

Protection rights of displaced children during armed conflict

Derechos de protección de los niños desplazados durante los conflictos armados

Direitos de proteção das crianças deslocadas durante conflitos armados

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Abstract

From birth, every child is like a blank slate on which almost anything can be written. Childhood is the period of most rapid development (physical, mental, cognitive, social) for every human being. Unfortunately, humanity has never known a period of existence without armed conflict. On the contrary, global trends are moving towards an increase in the number of conflicts. Every armed conflict, to a greater or lesser extent, causes the displacement of the civilian population, including children. Displacement leads to a radical change in a child's normal way of life. Graça Machel, in her work "Impact of Armed Conflict on Children," identified displacement as one of the biggest problems during armed conflict for the protection of children's rights. There are two types of displacement: refugee status (when civilians cross the borders of the state in which they legally reside and seek asylum in other states) and internal displacement (a change of residence within a state without crossing the border). The legal regulation of displacement (both refugee and internal displacement) is reflected at the international and regional levels. The Russian-Ukrainian armed conflict has caused mass displacement of the civilian population both within Ukraine and beyond its borders (the largest number have left for the European Union). The Ukrainian experience has demonstrated its path in building national legislation regarding internally displaced children. The purpose of the article is to examine three levels of legal regulation (international, regional—European, and national—Ukrainian) regarding the protection of children's rights during displacement in the period of armed conflict.

Keywords: child, armed conflict, protection children's rights, displacement, refugee, temporary protection.

Resumen

Desde su nacimiento, cada niño es como una pizarra en blanco donde se puede escribir prácticamente cualquier cosa. La infancia es el período de desarrollo más rápido (físico, mental, cognitivo y social) de todo ser humano. Desafortunadamente, la humanidad nunca ha conocido un período de existencia sin conflictos armados. Por el contrario, las tendencias globales apuntan a un aumento en el número de conflictos. Todo conflicto armado, en mayor o menor medida, provoca el desplazamiento de la población civil, incluidos los niños. El desplazamiento conlleva un cambio radical en la forma de vida normal de un niño. Graça Machel, en su obra "Impacto de los conflictos armados en los niños", identificó el desplazamiento como uno de los mayores problemas durante los conflictos armados para la protección de los derechos de la infancia. Existen dos tipos de desplazamiento: el estatuto de refugiado (cuando los civiles cruzan las fronteras del estado en el que residen legalmente y buscan asilo en otros estados) y el desplazamiento interno (un cambio de residencia dentro de un estado sin cruzar la frontera). La regulación legal del desplazamiento (tanto de refugiados como de desplazamiento interno) se refleja a nivel internacional y regional. El conflicto armado ruso-ucraniano ha provocado desplazamientos masivos de la población civil, tanto dentro como fuera de Ucrania (la mayor parte se ha trasladado a la Unión Europea). La experiencia ucraniana ha demostrado su capacidad para desarrollar legislación nacional en materia de menores desplazados internos. El objetivo de este artículo es examinar tres niveles de regulación jurídica (internacional, regional —europeo, nacional— ucraniano) en relación con la protección de los derechos de los niños durante el desplazamiento en períodos de conflicto armado.

Palabras clave: niño, conflicto armado, protección de los derechos de los niños, desplazamiento, refugiado, protección temporal.

Resumo

Desde o nascimento, toda criança é como uma folha em branco na qual praticamente tudo pode ser escrito. A infância é o período de desenvolvimento mais rápido (físico, mental, cognitivo e social) para todo ser humano.

Infelizmente, a humanidade nunca conheceu um período de existência sem conflitos armados. Pelo contrário, as tendências globais apontam para um aumento no número de conflitos. Todo conflito armado, em maior ou menor grau, causa o deslocamento da população civil, incluindo crianças. O deslocamento implica uma mudança radical no modo de vida normal de uma criança. Graça Machel, em sua obra "Impacto dos Conflitos Armados sobre as Crianças", identificou o deslocamento como um dos maiores problemas durante os conflitos armados para a proteção dos direitos das crianças. Existem dois tipos de deslocamento: o deslocamento por status de refugiado (quando civis cruzam as fronteiras do Estado em que residem legalmente e buscam asilo em outros Estados) e o deslocamento interno (uma mudança de residência dentro de um Estado sem cruzar uma fronteira). A regulamentação jurídica do deslocamento (tanto de refugiados quanto de deslocados internos) se reflete nos níveis internacional e regional. O conflito armado russo-ucraniano causou o deslocamento massivo da população civil, tanto dentro como fora da Ucrânia (a maioria da qual migrou para a União Europeia). A experiência ucraniana demonstrou a sua capacidade de desenvolver legislação nacional sobre crianças deslocadas internamente. Este artigo examina três níveis de regulamentação jurídica (internacional, regional – europeu e nacional – ucraniano) relativos à proteção dos direitos das crianças durante o deslocamento em períodos de conflito armado.

