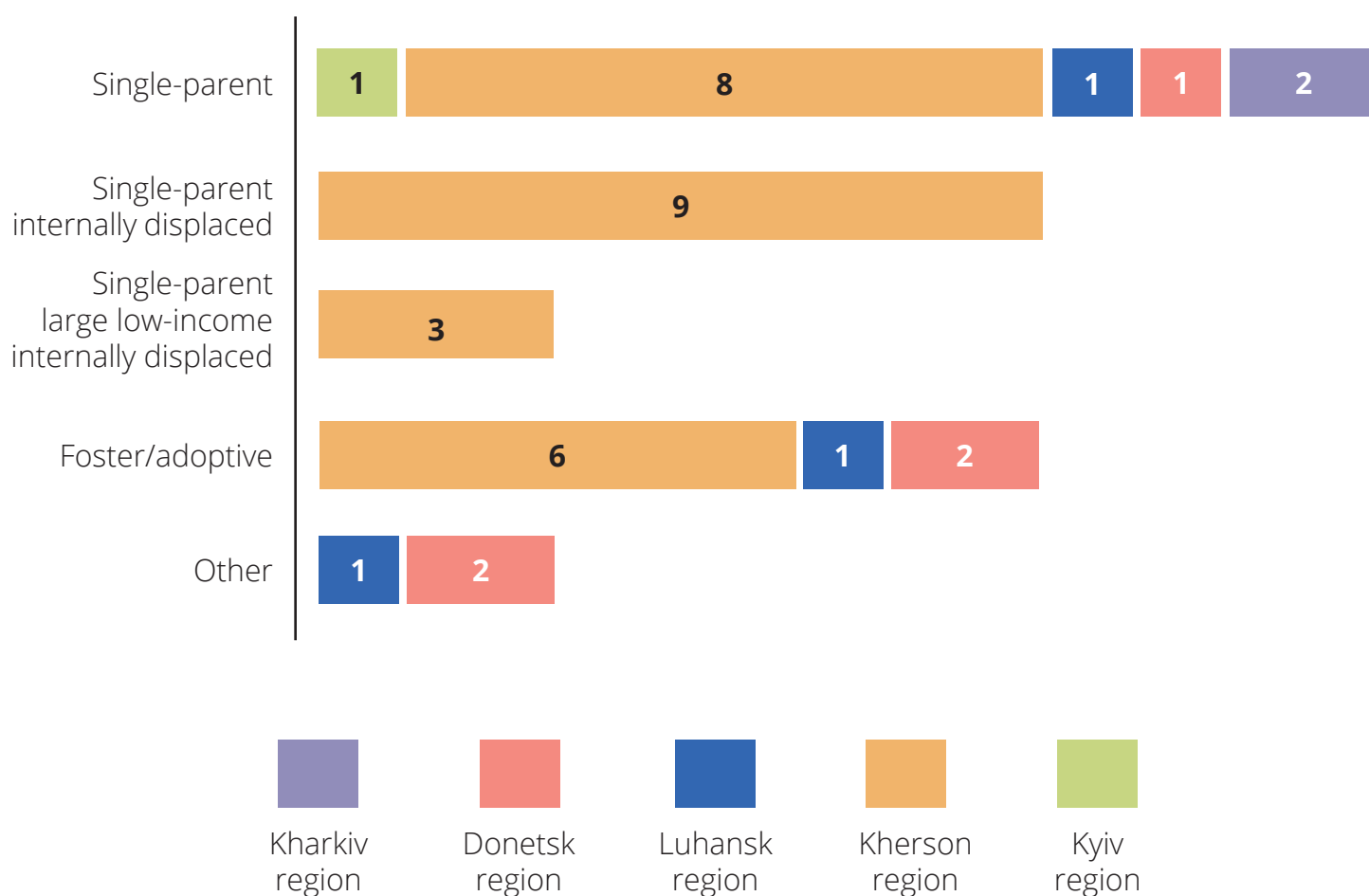
children from single-parent families — **13**

children from single-parent families who are also internally displaced persons — **9**

children from single-parent large low-income families who are also internally displaced persons — **3**

children from foster/adoptive families — **9**

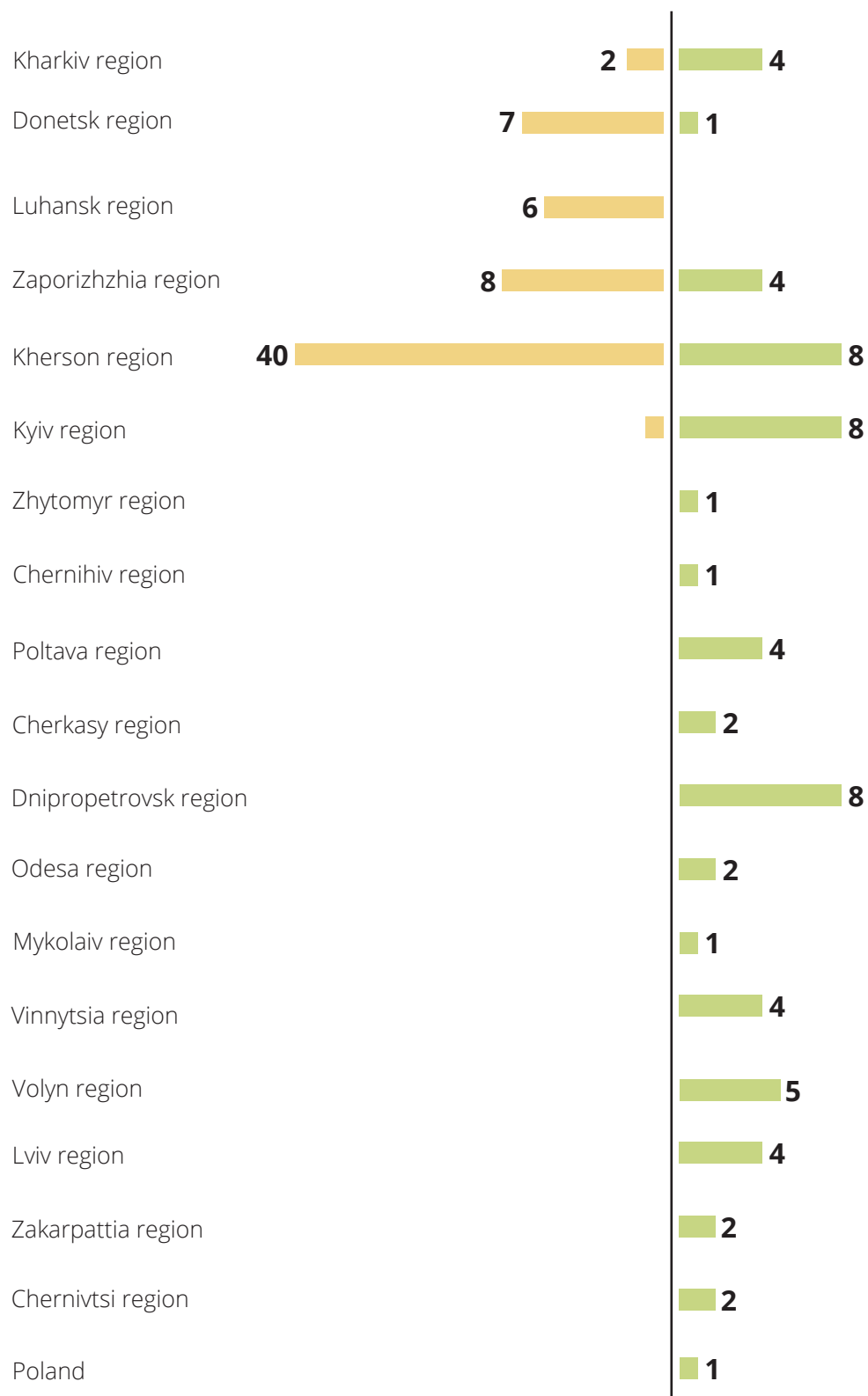
children from other family types — **3**



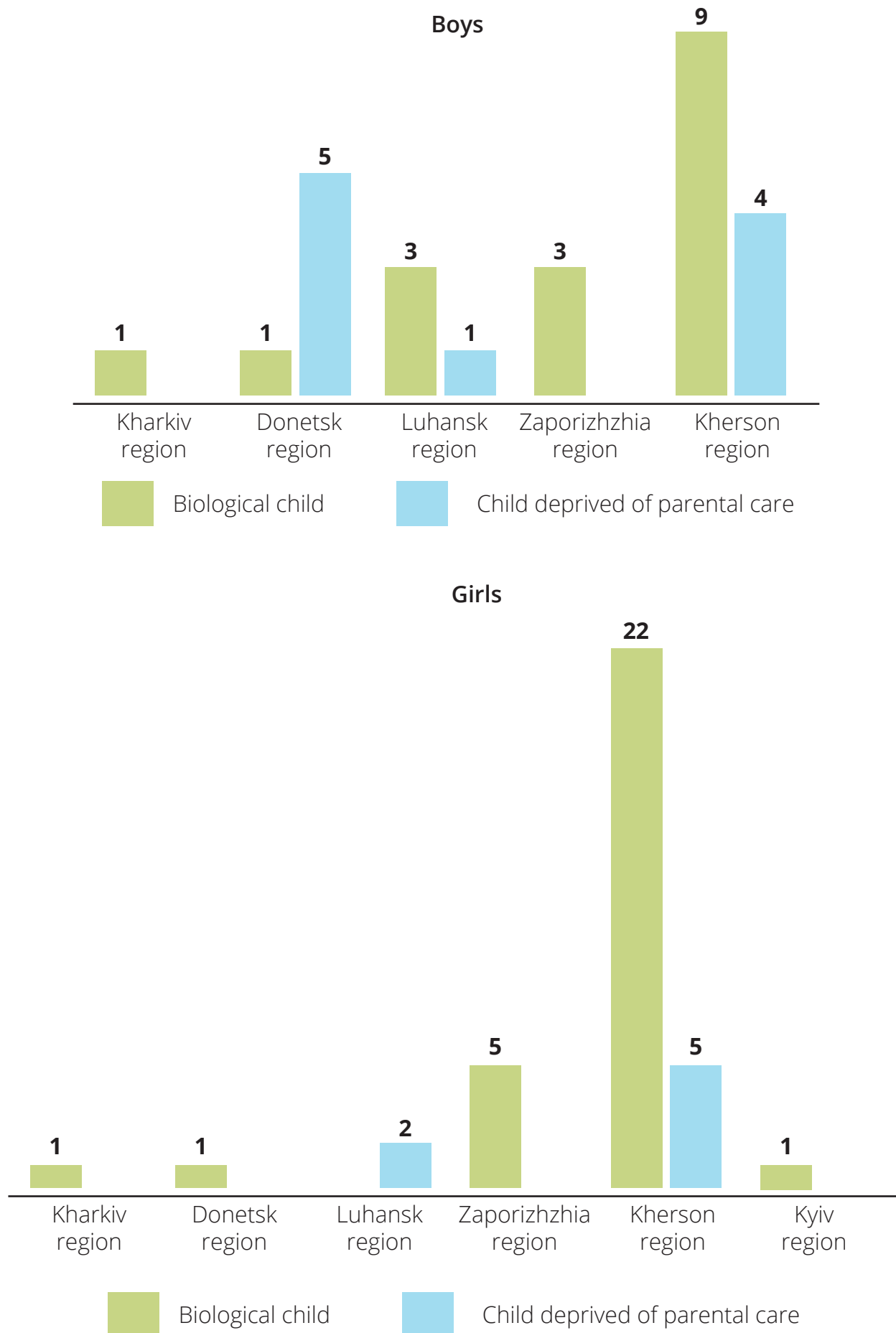
Generally speaking, the geographic distribution of children's place of residence before the occupation or deportation and after their return has undergone a significant change. For the most part, the primary causes for changing the place and region of residence are related to the territories of Ukraine that remain occupied by Russia, or the region of residence is in close proximity to territories of active hostilities, increasing the level of danger.

