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K. O. Chepkova
Candidate of Legal Sciences,
Doctoral Student at the Scientific and Organizational Department
Military Institute of Taras Shevchenko National University of Kyiv

THE RIGHT OF THE CHILD TO HEALTH CARE DURING ARMED CONFLICT

Armed conflict creates conditions under which the realization of children's rights becomes significantly more difficult or impossible. The main danger posed by any armed conflict is a danger, first and foremost, to the health of children. Modern armed conflicts are characterized by the possibility of attacks simultaneously on the contact line and throughout the territory of states at any time of the day. Constant attacks cause deterioration of air quality, poisoning of soil and water, etc. Due to the constant attacks, children are forced to stay in protective civil defense structures for a long time. The constant shelling also has an impact on children's mental health. These are not an exhaustive list of the negative effects of armed conflict on children's health.

All of this entails a number of risks to children's health, both physical (diabetes, arthritis, bronchial asthma, cancer, etc.) and psychological (post-traumatic stress disorder, depression, anxiety disorders, etc.). The State, represented by authorized public administration entities, should create the best conditions for health care in such circumstances.

The author of the article analyzes international legal treaties in the field of protection of children's rights to health care during armed conflict. The article examines the national health care system in general and for children in particular. The author analyzes the domestic legal regulation of the issue under study. In particular, the scope of children's rights in the field of health care depending on their age (minimally capable/minors) is considered. The author defines the subjects of public administration in the field of health care (the Ministry of Health of Ukraine, the State Service of Ukraine on Medicines and Drug Control, the National Health Service of Ukraine, etc.). Based on the Ukrainian experience, the author examines the mechanisms used by public administration entities to ensure the realization of the child's right to health care during armed conflict. More specifically, the author analyzes the bylaws of the Ministry of Health of Ukraine. The author of the article also highlighted the problematic issues of the health care system that arise during the armed conflict.

Key words: *child, armed conflict, public administration, health care.*

Statement of the problem. Armed conflict creates conditions in which children's rights become much more difficult or impossible to realize. The main danger posed by any armed conflict is a danger, primarily to children's health. Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity of the body's structures and functions.

Modern armed conflicts are characterized by the following features: 1) the existence of a direct line of contact between the parties to the conflict; 2) at the same time, with modern weapons and military equipment, the parties to the conflict have the ability to launch attacks anywhere in the country, regardless of the distance from the direct line of contact, at any period of time; 3) modern weapons and military equipment contain heavy metals (chromium, zinc, iron, copper, mercury) and explosives (octane, trotyl, hexogen, tetryl, sulfur) that are released into the environment when used.

All of this causes a number of risks to children's health, both physical (diabetes, arthritis, bronchial asthma, and cancer, etc.) and mental (post-traumatic stress disorder, depression, anxiety disorders, etc.). Constant attacks cause deterioration of air quality, poisoning of soil and water, etc. Due to the constant attacks, children are forced to stay in shelters for a long time, which in most cases are semi-basement rooms without the necessary ventilation engineering structures. The constant shelling also has an impact on children's mental health.

These are not an exhaustive list of the negative effects of armed conflict on children's health. The state's duty, represented by authorized public

administration entities, is to create the best possible conditions for health care in such circumstances[1].

Analysis of recent research and publications. The Ukrainian doctrine already has in its arsenal scientific developments in the field of child protection. Among them are the works of such scholars as: Kolomoyets N.V., Krestovska N. M., Navrotskyi O. O., Sabluk S. A., etc.

The purpose of the article is to analyze the Ukrainian health care system in general and for children in particular; to analyze the mechanisms implemented by public administration entities to enable the realization of children's right to health care during armed conflict.

Presentation of the main material. The international community has enshrined in Articles 6 and 24 of the Convention on the Rights of the Child [1] that every child has the inherent right to life. It is the duty of the State to ensure, to the maximum extent possible, the survival and healthy development of the child; to ensure the right of the child to enjoy the best available health care services and to have access to the means for the treatment of illness and rehabilitation of health; to ensure that no child is deprived of his or her right to access such health care services.