Palavras-chave: criança, conflito armado, proteção dos direitos da criança, deslocamento, refugiado, proteção temporária.

INTRODUCTION

Any armed conflict poses increased risks to the lives and health of children. One of the consequences of armed conflict is the displacement of civilians, including children. This means a change in their normal way of life. As of 2024, there were 50 million children displaced by armed conflict worldwide (Unicef, 2024). The issue of displaced children during armed conflict is constantly in the spotlight, both at the international and regional levels and at the level of any state.

INTERNATIONAL AND REGIONAL LEVELS OF LEGAL PROTECTION FOR DISPLACED CHILDREN DURING ARMED CONFLICT

Armed conflict has always caused population movements. The legal framework contains the following notions regarding the displacement of civilians during armed conflict: the general concept "displaced person" (UN General Assembly, 1996), including two of the following

"refugee" – any person who has been considered a refugee as a result of owing to well-founded fear of being persecuted for reasons of race,

religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (The 1951 Refugee Convention and 1967 Protocol relating to the Status of Refugees);

“Internally displaced persons” are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border. (Guiding Principles of Internal Displacement)

So, the main difference between the two concepts above is whether the person crossed the state border of their usual place of residence. The very related concepts and issues of defining legal regulation at the international level would seem to go hand in hand, but history tells a different story.

Legal status of refugee

Initially, the international community focused its attention on the legal status of refugees. The main impetus for this was the events that unfolded both during World War II and after its end. At the close of World War II, the most important problems facing the free world in its moment of victory were the more than eight million people who had been displaced from their homes and homelands during the great and long struggle (Gibson, 1953).

To take care of the adults and children uprooted during the war, the Allies, under the lead of the United States and Britain, planned a program of international cooperation to provide relief to war-torn countries and solve the problem of refugees. The welfare workers of the United Nations Relief Rehabilitation Administration (UNRRA), founded in 1943 for this purpose, organized and managed postwar relief and rehabilitation for displaced civil populations. In 1946, the International Refugee Organization (IRO) was established to take over the tasks and responsibilities of the UNRRA. From the summer of 1947, the IRO's welfare workers, many of whom had formerly worked for

the UNRRA, continued to provide for displaced adults and children by supporting them in everyday life and helping with their physical and psychological rehabilitation, education, and vocational training. In addition, they arranged for the displaced person's repatriation or resettlement in another country. Their work ceased in 1952 when the IRO was dissolved (Gnydiuk, 2021, p. 293).

The United Nations adopted in 1951 the Convention relating to the Status of Refugees (United Nations, 1951), defining the conceptual framework, basic principles, rights and obligations, and rules relating to the granting of refugee status. The 1951 Convention consolidates previous international instruments relating to refugees and provides the most comprehensive codification of the rights of refugees at the international level. In contrast to earlier international refugee instruments, which applied to specific groups of refugees, the 1951 Convention endorses a single definition of the term "refugee" in Article 1. The emphasis of this definition is on the protection of people from political or other forms of persecution. A refugee, according to the Convention, is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

The conference adopted unanimously the following recommendations: governments should take the necessary measures for the protection of the refugee's family, especially with a view to the protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.

The Convention is both a status- and rights-based instrument and is underpinned by many fundamental principles, most notably non-discrimination, non-penalization, and non-refoulement. Considering the temporal ("events occurring before 1 January 1951") and geographical ("events occurring in Europe") limitations established in the convention, the logical step was to amend it for its provisions to remain legally valid. For this reason, in 1967, the Protocol Relating to the Status of Refugees (United Nations, 1967) was adopted, which expanded both the temporal and geographical scope of the convention.

On the regional level, the issue of refugee protection has also been addressed: Bangkok Principles on Status and Treatment of Refugees (Asian-African Legal Consultative Organization, 1966), Convention Governing the Specific Aspects of Refugee Problems in Africa (Organization of African Unity, 1969), Cartagena Declaration on Refugees (Regional Refugee Instruments & Related, 1984), and the development of a common asylum system in the European Union (Council of the European Union, 2011), etc.