Region of residence prior to occupation/deportation and after the return

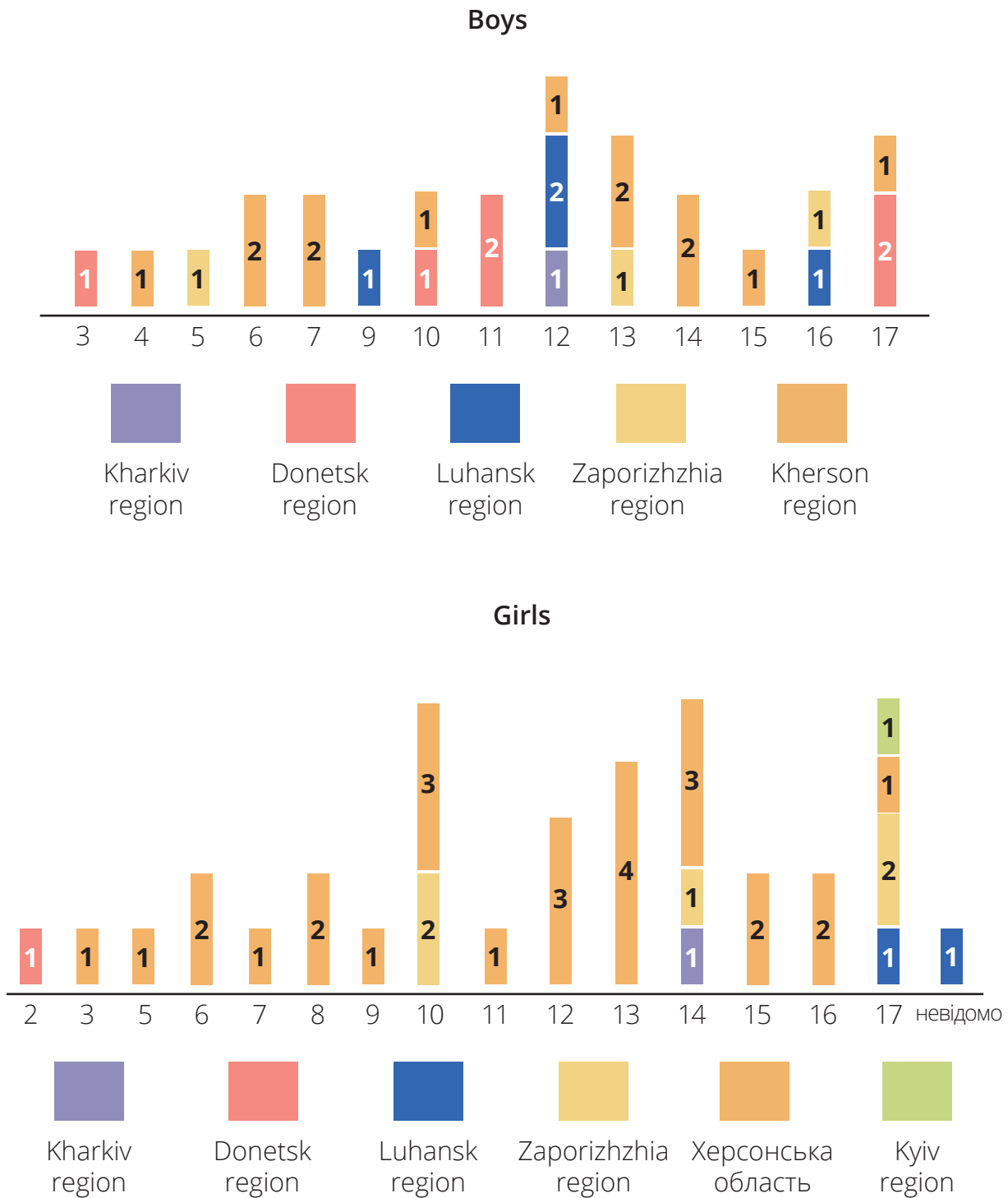
■ Previously resided
 ■ Resided after the return



Girls predominate from among the assessments of children's needs by gender — 37 questionnaires, compared to 27 questionnaires from boys:



Distribution of children by age (note: vertical — number of years, horizontal — number of children) at the time of return to Ukraine following occupation or deportation:

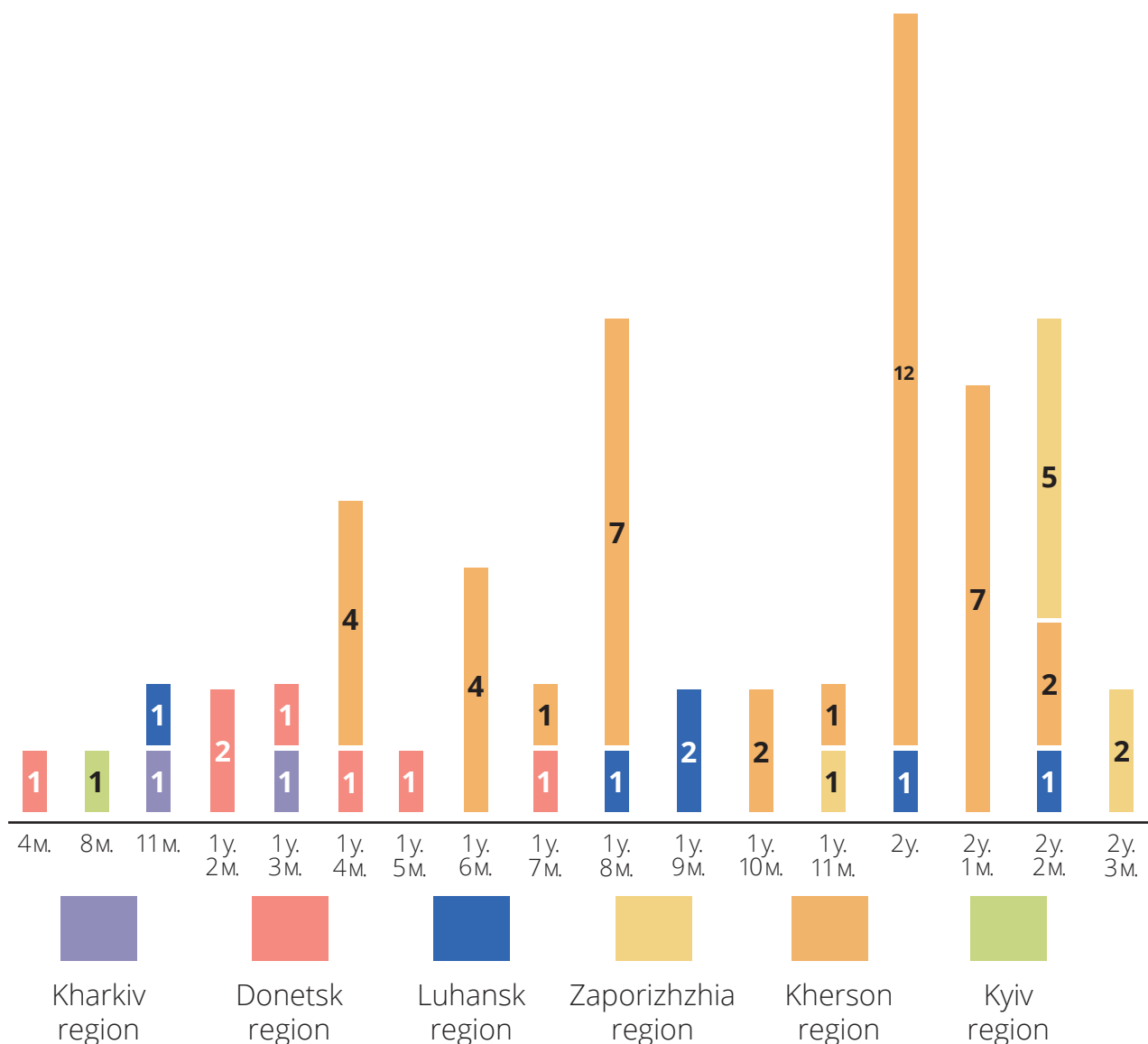


39 children out of **64** whose questionnaires were analyzed are not the only children in the family and have siblings:

- 10** have both older and younger siblings
- 17** children have only older brothers or sisters
- 14** have younger siblings only

Life in occupation or deportation and the peculiarities of the return

The shortest period of stay in occupation or deportation among the children whose needs assessments were analyzed was 4 months, while the longest period lasted 2 years and 3 months. Among the children who spent the longest deportation or occupation — 2 years or more — are children who lived in Kherson region — 21 persons and in Zaporizhzhia region — 7 persons.



