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LEGAL CONSTRUCTION OF THE LEGAL STATUS OF A CHILD DURING ARMED CONFLICT

Abstract. *The article examines the legal construction of the legal status of a child during armed conflict as a basis for the formation of a system of special protection mechanisms for children during armed conflict. The construction proposed by the author is universal in nature without reference to any concrete armed conflict. The purpose of forming the legal structure of a child's legal status during armed conflict is to identify the categories of children who have the right to have such status and, accordingly, to receive the protection provided for by it. The author examines the structural elements of such a framework and offer their own vision. The article analyzes the doctrinal approaches to the formation of legal status in general, and during armed conflict in particular. The theoretical knowledge became the basis for the formation of the legal structure of the legal status of a child during armed conflict. The author also analyzes the dynamics of Ukrainian legislation in the context of the formation of the legal status of a child since 2014. In particular, the author outlined and took into account the «childhood peculiarities» of development and reaction to all manifestations of the armed conflict, which were taken into account in the formation of the author's model. The author proposed the formation of a universal model of a child's legal status during armed conflict, which should exist independent of whether there is an armed conflict in the State, so that in the event of an armed conflict, child protection mechanisms are already developed and ready for implementation. Methodological basis of the study: document analysis, systematic process during the writing of the article, which was manifested in reading, identifying specific provisions, and categorizing information, comparative analysis, generalization method.*

Key words: *child, armed conflict, special protection, legal status, legal construction.*

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ЮРИДИЧНА КОНСТРУКЦІЯ ПРАВОВОГО СТАТУСУ ДИТИНИ ПІД ЧАС ЗБРОЙНОГО КОНФЛІКТУ

Анотація. *Стаття досліджує юридичну конструкцію правового статусу дитини під час збройного конфлікту як основу для формування системи механізмів реалізації спеціально-*

го захисту дітей під час збройного конфлікту. Запропонована автором конструкція носить універсальний характер без прив'язки до конкретного збройного конфлікту. Метою формування юридичної конструкції правового статусу дитини під час збройного конфлікту є можливість окреслити категорії дітей, які мають право володіти таким статусом, і відповідно користуватися тим захистом, який ним передбачено. Автором розглянуто структурні елементи такої конструкції та запропоновано власне бачення. У статті проаналізовано доктринальні підходи до формування правового статусу в цілому, та під час збройного конфлікту зокрема. Теоретичні знання стали основою для формування юридичної конструкції правового статусу дитини під час збройного конфлікту. Також автором проаналізована динаміка українського законодавства в контексті формування правового статусу дитини починаючи з 2014 року. У тому числі автором окреслено та враховано «дитячі особливості» розвитку та реакції на всі прояви збройного конфлікту, які були враховані при формуванні авторської моделі. У статті запропоновано формування універсальної моделі правового статусу дитини під час збройного конфлікту, який повинен існувати незалежно чи наявний у державі збройний конфлікт. Для того, щоб у разі збройного конфлікту механізми захисту дітей були вже розроблені та готові до реалізації. Методологічна основа дослідження: аналіз документів, систематичний процес під час написання статті, який проявився в читанні, визначенні конкретних положень та категоризації інформації, порівняльний аналіз, метод узагальнення.

Ключові слова: дитина, збройний конфлікт, спеціальний захист, правовий статус, юридична конструкція.

INTRODUCTION

«Neither territory nor race creates nations. The land provides the substrate, the field for struggle and labor; person provides the soul. Person manifests himself in the creation of that sacred phenomenon called a nation. Geography is not enough for this. A nation is a spiritual principle, the result of the deepest compulsions of history, a spiritual family, not a group defined by the shape of a surface.» The words of the French historian Ernest Renan in his lecture to students at the Sorbonne on the topic «What is a nation?» [29, p. 2].

Totally agree with Ernest Renan's words that the main feature of any state is their people. In order for the state to have a future tomorrow, it must take care of children today. This issue is even more important during an armed conflict. A child is the most vulnerable part of the civilian population and requires the most targeted and orderly actions from the state to create the most favorable conditions for his or her life.

The primary legal category in the formation of any of the mechanisms of legal regulation is the legal construction of the legal status of a person. This is the category that has always been and will always be the litmus test that indicates the nature and degree of development of any state and society. The legal status is the «business card» of each state in relation to a certain category of the population in a particular period of time.

