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DRC's Legal Analysis of Social Protection of Victims of Explosive Ordnance in Ukraine: Issue | December 2024

Glossary¹

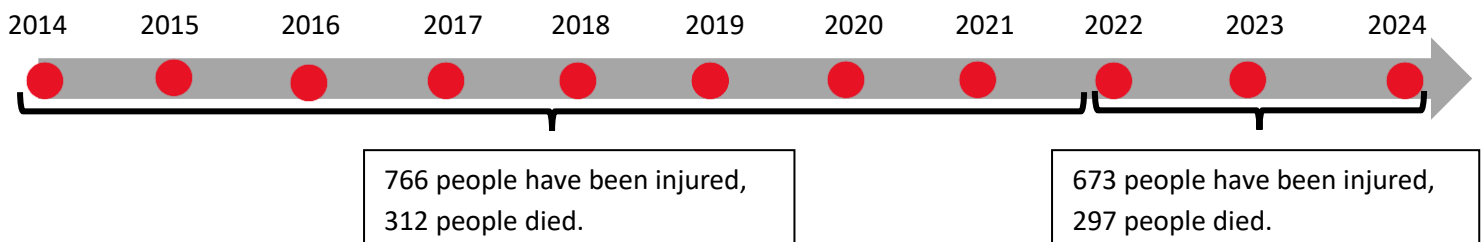
Explosive Ordnance (EO) — industrial and homemade explosive materials, ammunition containing explosives, as well as biological and chemical substances, including bombs and warheads; guided and ballistic missiles; artillery, mortar, rocket and small arms ammunition; all mines, torpedoes and depth charges; military and special purpose pyrotechnics; cluster bombs and cassettes; electrical explosive devices; improvised explosive devices and other items that are explosive in nature.

People affected by EO (victims of EO) — individuals or groups of individuals who have suffered physical and psychological injuries, financial losses or whose legal rights and interests have been violated by the use and/or presence of EO or by the actions or inaction of responsible persons, or family members of people killed by EO.

Overview of the situation in Ukraine

In addition to the contamination from the ongoing conflict, Ukraine also continues to be affected by unexploded ordnance remaining from the World War I and World War II. E.g. on 5 October 2024, in Volyn Oblast the State Emergency Service sappers detected and destroyed 96 pieces of World War II ammunition.²

Ukraine is severely contaminated by landmines and explosive remnants since the beginning of the war in 2014, and the contamination escalated following the full-scale invasion on 24 February 2022. According to the ICBL, landmines were found in 11 of Ukraine's 24 Oblasts, including Chernihiv, Dnipro, Donetsk, Kharkiv, Kherson, Kyiv, Luhansk, Mykolaiv, Odesa, Sumy and Zaporizhzhia.³



