

DRC UKRAINE | LEGAL BRIEF

Explosive Ordnance Survivors: Legal Liability and Access to Social Protection

This Legal Brief examines how possible criminal or administrative liability arising from a person's handling of explosive ordnance (EO) and how this interacts with their access to social protection in Ukraine. It distinguishes legal liability, procedural status in criminal proceedings and entitlement to social protection, and considers the practical effect of those distinctions for EO-related compensation, status of a person with a disability as a result of war, rehabilitation and other forms of support. The assessment is based on current Ukrainian legislation and publicly available sources as of 12 August 2026.

Legal basis

Instrument	Relevance to the analysis	Subject
Law No. 2642-VIII	Defines the statutory category of a person affected by EO and provides the legal basis for assistance to victims of explosive ordnance.	Mine action / victim assistance
Criminal Code of Ukraine	Regulates possible criminal liability for unlawful possession, handling, manufacture or negligent storage of weapons, ammunition, explosives and explosive devices.	Criminal liability
Criminal Procedure Code of Ukraine	Defines victim, suspect and accused status and the procedural framework for criminal proceedings.	Criminal procedure
Resolution No. 1020	Regulates lump-sum compensation and annual health-recovery allowance for people with disabilities and children with disabilities affected by EO.	EO compensation
Law No. 3551-XII	Defines categories of people with disabilities as a result of war and related guarantees.	Veterans-law status
Resolution No. 306	Regulates establishment of the causal link between disability and EO-related injury for civilians and the relevant refusal grounds.	War-related disability
Health, rehabilitation and social-services legislation	Regulates access to medical care, rehabilitation and social services independently of the criminal qualification of the incident, subject to the rules of each mechanism.	Other support

1. Legal status and possible liability

1.1 Person affected by explosive ordnance

The Law on Mine Action defines a person affected by EO by reference to harm caused by the use and/or presence of explosive ordnance, rather than by reference to how the person came to be exposed to it. This mirrors the international standard under the International Mine Action Standards (IMAS) 13.10, a victim is defined as a person or persons whose full and effective participation in society has been restricted by an accident involving confirmed or suspected EO. This category includes those killed, injured, or impaired, and extends to their families and affected communities.

The definition focuses on the consequence of the incident and does not make the lawfulness of the person's own conduct a condition for meeting the statutory definition.¹

This distinction is important because the mine-action concept of a person affected by EO is a term distinct from criminal-procedure status (e.g. suspect, accused) or a veteran-law. A person can meet the mine-action definition even where the circumstances of the incident separately raise questions about unlawful handling of the ordnance.

1.2 Victim, suspect and accused

Criminal procedure uses separate concepts. A *victim* is a person to whom a criminal offence caused harm; a *suspect or accused* is a person against whom criminal prosecution is being conducted. A person injured by EO may therefore be recognised as a victim in proceedings concerning the incident and, separately, acquire suspect or accused status in proceedings concerning their own handling of the item. These statuses answer different procedural questions and should not be conflated with one another, nor the mine-action status discussed above.²

The opening of criminal proceedings or the acquisition of suspect status does not establish guilt. The Constitution and the Criminal Procedure Code require that a person be presumed innocent until guilt is established by a final conviction.³

Legal liability, procedural status and access to social protection answer different legal questions. The existence of one does not automatically determine the others.

1.3 Possible criminal liability

Possible criminal liability depends on the item of explosive ordnance, the conduct and the consequences. Depending on the facts, Articles 263, 263-1 and 264 of the Criminal Code may be relevant to unlawful possession or handling, unlawful manufacture or alteration, or negligent storage. Where other persons are killed or injured, other provisions may also become relevant. The general age of criminal responsibility for the offences considered here is 16 years old.⁴

Provision	Possible relevance	Caution
Art. 263	Unlawful carrying, keeping, acquisition, transfer or sale of firearms, ammunition, explosives or explosive devices.	Finding an item is not, by itself, enough. Taking a found EO item away, carrying it or keeping it at home may be relevant if the item is legally classified as ammunition, explosives or an explosive device and the statutory elements are met.
Art. 263-1	Unlawful manufacture, repair or alteration of firearms or unlawful manufacture of ammunition, explosives or explosive devices.	Dismantling or modifying EO does not automatically fall under Art. 263-1. It may be relevant only if the conduct amounts to one of the acts listed in the provision
Art. 264	Negligent storage of firearms or ammunition where this causes death or other grave consequences.	May be relevant, for example, where negligent storage of a firearm or ammunition allows a child or another person to access it and grave consequences follow. Whether a particular EO item falls within Art. 264 requires legal classification

¹ Law of Ukraine "On Mine Action in Ukraine" No. 2642-VIII of 6 December 2018, Art. 1(1), point 11 (definition of persons affected by explosive ordnance), <https://zakon.rada.gov.ua/laws/show/2642-19#Text>.

