

FORCED DEPORTATION OF UKRAINIAN CHILDREN: QUALIFICATION UNDER THE ROME STATUTE AND MECHANISMS FOR RETURN

The issue of the forced deportation and unlawful transfer of Ukrainian children by the Russian Federation constitutes one of the gravest violations of international humanitarian and criminal law arising from the ongoing armed aggression against Ukraine [1; 4]. These actions may qualify as war crimes and crimes against humanity under international law, particularly within the framework of the Rome Statute of the International Criminal Court [2].

On December 3, 2025, during its 11th Emergency Special Session, the UN General Assembly adopted the resolution “Return of Ukrainian Children,” which establishes an important international legal and political framework for further actions aimed at ensuring the return of unlawfully displaced children. This resolution reflects the recognition by the international community of the scale and gravity of these violations and calls for immediate and effective measures [3].

At the national level, a key role in addressing these crimes is played by the Prosecutor’s Office of Ukraine. Prosecutors perform several crucial functions, including documenting war crimes related to deportation and forcible transfer, collecting and preserving evidence, identifying affected children, and cooperating with international institutions, including the International Criminal Court. In addition, they contribute to strengthening international coordination and creating legal grounds for holding perpetrators accountable [6; 7].

This study argues that the forced deportation of Ukrainian children should be qualified not only as a war crime under Article 8(2)(a)(vii) of the Rome Statute and a crime against humanity under Article 7(1)(d), but may also, under certain conditions, fall within the scope of Article 6 (genocide), particularly in cases involving the forcible transfer of children from one group to another with the intent of their assimilation [2].

Therefore, the UN General Assembly resolution has direct practical significance for the activities of Ukrainian prosecutors. It strengthens the international legal framework applicable in criminal proceedings, confirms the international recognition of the alleged crimes, facilitates access to information through UN mechanisms, and enhances Ukraine’s position in international judicial institutions, particularly before the International Criminal Court [3; 7].

In response to these challenges, a Concept for the repatriation mechanism of Ukrainian children has been developed based on the analysis of multiple international legal instruments, including conventions, resolutions, and soft law acts. The Concept provides for several key steps for the effective implementation of the return mechanism [5].

First, it proposes the adoption of a UN General Assembly resolution defining the obligations of the Russian Federation regarding the repatriation, return, and reunification of Ukrainian children with their families. Such a resolution would establish clear international standards and prevent attempts to avoid responsibility [3].

Second, it envisages the conclusion of international agreements involving Ukraine, mediator states, and the Russian Federation, aimed at facilitating the return process through diplomatic and legal channels.

Third, the Concept emphasizes the importance of an individual approach, ensuring that each case is assessed based on the best interests of the child, including considerations of safety, well-being, and development, in line with international child protection standards [4].

The document also includes recommendations for Ukrainian state authorities, such as the Ministry of Foreign Affairs, the Verkhovna Rada, the Ministry of Justice, and other institutions, regarding the development of legal frameworks and cooperation with international partners.

Thus, the forced deportation of Ukrainian children requires a comprehensive legal response that combines international criminal prosecution with effective repatriation mechanisms. Strengthening legal qualification under the Rome Statute, expanding international cooperation, and institutionalizing a coordinated return mechanism are essential steps toward restoring justice and protecting the rights of affected children. Moreover, the Ukrainian case may contribute to the further development of international legal practice in addressing mass violations involving children in armed conflicts [1; 5].

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