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**EXAMPLE ASPECTS OF THE APPLICATION OF THE METHODS  
OF PROTECTION OF THE CHILD'S FAMILY RIGHTS AND INTERESTS  
BY ITS PARENTS (LEGAL REPRESENTATIVES) IN THE CONDITIONS  
OF THE LEGAL REGIME OF MARTIAL STATE**

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**Abstract.** In the scientific article, a study of applied aspects of the application of methods of protection of family rights and interests of the child in the conditions of the legal regime of martial law was carried out. In particular, the article notes that the primary assignment of the responsibilities of the legal representative of a child in an educational, social or medical institution to the head of this institution in terms of temporary removal (evacuation) of the child to safe regions or abroad was not always appropriate, given the fact that the head of the institution could evacuate on his own (due to which the relevant institution was not able to evacuate the children due to the absence of the head, or assign the relevant duties to another person). This shortcoming was eliminated after the approval of a new procedure for the temporary movement (evacuation) of children in June 2023. Also, the simplification of the procedure for the child's departure abroad unaccompanied by parents has led to the risks of the child's relatives abusing their rights and taking the child abroad without agreeing this removal with the child's parents and the intention to return the child to the state of his/her citizenship; we can recognize as a problem the inconsistency of the provisions of the Rules for crossing the state border by citizens of Ukraine and Art. 157 of the Family Code of Ukraine – the latter stipulates the need to obtain consent for the transfer of a child of any age abroad (and not one who has not reached the age of 16), besides this, it does not contain the possibility of transfer of the child by other persons; abolition of the need for notarized parental consent for a child to travel abroad unaccompanied or accompanied by one of the parents is available at the level of a subordinate legal act, but the corresponding consent is required in accordance with the Family Code of Ukraine. According to the author, the provisions of Art. 157 of the Family Code of Ukraine and clauses 2–3 of the Rules for Crossing the State Border by Citizens of Ukraine, however, it should be clarified in both cases that the simplified procedure for taking a child abroad applies only during the legal regime of martial law.

**Key words:** family rights and interests of the child, ways of protecting family rights, temporary removal (evacuation) of a child, legal representatives of the child, parents.

**Introduction.** The full-scale invasion of the Russian Federation on the territory of Ukraine in 2022 led to significant changes in the lives of every citizen of Ukraine, as well as foreigners and stateless persons who permanently lived on its territory; a significant part of their personal non-property and property rights were violated as a result of the destruction of critical and civil infrastructure, the deprivation or destruction of property, the creation of dangerous conditions for life, health and further stay in the territory of the permanent residence of these persons. Active hostilities, danger to a child's life and health, including a sudden one caused by the launch of missiles and attack drones, led to a change in priorities in the protection of children's rights – the child's right to life, which, although is not family, but must also be provided by her parents, adoptive parents, legal representatives. One of such issues related to the protection of the relevant right, as well as related to other family rights and interests, including the right to proper family upbringing, the right to be in the family, the right to development and education, the right to maintenance, became the issue of placing the child in safer conditions, taking into account that the previous place of residence of the child and his parents could

endanger the life and health of the child (if he was in a war zone, in a temporarily occupied territory or in a region where there is a missile danger).

The above made it necessary to make changes and additions to the existing legislation, which was primarily peacetime legislation and could not take into account all the difficulties in the implementation of family rights and interests under the conditions of the legal regime of martial law. The reform of the legislation regulating the protection of the family rights and interests of the child, including the peculiarities of the use of methods of protection in conditions of war by the child's parents, other legal representatives of the child, the court, guardianship and guardianship authorities, and other bodies authorized to protect family rights, was no exception. rights and interests of the child. An important issue in the context of the armed conflict and the stay of the child in conditions dangerous to the child's life and health is the question of moving the child to regions in which there are no suitable conditions (including moving the child outside the territory of Ukraine to states in which there are no circumstances of armed conflict of the conflict, primarily the member states of the European Union, the Republic of Moldova, the states of North America), as well as the issue of protecting the child's right to support in the conditions of the legal regime of martial law.

**The purpose of the article is** to determine practical aspects of the application of methods of protection of family rights and interests of the child in the conditions of the legal regime of martial law.

**Research materials and methods.** This work is based on the works of domestic scientists, current legislation, court practice, as well as materials from periodicals. The research uses methods of analysis and synthesis, comparison and generalization, as well as a number of other methods.