The world practice is such that, as a rule, no state in the peaceful period of its existence forms in advance the legal regulation of either the legal status of a child during

armed conflict or the relevant mechanisms for ensuring the safety and development of a child at such time.

However, the main global risk in 2025 is the possibility of new armed conflicts between states [42].

That is why this study is aimed at forming a legal structure of the legal status of a child during armed conflict, establishing its structural elements, which will further form the basis for the formation of an appropriate system of mechanisms to protect every child during any armed conflict.

1. LITERATURE REVIEW

Legal structures are ideal models of the structure of legal phenomena. The word «model» is used in different meanings in both scientific literature and everyday speech. It is used to describe different types of phenomena. A model is sometimes understood as a certain «ideal» sample from which other objects of the same type are copied. A legal construction makes it possible to logically organize legal material and present it in a certain sequence. The legal structure is necessarily enshrined in the law. The use of legal structures helps to achieve accuracy and certainty of the content of legislation.

The content of each construction consists of a set of elements that are inherent only in the specific type of social relations that it reflects. A legal construct, as an element of generalization of life situations, allows to program a large legal space at once. Hence, legal structures make it possible to eliminate gaps in the law. Legal constructions are ideal generalizing models of the structure of homogeneous legal phenomena enshrined in legislation, created to formulate regulatory, protective, and protective legal provisions and to achieve accuracy and certainty of laws.

The legal construction of the legal status of a child during armed conflict is a multistructural legal phenomenon that reflects all categories of children who fall under this construction and is the springboard of opportunities for these children that are necessary for their existence and development during armed conflict. The legal construction of the legal status of a child during armed conflict is important for legal regulation. The legal construction as an ideal model of a subject (phenomenon) serves as a form of reflection of reality, is a simplified image of legal reality. A legal construction expresses the structural and systemic organization of the objects under study, and therefore it is defined as a composition.

As a basis for the formation of the legal construction of the legal status of a child during armed conflict, we will turn to the developments in the field of legal theory, since theoretical knowledge has always been, is and will be the foundation that allows us to formulate further research and conclusions to them (like formulas in mathematics).

The issue of «legal status» has repeatedly been the subject of research by scholars in the field of legal theory. In this area, there are several approaches to the formation of the legal status of a person, namely:

– is the legal position/status of individuals and legal entities in a certain system of social relations [12, p. 158; 44, p. 100];

– is a set of all rights, obligations and legitimate interests of subjects of law [45, p. 342; 48, 235];

– is the scope of individual freedom, the level of which is achieved in each individual state [34, p. 30];

– is a system of interrelated rights, freedoms and obligations that are enshrined in legislation and determine the legal position of a person in society [47, 207]. In her definition of «legal status», the scientist combined the previous two components and thus formulated, in our opinion, the most complete definition. Among other things, K. Volynka points out that the legal status can be used to characterize the place and role of a person in society, his or her relationship with the state;

– is a complex integrated category that reflects the relationship of subjects of social relations, person and society, citizen and state, individual and collective, as well as other social ties [28, p. 96];

– an integral part of social status, which determines the legal position of a subject of law in relation to other subjects of law, has official recognition by the state, formal certainty, is characterized by systematicity, stability and is conditioned by the existing system of social relations [19, p. 46].

Thus, among legal scholars there are two approaches to the formation of the definition of the basic concept of «legal status»: 1 – by determining the position/status of a person in society and, as a result, his/her relationship with other persons/society; 2 – by determining the range of rights and obligations belonging to a person.

The following opinions can be found in the literature review regarding the structural elements of the legal construct «legal status of a person». Thus, O. Skakun [34, p. 31] suggests that the structural elements of the legal status of a person are: legal personality; rights; freedoms; duties; and liability. The scientist points out that liability is secondary in nature – it is realized as a result of an offense committed or in connection with failure to fulfill competence or exceeding its scope.

A number of scholars, among the elements of legal status indicated by O. Skakun, also include legal norms establishing this status, legal principles and legal guarantees; legitimate interests; citizenship (or other connection or relationship to the state) [8, p. 202; 44, p. 102; 38, p. 254].