² Criminal Procedure Code of Ukraine No. 4651-VI of 13 April 2012, Arts. 42 and 55 (suspect/accused and victim), current text, <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

³ Constitution of Ukraine, Art. 62; Criminal Procedure Code of Ukraine, Art. 17 (presumption of innocence), <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text> and <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

⁴ Criminal Code of Ukraine No. 2341-III of 5 April 2001, Art. 22 (age of criminal responsibility) and Arts. 263–264, current text, <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

1.4 Voluntary surrender

Article 263(3) provides for release from criminal liability where a person voluntarily surrenders the relevant weapons, ammunition, explosives or explosive devices to the authorities. Supreme Court case law treats voluntariness as requiring a genuine decision to surrender rather than the mere discovery of the item by law-enforcement authorities.⁵

For a person injured by a detonation, the exemption may not be practically available if the object has already exploded and can no longer be surrendered. The issue should therefore be assessed on the facts of the individual case and should not be presented as a general protection from liability.

2. Access to social protection

Possible liability does not produce one uniform consequence across the social-protection system. The effect depends on the legal rules of the specific mechanism.

2.1 EO-related compensation

Article 10 of the Law on Mine Action and Resolution No. 1020 provide lump-sum compensation and an annual health-recovery allowance for people with disabilities and children with disabilities whose disability is linked to injury caused by EO. The current procedure is administered through the Pension Fund of Ukraine (PFU).⁶

The compensation procedure does not contain a general exclusion based solely on the person's own unlawful handling of the item. This does not remove possible criminal or administrative liability; it means that liability and compensation are governed by different legal rules.

2.2 War-related disability status

The war-related disability pathway is different. Resolution No. 306 governs the procedure by which the Interagency Commission establishes the fact and circumstances of EO-related injury for this pathway; the relevant expert team then determines the causal link between the disability and the injury on the basis of that decision. Paragraph 7(1) includes a refusal ground where the injury resulted from the person's commission of a criminal or administrative offence, as well as specified circumstances involving intoxication or intentional self-harm. Paragraph 7(3) separately provides for refusal where a final conviction exists for specified categories of offences, including offences against public safety, and the criminal record remains unspent or unexpunged. Article 263 of the Criminal Code is located in the chapter on criminal offences against public safety.⁷

Proceedings under Article 263 therefore do not automatically lead to refusal. In practical terms, a person who is only a suspect in proceedings concerning the handling or misuse of EO is not disqualified from war-related disability status on that basis alone. Paragraph 7(1) may nevertheless create a refusal risk if the Interagency Commission finds, on the materials before it, that the injury was a consequence of the person's own criminal or administrative offence. Paragraph 7(3) is narrower: it requires a final conviction for a specified category of offence and an unspent or unexpunged criminal record. An entry in the Unified Register of Pre-Trial Investigations (ERDR), a pending investigation or suspect status does not, by itself, satisfy either ground.

⁵ Criminal Code of Ukraine, Art. 263(3); Supreme Court, Criminal Cassation Court, judgment of 11 October 2023 in Case No. 756/15397/19, Unified State Register of Court Decisions No. 114292175, <https://reyestr.court.gov.ua/Review/114292175>; Supreme Court case note, 13 December 2023, <https://supreme.court.gov.ua/supreme/pres-centr/news/1525554/>.