The route of one of the children went through the occupied prior to 2022 Ukrainian territory, through the Russian Federation, while the stay in Russia was short.

3 children left the territory of the Russian Federation, after a long period of forced deportation/removal of the child/family after 2022.

60 children — due to leaving the occupied territory (including through the territory of the Russian Federation) following a long stay in the occupied territory after 2022, of which 3 children also stayed in the occupied territory of Ukraine in 2014-2022 (AR of Crimea, 'DPR'/'LPR') and 3 children were subjected to prolonged forced deportation/removal of the child/family after 2022.

5 children out of 60 have had experience of staying in institutional facilities in one way or another: 2 children were placed in an orphanage in the occupied territory of Donetsk region in 2014 due to the death of their mothers, whereupon a close relative, a grandmother, took them to the government-controlled territory, where the issue of child custody was subsequently resolved. 1 child was placed in an institution long-term — a social center for children in difficult life circumstances, in the territory of Donetsk region occupied until 2022, after which they returned to the territory controlled by Ukraine. 2 children experiencing signs of difficult life circumstances resided at the time of the full-scale invasion in a boarding school in Kherson region. The children were hidden from the occupation forces by an employee of the institution, and eventually temporary custody was established, which allowed the children to be taken to the territory controlled by Ukraine.

6 children affected by forced deportation were residents of different regions: 1 — Kyiv region (the child was removed while crossing the border in western Ukraine), 1 — Donetsk region, 1 — Luhansk region, 1 — Kherson region, 2 — Kharkiv region. 4 were children from biological families aged 12 to 17 at the time the study was conducted, 2 children were orphans and children deprived of parental care aged 17 at the time of the study.

Among the 64 children whose questionnaires were examined in the study, 10 have family members who are affiliated with the Armed Forces of Ukraine within the immediate family, and 4 have family members or potentially, based on circumstantial information provided in the needs assessments, have family members who are affiliated with the Armed Forces of Ukraine within a more distant family circle.

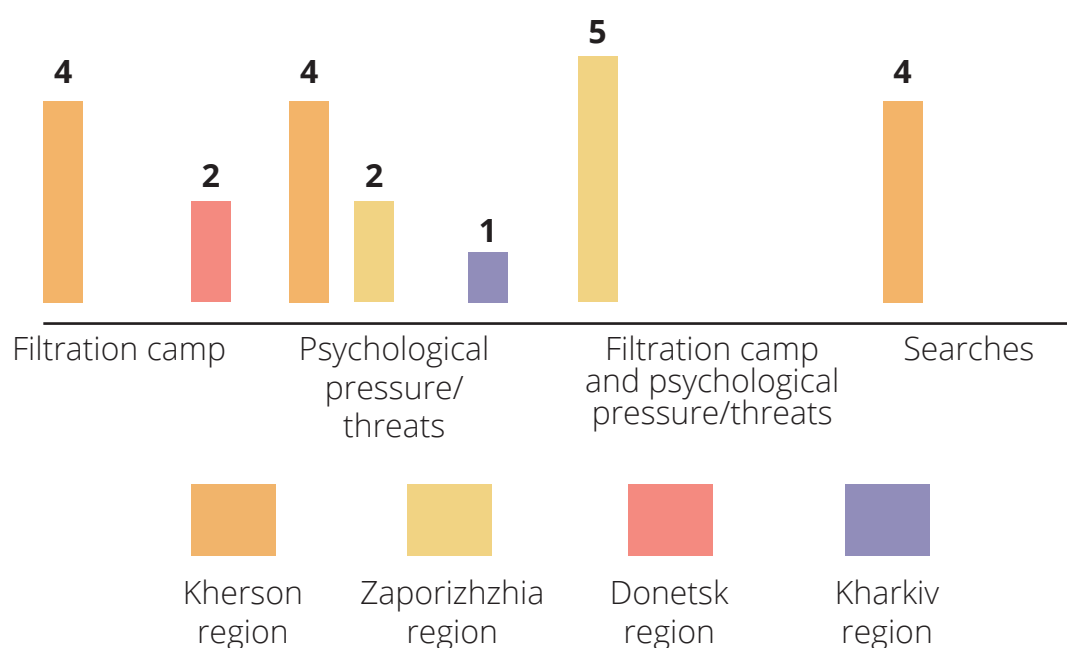
11 children and their family members were forced to undergo filtration camps while attempting to leave the occupied territories, including 5 children and their family members residing in Zaporizhzhia region, who were also subjected to psychological pressure or threats from representatives of the aggressor state:

2 children forced to undergo filtration were residents of Donetsk region - both were boys aged 11 and 17 at the time of their return and had spent 4 months and 1 year and 5 months in the occupation, respectively.

5 children from Zaporizhzhia region subjected to filtration procedures - 2 girls aged 10 and 14 at the time of return and 3 boys aged 5, 13, 16 at the time of return, who had remained in the occupied territory for more than 2 years. 4 children forced to undergo filtration were residents of Kherson region - 2 girls aged 3 and 16 at the time of return and 2 boys aged 7 and 12 at the time of return, who had been staying in the occupied territory for more than 2 years.

It appears from the needs assessment that 7 more children, in addition to those subjected to filtration, were exposed to psychological pressure or threats: 2 children previously resided in the occupied part of Zaporizhzhia region, 1 child in Kharkiv region, and 4 in Kherson region. The pressure and threats generally

stemmed from obtaining Russian citizenship and documents - 2 children from Zaporizhzhia region and their relatives were forced to obtain such paperwork. Another child, a 17-year-old boy, faced threats of being drafted into the Russian army upon his return from Kherson region, and was also forced to join the military-patriotic movement Yunarmy [Yunarmiia], which he managed to avoid.

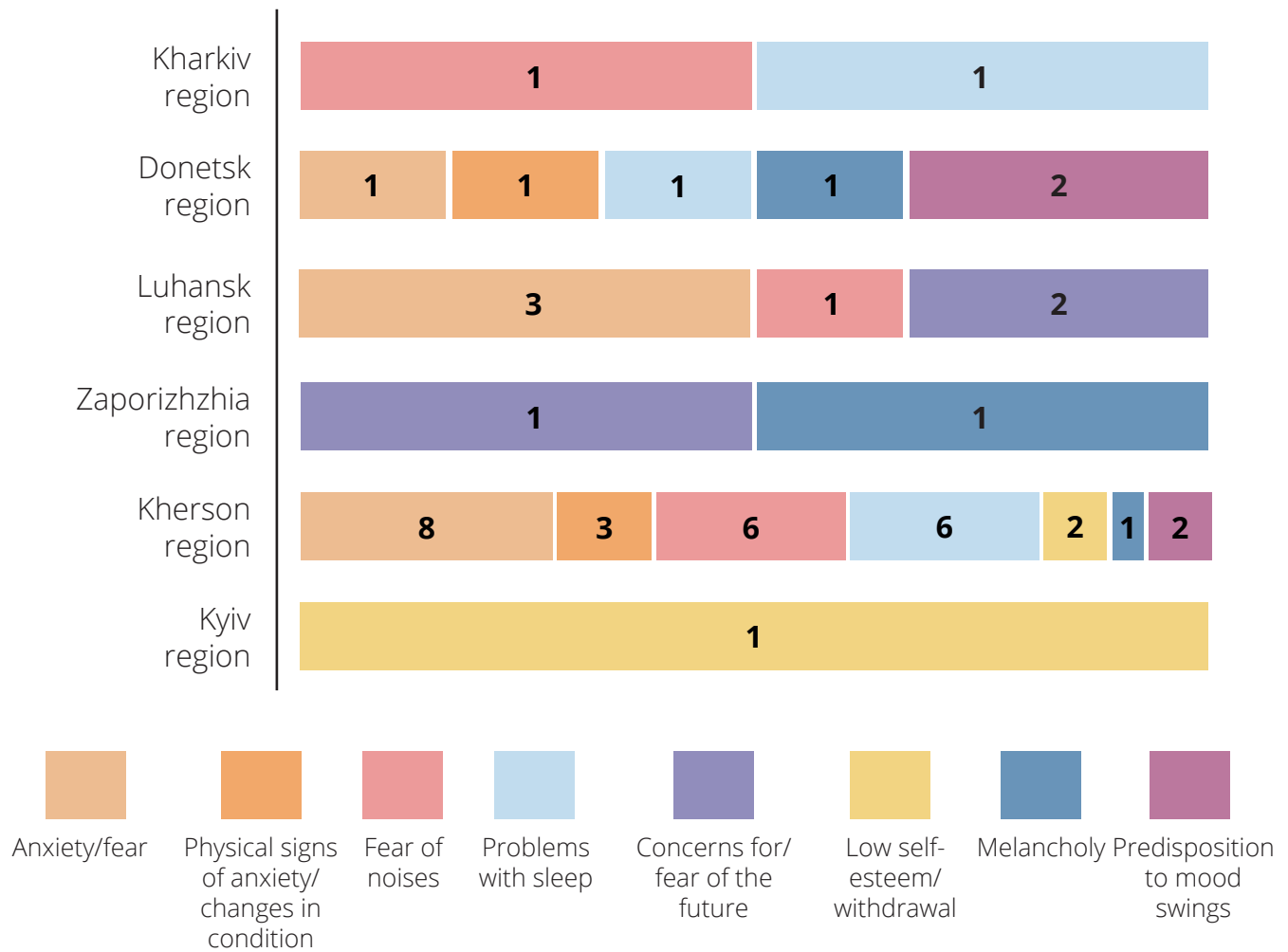


Effects of occupation or deportation on physical state and physical health

13 out of 64 children surveyed for the study show signs of deteriorating physical health or poor health in general. All of the children spent more than 1 year in the occupation, except for one child who remained under occupation for up to six months following the full-scale invasion and was injured with further restrictions in terms of physical activity. Two more children have a chronic illness, for one of whom the occupation has made it impossible to access adequate treatment, namely the essential medication, which may cause unpredictable health consequences in the future. For 7 out of 13 children in poor health, the experience of occupation and deportation triggered this deterioration, and some of them may experience symptoms such as headaches, hand tremors, sudden weight loss, and fear of loud noises.