Consequently, the opinions of scholars on the elements of legal status can also be grouped into two groups of approaches. The first is a simplified one, when the elements include only rights, freedoms, interests and obligations. The second is a broad understanding, when the above elements are supplemented by legal norms in which they are expressed, a system of guarantees and legal liability. It can be summarized that scholars agree that the basis of the legal structure of the legal status of a person is legal personality; a system of rights, obligations and legitimate interests. The difference in the above opinions lies in the inclusion of additional elements in this construction.

When studying any legal phenomenon, its classification is of great importance. The legal status of a person is no exception. This allows the authorized public authority to identify the range of legal provisions applicable to a particular subject, depending

on the presence of a certain status of the subject, which is intended to be regulated by the already adopted legal provisions. Scholars have developed a unified approach to the types of legal status of a person. Thus, the following types of legal status of a person are currently distinguished:

1) general (basic or constitutional) – a status determined by the Constitution of each state. This status is the basis for the acquisition of specific subjective rights, the imposition of duties and responsibilities;

2) special (generic), which denotes the specifics of the status of certain categories of persons. This status is characterized by the granting of additional, special rights and obligations in accordance with laws and other regulations. Unlike the general status, which is permanent, the special status is subject to change and is transient. Special statuses are more sectoral (due to the diversity of branches of law) than the general status determined by the constitution. Sectoral statuses are within one branch of law (state legal status of a deputy, procedural legal status of a criminal expert, labor status of a pensioner, civil legal status of an entrepreneur, an accused), while inter-branch (complex) statuses are of a complex nature, going beyond one branch of law (status of an official, a military servant, a minor, etc.). Each status specifies various rights and obligations in a generalized form, taking into account the sectoral legal capacity. The distinction between the special status of one person and the status of other persons lies in the plane of their legal personality, mainly legal capacity, since legal capacity is the same and equal for all. The determining prerequisite for the emergence of a branch status is legal capacity, since it affects the correlation of the special status with a branch of law;

3) individual legal status of a person.

At the same time, the general legal status, special legal status and individual legal status of a subject of law are correlated with each other as general, special and individual (Okuniev, 2009) [19, p. 46].

The next one group consists of literature in the field of research on the «legal status of a child».

The issues of the legal status of a child have repeatedly been the subject of research by Ukrainian legal scholars both in general terms and depending on the branch of law: civil law status of a child [18], family law status of a child [25; 15], constitutional law status of a child [46; 13; 10], etc.

Conducting a scientific investigation of the doctrinal literature, it is possible to find the following definitions of the «legal status of a child»:

N. Kolomojets – a complex system that is derived from the system of general legal status of a person and reflects the place of a child in the legal field of his/her life and interrelations with the outside world and the state [14, p. 38];

N. Krestovska – a system of subjective legal rights, duties and responsibilities of a special subject of law – a child – expressed in the values of natural law and norms of positive law, guaranteed by society and the state [16, p. 340];

O. Kudriavtseva – a set of rights and obligations established by the state in the appropriate legal form [17, p. 14];

S. Sabluk – objective and formalized in law opportunities that a child needs as a personality for his or her comprehensive development, a legal status that reflects a child's position in interaction with other subjects of law [33, p. 9].

Notably, in the dissertation research, N. Krestovska (2008) offers a synonymous definition of the «legal status of a child», namely, «juvenile status» [16, p. 340].

Of course, when analyzing the concept of «legal status of a child» in any of the configurations depending on the field of legal relations, scholars also provide their vision of the structural elements of this legal construct. The only difference in views is whether (similarly to the theorists) to consider legal responsibility and status legal norms and legal relations among the elements.

Scholars' views on the structural elements of the legal status of a child:

N. Krestovska: the rights and obligations of a child act as the core of his/her legal status, i.e. as a constructive component, guarantees of observance of the rights and fulfillment of the obligations of a child [16, p. 279, 340];

S. Sabluk: the principles of a child's legal status, legal personality, citizenship, rights, freedoms and obligations, means and methods of their protection and legal responsibility of a child [33, p. 56];

O. Kitayka: the rights of a child, the civil status of a child, the constitutional legal personality of a child, the principles of the constitutional and legal status of a child and guarantees of the constitutional rights of a child [13, p. 3]. We agree with the scientist's statement that when considering the legal status of a child, the principle of the best protection of the child's interests should be applied first and foremost.

Based on their research, the scholars come to the following conclusions. Thus, S. Sabluk supports the scientific position that the legal status of a child can be characterized either as a special (generic) status of a minor or as an individual status of a minor [33, p. 62].

