

застосовується під час збройних конфліктів, проте де-факто наявні значні порушення, зокрема в частині декларативності міжнародних зобов'язань та нівелюванні впливу міжнародних організацій на сторону конфлікту, яка має військовополонених, що обумовлено застарілістю норм МГП в частині відсутності дієвих механізмів протидії такому явищу, як порушення прав військовополонених.

Крім цього було проаналізовано практику застосування правових норм у сфері поводження з військовополоненими, де питання про їх статус стало реальністю через запровадження стану війни на території України, зростаючу кількість військовополонених з обох сторін, відсутність реальних механізмів гарантування належного поводження, слабкість міжнародних організацій у цій сфері, пропагуванні неправдивих відомостей про умови їх тримання на широкий загал, глобалізації та змінам в суспільному житті в усіх сферах, що стало передумовами ситуації, яка склалася із законодавством щодо забезпечення прав та свобод учасників воєнних дій, прийнятим після Другої світової війни, і, відповідно, яке потребує оновлення згідно з сучасними викликами та наявними проблемами.

Досліджено основні принципи МГП щодо поводження з військовополоненими та наголошено на важливості повної імплементації цих принципів для ефективного дотримання сторонами конфлікту певних норм і стандартів, оскільки вбачається, що станом на початок 2024 року Україною дотримано положення Третьої Женевської конвенції, щодо захисту військовополонених та продемонстровано готовність і спроможність виконувати свої зобов'язання. Водночас РФ не виявила готовності або ініціативи вжити аналогічних заходів, що ставить під сумнів її прихильність до міжнародних стандартів, що несе негативний вплив на міжнародну безпеку і правопорядок.

**Ключові слова:** *принципи міжнародного гуманітарного права, військовополонені, правовий статус військовополонених, поводження з військовополоненими.*

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## JUVENILE POLICE MEDIATOR AS A WAY TO PREVENT BULLYING IN SCHOOL EDUCATIONAL INSTITUTIONS

**Abstract.** The article is devoted to solving the problem of bullying prevention in schools through the use of juvenile police mediation. It has been found that in the conditions of war, children are subjected to psychological pressure and stress, psychological stress as a result of direct experience or observation of war events, shooting, bombing, destruction of their homes, change of residence, etc. All this complicates the standard mechanisms of prevention and

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regulation of bullying in schools and contributes to the increase of cases of bullying.

It is also determined that bullying in an educational institution leads to significant social and psychological consequences for all parties to this process: the offender (bully), the victim (victim), observers. Problems were identified, according to which there is currently no mechanism for overcoming the negative consequences that the participants (offender and victim) receive as a result of bullying.

It has been established that the victim, as well as the perpetrator, witnessing bullying can have a negative impact on mental and emotional health, causing stress, anxiety and even leading to serious consequences such as depression or suicidal thoughts. The consequences of bullying can go far beyond the boundaries of the educational institution and affect the immediate environment of the child, his future life.

The implementation of such a tool as mediation in the activities of juvenile police officers is proposed, the main idea of which is to give the participants of the conflict an opportunity to meet and try to find a compromise, resolve the situation and settle the conflict through dialogue and cooperation, after solving the offense in the legal field.

It was determined that the police mediator can also be an active link in creating a system of encouraging compliance with the rules and creating positive mechanisms for controlling the situation at school, aimed at preventing conflicts.

**Keywords:** *mediation, juvenile prevention, police mediator, bullying, prevention.*

**Introduction.** Since the beginning of the full-scale invasion, the life of Ukrainian society has changed dramatically forever. These changes were caused by the consequences of the war: the occupation of territories, the commission of atrocities against children and women, shelling of civilians, forced deportation of children, filtration measures, recruitment of minors to participate in the armed conflict, and forced displacement of the population. The state and legal institutions are faced with the urgent issue of ensuring the safety of citizens, as well as vulnerable and unprotected groups. At the same time, it would seem that issues that are not directly related to the basic needs of society and the state are "out of time". However, over time, any activity resumes and requires regulation, control, and development.

Today, one of these pressing issues is the issue of bullying in the educational environment, as well as ways to overcome and prevent it.

Today, bullying in the educational environment is an extremely complex problem. According to statistics from a UNICEF study, 67 % of children in Ukraine aged 11 to 17 have experienced bullying, of whom 24 % are victims of harassment (<https://www.unicef.org/>).

In the context of war, children experience psychological pressure and stress as a result of direct experience or observation of military events, shooting, bombing, destruction of their homes, change of residence, etc. All of this complicates standard mechanisms for preventing and addressing bullying in schools and contributes to the increase in bullying. Children who have experienced stressful situations and are forced to be in new groups during their studies may choose negative methods of interaction with others, including bullying.