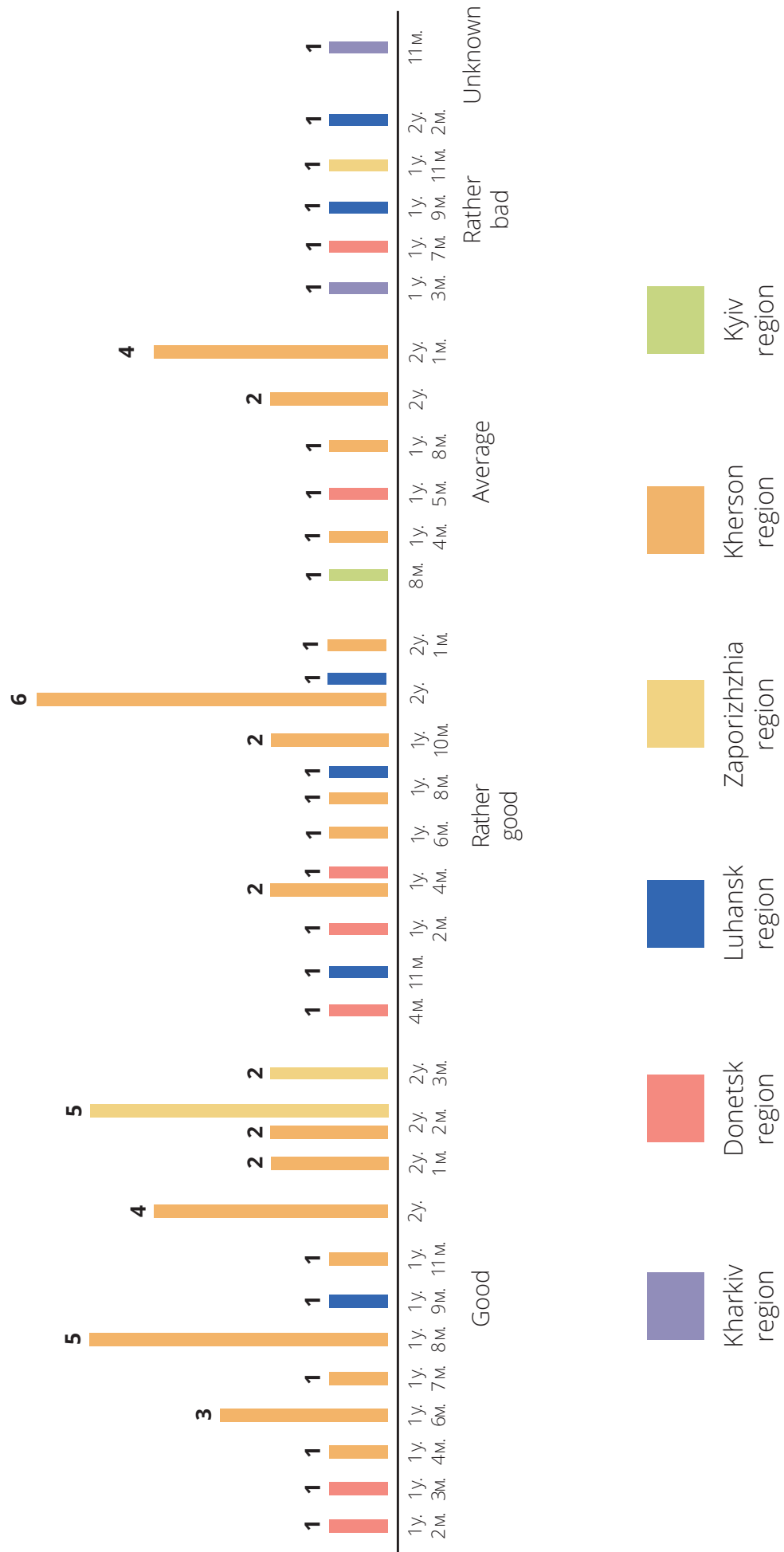
The effects of occupation or deportation on psychological well-being and mental health

War, occupation or deportation had an adverse effect the mental health of a significant number of children. 30 children demonstrate symptoms that are to some extent related to changes in their psychological state. 12 out of 30 children show signs of anxiety.

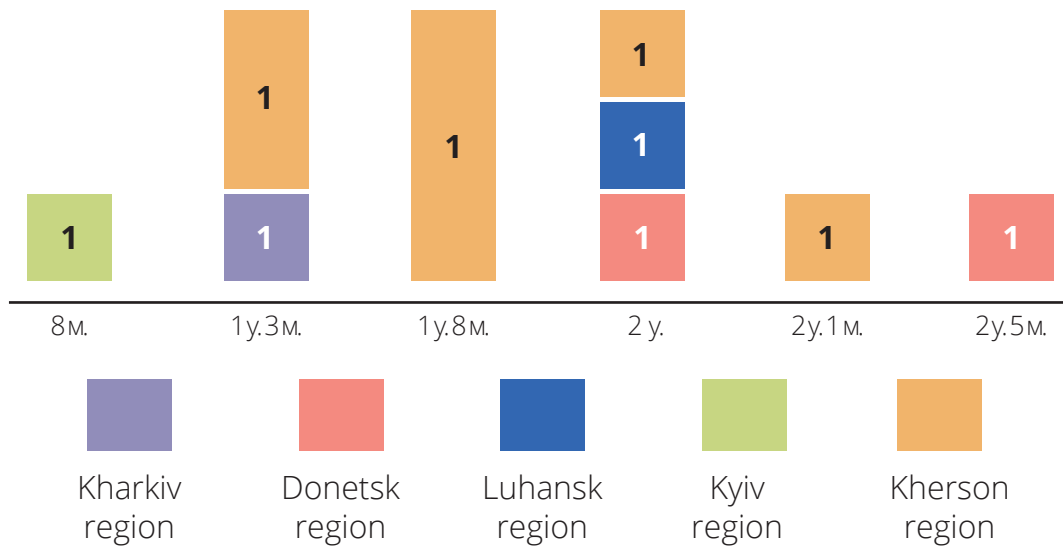


Anxiety over potential separation from their mother was observed in 7 children, despite the fact that it could be due to unrelated everyday matters and that they were not expected to be separated for a long time.

Assessment of the state of children’s mental health in relation to the length of stay in occupation or deportation:

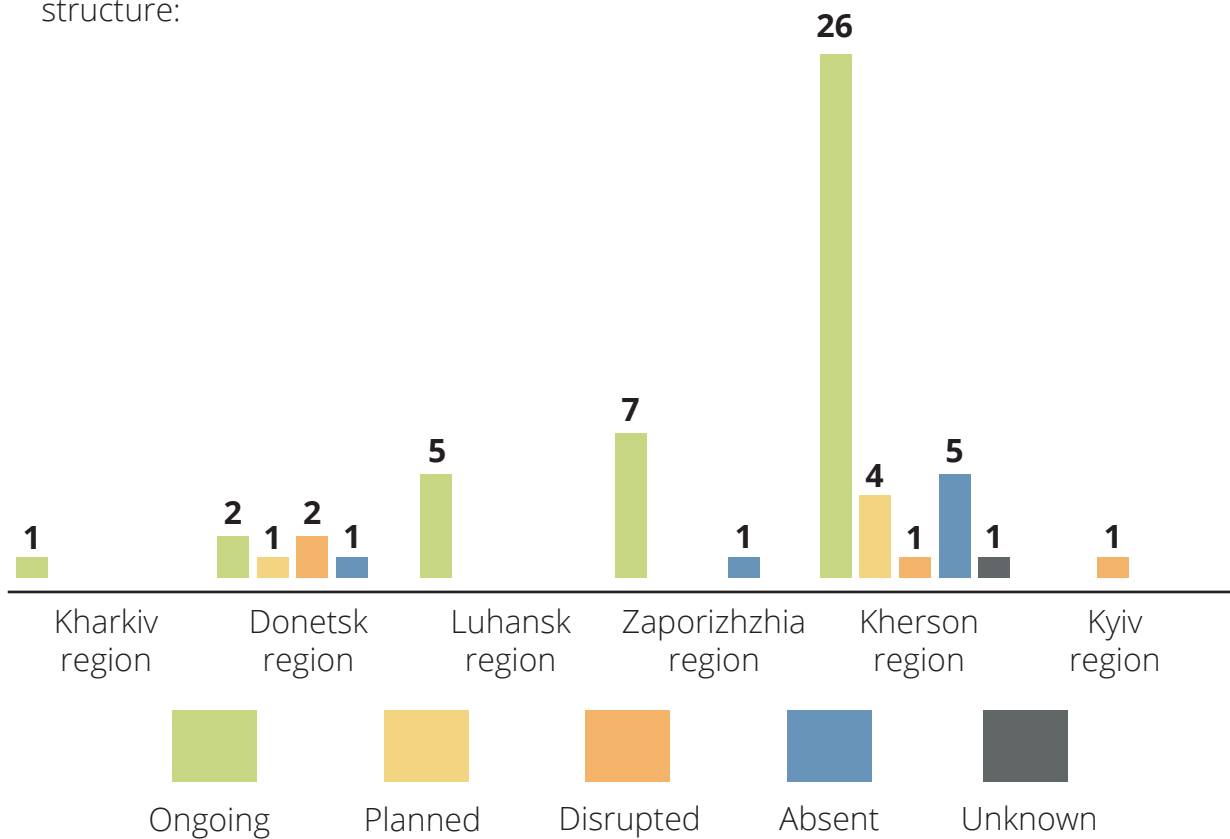


12 children — 11 children from biological families, 1 in foster care, have experienced or continue to experience separation from their mother and parents in general. 6 out of 12 children are related to military personnel in their families. 1 child has been and continues to be separated from his/her mother for more than 2 years and 5 months due to the nature of the mother's occupation.