**Results and discussion.** One of the areas of legislation that regulates the protection of family rights and interests of the child was the definition in the legislation of the possibility of temporary placement of children left without parental care in a foster family or in a family-type orphanage. Appropriate placement is carried out by the services for children at the place of operation of the respective foster family or family-type children's home, and in the absence of a corresponding order issued by them, placement is carried out by order of the relevant military administration at the regional level. Also, during the operation of the right-wing martial law regime on the territory of Ukraine, children who are in difficult life circumstances, children who were left without parental care, orphaned children and children deprived of parental care, who live or are enrolled in institutions of various types, forms of ownership and subordination for round-the-clock stay, can be temporarily accommodated in other facilities, in which the round-the-clock stay of children is provided, in settlements where it is possible to ensure the safety of children, taking into account their age and state of health (Pro vnesennia zmin do deiakykh postanov shchodo zakhystu prav ditei, 2022).

During the last two years, changes were made to the legislation, which significantly expanded the rights of persons who have the right to protect the rights of the child as its legal representatives. In particular, on May 22, 2022, Law of Ukraine No. 2267-IX was adopted, which amended Article 30-1 of the Law of Ukraine "On the Protection of Childhood", namely, the functions of the legal representatives of the child during the period of his movement, including abroad for the purpose of evacuation, are assigned to the heads of institutions where the child was placed for a 24-hour stay, or to the head of the institution authorized an employee of this institution, or in the event that the manager is unable to perform his duties, to another person appointed by the body of guardianship and guardianship or the military administration/military-civilian administration at the location of the institution. Such persons have the right to take any actions related to the protection of the child's rights until the return of such a child to Ukraine or until his/her reunification with the family, except for the authority to perform transactions related to housing and property rights on behalf and in the interests of the child, consent to adoption and change of citizenship of the child. By the same law, the corresponding powers of legal representatives for the period of temporary relocation (evacuation) of the child were also granted to foster carers (Pro vnesennia zmin do statti 30-1 Zakonu Ukrainy, 2022). Resolution No. 580 of the

Cabinet of Ministers of Ukraine dated May 10, 2022 approved the Procedure for temporary relocation (evacuation) and provision of conditions for the stay in the territory of Ukraine, where hostilities are not taking place, or outside of Ukraine, of children and persons living or enrolled in various types of institutions, forms of ownership and subordination for round-the-clock stay, which provided that the head of the institution or an accompanying person authorized by him during the period of temporary movement (evacuation) of children is entrusted with responsibility for their life and health, duties regarding the performance of the powers of legal representatives of children (except for the execution of transactions related to housing and property rights, on behalf of and in the interests of the child, consent to the adoption of the child and change of citizenship), prevention of any attempts to violate the rights of children and persons, execution of other actions related to displacement (evacuation) of children (Pro vnesennia zmin do poriadkiv, 2022). At the same time, the primary assignment of the responsibilities of the legal representative of a child staying in an educational, social or medical institution to the head of this institution was not always appropriate, taking into account the fact that the latter could evacuate on his own (therefore, in the relevant the institution was not able to evacuate the children due to the absence of the manager, or assign the relevant duties to another person). This shortcoming was eliminated after the approval of a new procedure for the temporary transfer (evacuation) of children and persons who live or are enrolled in institutions of various types, forms of ownership and subordination for round-the-clock stay, and their return, according to which it was specified that in the event of impossibility of issuance by the head institution of the order on the temporary transfer (evacuation) of the child, including in connection with his suspension from the performance of official duties or absence, the relevant powers to determine the person responsible for the performance of the duties regarding the temporary transfer (evacuation) of the child are exercised by the oblast, Kyiv city military administration at the place of permanent location of the institution. Such a person ensures the performance of the functions of the legal representative of children in accordance with the fourth part of Article 30-1 of the Law of Ukraine "On the Protection of Childhood" (Pro tymchasove peremishchennia, 2023). By Resolution No. 794 of the Cabinet of Ministers of Ukraine dated July 7, 2022, the authority of the legal representative of a child who is temporarily relocated (evacuated) was entrusted to a person, for the period of his return to Ukraine, to a person appointed by a foreign diplomatic institution of Ukraine; the corresponding appointment is carried out on the basis of the decision of the executive body of the city, village, village council, district, district in Kyiv state administration, district/regional military administration/National Social Service Service on the return of displaced (evacuated) children – citizens of Ukraine (Deiaki pytannia povernennia ditei, 2022). In all these cases, the person identified as the legal representative of the child is temporarily entrusted with all the rights and opportunities to ensure the protection of the child's rights, measures to prevent any attempts to violate the rights of children, including through the use of self-defense, informing about all cases of violations of the children's rights the relevant military administration of the regional level at the place of permanent location of the institution, and in the absence of such an opportunity, the National Social Service, and the latter must take measures to stop violations of the rights of the child, appeal to the body of guardianship and care at the place of temporary stay (evacuation) with the aim of taking persons to temporary accounting for solving urgent issues of the specified persons, informing about the arrival of the child at the place of temporary stay (evacuation) in Ukraine or outside of Ukraine of the parents, other legal representatives of the child, as well as the relevant body of guardianship and care both at the place of permanent stay of the child and at the place evacuation. The authorized person – the legal representative of the child is authorized to take care of the child, its upbringing and development, to facilitate the communication of children with parents or other legal representatives, if such communication does not contradict the interests of the child, to prevent any attempts to violate the rights of children and persons, to provide (in if necessary) to the administrative or judicial authorities of the state of temporary stay of children and persons of information and docu-

