

Chernysh Ye.,
Director of the Legal Department
at Zhytomyr City Council
Nevmerzhytska A. A.
2nd year student of specialty 081 Law
Zhytomyr Polytechnic State University

TRANSITIONAL JUSTICE IN THE DE-OCCUPIED TERRITORIES OF UKRAINE

In the context of the ongoing Russian–Ukrainian war, the de-occupation of temporarily occupied territories of Ukraine constitutes not only a military but also a socio-political challenge, requiring a comprehensive approach to restoring justice and social cohesion.

Transitional justice, as one of the conceptual models for overcoming the consequences of armed conflict, emerged as a result of the wave of democratisation in Latin America and Eastern Europe in the 1980s. The collapse of authoritarian regimes and dictatorships, often accompanied by armed conflicts, brought to the forefront the need to prevent impunity for authoritarian regimes and to avoid the recurrence of crimes in the future [1, p. 10].

Globally, numerous conflicts have employed transitional justice mechanisms for their subsequent resolution. The first practical application of transitional justice rules and instruments took place immediately after the end of the Second World War, with the establishment of the Nuremberg and Tokyo International Tribunals. Since 1974, when the first such commission was created in Uganda (the Commission of Inquiry into Disappearances of People in Uganda), similar non-judicial truth-seeking bodies have gained widespread international recognition as instruments of transitional justice [2].

This fact confirms that the concept of transitional justice did not emerge in a vacuum, but rather forms part of a global process of democratisation.

Transitional justice in Ukraine is a new legal institution that is expected to play a decisive role after the end of the war between Ukraine and the Russian Federation in the process of de-occupation and reintegration of temporarily lost territories. National legal practice has never encountered the application of transitional justice mechanisms during the period of Ukraine's independence. However, since the events of 2014,

Ukraine has faced not only the task of liberating certain territories from occupation and reintegrating the annexed Autonomous Republic of Crimea, but also the need to resolve a complex set of legal, social, military and historical issues related to future development [3, p. 108].

Legislative acts in this area include the Law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine”, the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons”, and the Law of Ukraine “On Military-Civil Administrations”. However, these legislative acts are designed to address current needs and do not provide for measures applicable to the post-conflict period.

In addition, by Presidential Decree No. 584/2019, the Commission on Legal Reform was established, within which a working group on the reintegration of temporarily occupied territories was created. This group developed the Concept of Transitional Justice in Ukraine. Such a Concept traditionally consists of four core elements recognised in international law: reparation for harm suffered by victims of the conflict; bringing perpetrators to justice and preventing impunity; ensuring the right to truth about the armed conflict; and implementing measures to prevent the recurrence of conflict in the future [4].

In 2021, the Cabinet of Ministers of Ukraine submitted a draft Law of Ukraine “On the Principles of State Policy of the Transitional Period”, which has since been withdrawn. This draft law proposed to define the basic principles and directions of state policy during the transitional, conflict and post-conflict periods. In particular, with regard to the protection of children’s rights, it emphasised the need to intensify national and patriotic education, especially among children and young people during the transitional period; to ensure access to educational institutions, healthcare, social protection services and Ukrainian mass media for persons residing in temporarily occupied territories; and to implement an effective educational policy, including the development of a civic education strategy in de-occupied territories and state support for the study of the Ukrainian language and the history of Ukraine, as a measure to prevent the recurrence of occupation [4].

Moreover, transitional justice in Ukraine must take into account the specific

nature of the ongoing aggression by the Russian Federation, which distinguishes the Ukrainian case from classical post-conflict models. In particular, it is necessary to establish a specialised mechanism for documenting war crimes against children (abduction, deportation, forced Russification, militarisation of education), which would serve as the basis for a future special tribunal or a hybrid court. This approach has already been supported by the International Coalition for the Establishment of a Tribunal for the Crime of Aggression against Ukraine and by resolutions of the Parliamentary Assembly of the Council of Europe.

The implementation of transitional justice requires the establishment of a single coordinating body — the Coordinating Council on the Transitional Period under the President of Ukraine — which would bring together representatives of central executive authorities, local military-civil administrations, civil society organisations and international partners. Such a body is already envisaged by the Strategy for the De-occupation and Reintegration of the Temporarily Occupied Territory of the Autonomous Republic of Crimea and the City of Sevastopol (Presidential Decree No. 117/2021) and should be extended to all de-occupied territories of Donbas.

In 2025, activities intensified: the Cabinet of Ministers is obliged by June to prepare draft laws on the implementation of transitional justice in the de-occupied territories of Donetsk and Luhansk regions, while conferences (for example, “The Role of Transitional Justice in Ukraine: National and Local Dimensions” held on 27 March 2025) emphasise the need to train civil servants for post-war recovery, including specialised training for officials from de-occupied regions (Zaporizhzhia, Sumy, Kherson and Kharkiv regions). A pilot project on the implementation of child-friendly justice standards (with the participation of the Ministry of Social Policy, the Office of the Prosecutor General and the Ministry of Internal Affairs) ensures support for children at all stages of interaction with the justice system, which is critical for reintegration.

Thus, transitional justice in Ukraine represents not only a means of restoring justice but also a strategic mechanism for ensuring national security, social cohesion and the protection of the younger generation from the consequences of occupation. Its successful implementation, particularly in the field of children’s rights and education, will directly affect the state’s ability to prevent new conflicts and to guarantee a

sustainable and peaceful future in the de-occupied territories.

Despite existing challenges, including the absence of a unified law and effective coordination, 2025 has become a year of renewed momentum — from academic research to practical governmental steps. Full implementation requires the adoption of comprehensive legislation that would unify approaches to de-occupation, with an emphasis on humanitarian aspects, as recommended by the United Nations and the European Court of Human Rights. This will not only help overcome the consequences of war but will also strengthen Ukraine's democratic institutions on its path towards European integration.

References

1. Iryna Brunova-Kalisetska, Tetyana Kyseleva, Oleg Martynenko. Dialogue in the transitional justice model: features and functions: scientific-practical edition. Kyiv. 2020. p. 60
2. Center for International Humanitarian Law and Transitional Justice. Transitional justice: what is it and how will it help restore peace in Ukraine. URL: <https://ihlaw.org/perehidne-pravosuddya-ukraina/> (access date: 11/28/2025).
3. Legal scientific electronic journal. Transitional justice: features of theoretical understanding and practical aspect through the prism of Ukrainian realities No. 11/2022. URL: http://lsej.org.ua/11_2022/21.pdf (access date: 11/28/2025).
4. Gurkovska N. The path to peace: through victory and transitional justice. Expert Center for Human Rights. 2023. URL: <https://ecpl.com.ua/news/shliakh-do-myru-cherez-peremohu-i-perekhidne-pravosuddia/> (access date: 28.11.2025).