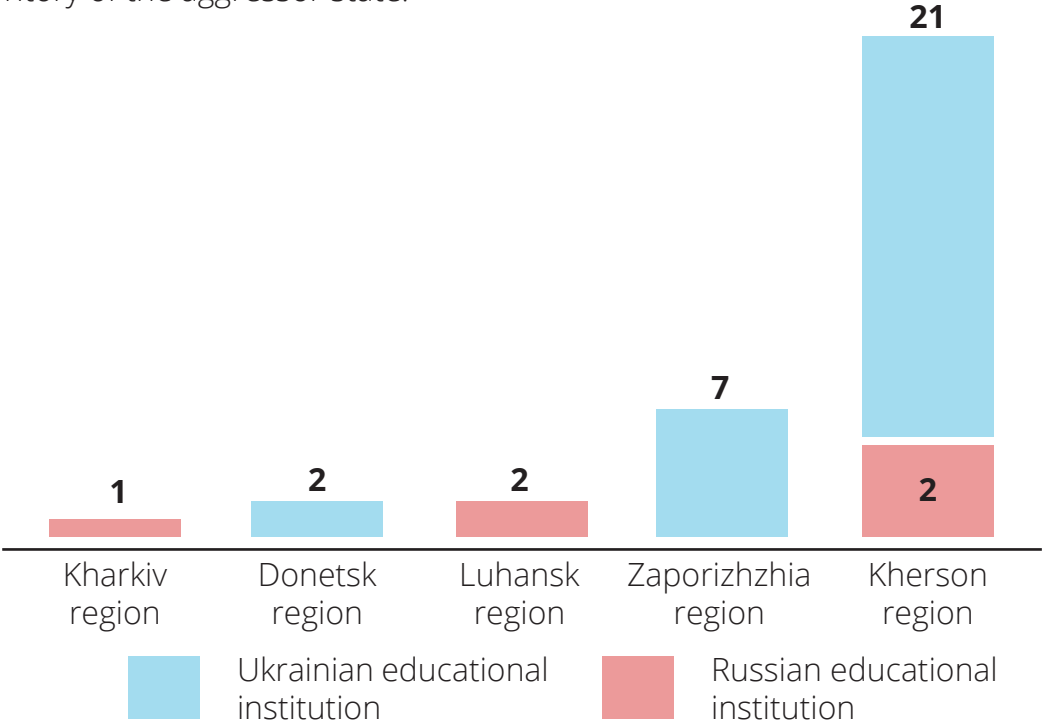


Effects of occupation or deportation on the level of and access to education

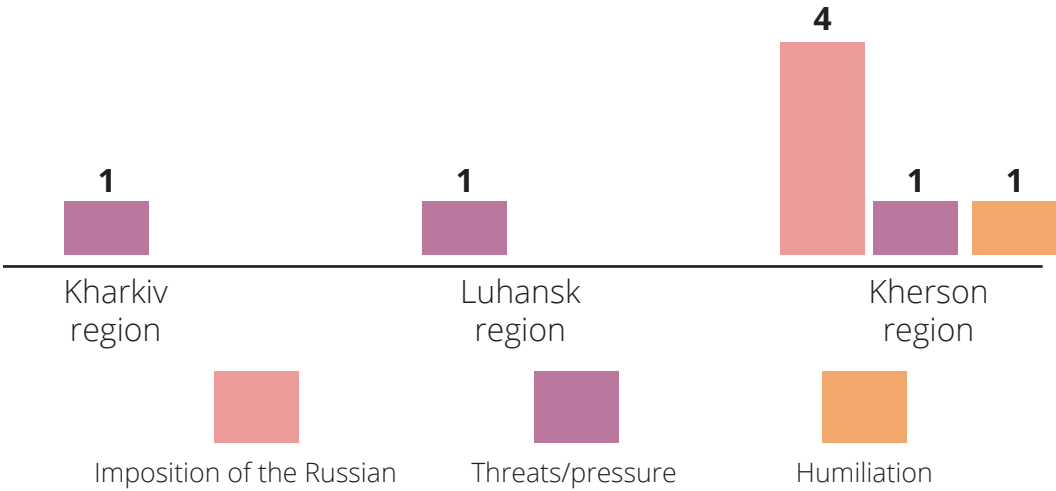
Out of 64 surveys on needs assessment analyzed as a whole for the purpose of the study, 58 assessments contain data on the role of education in children's lives. The educational status of children at the time of the assessment has the following structure:



Among the children enrolled in education during their stay under occupation or in deportation, the vast majority — 30 children — were able to continue their education in a Ukrainian school online. Another group of 8 children was forced to attend Russian educational institutions both in the occupied territories and in the territory of the aggressor state.



Among the 8 children who attended Russian educational institutions during the occupation or deportation, 6 were forced to do so under threats and intimidation against their parents or guardians.



For more information on social profile of children having been returned from the Russian Federation and the temporarily occupied territories, see the UCRN report here:
<https://childrights.org.ua/en/news/presentation-of-the-study-nonreturn-of-children-ukraine-in-the-face-of-the-greatest-challenge-since-the-independence/>

SECTION 6

Fundamental principles and purposes of work with children returned from under Russian control

6.1.

Underlying principles of the concept of work with children returned from under Russian control

The underlying principles of work with children returned from the control of the Russian Federation are aimed at the comprehensive restoration of their mental and emotional state, ensuring their rights and freedoms, and establishing favorable conditions for their integration into society. These principles are an integral part of the strategy for restoring national identity, protecting the children from repeated traumatization, and forming a safe environment for the harmonious development of the child. The list of such principles includes:

The principle of a comprehensive approach to working with children is a thorough and integrated approach to the child's recovery and care, which incorporates various kinds of assistance — psychological, social, educational, medical, and legal support — in order to provide conditions for their full recovery, resocialization, and rehabilitation.

The principle of security — creating an atmosphere of psychological and emotional safety of the child when interacting with them.

The principle of responsibility and competence implies that professionals working with children are aware of their verbal and non-verbal behavior, regardless of the child's behavior or response; and consistent, logical professional actions with the foresight of their possible consequences.

The principle of confidentiality refers to the use of information provided by the child only in their interests; the non-disclosure of personal information to persons not involved in the process of psychological counseling and assistance to the child.

The principle of concern for the child means the demonstration of friendly treatment in relation to the child, respect, and care.

The principle of trauma minimization is the prevention and mitigation of experiences related to traumatic events for a child returned from the control of the Russian Federation in order to avoid repeated trauma.

The principle of a satisfactory standard implies the provision of psychological, psychosocial, and legal assistance, tailored to the child's age and psychological traits; the use of methods and approaches to working with children, with due regard for possible overload.

The principle of non-discrimination is equal treatment of all children, regardless of their gender, origin, color, religion, personal experience, or cultural and historical background, as well as any other characteristics that may constitute a ground for violation of the rights and/or best interests of the child. The principle means that professionals must provide an environment free from any form of discrimination, injustice, or disrespect while respecting the cultural values and background of each child.

The principle of credibility and transparency is the establishment of a healthy relationship between the child and an adult by means of explaining the actions of the professional, clarity in communication, providing explicit answers to the child's questions, and involving the child in the decision-making process, which contributes to a better understanding of the child's goals in decision-making, steps to achieve them, strengthening trust in adults, confidence, and readiness to openly share their experiences and problems.

The principle of cooperation and involvement involves incorporating the child's needs and opinions into the development of a psychological support and rehabilitation program that helps restore confidence, a sense of control over one's own life, and psychosocial well-being.

The principle of distinct understanding of the boundaries of one's professional competence implies working with a child within the limits of one's professional knowledge and skills, acting in accordance with one's professional competence and purpose; referring to other specialists, if necessary.

In turn, the objectives of working with children who have been returned from the control of the Russian Federation lie in:

- identification of the child's basic needs and provision of the necessary services to meet them
- development and implementation of an individual case management plan;
- cooperation with other organizations and professionals providing services, referral of the child, if necessary, to receive services;
- coordination of activities among institutions and organizations providing assistance;
- integration of the child and their family into the community of residence;
- ensuring the realization of the rights, freedoms, and lawful interests of the child and their family;
- prevention of further mental development issues related to the child's stay under the control of the Russian Federation;
- assisting (supporting) the child in solving urgent tasks of development, learning, and socialization through psychological rehabilitation and psychosocial assistance;
- development of psychological and educational competence (psychological culture) of parents/guardians and teachers.

6.2.

Ethical and organizational framework of work with children returned from under Russian control

The ethical framework for working with children returned from the control of the Russian Federation requires consideration of the specific needs and vulnerabilities of children and must ensure their safety, protection of their rights, and psychological well-being. Among the key principles to be followed are:

Respect for the rights of the child. The specialists must comply with the UN Convention on the Rights of the Child in all their actions, including the right to protection, education, medical care, and a decent life.

Respect for the interests of the child. All decisions must be made from the perspective of the child's best interests.

Respect for the dignity and personality of the child. Every child must be treated as a unique person with individual needs and experiences.

Avoiding stigmatization. Any form of stigmatization and discrimination against a child must be avoided.

Confidentiality and protection of personal data. Personal information about the child must be protected, and access to it must be limited.

Physical and psychological safety. Ensuring an environment where the child feels safe and secure.

Trauma-aware approach. Understanding the ways in which traumatic experiences may affect a child's development, behavior, and emotional state; providing support in a safe and considerate environment.

Informed consent. All actions must be taken in a way that reflects the child's ability to understand the situation and with the child's consent, where possible.

Decision-making involving the child. Encouraging the child to participate in decision-making regarding their life having in mind their age and developmental stage.

Legal aid. Providing free legal aid to protect and defend the rights and freedoms of children.

Access to information. Ensuring that children have access to information about their rights and opportunities.