ments necessary for them to make decisions on the appointment of accompanying persons as temporary guardians of children and persons (other decisions necessary for them to fulfill their obligations towards children and persons in the state of temporary stay), with a translation certified in accordance with the procedure established by law. On the other hand, such persons do not have the right to: leave children unattended, change their place of residence and their place of residence without the consent of the regional and Kyiv city military administration, and in the case of staying outside of Ukraine, without the consent of the National Social Service.

It should be noted separately that the resolution of the Cabinet of Ministers of Ukraine dated August 23, 2022 No. 940 provided for the responsibility of legal representatives of children for refusing the mandatory evacuation of a child. In this case, the guardianship or guardianship of such persons over children is terminated (this applies to legal representatives of children who are brought up in foster families, family-type orphanages, who are under their guardianship or guardianship, who are placed in the family of foster carers). Guardianship authorities in this case were authorized to apply two methods of protection: termination of the legal relationship regarding raising a child in a foster family, a family-type orphanage, stay in the family of a foster carer, stay under guardianship or care, as well as termination of actions that violate family rights, as they are authorized to ensure the evacuation of such a child, together with the National Service Service, local state administrations, local self-government bodies to foster families, family-type children's homes, families of foster carers, institutions in which the 24-hour stay of children who are in safe districts (Pro vnesennia zmin do deiakykh postanov shchodo udoskonalennia mekhanizmu provedennia evakuatsii, 2022).

Another relevant issue: determining the place of residence of a child with one of his parents outside of Ukraine and taking him abroad as ways of protecting the family rights and interests of the child in the conditions of martial law. In this aspect, the family legislation defines a complicated procedure for the temporary removal of a child outside the territory of Ukraine (when the consent of the parents of one of the parents is necessary for its removal, including a notarized one, since the Rules for crossing the state border by citizens of Ukraine in the version that was in effect until 12.03. of 2022 specifically provided for a notarial form of consent) created obstacles to ensure the best interests of the child, which in particular can include the interest of being in conditions safe for life and health, in those conditions in which the rights of the child can be ensured as fully as possible.

In this regard, amendments were made to the Rules for Crossing the State Border by Citizens of Ukraine, which provided that the departure of children under the age of 16, accompanied by one of their parents, grandmother, grandfather, adult brother, outside of Ukraine sisters, stepmothers, stepfathers or other persons authorized by one of the parents in a written application certified by the body of guardianship and care, is carried out without the notarized consent of the other parent and in the presence of a passport of a citizen of Ukraine or a birth certificate of a child (in the absence of a passport of a citizen of Ukraine)/documents, containing information about a person, on the basis of which the State Border Service will allow the crossing of the state border (Pro zatverdzhennia Pravyl peretynannia, 1995). This essentially changed the procedure for taking a child abroad under the legal regime of martial law.