Experts note that preventing and combating bullying is both a legal and psychological "problem". Stopping bullying and preventing other cases of it requires the involvement of all experts and specialists: police officers, teachers, psychologists, and mediators. After all, the main task in the case of bullying is, first of all, to stop it and prevent it from happening again. Police mediation is one of the possible ways to prevent juvenile delinquency. This approach involves the use of mediation methods to resolve conflicts and violations that arise in the children's environment, contributing to the improvement of relations between

law enforcement agencies and children, as well as helping to reduce the risk of children becoming involved in future offenses.

A constructive solution to addressing bullying is possible with the help of such a tool as mediation, which will be the subject of this study.

**Analysis of recent research and publications.** The following scholars have devoted their works to the issues of administrative liability for committing bullying, prevention and counteraction to bullying: O. Dzhafarova, O. Bezpalo, I. Drok, Y. Levchenko, T. Lezhneva, B. Logvinenko, O. Melnychuk, R. Opatskyi, N. Opolska, S. Chernopyatov, K. Pisotska, R. Karpenko, O. Kolomoyets, R. Myroniuk, T. Minka, V. Kononets, and others.

They have made a significant contribution to the study and research of the theoretical foundations of administrative liability for bullying, legal regulation, interpretation, etc. At the same time, the issue of juvenile police officers implementing such measures as mediation to prevent bullying in school is not currently the subject of research by scholars.

**The purpose of the article** is to clarify the issues of bullying prevention in school educational institutions and to determine the advantages and disadvantages of juvenile police officers' use of mediation with participants of bullying.

**Formulation of the main material.** The concept of bullying is defined by the legislator in the Law of Ukraine "On Education" and Article 173-4 of the Code of Ukraine on Administrative Offenses. Thus, bullying (harassment) is an act (action or inaction) of participants in the educational process that consists of psychological, physical, economic, sexual violence, including the use of electronic communications, committed against a minor or underage person and (or) by such a person against other participants in the educational process, as a result of which harm could be or has been caused to the mental or physical health of the victim.

Today, one of the basic legal documents on the prevention and counteraction to bullying is the Order of the Ministry of Education and Science of Ukraine of 28.12.2019 No. 1646 "Some issues of responding to cases of bullying (harassment) and the application of educational measures in educational institutions", which defines the mechanism for responding to cases of bullying (harassment) and the procedure for applying educational measures in educational institutions.

This order also defines the range of responders in case of bullying (harassment) in educational institutions: the educational ombudsman service; children's services; centers of social services for families, children and youth; local governments; heads and other employees of educational institutions; the founder(s) of educational institutions or their authorized body; territorial bodies (units) of the National Police of Ukraine. However, despite the existence of so many actors, the issue of bullying and its prevention remains a frequent problem in school society today (Opatsky et al., 2023).

The characteristic features of bullying (bullying, not conflict) are that it never stops on its own – it requires the intervention of outsiders, protection and assistance to the victim, offender and witnesses. It should be remembered that bullying differs from a quarrel or conflict between children in several ways:

- systematic (repetitive) nature of the act (action or inaction)
- intentional actions (malice);

- power imbalance between the offender and the victim;
- lack of remorse on the part of the offender (Denysiuk & Sukhareva, 2022).

According to scholars and experts in this area, if bullying has been committed, then, firstly, we must stop it and prevent its recurrence, and secondly, we must overcome the negative consequences that the participant in the process (the offender and the victim) received as a result of the bullying. For example, it can have a negative impact on mental and emotional health, causing stress, anxiety, and even lead to serious consequences such as depression or suicidal thoughts.

Bullying (harassment) in an educational institution leads to significant social and psychological consequences for all parties to this process: the offender (bully), the victim (victim), and observers. The consequences of bullying can go far beyond the educational institution and affect the child's immediate environment and future life.

The problem in this situation is that the issues of stopping bullying and preventing it are defined in the legal field (for example, drawing up a protocol under Article 173-4 of the Code of Administrative Offenses, registration for preventive monitoring, etc.) At the same time, the consequences that children face after the offense has been committed (by both parties) are «borne» by children and their parents. After all, the offender and the victim continue to study in the same class, school, and possibly even live nearby, and of course experience psychological discomfort (<https://zakon.rada.gov.ua/laws/show/2657-19#Text>, <https://zakon.rada.gov.ua/laws/show/z0112-20#n4>). That is why it is necessary to introduce mediation into the work of juvenile police officers.

According to the Law of Ukraine "On Mediation", mediation is an out-of-court voluntary, confidential, structured procedure in which the parties, with the help of a mediator (mediators), try to prevent or resolve a conflict (dispute) through negotiations (<https://zakon.rada.gov.ua/laws/show/1875-20#Text>).