During armed conflict, States have the duty to respect and ensure compliance with international humanitarian law applicable to them in armed conflict and relevant to children. In accordance with their duties under international humanitarian law related to the protection of civilians in armed conflict, States Parties are obliged to take all feasible measures to ensure the protection and care of children affected by armed conflict (Article 38).

The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977 [2], establishes the general rule that children shall be treated with special respect and protected from all forms of indecent assault. The parties to the conflict shall provide the protection and assistance that they need because of their age or for any other reason.

Protocol I also sets forth one of the basic rules of armed conflict: medical groups shall be respected and protected at all times and shall not be subject to attack. The protection to which civilian medical groups are entitled is terminated only if they are used, in addition to their humanitarian functions, to commit acts that cause harm to the enemy. The provision of protection may, however, be terminated only after notice, within a reasonable time limit, as appropriate, and after such notice has not been taken into account.

The Constitution of Ukraine [3] enshrines the right of everyone to health care, medical assistance and health insurance. The state creates conditions for effective and accessible medical care for all citizens. Medical care is provided free of charge in state and municipal health care institutions; the existing network of such institutions cannot be reduced (Article 49).

One of the key legal acts of Ukraine in the field of healthcare is the Fundamentals of Legislation of Ukraine on Healthcare [4].

Public administration entities in the field of healthcare are to be considered by dividing them into two groups:

I – ensuring the implementation of the state policy in the field of health care:

− central executive body that implements the state policy in the field of health care – the Ministry of Health of Ukraine [5];

− central executive body that implements the state policy in the field of quality control and safety of medicines – the State Service of Ukraine on Medicines and Drug Control [6];

− the central executive body that implements the state policy in the field of state financial guarantees of medical care for the population – the National Health Service of Ukraine [7].

II – implements the state policy in the field of health care in the administrative-territorial units of Ukraine:

Council of Ministers of the Autonomous Republic of Crimea and local state administrations.

The network of state and municipal healthcare institutions is formed taking into account the development plans of hospital districts, the needs of the population for medical care, the need to ensure the proper quality of such care, timeliness, accessibility to citizens, and the efficient use of material, labor and financial resources. The existing network of such institutions cannot be reduced.

In order to ensure the territorial accessibility of high-quality medical and rehabilitation care

[1] Health care is a system of measures aimed at preserving and restoring physiological and psychological functions, optimal performance and social activity of a person at the maximum biologically possible individual life expectancy. Such measures are carried out by state authorities and local self-government bodies, their officials, healthcare institutions; individual entrepreneurs who are registered in accordance with the procedure established by law and have obtained a license to carry out economic activities in medical practice; medical and pharmaceutical workers, rehabilitation specialists, public associations and citizens.

to the population, a hospital district is defined. A hospital district is divided into hospital clusters, within which comprehensive access to inpatient medical care is organized. The boundaries of hospital districts and hospital clusters, the procedure for their definition and functioning, as well as the procedure for determining cluster, supercluster and other types of healthcare institutions that are part of a capable network of healthcare institutions of a hospital district are determined by the Cabinet of Ministers of Ukraine based on the needs of the population for comprehensive inpatient care.

Medical care[2] is divided by type into emergency[3], primary[4], specialized[5], and palliative care [6]. Medical care may be provided: at the patient's location, residence (stay); on an outpatient basis; in a day care center; in a hospital setting.

For a patient to have access to healthcare services, he or she must choose the attending doctor[7] and sign a declaration with him or her [8]. By signing the declaration on the choice of the attending doctor, the patient (his / her legal representative) agrees to access the information about him/her contained in the electronic healthcare system to such a physician, as well as to other physicians upon his/her referral, to the extent necessary for the provision of medical services by such physicians.

An electronic healthcare system[8] has been formed and is actively developing in Ukraine, the operation of which is approved by Resolution of the Cabinet of Ministers of Ukraine No. 411 dated April 25, 2018 [9].