O. Siniehubov proposes to distinguish between the «general status of a child» enshrined in the Constitution; «special status of a child» as the status of a representative of a certain social group, separated by a certain legal criterion, namely age; «individual status of a child» as the status of an individual, which is revealed through personalized rights and obligations, taking into account natural and acquired abilities and characteristics (age, family, employment status, health status) [34, p. 64].

N. Krestovska considers the «legal status of a child» in two dimensions. The first is that the «legal status of a child» is covered by the «legal status of a person» and in this context includes only rights and obligations. The second is the understanding of the «legal status of a child» in a broad sense and the inclusion of not only the rights and obligations of subjects, but also the so-called «legal statuses», in particular the status of citizenship, legitimate interests, guarantees of rights and obligations, legal responsibility [16, p. 273].

O. Ryhina maintains that the «legal status of a child» naturally derives from the «legal status of a person», primarily as a person who has a number of natural rights, the existence of which does not depend on the will of the state, and secondarily as a person

who is a citizen of a particular state; at the same time, the «legal status of a child» is different from the «legal status of a person», since a child does not have full legal capacity, which is possessed by an adult, and, until reaching a certain age, is not able to bear criminal responsibility for unlawful criminal acts committed by him/her [31; 32].

The above-mentioned literature allowed us to distinguish the legal construction of the «legal status of a child during armed conflict» and to form our own views on this issue, which will be discussed further in this article.

2. MATERIALS AND METHODS

The following research methods were used to conduct the study in the field of legal construction of the child's legal status during armed conflict.

The author used the method of document analysis. First of all, the researcher analyzed the main international legal act related to the topic of the study – the Convention on the Rights of the Child [6], etc.) The second level of legal acts that were analyzed were Ukrainian legal acts depending on their legal force. In particular, the Law of Ukraine «On protection of childhood» [20], the Law of Ukraine «On social protection of children of war» [21], the Law of Ukraine «On social protection and support for children affected by the armed aggression of the Russian Federation against Ukraine and amendments to certain legislative acts of Ukraine to streamline the provision of social services and benefits» [23], Resolution of the Cabinet of Ministers of Ukraine «On Approval of the Procedure for Granting the Status of a Child Affected by Military Operations and Armed Conflicts» [30], etc. The principle of legal force was used to systematize and logically refer to legal acts.

The legislative source of international legal act is selected from the United Nations legislative databases. In reviewing the Ukrainian legislation, we have used legislative sources from the official open data portal of the Verkhovna Rada of Ukraine <https://data.rada.gov.ua/open/data/zak>.

Simultaneously with the analysis of regulatory acts, the authors reviewed the academic literature that formed the scientific basis of this study. This helped to analyze the legal construction of legal status of a child during armed conflict. The research in the field of theory was divided as follows: first of all, the basic fundamental concepts of «legal construction», «legal status of a person» and «legal status of a child». Also, the scientific basis of the study is based on scientific publications in the field of children's protection during armed conflict in general.

The search for scientific publications was carried out in the scientific metric databases ResearchGate, WoS and Google Scholar.

The author used a systematic process during the writing of the article, which was manifested in reading, identifying specific provisions, and categorizing information. Based on the above, it was possible to form their own vision of the legal structure of the legal status of a child during armed conflict. As a result, it was possible to compare the existing legal status of children in Ukraine since 2014. Using the method of comparative analysis, the article highlights the advantages and disadvantages of this status.

The generalization method was applied on the basis of the comparison, which helped to formulate the relevant conclusions to the article. The use of these methods allows us to fully formulate the legal construction of the legal status of a child during armed conflict, which will further help to build an organic system of legal regulation mechanisms that will allow for the full and comprehensive protection of the rights of a child during any armed conflict.

3. RESULTS AND DISCUSSION

Based on the legal literature reviewed above, an intermediate conclusion can be drawn that the «legal status of a child» is a comprehensive, interdisciplinary concept grounded on the general legal status of a person, taking into account age-related peculiarities (both psychological/physiological and legal). It is appropriate to use the achievements of the field of legal theory as the basis for understanding the legal category «legal status of a child». In this context, the legal status of a child is understood as a set of his or her rights, freedoms and obligations, which are fixed by the state in a legal form. A child has general (constitutional), special (generic) and individual legal statuses.