If the child went abroad with one of the parents, then, when resolving a dispute about the child's place of residence under martial law, the court must take into account the priority of the child's interests when deciding any issue concerning children, the inalienability and priority of the child's right to life, her stay in a safe environment. As noted by the Supreme Court in its decision dated November 16, 2022 in case No. 953/6251/21, based on the principle of the legal status of the child, in particular the inalienability and priority of the right to life (the state is entrusted with the duty to ensure their survival and development in accordance with Article 6 of the Convention on the Rights of the Child), it is in the best interests of the child for the child to stay with the parent who is abroad, if there is a "serious risk" for the child in the event of his return to the state of his permanent residence. It should also be

taken into account that a long time could pass from the moment the child was moved to the time of the decision by the courts of the previous instances and the child could get used to the new environment (Oliinyk A., 2023). The very fact of the introduction of martial law on the territory of Ukraine is not a sufficient basis for determining the place of residence of a child with one of the parents. At the same time, the circumstances related to the safety of the child and the consequences of hostilities are significant, subject to establishment and assessment by the court (Decision of the Supreme Court of June 14, 2023 in case No. 760/31518/21) (Oliinyk A., 2023). Thus, it was actually recognized in court practice that the temporary removal of a child abroad in connection with the danger to his life, health and development due to the circumstances caused by the military conflict is essentially a way of protecting the child by his parents, adoptive parents or other persons, who are the legal representatives of the child. However, in our opinion, the court also applies the determination of the child's place of residence as a means of protection in the decision in disputes about the determination of the child's place of residence (if one of the parents denies that it is in the child's interests to take him abroad, change his permanent place of residence) as a means of protection (essentially covered by the content of such method as a change in the family legal relationship).

Thus, at present, notarized consent of the parents is not required for the child's departure abroad unaccompanied. The only deterrent mechanism preventing the unauthorized removal of a child abroad is the requirement for persons who are not the child's mother or father, his grandmother or grandfather, an adult brother or sister, stepmother or stepfather, to have a written letter from one of the child's parents applications for permission to take the child abroad, certified by the guardianship authority. This simplification carries the risk of the child's relatives abusing their rights and taking the child abroad without agreeing this removal with the child's parents and the intention to return the child to the state of his/her citizenship. The consequence of simplifying the mechanism of children's departure abroad in this way will be numerous cases of parents' struggle to find and return their children home (Kovalenko M., 2023; 12).

We can also recognize as a problem the inconsistency of the provisions of the Rules for crossing the state border by citizens of Ukraine and Art. 157 of the Family Code of Ukraine. The latter stipulates the need to obtain consent for the transfer of a child of any age abroad (and not one who has not reached the age of 16), besides this, it does not contain the possibility of the transfer of a child by other persons; abolition of the need for notarized parental consent for a child to travel abroad unaccompanied or accompanied by one of the parents is available at the level of a subordinate legal act, but the corresponding consent is required in accordance with the Family Code of Ukraine. In our opinion, the provisions of Art. 157 of the Family Code of Ukraine and clauses 2–3 of the Rules for Crossing the State Border by Citizens of Ukraine, however, it should be clarified in both cases that the simplified procedure for taking a child abroad applies only during the legal regime of martial law.

The third aspect is related to changes in the legislation of Ukraine, which regulates the issue of ensuring and implementing the child's right to maintenance.

Changes in legislation during martial law did not affect parents' obligations to provide for children and pay alimony. After all, both in peacetime and especially in current realities, children need special attention and care, additional guarantees for the protection of their rights and legitimate interests (Alimentni zoboviazannia). The main changes related to the legal regime of martial law in terms of the collection of alimony and additional expenses for the child were the following.

Firstly, amendments were made to the Law of Ukraine "On Executive Proceedings", namely, Chapter XIII of this Law was supplemented with Clause 10–2, according to which before the entry into force of the law on the regulation of relations involving persons connected with the state the aggressor, execution of enforcement actions is stopped, it is prohibited to replace debt collectors in enforcement proceedings, for which debt collectors include citizens of the Russian Federation (except for citizens who permanently reside in the territory of Ukraine), the collection of wages, pensions,