Respect for the child's statements. The statements and testimony of a child must be considered credible and valid regardless of the child's age.⁹⁴

Educational opportunities. Providing access to education and support in the learning process.

Social integration. Supporting the social integration and re-adaptation of the child through access to various social programs and services.

Reunification with family. Actively searching for relatives, ensuring contact between the child and the family, and facilitating reunification of the child with their family when it is in their best interests.

Coordination with international organizations. Cooperation with international and national organizations to provide comprehensive support for children.

Monitoring and reporting. Ensuring transparency and accountability of all actions through regular monitoring and reporting.

⁹⁴ <https://rm.coe.int/16804c2188>, para. 73

Training and educating staff. Training for all professionals involved in the work with child victims concerning ethical standards and methods of interaction with children returned from the control of the Russian Federation.

Raising awareness and improving psychological culture. Organizing information campaigns to raise public awareness of children's rights and needs.

6.3.

Elements, forms, and methods of work with children returned from the control of the Russian Federation

The work with children returned from the control of the Russian Federation is based on a multilateral system of supplementary support developed by the Inter-Agency Standing Committee (IASC) Guidelines for Mental Health and Psychosocial Support (MHPSS) (Figure 1).

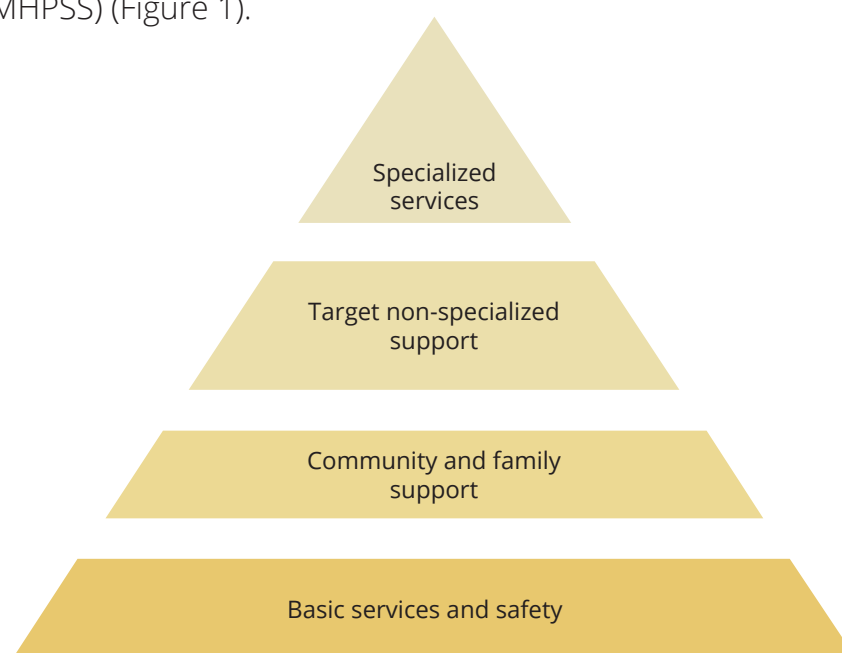


Figure 1. Mental health and psychosocial interventions pyramid in emergency settings

According to the MHPSS intervention pyramid, **the first level** of intervention after the return of children from the control of the Russian Federation must address the child's basic physical needs, and provide basic mental health services, security, and psychosocial assistance. At this level, social workers (case managers), medical professionals, and lawyers are required to assess the child's needs and physical and mental health, and, if necessary, provide legal assistance.

The second level of work with children returned from the control of the Russian Federation involves active community and family participation, restoration of social

ties, education in a Ukrainian school, socialization and resocialization of the child. The main tasks of psychological interventions at this level include supporting the child, improving their psychological perception and resilience, socially engaging in a group or community, and organizing age-appropriate participation in social activities (preschool education, general secondary education, study groups, clubs, and centers). Such a structure of psychosocial support for a child returned from the control of the Russian Federation contributes to the development of self-reliance skills, the increase in the repertoire of coping strategies, and the formation of a stress-resistant stance.

Interventions at *the third level* of the MHPSS pyramid include humanitarian assistance, emotional support from social workers (case managers), first aid, and basic mental health counseling. At this level, therapists may conduct a psychiatric examination of the child's psycho-emotional state upon return to Ukraine to determine the purpose of further crisis therapy.

At *the fourth level*, psychological rehabilitation of children returned from the control of the Russian Federation is carried out by psychologists trained in trauma therapy for children and adolescents and certified as psychologists, practical psychologists, clinical psychologists, crisis psychotherapists, and trauma therapists. Children who experience significant difficulties in their daily basic functioning require in-depth psychological, counseling, or psychiatric care.

Social support for children who had been deported or forcibly transferred to Russia (case management)

Case management of a child and their family is an important part of comprehensive measures designed to establish conditions for the healthy development and well-being of the child returned from the control of the Russian Federation. Social support can be provided at all levels of the MHPSS, the primary goal being to provide support to the child in the process of his or her social integration, readaptation, and recovery upon their return under Ukrainian control.

As a target group, children returned from the control of the Russian Federation may have financial, social, legal, housing, educational, medical, and awareness issues. Their vulnerability as a target group may also be exacerbated by the effects of their traumatic experiences caused by long-term stay in places exposing them to life-threatening conditions, remoteness from their permanent place of residence, separation from family and friends, lack of understanding and/or support from representatives of the state of citizenship, limited access to cultural and/or religious institutions, inaccessible medical services and education, psychological, physical, economic, and sexual violence.

Additional aggravating circumstances may include existing or acquired acute or chronic diseases, language barriers, cultural differences, the stigma of being labeled as "children who were deported or forcibly transferred to Russia," which can reinforce discrimination and stigmatization, the risk of deviant and delinquent

behavior, etc. Therefore, it is difficult for parents or guardians of children who have been returned from the control of the Russian Federation to seek psychosocial services. The children may also not feel safe, lose trust and a sense of control over their lives, and require a long period of adaptation and reintegration. A case manager may act as a specialist and as a link between the child and their family and social service providers, especially in the most vulnerable first months after the child's return to Ukraine.

The social support algorithm covers various aspects and includes the following core components:

1. Establishing contact with the family and assessing the child's needs. Determination of the child's individual needs, including physical, emotional, social, and educational needs.
2. Drawing up an individual case management plan together with the child and their parents or legal representatives.
3. Coordinating the implementation of an individual case management plan. Organization and coordination of work between various services and specialists, such as psychologists, doctors, teachers, and social workers, to ensure comprehensive support for the child.
4. Implementation of an individual case management plan and mobilization of the necessary resources for its implementation, which may include:
 - psychological support: assistance in overcoming emotional and psychological difficulties that may arise due to traumatic events, difficulties in adaptation, or other concerns;
 - social integration: support for the child's adaptation to a new social environment, including assistance during integration into school, society, or new living arrangements;
 - educational support: providing access to education and learning resources, which may include assistance in overcoming learning difficulties or participation in special programs;
 - legal assistance: counseling on the legal protection of the child, including custody, status or legal requirements;
 - family support: assistance to the child's family to provide support and stability in their lives, including training for parents or guardians on better ways to respond to the child's needs.
5. Monitoring the implementation of the individual case management plan.
6. Performance evaluation.
7. Completion of the case and its closure.

Social support can be short-term, given the circumstances of the child's transit to the place of permanent residence or stay, and long-term (at least 6 months), if the child lives or stays at the place of the organization providing case management

services. Should the case need to be extended for up to 12 months, the needs assessment and individual plan must be revised; if a longer period of social support for the child is required, the transfer of the family to the Center for Social Services or the Center for the Provision of Social Services must be considered. However, case management must be guided by the principle of “non-disability” — preventing the emergence of a situation of dependence and helplessness.

Legal counseling of a child who had been deported or forcibly transferred to Russia

Legal counseling of a child returned from the control of the Russian Federation covers a range of aspects, as such a child requires special attention and protection in the legal field. Legal support, given the importance of protecting children’s rights, includes the following components:

a) Legal protection. Children as a particularly vulnerable category have the right to protection from any form of abuse, psychological or physical violence, etc. Legal support in this case includes identifying violations against children and providing legal advice and representation in international judicial and quasi-judicial institutions.

b) Criminal law. Among other things, it includes the protection of a child as a victim or witness in criminal proceedings, in particular before the International Criminal Court.

c) Social protection. This includes the protection of children’s rights to social services, assistance for families in difficult life circumstances, and protection against neglect or abuse in relation to such children.

d) Educational and schooling matters. Such issues include the protection of children’s right to participate in special educational programs for the given category of children, the possibility to credit the children with some of the subjects taught to them during their stay under the control of the Russian Federation, as well as other initiatives aimed at overcoming educational deficiencies.

e) Civil law. The scope includes legal issues related to inheritance, compensation for damages, including moral damages, and protection of rights from infringement.

Legal assistance for children returned from the control of the Russian Federation can be provided by state and local authorities (children’s services, administrative service centers), lawyers, attorneys, and human rights defenders. Professionals who provide legal assistance to this category of children must have an understanding of the specific needs of the children, as well as the ability to effectively interact with them in sensitive situations.

Legal counseling for children who have been returned from the control of the Russian Federation is provided upon the initiative of their legal representatives or foster caregivers. However, children who have reached the age of 14 have

the right to apply for free secondary legal aid on their own for issues that can be brought to court at the age of 14 (part 3 of Art. 18 of the Law of Ukraine “On Free Legal Aid” of June 02, 2011, No. 3460-VI, effective August 01, 2023).

Psychological assistance to children who had been deported or forcibly transferred to Russia.

According to the mental health and psychosocial interventions pyramid in emergency settings, the stages of psychological support for children returned from the control of the Russian Federation are:

1. Ensuring the child’s basic needs and safety.
2. Fostering a supportive environment at the family and community level.
3. Legal aid.
4. Specialized support for children (group and individual psychotherapy for children, psychoeducation for teachers and parents).
5. Providing intensive individual therapy for children with severe mental disorders (PTSD, depression, dissociative and anxiety disorders, adaptation disorders, etc.) (Figure 2).