The legal construction of the legal status of a child during armed conflict must take into account a number of specific features related to children. Of course, the first thing that all researchers point out is the age feature. Consider that this is the main feature, as it is the basis for the derivatives that can be divided into two groups – psychological/physiological and legal. Given their age, children cannot fully exercise their «children's» rights provided for in legal acts on their own, and do not have sufficient capacity to protect their rights, because in most cases a legal representative must be involved (a legal peculiarity). Given the age criterion, children have specific needs, interests and rights (a legal peculiarity). Children are characterized by social and psychological immaturity and, as a result, increased trust in others and the inability to objectively assess life situations (psychological/physiological peculiarity). All these «childish» peculiarities give grounds to assert that children are the most unprotected and vulnerable category of civilians.

Unfortunately, no historical period in the existence of world society is complete without armed conflicts. During an armed conflict, children are the most vulnerable and in need of care among the civilian population. Accordingly, the legal status of a child during an armed conflict is different and has its own characteristic features.

The concept of «armed conflict» is relatively new to the legal framework. The study of international legal acts has shown that the definition of «armed conflict» is not fixed at the international level. An attempt to provide the above was made only during the work of the International Criminal Tribunal for the former Yugoslavia (1999) [9]. In this process, the following definition was proposed: «an armed conflict occurs whenever states use force or when there is a protracted armed conflict between government forces and organized armed groups or between such groups within the same state».

Ukrainian legislation defines armed conflict as an armed conflict between states (international armed conflict, armed conflict on the state border) or between warring parties within the territory of one state, usually with external support (internal armed conflict) (Article 1 of the Law of Ukraine «On National Security») [22].

According to N. Krestovska, in her dissertation research, she proposed, in our opinion, a successful approach to detailing the legal status of children (which will also be used in this study). Thus, the scientist supplemented the legal construction of the «legal status of a child» with such elements as substatus. N. Krestovska pointed out that within the framework of juvenile status (legal status of a child), for example, legal substatus of children in adverse conditions or extreme situations are distinguished [16, p. 279].

The national doctrine has already made attempts to study the legal status of children during armed conflict. It is worth noting that there is diversity among scholars in the formation of the above status. In particular:

I – 1) the legal status of children displaced from the temporarily occupied territories during the anti-terrorist operation, and

2) the legal status of children in the temporarily occupied territories in order to properly ensure the rights of such children (Chyzhov & Kupina) [5, p. 100];

II – the special legal status of children whose parents participated in hostilities in the anti-terrorist operation, died, were declared dead or missing (Ryhina) [32, p. 29];

III – children who became victims of the war in the East of Ukraine, which includes: children affected by hostilities and armed conflicts, children in the occupied territories, children who are family members of veterans – combatants, children who are family members of combatants (children who are family members of persons who died (went missing) or died as a result of participation in the ATO/JFO), children living in the so-called «gray zone», internally displaced children, children of family members of active military personnel, children of family members of military personnel captured in captivity and persons held hostage in the temporarily occupied territories of Ukraine, children of family members of persons with disabilities as a result of war (Stepanenko) [39, p. 73].

IV – the legal status of a child affected by hostilities and armed conflicts (Nalyvaiko) [26].

V – legal status of children affected by the military aggression of the Russian Federation against Ukraine (Ternavska) [41].

The Ukrainian legislator also took into account the ongoing armed conflict and made a number of changes to legal acts. For example, in 2016, the Law of Ukraine «On Protection of Childhood» (2001) was amended to add the concept of «child affected by hostilities and armed conflicts».

At the same time, the legislator introduced the concept of «a child in difficult life circumstances» into the legal framework, which included a wide range of life circumstances. In particular, disability, serious illness, homelessness, being in conflict with the law, involvement in the worst forms of child labor, dependence on psychotropic

substances, other types of addiction, abuse, including domestic violence, including when the offender is a child, evasion of parents or persons in loco parentis from fulfilling their responsibilities, etc.

Assume, the concept is overloaded. Submit that the inclusion of the element «circumstances of hostilities or armed conflicts» in the concept of «difficult life circumstances» causes a blurring of the status of a child during armed conflict. Among all the difficult life circumstances, the «circumstances of hostilities or armed conflicts» is lost as one of the possible ones. This eliminates all possible difficulties that a child may face during an armed conflict. The importance of distinguishing the legal status of a child during armed conflict is lost, and as a result, it is impossible to build an adequate child protection mechanism and create conditions for the realization of children’s rights during armed conflict.