Conventions are not the only form of international legal regulation. They are supplemented by the following types of legal instruments: policy, handbooks, guidelines, and conclusions. Such documents are intended to elaborate on the provisions of conventions in specific areas of their application and in relation to specific entities to which the provisions of a particular convention apply.

In particular, it is the Guidelines on International Protection No. 12: Claims to Refugee Status in Situations of Armed Conflict and Violence under Article 1A(2) of the 1951 Convention or the 1967 Protocol relating to the Status of Refugees and Regional Definitions of Refugees (UNHCR, 2016) aims to provide substantive and procedural guidance on the assessment of refugee status claims related to situations of armed conflict and violence, and to promote consistency in the application of the 1951 Convention and regional refugee definitions.

There is no special provision in the 1951 Convention regarding the refugee status of children. Detailed provisions regarding the application of the above convention to children are set out in: (a) UNHCR Policy on Refugee Children (UNHCR, 1993); (b) UNHCR Refugee Children: Guidelines on Protection and Care (UNHCR, 1994); (c) UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention (UNHCR, 2019); (d) Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention or 1967 Protocol relating to the Status of Refugees (UNHCR, 2009); (e) Conclusion No. 107 (LVIII): Children at Risk—Adopted by the Executive Committee (Executive Committee of the High Commissioner's Program, 2007), etc.

Exactly these documents cover issues related to refugee children, the possibility for children to independently apply for refugee status, factors to be considered when deciding whether to grant refugee status to a child, child-specific rights, manifestations of persecution of children during armed conflict, etc.

Legal status on the internal displacement

The “legal history” of the international legal regulation of the concept of “internally displaced persons” is quite different. While the international community’s attention was focused on refugee issues, the issue of internally displaced individuals was addressed exclusively at the national level. Only in the early 1990s, the issue of internally displaced people began to be actively discussed at the international level. What prompted this? Very simple—the numbers of internally displaced individuals around the world, which, unfortunately, are growing inexorably. The overall number of refugees stabilized in the

early 1990s and declined to 10.5 million by 2008; the number of internally displaced people has increased from 1.2 million in 1982 to 26 million in 2008 (Orchard, 2010).

The first step was recognition of the problem. The next step was to create a new office within the UN, that of the Representative of the Secretary-General for Internally Displaced Persons, which succeeded in creating for itself an independent and expert legal authority on the issue. In 1992, the Secretary-General, at the request of the Commission on Human Rights, appointed his first Representative on Internally Displaced Persons. The first Representative of the UN Secretary-General on Internally Displaced Persons was appointed Dr. Francis Deng and played a key role in creating legal regulations on internal displacement (Orchard, 2016)¹.

In the case of international protection for the internally displaced, Dr. Francis Deng deliberately chose not to pursue an international treaty for several reasons. First, existing treaties already did cover many of the rights of internally displaced persons, at least implicitly. His focus, rather, was to “consolidate the norms, focus attention, and, by doing so, serve an educational role.” Second, there was the time factor. Treaty making could take decades, whereas there was an urgent need for the document now to address the emergency needs of internally displaced people. Third, there was no support from governments. The subject of internal displacement was still too sensitive. It was feared that a treaty on internally displaced people would be an infringement on sovereignty (Cohen, 2004; Kälin, 2001).

Consequently, in 1998, Dr. Francis Deng presented a prepared document at the 54th session of the Commission on Human Rights—“Guiding Principles on Internal Displacement” (UNCHR, 1998)². Due to all the above reasons, Dr. Francis Deng used soft law—the non-binding guiding principles—as a mechanism to reframe the internally displaced person’s issue.

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- 1 In April 2004, the Commission called upon the Secretary-General to create a new mechanism to build on the work of the prior Representative and to bring a further focus on the human rights of internally displaced persons. Accordingly, in September 2004, the Secretary-General appointed his new Representative on the human rights of internally displaced persons. Subsequently, the Human Rights Council appointed in September 2010 a first Special Rapporteur on the Human Rights of Internally Displaced Persons, commencing his functions on November 1, 2010. While the title of the mandate holder changed, the functions of the mandate-holder and the mandate itself have remained essentially the same. Currently, the position of Special Rapporteur on the human rights of internally displaced persons is held by Ms. Paula Gaviria Betancur (Colombia) (appointed by the Human Rights Council in September 2022 and assumed the mandate on 1 November 2022).
 - 2 Guiding Principles on Internal Displacement includes 30 principles divided into 5 sections: (I) – general principles; (II) – principles relating to protection from displacement; (III) – principles relating to protection during displacement; (IV) – principles relating to humanitarian assistance; (V) – principles relating to return, resettlement and reintegration.