⁶ Law of Ukraine "On Mine Action in Ukraine" No. 2642-VIII, Art. 10, <https://zakon.rada.gov.ua/laws/show/2642-19#Text>; Cabinet of Ministers of Ukraine, Resolution No. 1020 of 29 September 2021, as amended, <https://zakon.rada.gov.ua/laws/show/1020-2021-%D0%BF#Text>; Cabinet of Ministers of Ukraine, Resolution No. 765 of 25 June 2025, as amended, <https://zakon.rada.gov.ua/laws/show/765-2025-%D0%BF#Text>; Pension Fund of Ukraine, "One-time compensation and annual health-recovery allowance to persons with disabilities affected by explosive ordnance", 1 July 2026, <https://www.pfu.gov.ua/mk/170469-odnorazova-kompensatsiya-ta-shhorichna-dopomoga-na-ozdovlennya-osobam-z-invalidnistyu-yaki-postrazhdaly-vid-vybuchonebezpechnyh-predmetiv/>.

⁷ Cabinet of Ministers of Ukraine, Resolution No. 306 of 25 April 2018 "Certain Issues of Establishing the Link of Disability with Wounds or Other Damage to Health", as amended, para. 7(1) and 7(3), <https://zakon.rada.gov.ua/laws/show/306-2018-%D0%BF#Text>; Ministry of Veterans Affairs of Ukraine, Order No. 184 of 3 August 2023 (Regulation on the Interagency Commission), as amended, <https://zakon.rada.gov.ua/laws/show/z1607-23#Text>; Criminal Code of Ukraine, Chapter IX and Art. 263 (criminal offences against public safety), <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

2.3 Other forms of support

A person injured by EO may also require emergency or other medical care, rehabilitation, social services, general social assistance and disability assessment. These mechanisms are governed by their own eligibility rules. Criminal-procedure status does not create a general exclusion from the health and social-protection systems.

Even a conviction does not place a person outside all health and social-protection mechanisms: criminal-execution legislation provides for medical care and social insurance or pension-related rights for persons serving sentences, subject to the applicable rules.⁸

A criminal record is also distinct from the existence of proceedings. It arises following conviction under the conditions set by the Criminal Code, not merely because a person is a suspect.⁹

IMAS 13.10 treats victim assistance as a multi-sector national responsibility and emphasises identification and referral to health, rehabilitation, social-protection and other services. This supports a referral-based approach rather than treating possible liability as a general barrier to assistance.¹⁰

Mechanism	Primary legal test	Effect of possible unlawful conduct	Practical point
EO-related compensation	Established disability linked to EO injury under the applicable procedure.	No general exclusion based solely on unlawful handling in Resolution No. 1020.	Assess compensation separately from criminal liability.
War-related disability status	Causal link and compliance with Resolution No. 306.	Paragraph 7(1) may apply where injury resulted from the person's own criminal or administrative offence. Paragraph 7(3) separately applies to a final conviction for specified offences, including public-safety offences, while the criminal record remains unspent or unexpunged.	Do not equate a Unified Register of Pre-Trial Investigations (ERDR) entry, pending proceedings or suspect status with either refusal ground.
Medical care / rehabilitation	Medical or functional need under the applicable health framework.	No general exclusion based on suspect status.	Referral should not wait for the criminal case to end.
Social services / general assistance	Needs, income, household or programme-specific criteria.	EO incident circumstances are generally irrelevant unless a specific programme provides otherwise.	Check each programme separately.

3. Evidence and access barriers

In practice, the main difficulty under the war-related disability procedure may be evidentiary rather than the mere existence of criminal proceedings. The procedure relies on medical and criminal-procedure materials to establish the incident and the causal link.

⁸ Criminal Executive Code of Ukraine No. 1129-IV of 11 July 2003, Arts. 116 and 122 (medical provision; social insurance and pension provision for persons sentenced to imprisonment), as amended, <https://zakon.rada.gov.ua/laws/show/1129-15#Text>.

⁹ Criminal Code of Ukraine No. 2341-III, Arts. 88–91 (criminal record, expungement and lifting), <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

¹⁰ United Nations Mine Action Service, International Mine Action Standards (IMAS) 13.10, “Victim assistance in mine action”, Edition 1, Amendment 1, 17 January 2023, especially the multi-sector approach and identification/referral function, <https://www.mineactionstandards.org/standards/13-10/>.

3.1 Documentation requirements

- Medical records should record the injury and, where possible, the circumstances of the EO incident.
- Criminal-procedure materials may be needed to confirm the incident and the person's procedural participation.
- Forensic medical examination may depend on investigators obtaining complete medical materials.
- Access to ERDR-related or investigation materials may require procedural requests and cooperation from investigators or prosecutors.
- Where the incident occurred in an area with incomplete official recording, obtaining standard documents may be particularly difficult.