scholarships and other income of the debtor is stopped (however, an exception was made for alimony awarded, but not for additional expenses for the child). The deadlines for the submission of documents for the collection of alimony and additional expenses determined by this Law are interrupted and established from the date of termination or cancellation of martial law. According to decisions on the collection of alimony, enterprises, institutions, organizations, natural persons, natural persons – entrepreneurs who make deductions from the salary, pension, scholarship and other income of the debtor, transfer the collected funds to the account specified in the application or appeal of the collector, and in the absence details of the debt collector's account – to the corresponding account of the state executive service body, private executor. It is also prohibited to open executive proceedings and take measures to enforce decisions on the territory of territorial communities belonging to territories where active hostilities are being waged or temporarily occupied territories in accordance with the list approved by the central executive body, which ensures the formation and implementation of state policy with issues of the territory of Ukraine temporarily occupied by the Russian Federation (Pro vnesennia zminy do rozdlu XIII, 2022). As stated in the clarification of the Ministry of Justice of Ukraine dated April 1, 2022, in which it was stated that this Law does not provide for the prohibition of charging alimony debtors with interest for late payment. The decision on the payment of the fine is made by the court, as before, upon the application of the collector of alimony for the collection of the fine (Roz'iasnennia Miniustu, 2022). Therefore, the legal regime of martial law partially affected the process of executing the court decision on the collection of alimony for the child, but did not affect the very possibility of judicial protection of the child's right to maintenance. However, the collection of additional expenses for a child, if the collector is a citizen of the Russian Federation, is currently blocked. It also remains unclear whether the suspension of executive actions, if the debt collector is a citizen of the Russian Federation, applies to the execution of court decisions on the collection of alimony. In our opinion, if the legislator left the possibility of enforcement of child support decisions, it would be appropriate to preserve the possibility of taking executive actions aimed at the implementation of the corresponding court decision (if they are possible in the current conditions). Also, the provision prohibiting the opening of executive proceedings and taking measures to enforce decisions "on the territory of territorial communities belonging to the territories where active hostilities are taking place or temporarily occupied territories" is not entirely clear. Does this provision apply to debt collectors residing in these territories or to the debtor? In the latter case, of course, it is problematic to carry out the corresponding recovery, but it is hardly worth prohibiting its implementation (one should only provide for the possibility of stopping execution of executive actions in case of impossibility of recovery); in the first case, we can recognize the expediency of establishing a ban on opening executive proceedings and taking enforcement measures, but only with respect to debt collectors living in temporarily occupied territories, since such funds can potentially be used by the occupier. In our opinion, establishing a ban on opening executive proceedings and taking measures to enforce decisions on the territory of territorial communities belonging to the territories where active hostilities are taking place is impractical, and it should also only be possible to stop execution of executive actions in case of impossibility of recovery.

Secondly, the list of incomes that are taken into account when determining the amount of alimony for a child was expanded, as well as cases where the alimony payer left for a state with which Ukraine has not concluded an agreement on the provision of legal assistance were settled. In the first case, the possibility of withholding alimony was extended not only from the amounts of monetary support provided monthly (salary for a full-time position, salary for a military or special rank, percentage allowance for years of service, academic rank and scientific degree, qualifications and conditions of service), but also and other payments established by law, in particular, additional remuneration paid for the period of martial law, except for monetary support, which is not of a permanent nature, and other cases provided for by law. In the second case, it is determined that the amount of alimony is

calculated based on the amount of the employee's average salary for the area where such persons lived before going abroad. If such persons provide information about their earnings (income), alimony is calculated based on the amount of earnings (income) received by them abroad (Pro perelik vydiv dokhodiv, 1995).

Thirdly, due to active hostilities in some regions of Ukraine, as well as the temporary occupation of certain territories of Ukraine, a number of courts in Donetsk, Zhytomyr, Zaporizhia, Kyiv, Luhansk, Mykolaiv, Sumy, Chernihiv, Kharkiv and Kherson regions have suspended their activities. Taking into account the fact that active hostilities in certain territories or occupation should not limit the right of a participant in family relations to protect his family right or interest, by the relevant orders of the Chairman of the Supreme Court "On changing the territorial jurisdiction of court cases in conditions of martial law", taking into account the impossibility of courts to implement justice during martial law, the territorial jurisdiction of court cases heard in these courts was changed. The corresponding provision follows from the text of Part 3 of Art. 26 of the Law of Ukraine "On the Legal Regime of Martial Law": "In the event of the impossibility of administering justice by courts operating in the territory where martial law has been imposed, the laws of Ukraine may change the territorial jurisdiction of court cases considered in these courts, or in the established by law according to the order, the location of the courts was changed" (Pro pravovyi rezhym, 2015).