Phil Orchard³ has conducted several studies in the field of soft law and outlined its nature and advantages. Soft law can create important reputational effects for states, particularly when it becomes enshrined at the domestic level in the state's constitutional, regulatory, or judicial system. Soft law has generally been considered a preparatory step towards the creation of hard law. And yet soft law can have several marked advantages over more traditional hard law. First, its more informal nature plays to the strength of other actors, such as non-governmental organizations. Second, it has many benefits in issue areas that directly challenge state sovereignty by lowering costs, expanding the range of available institutional arrangements, and facilitating compromise. Thus, it can be effective when no agreement on hard law is possible. Third, it can also allow for more timely action when governments are stalemated. Fourth, it can serve to "reaffirm or further elaborate previously accepted general or vague norms found in binding or non-binding texts."

In addition, a central property of soft law as a norm-generating mechanism is its ability to contribute to the internalization of new norms within states by becoming entrenched in domestic legislation. Internalization increases norm robustness and causes norms to achieve a taken-for-granted quality that makes conformance with the norm almost automatic. This process is easier if norms resonate with prior understandings or if they emerge in a previously undefined area. By the same token, if new norms are contested, their acceptance or rejection within domestic institutions can be crucial in determining how influential they will become. Internalization in domestic law serves a role in determining not only the influence of new norms and in maintaining compliance towards them but also as a signal that a new norm has "achieved more than nominal domestic salience" (Orchard, 2010, pp. 285-86).

The Guiding Principles reflect this effort to balance state sovereignty with humanitarian imperatives (Cohen, 2004, p. 467). The Guiding Principles specifically mention children, expectant mothers, mothers with young children, and female heads of households as groups that should be entitled to special protection and assistance by virtue of their unique needs or vulnerabilities. Displaced children are accorded special protection in several of the principles, including principle 11 (protection from forced labor) and principle 13 (protection from recruitment and participation in hostilities). Children's right to education is recognized in principle 23, with a special emphasis on women and girls.

3 Phil Orchard is Professor of International Relations in the School of Humanities and Social Inquiry, and Co-Directs the uow Future of Rights Centre (FoRC). He is also the Discipline Leader for Politics and International Studies.

Motivated by a desire to strengthen the international response to internally displaced people, the Inter-Agency Standing Committee of the UN established a Senior Inter-Agency Network on Internal Displacement in July 2000. Consisting of focal points from the Inter-Agency Standing Committee member organizations, including Unicef, the Network has a mandate to review selected countries with internally displaced populations, and to make proposals for an improved international response to their needs, including improvements in the inter-agency approach to internally displaced people (Mahalingam et al., 2002).

Unicef, the World Food Programme, and other international organizations and non-governmental organizations have begun to disseminate the principles and familiarize their staff with their provisions.

The Special Representative of the Secretary-General for Children and Armed Conflict also contributed to this effort. In 2010, his office presented its vision for protecting the rights of internally displaced children in Working Paper No. 2: The Rights and Guarantees of Internally Displaced Children in Armed Conflict (UN Office of the Special Representative of the Secretary-General for Children Affected by Armed Conflict, 2010). The working paper was based on the Guiding Principles on Internal Displacement and the provisions of the Convention on the Rights of the Child. The material is presented by highlighting children's rights during internal displacement because of armed conflict.

The working paper is one of those documents that addresses the rights of internally displaced children specifically from the perspective of armed conflict and its aftermath. Besides the "ordinary" children's rights, attention is also paid to the rights that internally displaced children are entitled to during armed conflict, such as the right to physical security and the provision of safe spaces; children must not be recruited or permitted to take part in hostilities; the right to psychological support and reintegration programs; the right to freedom of movement, including from and within camps; and the right to durable solutions.

The presentation of the rights of internally displaced children during armed conflict in the working paper is also not conventional. Each child's right set out in the working paper is linked to a specific principle from the Guiding Principles on Internal Displacement. In addition, at the end of each section on a specific "child's right," there are "Key Advocacy Points" that outline the actions that authorized public administration entities should take to implement this "child's" right.