The electronic healthcare system is the largest IT system in Ukraine with a two-component structure, in which the user interacts with the central database through the medical information system. The structure of the electronic healthcare system is as follows: 1 – Public component – central database – the central component of the electronic healthcare system, which is managed and owned by the state and contains the main software modules and registers that provide the ability to manage, store and exchange information and documents in the field of healthcare; 2 – Private component – electronic medical information system – a generalized name for a number of separate state and commercial software products (systems), which through specialized software can automate the work of healthcare entities, create, view, and exchange information in electronic form, including with a central database (if connected).

Currently, there are more than 30 medical information systems in Ukraine [10]. Such systems are usually implemented in the form of mobile applications that generate personal information about the health status of each patient who has installed such an application. Through such a mobile application, each patient can make an appointment with a doctor, view their referrals, vaccinations, and the results of a doctor's appointment. The most popular mobile information systems among the population are: Helsi (Helsi Ukraine LLC), Health24 ("Zdorovia 24" LLC), etc.

It is worth noting, however, that such applications collect all information about the health status of

[2] Medical care is the activity of professionally trained healthcare professionals aimed at preventing, diagnosing and treating diseases, injuries, poisoning and pathological conditions, as well as pregnancy and childbirth.

[3] Emergency medical care is medical care that consists of urgent organizational, diagnostic and therapeutic measures taken by medical professionals in accordance with the law to save and preserve a person's life in an emergency and minimize the consequences of such a condition on their health.

[4] Primary medical care is medical care that involves providing advice, diagnosis and treatment of the most common diseases, injuries, poisonings, pathological, physiological (during pregnancy) conditions, preventive measures; referral, in accordance with medical indications, of a patient who does not need emergency medical care to provide specialized medical care; providing emergency medical care in case of a disorder of the patient's physical or mental health that does not require emergency, specialized medical care.

[5] Specialized medical care - medical care provided on an outpatient or inpatient basis by doctors of the relevant specialization (except for general practitioners - family doctors) on a scheduled basis or in emergency cases and involves providing advice, diagnosis, treatment and prevention of diseases, injuries, poisoning, pathological and physiological (during pregnancy and childbirth) conditions, including with the use of high-tech equipment and/or highly specialized medical procedures of high complexity; referring a patient, in accordance with medical indications, for specialized medical care in another specialization.

[6] Palliative care is a set of measures aimed at improving the quality of life of patients of all ages and their families who have faced problems related to life-threatening illnesses. This includes measures to prevent and alleviate patient suffering through early identification and assessment of symptoms, pain relief, and overcoming other physical, psychosocial, and spiritual problems.

[7] An attending doctor means a doctor of a healthcare institution or a doctor who carries out economic activities in medical practice as an individual entrepreneur and who provides medical care to a patient during his/her examination and treatment.

[8] Electronic healthcare system is an information and communication system that automates the record keeping of medical services and management of healthcare information, including medical information, by creating, posting, publishing and exchanging information, data and documents in electronic form, which includes a central database and electronic medical information systems, between which automatic exchange of information, data and documents is ensured through an open software interface (API).

Ukrainian citizens and such information falls into the hands of private individuals.

According to medical reports summarized for municipal health care facilities under the management of the Ministry of Health for 2024, there are 4,593,658 children in Ukraine (Form 31. Report on medical care for children) [11].

The duty to take care of children's health, their physical and spiritual development, and their healthy lifestyle is primarily the responsibility of the child's parents. In case of violation of this duty, if it causes significant harm to the child's health, the perpetrators may be deprived of parental rights in accordance with the established procedure.

Also, if the child's legal representative refuses treatment and it may have serious consequences for the patient, the doctor must notify the guardianship and custody authorities.

Medical care for children is provided by healthcare facilities and doctors who carry out medical practice as individual entrepreneurs.