The main idea of police mediation is to enable the parties to the conflict – which can be both children and law enforcement agencies – to meet and try to find a compromise, resolve the situation and analyze the conflict situation so that the parties concerned can independently choose a solution that would satisfy the interests and needs of all parties to the conflict.

Police participation in such events can greatly facilitate addressing the consequences of bullying, improve the psychological climate in the school or classroom, and help build trust in law enforcement in the eyes of the participants in the educational process.

International legislation and standards regulate mediation. For example, Recommendation CM/Rec(2018)8 of the Committee of Ministers to Member States on restorative justice, adopted by the Committee of Ministers of the Council of Europe on October 3, 2018, defines "restorative justice" as any process that allows persons who have suffered harm from a crime and persons responsible for that harm, if they voluntarily agree, to actively participate in resolving issues arising from the offense with the help of an impartial third party with special training (<https://zakon.rada.gov.ua/laws/show/80732-10#Text>, <http://ipc.org.ua/upload/>).

**Conclusions.** Thus, a police mediator in schools can play an important role in preventing and addressing bullying. A police mediator, acting as a mediator

and facilitator, can help in the following ways:

- prevention of bullying (a police mediator can conduct awareness-raising activities among students and teachers, telling them about the harmful effects of bullying and ways to prevent conflict situations);
- conflict resolution (as an intermediary, a police mediator can help resolve conflicts between students through interviews and finding compromise solutions);
- promoting a safe environment (a police mediator can help create an atmosphere of trust and mutual respect at school, where children feel safe and can seek help in case of bullying);
- interaction with law enforcement agencies (a police mediator has the opportunity to build school-to-school communication with the police, which helps to increase trust and facilitates better cooperation in addressing serious cases of bullying and harassment);
- development of emotional skills (a police mediator can provide children with tools for conflict resolution, teaching them emotional literacy, the ability to control their own emotions and respond to situations constructively);
- prevention of delinquency, as mediation allows for early resolution of conflict situations, providing an opportunity to change behavior and avoid further offenses. It helps prevent conflicts and teaches children to resolve disputes peacefully;
- development of cooperation and dialogue skills, as mediation promotes the development of cooperation and dialogue skills among participants, which are important for both children and law enforcement agencies. It teaches important skills of constructive communication and conflict resolution, which can be useful even in later life.

Thus, police mediation is an important tool in the prevention of juvenile crime and delinquency, as it promotes peaceful conflict resolution, fosters mutual understanding between participants, increases children's education and skills, and helps build trust between law enforcement and children. This study gives grounds to assert the need to develop the institution of mediation in the National Police at the level of juvenile prevention in our country.

*Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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**Роман ОПАЦЬКИЙ**

### **ЮВЕНАЛЬНИЙ ПОЛІЦЕЙСЬКИЙ-МЕДІАТОР ЯК СПОСІБ ПРОФІЛАКТИКИ БУЛІНГУ В ШКІЛЬНИХ ЗАКЛАДАХ ОСВІТИ**

*Анотація.* Статтю присвячено вирішенню проблематики профілактики булінгу в шкільних закладах освіти шляхом застосування ювенальними поліцейськими медіації. З'ясовано, що в умовах війни діти зазнають психологічний тиск та стрес, психологічне напруження внаслідок безпосереднього досвіду чи спостереження воєнних подій, стрільби, бомбардувань, руйнування своїх домівок чи зміни місця проживання. Все це ускладнює стандартні механізми профілактики та врегулювання булінгу в школах та сприяє посиленню його випадків. Також визначено, що булінг (цькування) в закладі освіти призводить до значних соціальних і психологічних наслідків для всіх сторін цього процесу: кривдника (булера), потерпілого (жертви), спостерігачів.

Виявлено проблеми, згідно з якими на сьогодні відсутній механізм подолання негативних наслідків, які отримують учасники (кривдник та потерпіла особа) внаслідок вчинення булінгу. Установлено, що потерпіла особа, а також кривдник, свідки вже вчиненого булінгу можуть в подальшому отримувати негативний вплив на психічне та емоційне здоров'я – стрес, тривогу, депресія чи суїцидальні думки. Наслідки булінгу можуть виходити далеко за межі закладу освіти та впливати на найближче оточення дитини та на її майбутнє життя.

Запропоновано впровадження в діяльність ювенальних поліцейських такого інструменту як медіації, основна ідея якої полягає в тому, щоб дати можливість учасникам конфлікту зустрітися та спробувати знайти компроміс, вирішити ситуацію та врегулювати конфлікт шляхом діалогу та співпраці, проте після вирішення правопорушення в правовому полі. Визначено, що поліцейський-медіатор також може бути активною ланкою у створенні системи заохочення дотримання правил та створення позитивних механізмів контролю за ситуацією в школі, спрямованих на попередження конфліктів

*Ключові слова:* медіація, ювенальна превенція, поліцейський-медіатор, булінг, профілактика.

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