However, another characteristic feature of international regulation is the adoption of documents such as guidance on specific armed conflicts, both international and non-international in nature. For instance, Humanitarian Action for Children:

Syrian Refugees and Other Vulnerable Populations; Yemen Humanitarian Needs and Response Plan 2025; Guidance for Protecting Displaced and Refugee Children in and outside of Ukraine; Asylum Policy Instruction Article 1D of the Refugee Convention: Palestinian refugees assisted by the United Nations Relief and Works Agency, etc.

The above-mentioned international instruments are general and recommendatory in nature. They are general because they provide a general description of mechanisms for protecting children's rights during armed conflict and do not specify who exactly should be the "hands and feet" of these mechanisms in each individual state. They are advisory in nature because they cannot violate one of the fundamental characteristics of each individual state—sovereignty.

As an interim conclusion, it can be said that the aforesaid international instruments regulating the protection of the rights of refugee children and internally displaced children because of armed conflict have their gradation and legal force. However, what they have in common is that they are "soft law" documents. These instruments are a "transitional bridge" to national legislation and the establishment of protective mechanisms for children at the level of each individual state.

THE UKRAINIAN EXPERIENCE IN PROTECTING THE RIGHTS OF DISPLACED CHILDREN DURING ARMED CONFLICT

Ukraine's experience with refugee and internally displaced children is quite comprehensive. The Russian Ukrainian armed conflict began in 2014, causing the first wave of mass displacement, primarily within Ukraine. In this regard, there was a need for a legal framework for a new group of social relations: "On the Registration of Internally Displaced Persons" (Resolution of the Cabinet of Ministers of Ukraine, 2014) and "On Ensuring the Rights and Freedoms of Internally Displaced Persons" (Law of Ukraine, 2014).

Legal acts have established the meaning of "internally displaced person" at the national level:

An internally displaced person is a citizen of Ukraine, a foreigner, or a stateless person who is legally present in Ukraine and is entitled to permanent residence in Ukraine, who has been forced to leave or abandon their place of residence as a result of or to avoid the negative consequences of armed conflict, temporary occupation, widespread violence, human rights violations, and natural or man-made emergencies.

The fact of internal displacement is confirmed by a certificate of registration as an internally displaced person, which is valid indefinitely. Every child, including those who arrived unaccompanied by their parents or other legal representatives, receives a certificate of registration as an internally displaced person.

The person shall apply to the structural unit for social protection of the population of the district, district in the city of Kyiv state administrations, executive bodies of the city, district in cities (if established), and councils at their place of residence in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

The certificate is issued to every child⁴, including those who arrived without their parents or legal representative, as well as children born to internally displaced persons who moved from territories where hostilities are taking place or from territories temporarily occupied by the Russian Federation included in the list of territories where hostilities are taking place (were conducted) or temporarily occupied by the Russian Federation, approved by the Ministry of Development of Ukraine, for which no date has been set for the end of hostilities (cessation of the possibility of hostilities) or temporary occupation by the Russian Federation, as well as children whose homes have been destroyed or damaged (to the extent that they are uninhabitable) as a result of hostilities, terrorist acts, sabotage caused by the hostilities of the Russian Federation against Ukraine, have had their residential premises destroyed or damaged (to the extent that they are uninhabitable). In accordance with Ukrainian law, a minor child submits such an application independently.

The use of electronic instruments such as information and analytical systems is characteristic of Ukrainian public administration. So, in the area of internally displaced individuals, two information and analytical systems have been created: a Unified Information Database on Internally Displaced Persons (maintained by the Ministry of Social Policy, Family, and Unity of Ukraine) (Resolution of the Cabinet of Ministers of Ukraine, 2016) and an Information and Analytical System of Real Estate Objects for Providing Housing to Internally Displaced Persons (maintained by the Ministry of Community and Territorial Development of Ukraine) (Resolution of the Cabinet of Ministers of Ukraine, 2025).

The Ukrainian government has provided for monthly payments to internally displaced individuals: 3000 hryvnia (72 USD) for children and individuals with disabilities and 2000 hryvnia (48 USD) for other individuals (Resolution of the Cabinet of Ministers of Ukraine, 2022).

4 Note from the outset that by Ukrainian law, children are divided into two categories: minimally capable (a person under the age of 14) and minors (a person aged 14 to 18).