A July 2026 analysis published by the International Renaissance Foundation, citing Ministry of Veterans Affairs of Ukraine statistics for 2022–2025, reported 347 refusals under the relevant procedure. Of these, 221 were based on missing documents confirming EO-related injury, 125 on the former territory/time ground, and one on paragraph 7(1). That paragraph groups several circumstance-based grounds, including the person's own criminal or administrative offence, intoxication and intentional self-harm; the published statistics do not identify which element applied in the single case.¹¹

The same analysis describes delays and practical difficulties in obtaining forensic examinations and ERDR or investigation materials. This indicates that documentation and access to procedural evidence are important implementation barriers.¹²

PRACTICE NOTE

For casework, the first step should be an evidence map: identify the support mechanism, list the documents already available, identify missing medical or procedural evidence and determine which authority can lawfully provide it.

3.2 Incidents in occupied territories

Resolution No. 1721 of 24 December 2025 removed the remaining restriction that had prevented the procedure from applying to incidents in occupied territories. The main residual difficulty is practical: proving the circumstances of an incident where medical, police, emergency-service or forensic documentation could not be created or obtained at the time.¹³

4. Specific situations

4.1 Third-party injuries

Where EO brought home, stored or dismantled by one person detonates and injures a family member, neighbour or another person, each injured person must be assessed independently. Possible liability of the person who handled the item should not be transferred to others when their entitlement to support is assessed.

4.2 Children

Children require a separate safeguarding and legal assessment. A child injured by EO should not lose access to care, rehabilitation or disability-related assistance because an adult may have acted unlawfully. Where the child

¹¹ International Renaissance Foundation, "Documenting harm to civilians' health caused by the Russian Federation's aggression through establishing disability as a result of war: problems and ways to overcome them", 20 July 2026, citing Ministry of Veterans Affairs of Ukraine statistics for 2022–2025: 347 refusals, including 221 under para. 7(5), 125 under the former para. 7(2) territory/time ground and one under para. 7(1), <https://www.irf.ua/fiksacziya-shkody-zdorov%CA%BCyu-czyvilnyh-osib-unaslidok-agresiyi-rf-cherez-vstanovlennya-invalidnosti-vnaslidok-vijny-problemy-ta-shlyahy-yih-podolannya/>.

¹² Ibid. The study documents practical barriers in obtaining forensic medical examinations and ERDR/investigation materials, including delays, incomplete medical records and dependence on investigative action.

¹³ Cabinet of Ministers of Ukraine, Resolution No. 1721 of 24 December 2025 amending Resolution No. 306 and removing the remaining restriction concerning temporarily occupied territories, <https://zakon.rada.gov.ua/laws/show/1721-2025-%D0%BF#Text>; see also International Renaissance Foundation, analysis of 20 July 2026 on the legal change and continuing evidentiary barriers, <https://www.irf.ua/fiksacziya-shkody-zdorov%CA%BCyu-czyvilnyh-osib-unaslidok-agresiyi-rf-cherez-vstanovlennya-invalidnosti-vnaslidok-vijny-problemy-ta-shlyahy-yih-podolannya/>.

personally handled the item, age of criminal responsibility and the child's own conduct must be assessed before any conclusion about liability is drawn.'

The Law on Mine Action expressly includes assistance to children affected by EO, while the Convention on the Rights of the Child recognises rights relevant to children with disabilities and social security.¹⁴

4.3 Examples

Situation	Legal relevance	Access to support
A person finds EO, takes it home and is injured when it detonates.	Possible criminal-law issue depending on the item and conduct.	Medical care, rehabilitation and EO-compensation pathways remain relevant. War-related disability status requires separate assessment under Resolution No. 306; pending proceedings alone do not determine the outcome.
A farmer or other person moves, dismantles or modifies EO found on contaminated land and sustains disabling injuries.	Article 263 may be relevant to moving or keeping the item; Article 263-1 may also be relevant if the conduct amounts to an act specified in that provision. Other offences may apply depending on the facts and consequences.	Basic support and EO compensation remain separate from liability. War-related disability status is assessed under the specific refusal grounds in Resolution No. 306.
EO stored by one person detonates and injures family members.	Possible liability may concern the person who stored or handled the item; injured relatives may be victims.	Each injured family member is assessed independently for care, rehabilitation, disability and compensation.
A child is injured by EO brought home by an adult.	Adult liability may arise; the child's position is separate.	The child's rights to care, rehabilitation and relevant disability-related support are assessed independently.