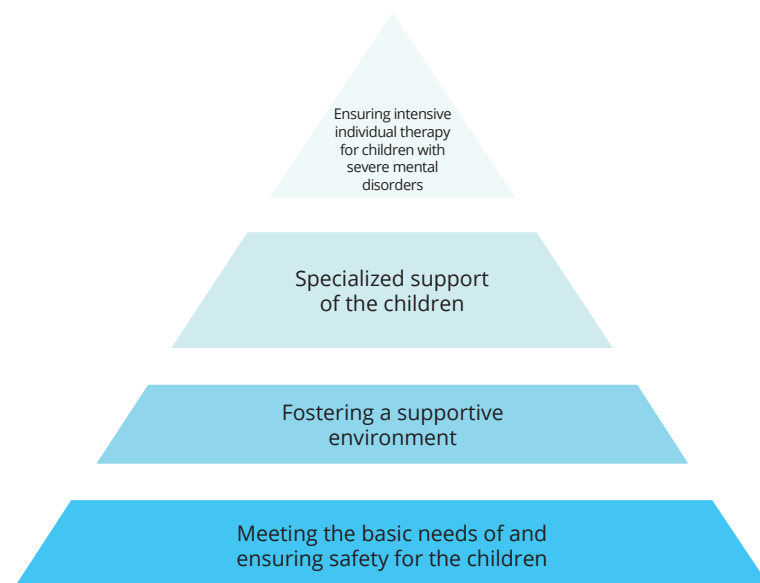


Figure 2. Psychological support pyramid for children returned from the control of the Russian Federation.

Psychological (psychosocial) support for children returned from the control of the Russian Federation covers all four levels of the intervention pyramid, each of them meeting the specific needs of the child and providing different forms of support.

At **the first level**, the psychologist communicates with parents/guardians, and interventions are aimed at ensuring the child’s basic needs and safety, namely:

- physical security: a safe place to live, access to food, water, clothing and medical care;

- consistency and routine: establishing a stable daily routine that allows the child to feel a sense of control over the situation;
- psychological and pedagogical education and psychoeducation on the age characteristics of the child and the peculiarities of responding to traumatic stress.

Psychologist's interventions at *the second level* are aimed at facilitating a supportive environment at the family and community levels. In this regard, the psychologist works with the child's family to ensure support and stability at home; encourages the child to participate in group activities and joint activities that promote social interaction; and educates parents or guardians on how to support the child and understand their needs.

At *the third level*, specialized support is provided to children returned from the control of the Russian Federation with severe psychological or social problems through group and individual psychotherapy, and preventive measures in educational institutions involving the training of teachers to raise their awareness of the specific needs of children.

The fourth level of interventions is intended to provide intensive individual therapy for children with severe psychological disorders, such as PTSD, depression, dissociative and anxiety disorders, adjustment disorders, etc. If necessary, medication is prescribed to stabilize the child's condition. Psychological support also involves long-term psychotherapeutic counseling and support for a child returned from the control of the Russian Federation for the child's sustainable and healthy development.

The primary task of psychological support for children who have been returned from the control of the Russian Federation is to "normalize" childhood — to bring back the child's childhood.

6.4.

Ethics of public communication of the experience of being under the control of the Russian Federation of Ukrainian children

When engaging a child returned from the control of the Russian Federation in public appearances and communication with the media, it is important to first and foremost consider the potential for violation of the child's right to protection of personal dignity and inviolability, safety and security, and the possibility of causing mental trauma or repeated traumatization. Therefore, the following must be given due consideration of:

1. Public communication of the experience of being under the control of the Russian Federation involving a detailed recollection of traumatic events may have severe consequences for the child's mental health, including retraumatization and exacerbation of psychological issues.
2. Public discourse on the experience of being under the control of the Russian Federation may impede the process of bringing perpetrators to justice.

3. Discussing the experience of being under the control of the Russian Federation may be contrary to the best interests of the child. A child has the priority right to have their best interests assessed and taken into account in all actions or decisions that affect them, both in the public and private areas.⁹⁵
4. The child's best interests can be identified in cooperation with the persons having close relations with the child, those who are best able to predict the political, social, cultural, and other consequences of any interview. Any public coverage of the child's case, whether or not the child is recorded, must be approved at least by the legal representative of the minor and the psychologist working with the child. Interviewing a child before they undergo psychological rehabilitation would be contrary to his or her best interests.
5. Cases when public coverage of a child's story may be in the child's best interests:
 - the child contacts the interviewer of their own free will, exercising their right to freedom of expression and to have their voice heard;
 - the child is part of a long-term activism or social mobilization program and wishes to be identified;
 - the child is participating in a psychosocial program and such testimony is part of their rehabilitation. However, in each of these cases, it is necessary to obtain the approval of the legal representative and the psychologist working with the child.
6. When publicly discussing the experience of being under the control of the Russian Federation, it is essential to adhere to the standards of interviewing and treatment of victims of international crimes.
7. Public discussion of the experience of being under the control of the Russian Federation shall not contradict the national legislation on child labor (including the use of a child in activities that, by their nature or circumstances, may harm the child's physical or mental health). The regular involvement of an underage victim of international crimes in public advocacy campaigns that leads to (re)traumatization may have signs of child exploitation.⁹⁶

In the light of the above, professionals working with children returned from the control of the Russian Federation must facilitate:

- minimization of children's participation in public discussions of their experiences;
- prioritization of the use of testimony of legal representatives over the testimony of the child, where possible;
- prohibition of participation of a child returned from the control of the Russian Federation in advocacy events/campaigns until they undergo psychological rehabilitation and their best interests are assessed.

It is important to recognize that the process of psychological rehabilitation does not have a clearly defined timeframe and depends on the age, severity of the child's trauma, and individual capacities of the child's psyche to recover.

⁹⁵ https://zakon.rada.gov.ua/laws/show/995_021#Text, para. 1, Article 3

⁹⁶ https://zakon.rada.gov.ua/laws/show/995_021#Text, Articles 19 and 32, <https://zakon.rada.gov.ua/laws/show/2341-14#Text>, Article 150

6.5.

Expected results of the implementation of the Concept of work with children returned from the control of the Russian Federation

The implementation of the Concept will for:

- establishment of the conditions for the child's adaptation and integration into the community of residence;
- launch of rehabilitation programs for children returned from the control of the Russian Federation;
- establishment of a link between the child/parent and the systems that provide resources, services, and opportunities;
- recognition of the fact that the child's safety and best interests are prioritized in decision-making regarding repatriation, rehabilitation, and reintegration;
- establishment of clearly delineated mandates of the Ministry of Reintegration of Ukraine and the Ministry of Social Policy and other competent authorities in the issues of repatriation, rehabilitation, and reintegration of children under the control of the Russian Federation;
- introduction of a process of mandatory representation of the interests of a child returned from the control of the Russian Federation by a lawyer during the investigation and in court proceedings;
- facilitated prosecution of perpetrators of deportation or forcible transfer, other international crimes against Ukrainian children, the right to fair compensation, and the right to disclosure of true facts;
- development of a comprehensive system of rehabilitation measures: provision of medical, social, legal, psychological, and rehabilitative assistance to children returned from the control of the Russian Federation;
- designation of those responsible for developing a comprehensive system (protocol) of rehabilitation measures within the framework of an individual trajectory for every child;
- cooperation with foreign states and civil society on the return of children under the control of the Russian Federation.

The principles laid down in the Concept and adherence to the principles in practice when dealing with children returned from the control of the Russian Federation will allow the child to avoid repeated traumatization, overcome the traumatic experience, and return to an adequate lifestyle.

For more information on the concept of work with children returned from under the control of the Russian Federation, as well as the program of psychological support for children who had been deported or forcibly transferred to Russia, see the Voices of Children report here:

<https://voices.org.ua/en/kontsepsiya-po-roboti-z-ditmy-yaki-buly-deportovani-abo-nasylnu-peremishcheni-v-rosiyu/>

CONCLUSION

Thousands of Ukrainian children have been deported or forcibly transferred by Russian agents since the outbreak of Russian aggression against Ukraine. To legitimize its actions, the aggressor state invoked the evacuation of children for security reasons, their placement for adoption or guardianship, as well as the need for their rehabilitation and recreation.

Among the primary reasons that led to Ukrainian children falling under the control of the Russian Federation, in addition to the hostilities themselves, were the following:

- ill-timed evacuation (especially of vulnerable categories of civilians, including families with children, children without parental care, children with disabilities, children in boarding schools),
- difficulty in evacuating large residential institutions,
the physical absence of parents or legal guardians with the children at the time of the full-scale invasion (for example, in a hospital, sanatorium or with relatives),
- underestimation of the danger of occupation by parents, guardians, foster parents or caregivers,
- family disputes over the child's place of residence and upbringing.

In addition to the illegal conduct of the aggressor state, these circumstances of deportation, forcible transfer and detention in occupation are also the result of the unimplemented steps of deinstitutionalization reform over the past 25 years.

Regardless of the length of stay outside of Ukraine's control, the form of placement, or affiliation with a particular category, Russia is trying to re-educate Ukrainian children and turn them into enemies of their own nation. In a significant

number of cases, the aggressor state not only fails to make active efforts to return Ukrainian children, but also places obstacles for families seeking to reunite with their children. Such actions violate the obligations of the Russian Federation under international humanitarian law and reach the threshold of war crimes and crimes against humanity.

The deportation and forcible displacement of Ukrainian children are often followed by numerous and systematic violations of the rights of Ukrainian children. These include the right to identity, family, education, access to information, rest, leisure, religion, liberty, and security of person. The cumulative effects of these violations raise serious concerns of possible inhuman or degrading treatment. The negative impact of deportation, forcible transfer, and unjustifiable delay in repatriation is long-term, and the children themselves require proper psychological rehabilitation and adaptation in Ukrainian society.

For both Russia and Ukraine, the return of Ukrainian children from the control of the Russian Federation is a responsibility in the field of child protection. Such return shall take place without delay, which indicates the urgency of intensifying efforts to this end, given the availability of information on tens of thousands of identified minors who have suffered from deportations and forcible transfers.