Another characteristic feature of the Russian Ukrainian armed conflict is the departure of Ukrainian children abroad. After February 2022, a larger number of Ukrainians and Ukrainian children began to leave for European Union countries—about five million. At the end of July 2025, adult women made up 44.7% of the people under temporary protection. Minors represented almost one-third (31.2%). The proportions of boys and girls under the age of 18 years were 16.4% and 14.8%, respectively (Eurostat, 2025).

Among the EU countries for which data are available, Austria (2785), the Netherlands (1970), and Lithuania (1800) have granted the most temporary protection statuses to unaccompanied minors from Ukraine since March 2022. In relative terms, the highest share of unaccompanied minors in the total number of minors granted temporary protection was recorded in Croatia (14.4%), ahead of Denmark (9.2%) and Austria (6.4%) (Eurostat, 2025).

The EU has chosen a non-standard approach in providing legal protection to Ukrainians. Legal status of temporary protection is granted to Ukrainians, including children. What does this entail? This legal status is enshrined in Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (Temporary Protection Directive) (European Union, 2001).

The legal status of temporary protection has its differences from the status of a refugee. Based on regional regulation of the legal status of refugees and temporary protection, a comparison of these legal statuses is proposed (table 1).

Table 1

Legal status	Refugee	Temporary protection
<i>Legal framework</i>	Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless individuals as refugees or as people who otherwise need international protection and the content of the protection granted	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced individuals and on measures promoting a balance of efforts between Member States in receiving such individuals and bearing the consequences thereof

(continúa)

(viene)

Legal status	Refugee	Temporary protection
<i>Main concepts</i>	“Refugee” means a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion, or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it.	“Temporary protection” means a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such individuals, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the individuals concerned and other people requesting protection.
<i>Reasons for obtaining legal status</i>	(a) acts of physical or mental violence, including acts of sexual violence; (b) legal, administrative, police, or judicial measures that are in themselves discriminatory or that are implemented in a discriminatory manner; (c) prosecution or punishment, which is disproportionate or discriminatory; (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment; (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses; (f) acts of a gender-specific or child-specific nature.	Two components: (1) “Mass influx” means the arrival in the community of many displaced individuals, who come from a specific country or geographical area, whether their arrival in the community was spontaneous or aided, for example, through an evacuation program. (2) displaced individuals: (i) individuals who have fled areas of armed conflict or endemic violence; (ii) persons at serious risk of, or who have been the victims of, systematic or generalized violations of their human rights.
<i>Duration of legal status</i>	At least three years and renewable unless compelling reasons of national security or public order otherwise require (also to the family members of the beneficiaries of refugee status).	At least one year. The Council can extend the duration of temporary protection if there are reasonable grounds for doing so. Temporary protection shall come to an end at any time based on the establishment of the fact that the situation in the country of origin is such as to permit the safe and durable return of those granted temporary protection with due respect for human rights and fundamental freedoms and Member States’ obligations regarding non-refoulement.
<i>Exclusive (mandatory) rights of children</i>	Full access to the education system to all minors granted refugee under the same conditions as nationals.	Access to the education system for individuals under 18 years of age enjoying temporary protection under the same conditions as nationals.

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Legal status	Refugee	Temporary protection
<i>Protective measures for unaccompanied children</i>	To ensure the representation of unaccompanied minors by legal guardianship or, where necessary, by an organization responsible for the care and well-being of minors, or by any other appropriate representation, including that based on legislation or court order. Member States shall ensure that unaccompanied minors are placed either: (a) with adult relatives; or (b) with a foster family; or (c) in centers specialized in accommodation for minors; or (d) in other accommodation suitable for minors. Into account shall be taken the child's age and degree of maturity. Principles of the best interests of the minor are basic.	To ensure the necessary representation of unaccompanied minors enjoying temporary protection by legal guardianship, or, where necessary, representation by an organization which is responsible for the care and well-being of minors, or by any other appropriate representation. During the period of temporary protection, Member States shall provide for unaccompanied minors to be placed: (a) with adult relatives; (b) with a foster family; (c) in reception centers with special provisions for minors, or in other accommodation suitable for minors; (d) with the person who looked after the child when fleeing. Into account shall be taken the child's age and degree of maturity.
<i>Consequences of expiration of legal status</i>	—	To make possible the voluntary return of individuals enjoying temporary protection or whose temporary protection has ended. The member states may provide for exploratory visits. Where voluntary return is not achieved, then enforced return may be applied, and those who are not eligible for admission are treated with due respect for human dignity. If, at the start of the return procedure, the child is attending an educational institution in the host country, they may be provided the opportunity to complete the current school period.