4.4 Reporting concerns

Fear of prosecution may discourage an EO victim from reporting how an incident occurred or from approaching public authorities. This is a plausible protection risk, but the available evidence does not establish its scale. It should therefore be treated as a monitoring and access-to-justice issue rather than as a demonstrated primary barrier.

Public information should communicate two messages together: unsafe handling of EO may have legal consequences, but possible liability does not automatically cancel access to medical care, rehabilitation or all forms of social protection.

5. Recommendations

The following measures would reduce legal uncertainty and access barriers while preserving legitimate public-safety rules on the handling of explosive ordnance.

- **Clarify the effect of criminal proceedings on social-protection eligibility.** Relevant State authorities should issue coordinated guidance distinguishing an ERDR entry, victim or suspect status, pending proceedings and a legally established offence. Social-protection eligibility should be assessed under the rules of the specific mechanism rather than inferred from the existence of criminal proceedings.

¹⁴ Law of Ukraine "On Mine Action in Ukraine" No. 2642-VIII, Art. 10, <https://zakon.rada.gov.ua/laws/show/2642-19#Text>; United Nations, Convention on the Rights of the Child, Arts. 23 and 26, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

- **Clarify the two liability-related refusal grounds under Resolution No. 306.** The Ministry of Veterans Affairs of Ukraine and the Interagency Commission should distinguish paragraph 7(1), which requires assessment of the causal relationship between the injury and the person's own offence, from paragraph 7(3), which requires a final conviction for specified offence categories and an unspent or unexpunged criminal record. An allegation, ERDR entry or pending proceeding should not be treated as satisfying either ground.
- **Ensure reasoned decisions and clear review information.** Where an application under Resolution No. 306 is refused, the decision should identify the precise paragraph 7 ground, the evidence relied on and the available reconsideration or appeal route. This would support consistent application of the procedure and make legal assistance more effective.
- **Reduce evidentiary barriers.** Authorities should review whether EO-related injury can be established through a broader range of reliable evidence where standard documents are unavailable, particularly for incidents in occupied territories, areas where the Government of Ukraine recently regained control, or heavily affected areas. Applicants should not be asked to reproduce information already available to public authorities where lawful inter-agency exchange is possible.
- **Establish a clear referral pathway for EO victims.** A harmonised referral map should distinguish medical care, rehabilitation, disability assessment, PFU benefits under Resolution No. 1020, the procedure under Resolution No. 306, social services and legal assistance. Early legal referral is particularly important where the circumstances of the incident may expose the person to liability.
- **Apply separate safeguards for children and other EO victims.** The conduct of the person who brought, stored or handled EO should not be treated as an informal basis for limiting the rights of another injured person. Children and other EO victims should be assessed independently under the eligibility rules applicable to them.
- **Align practitioner guidance and public communication.** Organisations working in mine action, explosive ordnance risk education (EORE), health, social protection and legal aid should use consistent messages: report the incident, seek medical assistance, preserve available evidence and obtain legal advice where needed. Information materials should explain that possible liability may affect some status-based mechanisms but does not automatically exclude an EO victim from all support.
- **Monitor refusals, delays and possible under-reporting.** Relevant authorities, humanitarian organisations and legal-aid providers should collect anonymised information on refusal grounds, missing documents, procedural delays and cases in which fear of prosecution appears to discourage reporting. This evidence should inform any future legislative or procedural amendments.

This Legal Brief was produced under the project funded by Switzerland through the Swiss Agency for Development and Cooperation. Some of the terminology used in this Legal Brief was taken from draft laws or current legislation. The contents of this publication are the sole responsibility of the author(s). The views expressed herein should not be taken, in any way, to reflect the official opinion of Switzerland, the Swiss Agency for Development and Cooperation, or the Danish Refugee Council (DRC). Neither the Agency nor the DRC is responsible for any use that may be made of the information contained herein.