As already mentioned, in the event of a delay in the payment of alimony, the court has the right to apply such a method of protecting the child's right to maintenance as the collection of fines or interest in accordance with Art. 196 of the Family Code of Ukraine. Circumstances caused by the armed conflict can affect the property status of the debtor, his health, and therefore it is possible to complicate the debtor's ability to fulfill his alimony obligations. In this case, according to Art. 192 of the Family Code of Ukraine, the amount of alimony, determined by a court decision or an agreement between parents, may be subsequently reduced by a court decision at the request of the payer or recipient of alimony in the event of a change in the financial or family status, deterioration of the health of one of them. Indirectly, if such a debtor fails to fulfill his alimony obligations, this may affect the amount of the penalty (it may be reduced), but not the very possibility of its recovery (Simeinyi kodeks, 2002). The legal doctrine stated the need not to apply penalties and interest in the event of arrears of alimony or additional expenses for the child, which arose in connection with the loss of a job, a decrease in wages or a violation of the term of its payment, suspension of the employment contract, destruction of the enterprise, the owner or co-owner of which was the debtor and other significant circumstances that arose during the period of martial law or a state of emergency in Ukraine or certain regions, settlements (Buriachenko A., 2022; 231). In our opinion, the changes proposed by A. M. Buryachenko to Art. 196 of the Family Code of Ukraine are appropriate and timely, since the collection of fines and interest is not only a way to protect the child's right to support, but also a measure of family legal responsibility of parents, and responsibility should arise only in the presence of guilt (except for civil legal responsibility, which can be without fault).

An actual way to protect a child's right to support under the legal regime of martial law is the possibility of receiving temporary state assistance for children whose parents avoid paying alimony, are unable to support the child or whose place of residence is unknown in the amount of 50 percent of the subsistence minimum for a child of the appropriate age (according to Part 8 of Article 181 of the Family Code of Ukraine). Considering the fact that a large number of children lost their parents (who, due to the circumstances caused by the war, went missing), and some parents lost their homes and jobs, which deprived them of the opportunity to support the child to the same extent as before the war, the use of such a method of protection of family rights and interests as the payment of temporary state aid for the child is timely and ensures adequate protection of the child's right to maintenance.

**Conclusions.** So, on the basis of the conducted scientific study of applied aspects of the application of methods of protection of family rights and interests of the child in the conditions of the

legal regime of martial law, we can come to the following conclusions. The full-scale invasion of the Russian Federation on the territory of Ukraine in 2022, active hostilities, danger to the life and health of a child, including a sudden one caused by the launch of missiles and attack drones, led to a change in priorities in the protection of children's rights – the key in this first of all, the child's right to life, which, although not family, should also be ensured by his parents, adoptive parents, legal representatives. The above made it necessary to make changes and additions to the existing legislation, which was primarily peacetime legislation and could not take into account all the difficulties in the implementation of family rights and interests under the conditions of the legal regime of martial law. The reform of the legislation regulating the protection of the family rights and interests of the child, including the peculiarities of the use of methods of protection in conditions of war by the child's parents, other legal representatives of the child, the court, guardianship and guardianship authorities, and other bodies authorized to protect family rights, was no exception. rights and interests of the child. During 2022–2023, this legislation was significantly updated. At the same time, there are currently some shortcomings in the mechanism of temporary removal (evacuation) of children to safe regions or abroad. Thus, the primary assignment of the responsibilities of the legal representative of a child staying in an educational, social or medical institution to the head of this institution in the aspect of temporary removal (evacuation) of the child to safe regions or abroad was not always expedient, taking into account the fact that the head of the institution was able to evacuate on his own (in connection with this, the relevant institution was not able to evacuate children, due to the absence of a manager, or assign the relevant duties to another person). This shortcoming was eliminated after the approval of a new procedure for the temporary movement (evacuation) of children in June 2023. Also, the simplification of the procedure for the child's departure abroad unaccompanied by parents has led to the risks of the child's relatives abusing their rights and taking the child abroad without agreeing this removal with the child's parents and the intention to return the child to the state of his/her citizenship; we can recognize as a problem the inconsistency of the provisions of the Rules for crossing the state border by citizens of Ukraine and Art. 157 of the Family Code of Ukraine – the latter stipulates the need to obtain consent for the transfer of a child of any age abroad (and not one who has not reached the age of 16), besides this, it does not contain the possibility of transfer of the child by other persons; abolition of the need for notarized parental consent for a child to travel abroad unaccompanied or accompanied by one of the parents is available at the level of a subordinate legal act, but the corresponding consent is required in accordance with the Family Code of Ukraine. In our opinion, the provisions of Art. 157 of the Family Code of Ukraine and clauses 2–3 of the Rules for Crossing the State Border by Citizens of Ukraine, however, it should be clarified in both cases that the simplified procedure for taking a child abroad applies only during the legal regime of martial law.