The legal status of temporary protection for Ukrainian citizens, including children, was activated on March 4, 2022 (European Union, 2022). For the first time, the European Union has applied the legal status of temporary protection. Currently, temporary protection has been extended until March 4, 2027 (European Union, 2025). At the same time, the European Union has already developed a Council Recommendation on a coordinated approach to the transition out of temporary protection for displaced individuals from Ukraine (European Union, 2025). The recommendation provides for the possibility of remaining in the European Union after the expiry of temporary protection. protection status for those who have integrated into the social life of member states, namely those who have integrated into their host societies by learning their languages,

finding employment, and enrolling in education. In this case, such persons will need to change the legal basis (transition to other legal statuses) for their stay in the territory of the European Union in accordance with Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 (for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing), Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 (for the purpose of highly qualified employment), and repealing Council Directive 2009/50/EC, Directive (EU) 2024/1233 of the European Parliament and of the Council of 24 April 2024 (for workers legally residing in a Member State).

Upon the discretion of the host country, the family of a child attending an educational institution may be granted permission to complete the school period, usually a school year. At the same time, the recommendations do not contain provisions regarding the return of unaccompanied children.

According to Eurostat data at the end of July 2025, the EU countries hosting the highest number of beneficiaries of temporary protection from Ukraine were Germany (1,203,715 people; 27.7% of the EU total) and Poland (993,665; 22.9%) (Eurostat, 2025).

The Temporary Protection Directive was implemented in Germany via the Act on the Residence, Employment, and Integration of Foreigners in the Federal Territory 1) (Residence Act—AufenthG), namely Section 24, granting of residence for temporary protection. A foreign national who is granted temporary protection based on a decision of the Council of the European Union in accordance with the Temporary Protection Directive and who has declared his willingness to be admitted to the federal territory shall be granted a residence permit for the period of temporary protection determined. The foreigners shall be distributed among the Länder. The distribution among the Länder is carried out by the Federal Office for Migration and Refugees. The foreign national shall be informed in writing of the rights and obligations associated with temporary protection in a language that he understands.

In pursuance of Section 24 of Residence Act, it has been adopted the Ordinance on the temporary exemption from the requirement of a residence title for persons entering Ukraine on the occasion of the war (Ukraine Transitional Residence Ordinance) (Bundesministerium des Innern, 2022). The distribution procedure serves to equalize the burdens of the federal states.⁵

5 The Königstein key is intended to regulate the proportion of the federal states in joint financing – as well as the accommodation and integration of refugees. The share of the respective federal states is made up of two thirds from their tax income and one third from the population. The gwk recalculates the key every year and publishes it in the Federal Gazette.

A third of Ukrainians in Germany who have been granted temporary protection status are children, some of whom arrived with one or both parents, and some of whom are unaccompanied. The procedure for taking an unaccompanied child into care applies if such a child is found, which involves the following steps: (1) temporary placement with the local youth welfare office, which takes over custody of the child; (2) the youth welfare office checks whether there is a person in Germany who has custody of the child and whether it is possible to move to another Länder, considering existing ties and the presumed or actually known wishes of the legal guardians; (3) after the distribution, the responsible youth welfare office takes the child into custody and then appoints a guardian for the unaccompanied child (Heiermann & Atanisev, 2024).

Another group consists of minors who were in the company of an accompanying person, but for whom it was not immediately understandable, at least from a legal standpoint, whether the accompanying person had custody of them. These children are also referred to below as “accompanied unaccompanied minors.” Commonly, these are situations where children enter the country unaccompanied but immediately go to relatives or another person who does not have custody rights. The principle of the best interests of each child applies in such cases by transferring the presumed or proven custody rights from Ukraine and recognizing a right of custody under German law in this relationship.

Among them are children deprived of parental care who were evacuated from Ukrainian residential care institutions to Germany. These evacuations were carried out on private initiative. Foster families also came to Germany. Again, the principle of the best interests of each child was paramount. Therefore, the children were distributed among the Länder in groups with guardians or with their foster families.