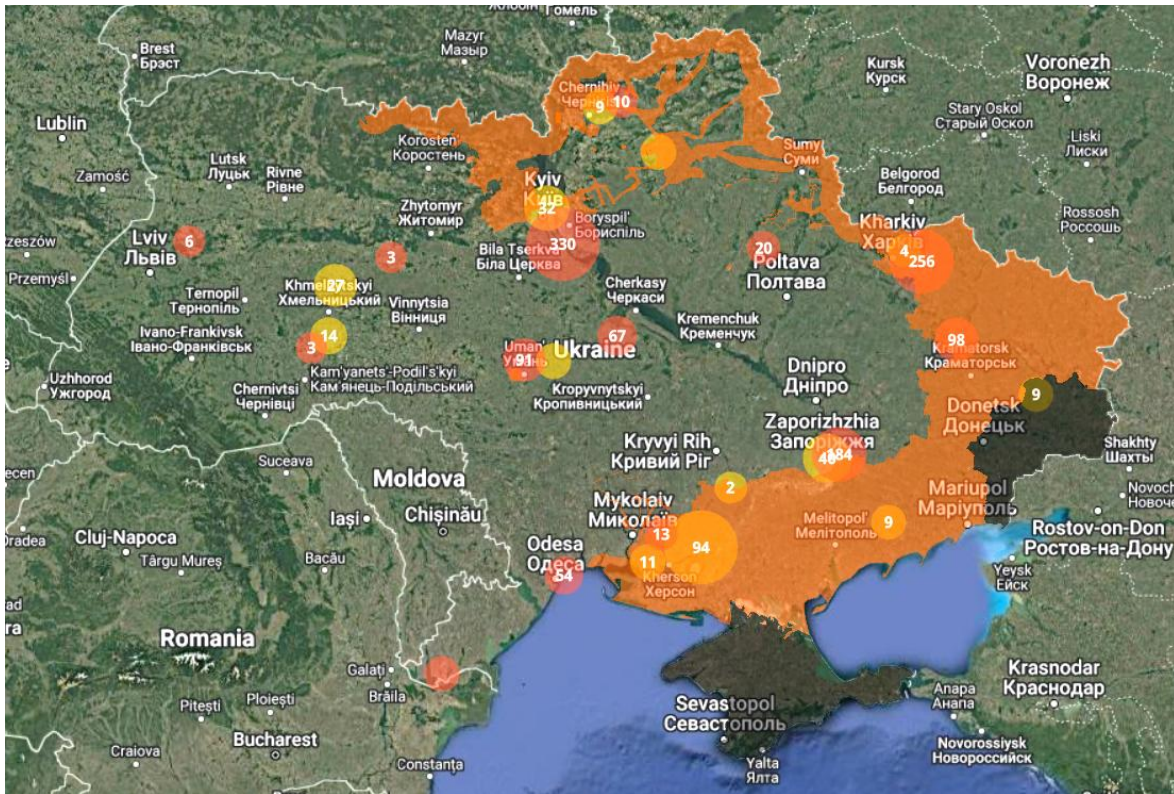
¹ Terminology is provided referring to the Law "On Mine Action in Ukraine", Link: <https://zakon.rada.gov.ua/laws/show/2642-19#Text>

² Facebook page of SES of Volyn Oblast, Link: https://www.facebook.com/dsnsVol/posts/971568961681944?ref=embed_post

³ International Campaign to Ban Landmines (ICBL), Report, 2023, Link: https://backend.icblcmc.org/assets/reports/Landmine-Monitors/LMM2023/Downloads/Landmine-Monitor-2023_web.pdf

To protect the population from the risks posed by mines in Ukraine, an interactive map of areas that could potentially be contaminated by explosive ordnance (EO) was created in 2023. This map shows the locations where EOs have been found or are likely to be found, and the degree of threat from them according to the information available to the State Emergency Service of Ukraine (SES) (the localisation error is up to 30 m).⁴

The territory of Ukraine, which is potentially contaminated with explosive ordnance due to full-scale invasion, currently amounts to 156,000 square kilometres, or about 25% of the total area of the state.⁵ Approximately **6.1 million** people live in these high-risk areas.



Relevant Legislation

1. Law of Ukraine ["On Mine Action in Ukraine"](#)
2. Decree of the Cabinet of Ministers №1020 of 29 September 2021, ["Some issues of the appointment and payment of one-time compensation and annual assistance provided by the Law of Ukraine 'On Mine Action in Ukraine.'"](#)
3. Decree of the Cabinet of Ministers №306 of 25 April 2018: ["Some issues of establishing the connection between disability and injuries or other health damage"](#)
4. Law of Ukraine ["On the status of war veterans and guarantees of their social protection"](#)
5. Law of Ukraine ["On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine"](#)
6. International Mine Action Standard [IMAS 13.10 "Victim Assistance"](#)

⁴ Information is provided by the State Emergency Service, Link: <https://mine.dsns.gov.ua/>

⁵ Information is provided by the State Emergency Service, Link: <https://dsns.gov.ua/news/ostanni-novini/rozminuvannia-ukrayini-potenciino-zabrudnena-ploshha-zmensilasja-do-156-tiskvkm>

Responsible Authorities

Budgetary allocations that are related to the protection of victims of EO are shared withing four ministries. Each of the four ministries is responsible for different spheres of the assistance to the victims of EO. Thus, Ministry of Economy is responsible for humanitarian demining of land, which is essential for ensuring safety of the population. The Ministry of Health is responsible for reforms in accessibility in the healthcare sector, among others, for the victims of EO. Both the Ministry of Social Protection and the Ministry of Veteran Affairs lead different programmes on social protection for victims of EO, including financial support to people with disabilities caused by EO and people with disabilities affected by the war respectively.