The introduction of the legal regime of martial law led to a number of changes in the application of methods of protecting the child's right to maintenance – executive actions regarding the execution of court decisions on the collection of additional expenses for the child were limited in the event that the collector is a citizen of the Russian Federation who lives outside the territory of Ukraine; it is prohibited to open executive proceedings and take measures to enforce decisions on the territory of territorial communities belonging to the territories where active hostilities are taking place or temporarily occupied territories; the list of incomes that are taken into account when determining the amount of alimony for a child has been expanded, as well as cases where the alimony payer has left for a state with which Ukraine has not concluded an agreement on the provision of legal aid; the territorial jurisdiction of cases concerning the collection of alimony and additional expenses has been changed, i.e. other courts have been empowered to apply the collection of alimony, additional expenses, as well as liability for violation of alimony obligations as methods of protection



### References:

1. Pro vnesennia zmin do deiakykh postanov Kabinetu Ministriv Ukrainy shchodo zakhystu prav ditei na period nadzvychainoho abo voiennoho stanu (2022) [On making changes to some resolutions of the Cabinet of Ministers of Ukraine regarding the protection of children's rights during a state of emergency or martial law: Resolution of the Cabinet of Ministers] No 349. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/349-2022-p#Text> [In Ukrainian].
2. Pro vnesennia zmin do statti 30-1 Zakonu Ukrainy "Pro okhoronu dytynstva" shchodo zakonnoho predstavnytstva deiakykh katehorii ditei pid chas dii nadzvychainoho abo voiennoho stanu v Ukraini: Zakon Ukrainy (2022) [On amendments to Article 30-1 of the Law of Ukraine "On Childhood Protection" regarding the legal representation of certain categories of children during a state of emergency or martial law in Ukraine: Law of Ukraine]. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2267-20#Text> [In Ukrainian].
3. Pro vnesennia zmin do poriadkiv, zatverdzhenykh postanovamy Kabinetu Ministriv Ukrainy vid 24 veresnia 2008 r. № 866 i vid 27 bereznia 2022 r. № 385: postanova Kabinetu Ministriv Ukrainy (2022) [On making changes to the procedures approved by Resolutions of the Cabinet of Ministers of Ukraine No. 866 of September 24, 2008 and No. 385 of March 27, 2022: Resolution of the Cabinet of Ministers of Ukraine] No 580. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/580-2022-p> [In Ukrainian].
4. Pro tymchasove peremishchennia (evakuatsiiu) ditei ta osib, yaki prozhyvaiut abo zarahovani do zakladiv riznykh typiv, form vlasnosti ta pidporiadkuvannia na tsilodobove perebuvannia, ta yikh povernennia: postanova Kabinetu Ministriv Ukrainy (2023) [On the temporary relocation (evacuation) of children and persons living or enrolled in institutions of various types, forms of ownership and subordination for round-the-clock stay, and their return: Resolution of the Cabinet of Ministers of Ukraine] No 546. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/546-2023-p> [In Ukrainian].
5. Deiaki pytannia povernennia ditei, yaki tymchasovo peremishcheni (evakuiovani) za mezhi Ukrainy z metoiu otrymannia tymchasovoho zakhystu pid chas voiennoho stanu v Ukraini: postanova Kabinetu Ministriv Ukrainy (2022) [Some issues of the return of children temporarily displaced (evacuated) outside of Ukraine for the purpose of receiving temporary protection during martial law in Ukraine: Resolution of the Cabinet of Ministers of Ukraine] No 794. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/794-2022-p> [In Ukrainian].
6. Pro vnesennia zmin do deiakykh postanov Kabinetu Ministriv Ukrainy shchodo udoskonalennia mekhanizmu provedennia evakuatsii: postanova Kabinetu Ministriv Ukrainy (2022) [On making changes to some resolutions of the Cabinet of Ministers of Ukraine regarding the improvement of the evacuation mechanism: Resolution of the Cabinet of Ministers of Ukraine] No 940. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/940-2022-p#Text> [In Ukrainian].
7. Pro zatverdzhennia Pravyl peretynannia derzhavnogo kordonu hromadianamy Ukrainy: postanova Kabinetu Ministriv Ukrainy (1995) [On approval of the Rules for crossing the state border by citizens of Ukraine: Resolution of the Cabinet of Ministers of Ukraine] No 57. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/57-95-p#Text> [In Ukrainian].
8. Oliinyk A. (2023) Suchasni vyklyky ta aktualni problemy zakhystu prav ta interesiv ditei u tsyvilnykh ta simeinykh spravakh v umovakh voiennoho stanu: ohliad praktyky Verkhovnoho Sudu [Modern challenges and actual problems of protecting the rights and interests of children in civil and family cases under martial law: a review of the practice of the Supreme Court]. Ofitsiynyi sait Verkhovnoho Sudu – Official website of the Supreme Court. URL: [https://supreme.court.gov.ua/userfiles/media/new\\_folder\\_for\\_uploads/supreme/2023\\_prezent/Prezent\\_Zahist\\_ditei\\_voen\\_stan.pdf](https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/2023_prezent/Prezent_Zahist_ditei_voen_stan.pdf) [In Ukrainian].
9. Kovalenko M. V. (2023) Vyizd ditei ta studentiv za kordon v umovakh voiennoho stanu [Departure of children and students abroad under martial law]. Naukovyi visnyk Khersonskoho derzhavnogo