In light of Russia's rejection of cooperation with Ukraine on the organized return of children, it appears expedient to involve third states, competent international organizations, and the international community as a whole in the development and implementation of algorithms and mechanisms for return. Decisions and resolutions of leading international organizations play an important role in political pressure on Russia to return Ukrainian children, which, however, do not yet include a specific requirement for repatriation.

The child is only returned when they are back in Ukraine both physically and mentally. To this end, the international community must support the development and implementation of reintegration programs for Ukrainian children who have been indoctrinated or militarized, and develop and fund educational programs that promote peace, tolerance, and critical thinking among children in the affected regions. At the same time, Ukraine must strengthen its child protection mechanisms and launch its own educational programs to counter the effects of political indoctrination and militarization, ensuring that impacted children receive psychological support, reintegration services, and impartial educational resources.

RECOMMENDATIONS

For the purpose of returning Ukrainian children from the control of the Russian Federation, as well as their further rehabilitation and reintegration, the UCRN, the RCHR, and the Voices of Children have developed the following recommendations for the competent authorities of Ukraine and the international community:

To the competent authorities of Ukraine

Ministry of Foreign Affairs:

- to promote the development and adoption by the UN General Assembly of a resolution concerning a possible mechanism for the return of children deported, forcibly displaced, and/or abducted in connection with the armed conflict;
- to advocate for the conclusion of legally binding agreements on third-party mediation in the process of returning Ukrainian children,
- to encourage foreign states to join the International Coalition for the Return of Ukrainian Children,
- to advocate abroad, in particular, in the so-called Global South, and within international organizations for the immediate and unconditional return of Ukrainian children consistent with their best interests.

Ministry of Justice:

- to develop a draft agreement on third-party mediation in the process of returning Ukrainian children from the control of the Russian Federation,
- to promote the improvement of international mechanisms to prevent the deportation, forcible transfer, and unjustifiable delay in the repatriation of

children during armed conflict, in particular to substantiate the recognition of such children as 'abducted' in the understanding of the Office of the Special Representative of the UN Secretary-General for Children and Armed Conflict, to initiate a dialogue on the feasibility of adopting an additional protocol to the Geneva Conventions of 1949 or the UN Convention on the Rights of the Child on the special protection of orphans and children deprived of parental care,

- to develop draft amendments to the Law of Ukraine 'On Child Protection' and other related legal instruments to provide specific legal, social, and financial guarantees for the 'child affected by hostilities and armed conflict' status.

Verkhovna Rada of Ukraine:

- to assist in overcoming the current controversy regarding the authority responsible for the observance of the rights and return of deported or forcibly displaced Ukrainian children by
 - a) amending the Law of Ukraine 'On the Ukrainian Parliament Commissioner for Human Rights' and vesting them with powers in this regard,
 - b) ultimately vesting the powers in the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine by adopting amendments to the Law of Ukraine 'On Child Protection'.
 - c) adopting a law to establish the post of Ombudsperson for Children's Rights in Ukraine, independent of any branch of government.
- to amend the Law of Ukraine 'On Child Protection' and other related legal instruments to provide specific legal, social, and financial guarantees for the 'child affected by hostilities and armed conflict' status,
- to devise and ensure the implementation of a comprehensive national policy on children, covering all areas envisaged by the Convention on the Rights of the Child, and on the basis of this policy develop a short-term and long-term action plan with the necessary elements for its implementation, including sufficient human, technical and financial resources. Such a policy must provide for special support for families through social, medical, and advisory services, psychological assistance, education, and adequate living conditions.

Ministry of Reintegration of the Temporarily Occupied Territories:

- to ensure the implementation of the Procedure for Identifying and Returning Children Deported or Forcibly Displaced as a Result of the Armed Aggression of the Russian Federation against Ukraine,
- to organize the development of individual trajectories (plans) for the return of 'status' children, as well as the analysis of the compliance of the individual trajectory (plan) of return with the best interests of the child,
- to launch an interagency working group for the development and implementation of individual and/or collective rehabilitation and reintegration programs for children returned from the control of the Russian Federation,
- to strengthen and improve the mechanism of collection of statistical data on deported and forcibly transferred children, ensuring a gender-disaggregated approach and reflecting information on age, health condition, and the presence of a legal representative of the minor who is willing to perform their duties.

National Council for the Recovery of Ukraine from the War:

- to ensure that post-war recovery and reconstruction programs are planned and implemented in a way that prioritizes children and their needs without discrimination.

Ministry of Social Policy:

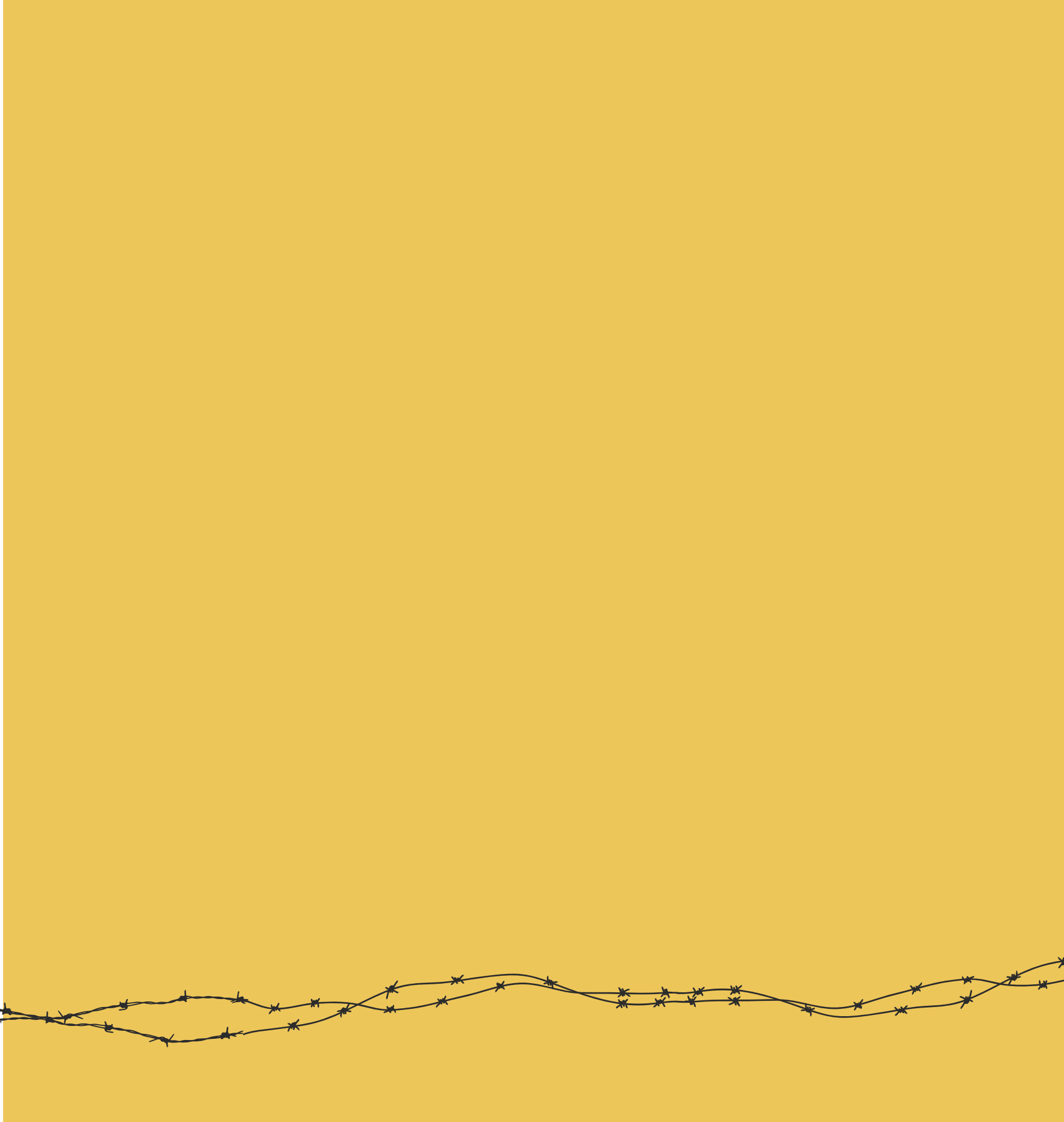
- to establish a register of families willing to participate in the return and further upbringing of deported or forcibly displaced "status" children, providing them with training and education in the context of the special needs and ways of interaction with children traumatized by international crimes,
- to develop and ensure the implementation of a comprehensive policy to render the necessary services, support, and social protection to families with a "status" child, including those returned from the control of the Russian Federation,
- to coordinate and ensure the implementation of deinstitutionalization reform, including short-term measures to reunite or place children from institutional care facilities with biological or foster families in the safer regions of Ukraine.

Ministry of Education and Science:

- to establish a national resource center within one of the leading state universities for general training and professional development of specialists who are to work with children returned from the control of Russia

To the international community:

- 1) To ensure compliance on the part of Russia with its international commitments towards Ukrainian children, in particular by expanding and increasing the efficiency of sanctions policy, suspending membership, or certain benefits from such membership in international organizations.
2. To join in efforts to achieve the goals of the International Coalition for the Return of Ukrainian Children.
3. To assist Ukraine in implementing critical domestic reforms, including, but not limited to
 - the deinstitutionalization reforms,
 - identification of a single competent authority or coordination council responsible for the return, rehabilitation, and reintegration of children,
 - establishment of a regulatory framework and procedures for assessing the best interests of children, including in the context of their return from the control of Russia,
 - development of a new plan and policy for the implementation of the provisions of the Convention on the Rights of the Child,
 - improvement of the methodology for the collection, analysis, and storage of data on the situation of Ukrainian children under Russian control.
4. To ensure coordination among international governmental and international and national non-governmental organizations for the effective tracking, identification, return, rehabilitation, and reintegration of Ukrainian children under Russian control.
5. To ensure inevitable liability for international crimes committed by Russian agents against Ukrainian children.



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