The Local Self Government Authorities also have vast possibilities of introducing social assistance for EO victims within their allocated budget. At the same time, establishment of social protection programmes on a local level depends on the decision of the local administration. While there are various types of financial assistance or services for people with disabilities, available at the hromada level, there are no specific programmes for the victims of EO, except for the one provided by the MoSP at the national level.

Social assistance to Victims of EO

Disability status⁶ is a centrepiece in access to assistance for victims of EO. There is no financial assistance envisaged for victims of EO, who were injured but have fully recovered. While medical rehabilitation assistance is provided free of charge, there are still some inevitable accompanying expenditures, for example, transport services, that can serve as a barrier to accessing service. That is why financial support for victims of EO during medical treatment and rehabilitation period should be improved.

In November 2024, the Government launched a systemic reform of social insurance. The social insurance reform is part of a comprehensive reform of the social protection system and medical and social expertise. It is aimed at replacement of the old, inefficient and bureaucratic system with a transparent, clear and fair one. As part of the social insurance reform, the Ministry of Social Policy will work to implement the following changes:

- Social support for a person will begin as soon as a multidisciplinary team in a hospital identifies a person's need for additional support (social, financial, workplace adaptation, etc.) instead of current procedure that opens access to different types of assistance only upon obtaining of official disability status.
- The rehabilitation period may be extended up to one year (before it could be up to 4 months). During this time, the state will provide the person with all the necessary support, including financial assistance.
- Upon the treatment and rehabilitation, an Occupational Evaluation will be carried out. Currently, the disability status is closely related to labour capacity. The reform in this sphere will consider disability status and the labour capacity separately.

⁶ There are 3 groups of disability for adults. Group I include people with the most severe health conditions who are incapable of self-care and require constant outside supervision, care or assistance. Group II includes people with persistent, severe functional disorders but with ability to take care of themselves. Group III includes people with persistent functional disorders but with ability to work, still being in need of social assistance and protection.

The reform is expected to further change current system of medical and social expertise, and is a subject to further analysis in the separate document⁷.

At the same time, rights and benefits, previously established by the legislation of Ukraine, cannot be cancelled without their equivalent replacement. Therefore, the current benefit level is analysed in this legal review.

Currently there are only two programmes of financial assistance that specifically established to support victims of explosive ordnance:

- A one-off compensation and an annual healthcare allowance for people and children with disabilities as a result of explosive ordnance;
- One-time compensation for people with disabilities as a result of war.

	Type	Eligible persons	Location where disability occurred	Necessary documents	Benefits
Assistance to people and children with disabilities caused by explosive ordnance	One-time	People and children with disabilities caused by explosive ordnance	GCA	Certificate of MSEC; Certificate from the Unified register of pre-trial investigations	Group I (and children with disabilities of group A) — UAH 11,805 Group II (and children with disabilities) — UAH 9,444 Group III — UAH 7,083
Healthcare allowance for people and children with disabilities caused by explosive ordnance	Annual	People and children with disabilities caused by explosive ordnance	GCA	Certificate of MSEC confirming group and cause of disability	Group I, II (and children with disabilities) — UAH 945 ⁸ Group III — UAH 827 ⁹
Assistance to people with disability as a result of war	One-time	People with disability as a result of war	Territory of measures necessary to ensure the defence of Ukraine, and protection of the population	Certificate of MSEC; Certificate from the Unified register of pre-trial investigations; Decision of the Interministerial Commission	Group I — UAH 1,211,200 Group II — UAH 908,400 Group III — UAH 757,000

In addition to financial assistance, there are different social services and privileges that individuals are entitled to due to their status, i.e.:

- Victims of explosive ordnance can receive free psychological and medical rehabilitation; priority access to preschool education for affected children, etc.

⁷ Decree of the President of Ukraine №732/2024 "On the Decision of the National Security and Defence Council of Ukraine dated 22 October 2024 "On Counteracting Corruption and Other Offences in the Course of Establishing Disability of State Officials", link: <https://www.president.gov.ua/documents/7322024-52569>

⁸ 40% of the Subsistence minimum for person who lost ability to work (UAH2,361 * 40%)

⁹ 35% of the Subsistence minimum for persons who lost ability to work (UAH 2,3651 * 35%)

- People with disabilities due to war can receive free prescription medicines; a 75% discount on housing and utilities services; free of charge travel by all types of public transport; annual medical examination and medical check-up; use of regular annual leave at a convenient time; priority provision of housing, etc.