- universytetu. Serii Yurydychni nauky – Scientific Bulletin of Kherson State University. Series Legal Sciences. No 1. Pp. 10–15 [In Ukrainian].
10. Alimentni zoboviazannia u period voiennoho stanu [Alimony obligations during martial law]. Koordynatsiinyi tsentr z nadannia pravovoi dopomohy – Coordination center for the provision of legal assistance. URL: <https://legalaid.gov.ua/publikatsiyi/alimentni-zoboviazannya-u-period-voyennogo-stanu> [In Ukrainian].
  11. Pro vnesennia zminy do rozdil XIII "Prykintsevi ta perekhidni polozhennia" Zakonu Ukrainy "Pro vykonavche provadzhennia": Zakon Ukrainy (2022) [On amending Chapter XIII "Final and Transitional Provisions" of the Law of Ukraine "On Executive Proceedings": Law of Ukraine]. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2129-20#Text> [In Ukrainian].
  12. Roz'iasnennia Miniustu shchodo alimentnykh zoboviazan u period voiennoho stanu (1 kvitnia 2022 roku) [Clarification of the Ministry of Justice regarding alimony obligations during martial law (April 1, 2022)]. Uriadovyi portal: Yedynyi veb-portal orhaniv vykonavchoi vlady Ukrainy – Government portal: The only web portal of the executive authorities of Ukraine. URL: <https://www.kmu.gov.ua/news/rozyasnennya-minyustu-shchodo-alimentnih-zoboviazan-u-period-voyennogo-stanu> [In Ukrainian].
  13. Pro perelik vydiv dokhodiv, yaki vrakhovuiutsia pry vyznachenni rozmiru alimentiv na odnogo z podruzzhia, ditei, batkiv, inshykh osib: postanova Kabinetu Ministriv Ukrainy (1993) [On the list of types of income that are taken into account when determining the amount of alimony for one of the spouses, children, parents, other persons: Resolution of the Cabinet of Ministers of Ukraine] No 146. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/146-93-p#Text> [In Ukrainian].
  14. Pro pravovyi rezhym voiennoho stanu: Zakon Ukrainy (2015) [On the legal regime of martial law]. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/389-19#Text> [In Ukrainian].
  15. Simeinyi kodeks Ukrainy (2002) [Family Code of Ukraine]. Zakonodavstvo Ukrainy – Legislation of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2447-14> [In Ukrainian].
  16. Buriachenko A. M. (2022) Vidpovidalnist za nevykonannia oboviazku shchodo nadannia utrymannia u simeinomu pravi [Liability for non-fulfillment of the obligation to provide maintenance in family law]. Diss. ... dokt.fil. Spec. 081 – Law. Khmelnytskyi [In Ukrainian].