In order to further implement the amendments to the Law of Ukraine «On Protection of Childhood» (2001), the Ukrainian government approved the Procedure for Obtaining the Status of a Child Affected by Military Operations and Armed Conflicts (hereinafter – the Procedure) by Resolution of the Cabinet of Ministers of Ukraine No. 268 in 2017 (2017).



Figure 1. Status of a Child Affected by Military Operations and Armed Conflict

Source: compiled by the author of this study based on Resolution of the Cabinet of Ministers of Ukraine on April 5, 2017 No. 268

The Procedure describes the algorithm of actions for obtaining the status of a child affected by hostilities and armed conflict and who can implement it.

In 2024, the Parliament of Ukraine adopted the Law of Ukraine «On Social Protection and Support of Children Affected by the Armed Aggression of the Russian Federation against Ukraine» (2024). The purpose of this law is to define the legal and organizational framework of state policy in the field of social protection and support for children affected by the armed aggression of the Russian Federation against Ukraine, tools for social protection and support of such children depending on the damage caused to them by the armed aggression (Preamble).

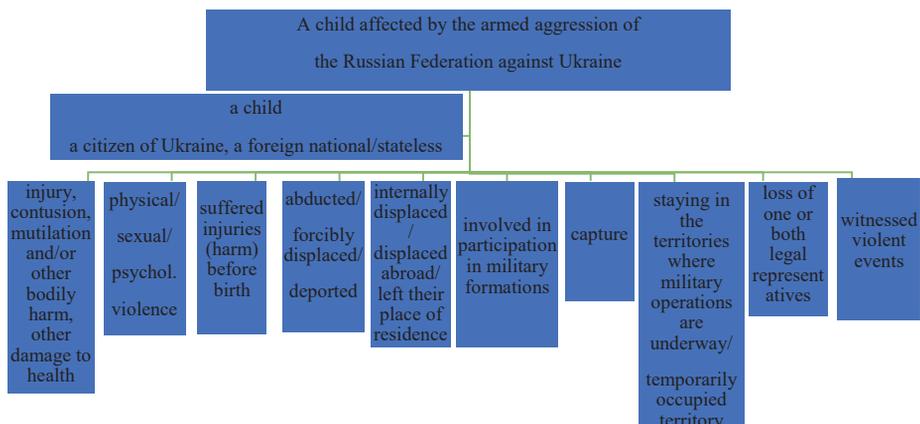


Figure 2. A child affected by the armed aggression of the Russian Federation against Ukraine
Source: compiled by the author of this study based on Law of Ukraine «On Social Protection and Support of Children Affected by the Armed Aggression of the Russian Federation against Ukraine» (Law No. 3999-IX, 2024)

The above-mentioned law also provides for the introduction of the State Register of Children Affected by the Armed Aggression of the Russian Federation against Ukraine, established to collect, accumulate, store, protect, process and use information about children affected by the armed aggression of the Russian Federation against Ukraine as a result of their identification, as well as about children who died as a result of the armed aggression of the Russian Federation against Ukraine.

An intermediate conclusion can be drawn that both Ukrainian legal doctrine and the legislator are following the path of forming the legal status of children who have already suffered directly from the armed conflict in some way. This approach is selective and does not cover all children. It is necessary to take into account modern methods and means of armed conflict, which can be used to strike the enemy's territory in different parts of his state. That is, there are territories where hostilities are directly conducted, and the rest of the state, which can be hit by modern weapons (for example, missile weapons with a possible range of more than 5,000 km, unmanned aerial vehicles, etc.).

For example, Ukrainian children are forced to go to shelters when they are in preschools/classes in general secondary education institutions/higher education institutions, regardless of whether there are hostilities nearby, when they are threatened with an air alert, regardless of the time (eating or sleeping) and place (walking outside, staying in a group) when it occurs (the average duration of an air alert in January 2025 was 1 hour and 58 minutes) (2025) [38]. The child's stay in a shelter is accompanied by an understanding of the threat, which leads to feelings of anxiety and fear. Children in shelters are idle, mostly constrained in movement and play. They sit almost motionless, waiting for everything to end and return to their normal environment.