The Convention on the Rights of the Child and the Law of Ukraine "On Protection of Childhood" [12] define a child as every human being under the age of 18, unless the law applicable to the person concerned requires that he or she reaches the age of majority earlier.

The peculiarity of the legal status of a child in Ukraine is the division of childhood into minors (0–14 years old) and underage children (14–18 years old). This division is based on a different scope of legal capacity. This distinction is also evident in the healthcare sector (minor / underage patients, respectively).

In particular, children from the age of 14 can independently choose their attending physician (Article 38 of the Fundamentals of Ukrainian Healthcare Legislation).

Further, children over the age of 14 independently consent to the use of diagnostic, preventive and treatment methods. In the case of a patient under the age of 14 (a minor patient), as well as a patient recognized as incapacitated in accordance with the procedure established by law, medical intervention is carried out with the consent of their legal representatives.

Only the child's legal representatives have the right to receive accurate and complete information about the child's health status, including the right to familiarize themselves with the relevant medical documents related to his/her health.

Ukrainian legislation provides for the right of a patient to refuse treatment. This right is not reserved for children. However, the legislator has taken into account the possibility, enshrined in the Civil Code of Ukraine, of acquiring full civil capacity before reaching the age of majority (18 years). Thus, Art. 43 of the Fundamentals of the Legislation of Ukraine on Healthcare provides that a patient who has acquired full civil capacity and is aware of the significance of his or her actions and can control them has the right to refuse treatment.

On February 24, 2022, the President of Ukraine issued a decree introducing martial law throughout Ukraine [13]. Air raids and shelling occur throughout the country at all times. As of July 3, 2025, 61890 air raids have been sounded throughout Ukraine [14].

All these circumstances have created threats to the realization of many children's rights. This includes the right to health care. In this context, the following problematic issues can be identified.

First, there is damage or destruction of medical facilities due to shelling.

According to the information provided by the Ministry of Health of Ukraine, as of the beginning of June 2025, 2354 facilities, which include 769 medical institutions, were confirmed to have been damaged or destroyed by shelling. The facilities in question include hospitals, outpatient clinics, maternity wards, polyclinics, etc [15].

Secondly, there is a shortage of medical staff, and even more so of medical professionals with a medical specialty who work with children. The issue of the shortage of medical personnel was considered at a meeting of the National Security and Defense Council of Ukraine and it was stated that this is one of the threats to national security [16].

This problem is also voiced by the Minister of Health of Ukraine, who noted that the key priority today is human capital in the healthcare sector. Without it, all the others will be impractical [17].

Third, there is a problematic issue that is interconnected with the previous point. Since February 2022, the number of internally displaced persons has increased significantly. As of June 13, 2025, 940,489 children were registered and accounted for as internally displaced persons [18]. As a result, the workload of doctors has increased. However, at the same time, the staffing of medical institutions has not increased.

Fourthly, internally displaced persons need to change their attending doctor and receive information about medical facilities at their new place of residence.

The Ministry of Health of Ukraine, as an authorized public administration entity in the field of healthcare, has made a number of decisions in response to the challenges that have arisen since February 2022. Among them:

− decisions on the provision of primary health care under martial law to internally displaced persons: keeping records of displaced persons applying for primary health care in the form attached; providing primary health care and medical care to patients in an emergency condition from among displaced persons; vaccination in accordance with the requirements of the preventive vaccination calendar [19];

− determined the mechanism for organizing and ensuring the provision of medical and/or rehabilitation care with the use of telemedicine[9], which applies to healthcare institutions and individual entrepreneurs who obtained a license to conduct commercial activities in medical practice during the period of martial law in Ukraine or its separate localities and within six months after its termination or cancellation [20];

− defined temporary measures in healthcare institutions to ensure their readiness to provide medical care to victims of the military aggression of the Russian Federation against Ukraine (temporary suspension of planned hospitalizations by the decision of the Command of the Medical Forces of the Armed Forces of Ukraine; preparation of additional surgical teams (consisting of doctors of surgical specialties, anesthesiologists, emergency medicine doctors, and paramedics) to provide medical care to victims of hostilities [21];

− determined the procedure for organizing and ensuring the phasing of medical care for victims of armed conflict [22].