The Federal Ministry for Family Affairs, Senior Citizens, Women, and Youth has established a center in Germany for reporting and coordinating Ukrainian children deprived of parental care from residential care institutions and foster families. There are two main pillars: the central coordination center at the Federal Office of Administration and the sos center, which is run by sos Children’s Villages. Additionally, there are corresponding state coordination centers in all federal states that cooperate with the federal level (Heiermann & Atanisev, 2024, p. 16).

The mandatory component of the legal status of temporary protection for children is ensuring their educational process. In Germany, Ukrainian children of compulsory school age are required to enroll in German schools. According to German Basic Law, education is under the jurisdiction of individual federal states in Germany, and therefore strategies for integrating Ukrainian students differ across regions. However, all states prioritize intensive German language training, often by creating specialized

classes for Ukrainian students before integrating them into regular classes (Chabursky, Gutt & Guglhör-Rudan, 2024).

There is also the Standing Conference of the Ministers of Education and Cultural Affairs⁶, adopted a decision on Ukrainian children in 2022, points out that children and adolescents from Ukraine seeking protection are subject to the requirements of the federal states regarding compulsory schooling, that transition and graduation rules apply in the same way as for other pupils and that the integration of Ukrainian online materials in regular lessons can be supplementary and flanking (КМК, 2022).

The legal framework in Poland regarding the legal status of temporary protection for Ukrainians is structured as follows. Naturally, as a member of the European Union, Poland is primarily bound by the Temporary Protection Directive. In accordance with the Temporary Protection Directive, the Polish parliament adopted the Act of 12.03.2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of this state (the so-called "Special Act"). The Special Act contains specific articles relating to children: the implementation of the right to social security for families with children (Article 26); the protection of the rights of unaccompanied children (Articles 25, 27, 28); realization of the right to education (Articles 50, 51, 52, 54, 55b, 56). In particular, Ukrainian children who have been granted temporary protection are entitled to a monthly payment of PLN 800, on a par with Polish children⁷.

In June 2025, the Polish authorities began the process of amending the Special Act in the context of the right to receive benefits, accommodation, and health care, namely by reducing the scope of their provision. The first draft (Projekt ustawy, 2025) received many comments, including from the UNHCR Representation in the Republic of Poland (UNHCR, 2025), and as a result was vetoed by the President of the Republic of Poland.

In September, an alternative bill was drafted, which was supported by all participants in the legislative process and came into force on September 30, 2025 (Ustawa, 2025). The main changes introduced regarding childcare benefits are the obligation for the parents (legal representatives) of the child to be economically/professionally

6 The Standing Conference of the Ministers of Education and Cultural Affairs is the oldest conference of ministers in Germany and plays a significant role as an instrument for the coordination and development of education in the country. It is a consortium of ministers responsible for education and schooling, institutes of higher education and research and cultural affairs, and in this capacity formulates the joint interests and objectives of all 16 federal states.

7 The 'Family 800+' program is to support families in partially covering the expenses of raising a child, including childcare and meeting the child's living needs. Under the 'Family 800 plus' program, families with dependent children are entitled to an upbringing benefit for a child up to the age of 18, regardless of the income earned by the family.

active in Poland and for the child to receive education in Polish educational institutions (Article 10).

An interim conclusion can be drawn that the changes introduced are a transition out of temporary protection. This is because priority for receiving various types of benefits from the state is now given to individuals who are employed or engaged in business activities. For children, a mandatory condition is to obtain education in Polish educational institutions and, accordingly, knowledge of the Polish language. The above conditions are basic for assimilation into any society.

CONCLUSIONS

In summary, it can be unequivocally stated that there is unanimity at both the international and regional levels of the community regarding the protection of children's rights during armed conflict, and even more so during displacement due to armed conflict. The analyzed provisions of international documents indicate widespread use of soft law. And this is not surprising, since States must respect each other's sovereignty. International norms act as the stakes within which both the regional level and the national level of each individual state can build their legal regulation.

Based on the Ukrainian experience, it has been established that national legal regulations regarding internally displaced persons began to be created only after such types of social relations emerged. When establishing legal norms in this area, the domestic legislator considered the needs of children and specifically highlighted children's rights. The legislator also considered the gradation of children's ages according to current legislation and singled out the possibility for children of the appropriate age to independently undertake actions to obtain the legal status of internally displaced persons.

Regarding Ukrainian citizens, including children, who left the country due to the armed conflict, the European Union states applied a legal status not of refugees, but for the first time since 2001 activated a legal status of temporary protection, which has distinct characteristics. Within the framework of the legal status of temporary protection, children's rights were specifically distinguished.

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