Such constant «disruptions» of the educational process and movement do not contribute to the mental, psychological or physiological development of children (since the state does not have a system of properly equipped shelters for the educational process and suitable for normal physiological development). Often, these are semi-basement rooms without a proper ventilation system, which negatively affects the development of children's respiratory organs. This example is also one of the examples of «children affected by armed conflict» (Article 38(3) of the Convention on the Rights of the Child) (1989). Such living conditions for children lead to the development of health problems, primarily mental ones. It should be borne in mind that children living in armed conflict grow up with a lost sense of security. A traumatic event can significantly disrupt the child's further mental development. Fear of loud noises, outbursts of anger and aggression, irritability and apathy, indifference to learning and past hobbies, fear, unreasonable crying, fear of the future, sleep problems, nightmares, problems with concentration and memory, withdrawal, reflection of traumatic events in games, creativity, refusal to eat – these are possible reactions of the child's psyche to the armed conflict.

N. Sohor, O. Yasniy, O. Smashna & N. Hashimova point out that children growing up during the armed conflict are diagnosed with post-traumatic stress disorder (hereinafter – PTSD) (22.7%), depression (13.8%), anxiety disorders (15.8%) [36].

K. Borsch in his article points out that stress is one of the main problems for children during the armed conflict. Under stress, our body produces the hormones adrenaline and cortisol. They prepare us for immediate action, also known as the «fight or flight» response. The child's body manifests this in physical (shallow breathing, sweating and heart palpitations, headaches, dizziness and sleep problems, nausea, indigestion or digestive problems) and emotional-mental manifestations (irritability and anger, outbursts of anger or withdrawal from family and friends, neglect of duties, decreased task performance or difficulty concentrating, emotional distress, constant sadness or crying). Borshch conducted a study among children (10–14 years old), both internally displaced and residents of Uzhhorod (a region that is not in the combat zone), to identify stress during the armed conflict. Among the surveyed children, 72% are experiencing stress, 16% do not experience any manifestations of stress, and 12% were not able to answer [2, p. 49].

N. Nikitina conducted observations of children as part of her pedagogical practice in schools in another region of Ukraine – Chernihiv. The results showed that the condition of most primary school children is characterized by an increased level of anxiety, loss of concentration, stiffness, unwillingness to solve tasks, communicate, inhibition of emotional and social spheres, etc. As a result, there is a risk of inhibition of the emotional, cognitive and intellectual spheres. The loss or insufficient development of at least one of them will have an irreversible effect on the process of personality formation, and thus affect the development of the state in the future [27, p. 28].

In 2023, the Mental Health of Parents and Children in Ukraine study was conducted, involving 2004 Ukrainian parents with their children. The results of the study showed a prevalence of probable PTSD in the sample of preschoolers of 15.4% (n = 77), and a prevalence of probable PTSD in the sample of school-age children and adolescents of 14.4% (n = 217). Of all children (n = 1238), 13.8% (n = 171) met the

DSM-5 criteria for PTSD. Summarizing the research data, A. Tokarchuk & I. Koval argue that the level of anxiety and depression in children due to the Russian-Ukrainian armed conflict has increased significantly over the period 2014–2024. Also, during the period of the full-scale invasion, children's levels of situational (+26.7%) and personal (22.6%) anxiety increased significantly [43].

O. Chekster emphasizes another manifestation of the child's psychic state during an armed conflict – desensitization to danger – a psychological process that consists in a gradual decrease in emotional and behavioral reactions to threats due to prolonged exposure to stressful or dangerous events. Children in armed conflict are adapting to these conditions, which can lead to a decrease in danger awareness and risky behavior. Armed conflict and its consequences – explosions, destruction, sirens – become part of everyday life, and constant stress dulls the response to danger [4, p. 385].

On the one hand, this process performs a kind of protective function for the child's psyche. On the other hand, this process can later develop into a lack of ability to adequately assess threats that previously caused fear. The lack of an emotional response to danger can lead to apathy or emotional closure. Such children may lose the ability to empathize and empathize. The emotional response of children may be dulled to the point where they do not feel anxiety or fear even in crisis situations. Desensitization can be accompanied by PTSD-like symptoms, including difficulty sleeping, excessive irritability, and problems with concentration [4, p. 386].