There are also life-cycle social assistance programmes, to which people with disabilities are entitled regardless of the cause of disability (general decease, EO or war):

- State social assistance for people with disabilities since childhood or children with disabilities under the age of 18 (hereinafter referred to as state social assistance);
- Allowances for caring for people with disabilities since childhood or children with disabilities under the age of 18 (hereinafter referred to as the care allowance);
- State social assistance to persons not entitled to a pension and people with disabilities;
- State social assistance for care;
- Disability Pension.

Name of Programme	Prerequisites	Duration	Benefits
State social assistance to persons with disabilities since childhood or children with disabilities	Disability status	Appointed for the duration of the disability	Group I – UAH 2,361 ¹⁰ ; Group II – UAH 1,889 ¹¹ ; Group III – UAH 1,417 ¹² ; children with disabilities – UAH 1,653 ¹³ .
Allowances for caring for people with disabilities since childhood or children with disabilities	Disability from childhood or children with disability status	Appointed for the period of state social assistance to people with disabilities since childhood or children with disabilities	Group I (subgroup A) – UAH 4,722 ¹⁴ ; Group I (subgroup B) – UAH 2,361 ¹⁵ ; Group II or III, who needs constant third-party care – UAH 1,771 ¹⁶ ; children with disabilities under the age of 6, subgroup A – UAH 5,126 ¹⁷ ; children with disabilities under the age of 6 – UAH 1,282 ¹⁸ ; children with disabilities aged 6 to 18 years, subgroup A – UAH 6,392 ¹⁹ ; children with disabilities aged 6 to 18 years – UAH 1,598 ²⁰ .
Social assistance to persons not entitled to a pension and people with disabilities	Low-income; Age; Disability status	Appointed for the period of disability	Group I – UAH 2,361 ²¹ ; Group II – UAH 1,889 ²² ; Group III – UAH 1,417 ²³ ;

¹⁰ 100% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹¹ 80% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹² 60% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹³ 70% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹⁴ 200% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹⁵ 100% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹⁶ 75% of the Subsistence minimum for people who lost ability to work as of 1 January 2024.

¹⁷ 200% of the Subsistence Minimum for children under the age of 6.

¹⁸ 50% of the Subsistence Minimum for children under the age of 6.

¹⁹ 200% of the Subsistence Minimum for children aged 6 to 18 years.

²⁰ 50% of the Subsistence Minimum for children aged 6 to 18 years.

²¹ 100% of the Subsistence Minimum for people who lost ability to work as of 1 January 2024.

²² 80% of the Subsistence Minimum for people who lost ability to work as of 1 January 2024.

²³ 60% of the Subsistence Minimum for people who lost ability to work as of 1 January 2024.

<p>State social assistance for care</p>	<p>Low-income; Age; Disability status; Pension recipient</p>	<p>Appointed for the period of disability</p>	<p>Single low-income persons who need constant third-party care and receive an old-age or disability pension – UAH 355²⁴ low-income people with disabilities of group I who receive an old-age or disability pension: Subgroup A – UAH 709²⁵ Subgroup B - UAH 355²⁶ single persons who have reached the age of 80, need constant third-party care, and receive a pension – UAH 945²⁷</p>
<p>Disability Pension</p>	<p>Age; Working experience; Disability status</p>	<p>Life-time</p>	<p>The minimum amount of the pension: Group III – UAH 1,181²⁸; Group II – UAH 2,361²⁹; Group I – UAH 4,722³⁰.</p>

Additionally, victims of EO are also eligible to apply for different means tested social assistance programmes, such as Assistance to Low-income Families that is provided for families with income lower than relevant subsistence minimum, Housing and Utilities Subsidies that is provided for households whose income does not allow to pay the utilities services in-full. The one-time and annual assistances are not considered for the calculation of the average monthly income of the household, only monthly payments are taken into consideration.

Rehabilitation and Adaptation

The Government of Ukraine ensures free provision of auxiliary rehabilitation equipment (technical and other rehabilitation equipment) for people and children with disabilities as well as provision of monetary compensation of the cost of self-purchased rehabilitation equipment to individuals.