The Cabinet of Ministers of Ukraine, taking into account the problem with medical personnel, introduced a mechanism for involving pharmacists, students of 4–6 years of higher education in the field of knowledge 22 “Healthcare”, junior specialists with medical education, interns and specialists in the provision of medical care without the requirement of certification for the assignment or confirmation of a qualification category for the period of martial law [23].

One of the ways to ensure that children can receive medical services during the armed conflict is to create a fund for civil defense structures in medical institutions.

In 2023, the Ministry of Health of Ukraine initiated an inspection of health care facilities for the availability/suitability of protective civil defense structures [24]. The results of the inspection revealed that healthcare facilities were insufficiently provided with protective civil defense structures. As a result, in 2025, the Government of Ukraine approved the Procedure and Conditions for Providing Subventions from the State Budget to Local Budgets for the Arrangement of Safe Conditions in Health Care Facilities [25].

Conclusion and suggestions. In conclusion, the following can be stated. Children’s rights are enshrined in both international and national legislation. The armed conflict does not abolish them. At the same time, this period significantly complicates the mechanisms for their realization. One of the key rights of every child is the right to health care. The Ukrainian experience shows that competent public administration entities should respond to the challenges posed by the armed conflict and timely introduce additional mechanisms to enable children to realize the right to health care.

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[9] Telemedicine is a set of actions, technologies and measures used to provide patients with medical and/or rehabilitation care using telemedicine methods and tools remotely and is a component of electronic healthcare.

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Чепкова К. О. Право дитини на охорону здоров'я під час збройного конфлікту

Збройний конфлікт створює умови, за яких реалізація прав дитини значно ускладнюється або стає неможливою. Основна небезпека, яку несе в собі будь-який збройний конфлікт, – це небезпека, в першу чергу, для здоров'я дітей. Сучасні збройні конфлікти характеризуються можливістю нападів одночасно на лінії зіткнення і по всій території держав у будь-який час доби. Постійні обстріли призводять до погіршення якості повітря, отруєння ґрунту та води тощо. Через постійні обстріли діти змушені тривалий час перебувати в укриттях. Постійні обстріли також впливають на психологічне здоров'я дітей. Це далеко не повний перелік негативних наслідків збройного конфлікту для здоров'я дітей. Все це тягне за собою низку ризиків для здоров'я дітей, як фізичних (діабет, артрит, бронхіальна астма, онкологічні захворювання), так і психологічних (посттравматичний стресовий розлад, депресія, тривожні розлади). Держава в особі уповноважених суб'єктів публічної адміністрації має створити найкращі умови для охорони здоров'я в таких умовах. Автором статті проаналізовано міжнародно-правові договори в сфері захисту прав дітей на охорону здоров'я під час збройного конфлікту. У статті розглядається національна система охорони здоров'я в цілому та для дітей зокрема. Розглянуто вітчизняне нормативно-правове регулювання питання, що досліджується. В тому числі, розглянуто обсяг прав дітей в сфері охорони здоров'я в залежності від їх віку (малолітні/неповнолітні). Автор статті визначає суб'єктів публічного адміністрування у сфері охорони здоров'я (Міністерство охорони здоров'я України, Державна служба України з лікарських засобів та контролю за наркотиками, Національна служба здоров'я України, тощо). На основі українського досвіду розглянуто механізми, які застосовуються суб'єктами публічної адміністрації для забезпечення реалізації права дитини на охорону здоров'я під час збройного конфлікту. Зокрема, проаналізовано підзаконні нормативно-правові акти Міністерства охорони здоров'я України. Також автор статті висвітлила проблемні питання реалізації права на охорону здоров'я, які виникають під час збройного конфлікту.

Ключові слова: *дитина, збройний конфлікт, публічна адміністрація, охорона здоров'я.*

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