D. Sharon-Maksimov, an Israeli psychologist, emphasizes that childhood trauma is multifaceted. In her research, the psychologist points out that the traumatic experience that children receive during armed conflict is quite different. The psychologist emphasizes that traumatic experiences are received by children who are in shelters during air raids, and, of course, children who are directly involved in the atrocities of war (injuries, deaths of relatives, rape, etc.) [24, p. 50].

In particular, we should not forget that constant psychological shocks and staying in shelters are triggers for other diseases. For example, such as bronchial asthma, allergic diseases, diabetes, etc. [3; 7; 11].

The Ministry of Health of Ukraine (2023) already predicts that in 5–7 years (as a result of the current armed conflict) the number of drugs, alcohol and other addictions is expected to increase, and the most commonly diagnosed diseases are circulatory diseases, diabetes, arthritis, bronchial asthma, and cancer [1].

All of this gives grounds to assert that the establishment of the legal status of a child who has only been directly affected by armed conflict does not take into account the interests of all children living in the territory of the state.

Incidentally, Ukrainian legislation has already taken a different approach to citizens who were children during World War II. For example, the Law of Ukraine «On Social Protection of Children of War» (2005) regulates the concept and legal status of children of war – «a child of war is a person who is a citizen of Ukraine and who was under 18 years old at the end of the Second World War (September 2, 1945)». In this case, the Ukrainian legislator applied an approach where all persons under the age of 18 at the time of the official end of World War II are recognized as victims and receive social protection from the state.

CONCLUSIONS

Thus, agree that the basis of the legal structure of the legal status of a person is legal personality, rights, freedoms, legitimate interests and obligations. At the same time, when forming the legal structure of the legal status of a child during armed conflict, it is necessary to take into account the peculiarities characteristic of children (psychological/physiological and legal), the specified period of time and modern methods and means of armed conflict. Therefore, believe that the system of guarantees of children’s rights must be included in this construction. We also consider it expedient to include legal norms in this construction, since without legal norms, the establishment, consolidation, and existence of legal status is impossible. A legal construct is enshrined in legislation. The use of legal structures helps to achieve accuracy and certainty of the content of legislation. The formulation of such a construction also helps to define the categories of children that fall within it.

Consider it appropriate to use the concept of «the legal status of a child during armed conflict», which would be universal for any period of time when there is any armed conflict (international/non-international). This legal status would include all possible groups of children living on the territory of a state in armed conflict. The «legal status of a child during armed conflict» can be classified as special by its legal nature. The formation of such legal status, its normative consolidation, will provide each child with the scope of rights and the necessary amount of care required during armed conflict, and will be the foundation on which a child protection system will be formed during any armed conflict.

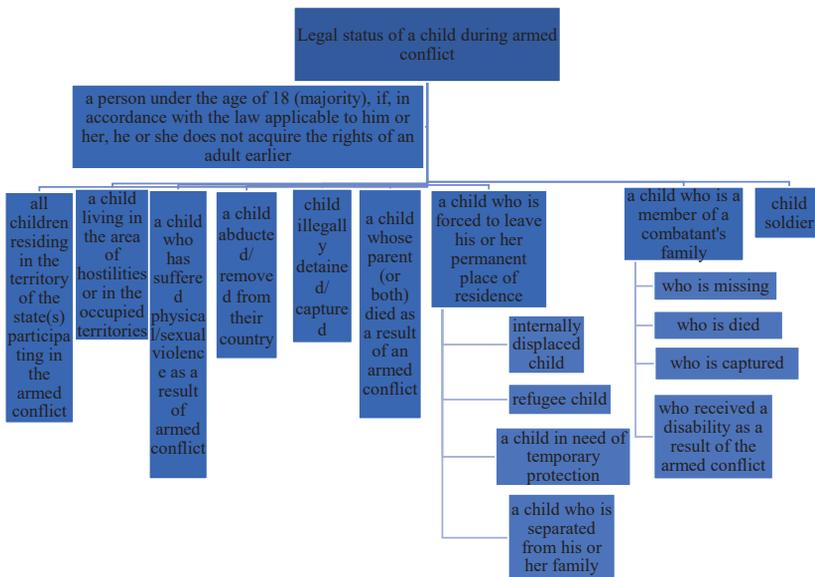


Figure 3. Legal status of a child during armed conflict

Source: compiled by the author of this study based on the research material

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