The rehabilitation equipment, as well as its technical maintenance is provided based on the relevant decision of Medical and Social Expert, of Medical Consultative Commissions. From January to October 2024, the state has provided about 10,000 people with prosthetic and orthopaedic devices, and they received almost 16,000 prosthetic devices³¹. More than UAH 4.5 billion has been allocated in the State Budget of Ukraine for 2024 to provide citizens with auxiliary rehabilitation equipment.

For people who received rehabilitation equipment free of charge at the expense of the local budget, charitable or humanitarian aid, the relevant equipment at the expense of the state budget is not provided until the end of its service life. But such a person, is entitled to receive services for warranty and post-warranty repair of rehabilitation equipment, provision of rehabilitation services during the service life of such equipment.

²⁴ 15% of the Subsistence Minimum for people who have lost their ability to work.

²⁵ 30% of the Subsistence Minimum for people who have lost their ability to work.

²⁶ 15% of the subsistence minimum for people who have lost their ability to work.

²⁷ 40% of the subsistence minimum for people who have lost their ability to work.

²⁸ 50% of the minimum old age pension.

²⁹ 100% of the minimum old age pension.

³⁰ 200% of the minimum old-age pension.

³¹ According to the data provided by the Ministry of Social Policy on press conference, Link:

<https://www.youtube.com/live/J8bVWJoiqEA>

Lead time to obtain prostheses

The production of individual rehabilitation equipment includes:

- Prostheses of upper and lower extremities, hinged orthoses for upper and lower extremities, spinal orthoses, corsets and orthopaedic footwear - up to 20 working days;
- Prosthetic and orthopaedic products - up to 10 working days;
- Prostheses and orthoses during primary prosthetics and orthotics, as well as prostheses and orthoses with increased functionality - up to 35 working days.

The production period of individual rehabilitation equipment is calculated from the date of conclusion of the contract between the Fund and the legal entity and includes the time of direct manufacture, excluding the time required for fitting and the time during which the person did not appear for fitting.

NB: there is no priority envisaged for the victims of EO.

Maintenance of prostheses

A EO victim who grows, including losing or gaining weight, (especially children while growing) will require further maintenance of prostheses. One of the most typical requirements is a regulation of the size of the prosthetic socket. Such maintenance is fully covered at the expense of the state budget.

In October 2024, the Cabinet has additionally facilitated the procedure of such maintenance. According to the simplified procedure, if the cost of replacing the prosthetic socket does not exceed 15% of the maximum cost of the prosthesis³², such replacement is carried out based on a decision of the enterprise that provides replacement³³. No additional documents from the medical and social expert commission (MSEC) or the military medical commission (MMC) are required. The adopted amendments will significantly speed up the process of obtaining a new prosthetic socket.

Annual healthcare allowance

As analysed above, people and children with disabilities caused by explosive ordnance are entitled to annual healthcare allowance: for people with disabilities of group I or II, children with disabilities — 40% of the subsistence minimum for people who lost ability to work, and for people with disabilities of group III — 35% of the subsistence minimum for people who lost ability to work.

Provision of health resort vouchers³⁴ is an alternative that is guaranteed by state or local budget for some categories of people, including people with disabilities and people with disabilities as a result of war. The healthcare allowance is paid only if person has not received a free health resort voucher or monetary compensation instead of a health resort voucher from the state or local budgets during the current year:

³² The maximum cost of the prosthesis is set by the Ministry of Social Policy.

³³ Currently, there are 103 enterprises operating in different regions of Ukraine that provide rehabilitation aids and repair services at the expense of the state budget, link: <https://www.msp.gov.ua/news/23352.html>

³⁴ Decree of the Cabinet of Ministers №187 of 22 February 2006, link: <https://zakon.rada.gov.ua/laws/show/187-2006-%D0%BF#n11>

- People with disabilities (disregarding to the cause of disability) are provided with vouchers for 18-21 calendar days on a first-come, first-served basis. The vouchers are financed from the State budget.
- People with disabilities as a result of war are provided with vouchers for a period of 18-21 calendar days on a priority basis. The vouchers are financed from local budget.

The Ministry of Social Policy is responsible for setting an annual maximum cost of a voucher (both total amount and per day) that can be provided for different categories of persons:

Data for 2023 ³⁵	Total amount	Amount calculated per day
People with disabilities resulting from injuries and diseases of the spine and spinal cord	UAH 34,755	UAH 993
People with disabilities of other categories	UAH 11,484	UAH 638
Citizens accompanying persons with disabilities of group I	UAH 9,612	UAH 534

NB: If person is entitled to both healthcare allowance and health resort vouchers (or respective compensation), only one type of rehabilitation assistance is granted at the choice of entitled person.

Provision of social services

Current legislation states that recipients of social services are individuals/families belonging to vulnerable groups and/or being in difficult life circumstances. According to this definition, victims of EO do not have immediate access to any social services, unless they have additional vulnerability, e.g. low-income, disability, etc. People with disabilities as a result of EO have access to social services under general terms.

On 30 October 2024 the United Nations Development Programme (UNDP) in Ukraine initiated the development of a National Action Plan to assist victims of EO. The task of the working group is to develop and implement a sustainable and effective plan to address the needs of survivors, including medical and psychological care, as well as socio-economic rehabilitation.

Currently, there is a possibility to access psychosocial support within the framework of social services provision. But it is necessary to ensure the provision of ongoing counselling and psychological support for victims of EO on a needs basis and as part of the overall rehabilitation for each victim. It is especially important for children-victims of EO, who should be regularly reviewed throughout the course of recovery, and their families.

Labour relations

The Government supports labour reintegration of people with disabilities through different state support programmes. One of such programmes is aimed at encouraging of legal entities to higher people with disabilities by provision of monetary compensation for the cost incurred in ensuring the workplace is accessible for employed people with disabilities.

³⁵ Information for 2024 and 2025 is not available.

Compensation is paid for costs actually incurred and does not exceed:

- For people with disabilities of group I – 15 times the minimum salary³⁶;
- For people with disabilities of group II – 10 times the minimum salary.

Another mechanism aimed at employment for people with disabilities is the quota in the amount of 4% of the average number of full-time employees on the payroll for the year, and 1 position if there are 8 to 25 employees. If quotas aren't met, the fine is the average annual salary per unfilled position for people with disabilities (reduced by half if the enterprise has less than 25 employees).

Status of a Child Affected as a Result of Military and Armed Conflict

Children, as well as individuals who, at the time of hostilities or armed conflicts, have not reached the age of 18, and as a result have been injured, contused, or mutilated, are eligible for the status of a child affected by hostilities and armed conflicts.

Current legislation in this sphere still requires further development and clarifications. There are six criteria for receiving the status. Some of the criteria (e.g. psychological trauma) are better explained than others (e.g. injury). This may create additional access barriers in obtaining the status for children who have suffered during the conflict, including from EO accidents.

At the moment, the legislation does not provide any benefits or assistance for children affected by hostilities and armed conflicts. There is a possibility for Local Self-government to introduce benefits at the local level, but it is the responsibility of each territorial hromada. The establishment of social benefits for children affected as a result of military and armed conflict could become a subject of further advocacy initiative on both national and subnational levels.

Assistance to families of deceased Victims of EO

Current legislation in Ukraine does not envisage any financial compensation for the death of persons or children as a result of an EO accident.

The only social support programme envisages possibility to apply for burial allowance. The burial allowance is provided in case of death:

- of a pensioner, in the amount of two monthly pensions of the deceased person;
- of a person with disability, who was a recipient of assistance to persons not entitled to a pension, in the amount of two monthly social benefits, established on the day of the recipient's death.

³⁶ Minimum salary is UAH 8,000 as of 1 January 2024

Recommendations

Further develop effective social protection programmes on the local level, considering needs-assessment of persons in separate hromadas. It is especially important to ensure that victims of EO who do not have disability status have access to social services. For this purpose it is necessary to differentiate the status of victims of EO from disability status.

Advocate for the provision of financial support that aims at covering the transport services of victims of EO who are required to make repeated, long-distance travel for the purposes of treatment.

Consider further developing a government strategy on psychological and psychosocial support for victims of EO with regard to the National Mine Action Strategy for the period up to 2033. Introduce obligatory assessment of psychosocial state and subsequent psychological support for minor victims of EO on a need's basis and as part of the overall rehabilitation for each minor victim and their families.

Develop a simplified procedure for obtaining the "Status of a Child Affected as a Result of Military and Armed Conflict" with regard to physical injuries (Decree of the Cabinet №268 of 5 April 2017).

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