

UNIVERSAL PERIODIC REVIEW – HUMAN RIGHTS COUNCIL
UNICEF INPUTS – UKRAINE

1. Trends

1. Ukraine became an independent country in 1991 after having been part of the former Soviet Union. The population of the country has been declining from over 52 million in 1992 to 46.4 million as of 1 Nov. 2007, and the negative population growth continues due to low birth rates and a higher mortality rate among youth and adults. Life expectancy at birth has declined from 75 years for women and 66 for men in 1989 to 74 years for women and 62.4 years for men in 2005/06. Extensive migration is also considered to play a role in the waning population size.
2. The first years after independence were characterised by economic decline as the country turned from a centrally planned economy to a market driven one for which there was no institutional capacity. At the same time the country had to recover from the devastating consequences of the 1986 Chernobyl nuclear accident.
3. During the later part of the 1990's Ukraine experienced a breakthrough in economic growth and most trends are positive in this regard with a real GDP growth of 7.1 per cent in 2006. However, in 2006 Ukraine's current account moved into deficit with imports growing at twice the rate of exports and inflation rose to 14.4 per cent as local governments introduced higher tariffs for communal services and heating. The government forecasts a 14 per cent inflation rate in 2008.
4. With regards to Millennium Development Goals (MDGs), all of them, except the eighth – to develop a global partnership for development - have been adopted by Ukraine with specific targets and are monitored to assess the country's development up to 2015. Poverty reduction, MDG No.1, is still an issue specifically affecting the welfare and well-being of the children in the country.
5. Ukraine has the most severe AIDS epidemic in Europe and Central Asia with an estimated adult prevalence of 1.46 percent. Twenty-five per cent of people living with HIV are under the age of 20 and of the newly registered HIV cases in 2007 close to 60 percent were below the age of 30. The epidemic is still concentrated among so called 'risk groups' mainly injecting drug users (IDUs), but the recent growth of heterosexual transmission raises considerable concern about the potential for the epidemic to "bridge" into the general population.
6. Ukraine has committed to aim for universal access to HIV prevention, treatment and care by the year 2010 and to achieve the MDG to halt and begin to reverse the spread of HIV and AIDS in the country by 2015. Yet, the coverage of programmes and their effectiveness is not sufficiently high to make a real impact on the epidemic. Despite significant increases in state and international funding for HIV/AIDS, there is a substantial funding gap to mount an effective AIDS response while at the same time funds remain unutilised due to low absorption capacity. A 2005 World Bank report estimates that Ukraine is likely to meet all the MDGs except that related to HIV/AIDS.

7. Ukraine has managed to achieve some progress in poverty reduction during the last decade manifested by a decrease in the percentage of the population living below the poverty line from 27.8 percent in 1999 to 27.1 percent in 2005 (if the national relative poverty line is applied) and from 70.6 percent in 2000 to 38.2 percent in 2005 (if the absolute subsistence minimum poverty line is applied). This reduction may be considered as modest in the context of the average annual economic growth of 8.2 percent during the period 2002–2006.
8. Poverty in Ukraine tends to concentrate in families with children. In 2005, households without children had a poverty level of 22 percent (if the national relative poverty line is applied) and 33 percent (if the absolute subsistence minimum poverty line is applied), households with several children – 37.6 percent and 49.9 percent respectively. There is also strong correlation between the number of children in a household and poverty level. In 2004 the poverty level of childless families was 18 percent, families with one child 26.5 percent, and 85.5 percent in families with four or more children.
9. The poverty data referenced above were derived based on measuring mostly income dimensions of poverty. If non-income aspects (access to quality healthcare, education, housing, social relations of a child, etc.) were taken into account and a quality of life approach were employed, the number of children living below the poverty line as well as the number of vulnerable families with children would be much higher.

2. Recent developments in relation to child rights

1. Ukraine has one of the lowest infant mortality rates (9.8 in 2006) and under-five mortality rates (12.4 in 2006) in the CEE/CIS region, but due to the acceptance of the WHO live birth definition in 2006, the infant mortality rate is expected to increase with some 30 per cent.
2. Despite some progress made in improving the situation for children many challenges remain such as child poverty, unequal access to quality health care and education, insufficient protection of the most vulnerable children in particular children in institutions and children with disabilities and the increasing number of HIV-positive children.
3. While the primary school enrolment rate is close to 100 per cent without any gender disparity, today, only 21 per cent of children in rural areas have access to pre-school education services. At the same time, the majority of parents are not knowledgeable about the basics of young child rearing. In a UNICEF supported Knowledge Attitude Practice survey, 93 per cent of parents of young children expressed a need for training on young children’s care and development. Currently, only some 6 per cent of parents have access to parenting education programmes.
4. Between the years 1995 and 2005 the ratio of children deprived of parental care increased from 0.4 per cent to 1.1 per cent of the total child population. The number of children placed in state care institutions increased between 1995 and 2005 from 35,200 to 65,000. Most of these “orphaned” children are social orphans deprived of parental care and they grow up in two or three different institutions during their childhood depending on their age and health status.
5. The two past years were marked by some important policy initiatives affecting children deprived of parental care. The Presidential Decree ‘On urgent measures to protect child

- rights' of July 2005, emphasised the importance of development of child 'homes of family type' and foster families. In order to make progress in this direction for the first time the 2006 State Budget had approximately USD 10 million in subvention to local budgets. A Presidential Decree in Dec. 2007 (#1205/2007) declared that 2008 will be the Year of Support for National Adoption and Other Forms of Family Education of Orphaned Children and Children Deprived of Parental Care.
6. The social misery caused by the economic decline in the 1990's combined with unemployment and increasing disparities in the society has lead to disillusionment among many young people and an increasing misuse of alcohol and drugs among youth.
 7. According to the State Department of Penal Implementation, the number of juveniles imprisoned for delinquent behaviour is steady growing. In 1992, 11,629 adolescents (14-18 years old) were convicted for committing crimes, of which 2,851 were imprisoned. While in 2004, the number was 21,806, of which 4,384 were imprisoned, i.e. a doubling over just 12 years. Since 2002 many juvenile offenders have been receiving sentences as high as 10 to 15 years – a relatively new and alarming phenomenon with little or no previous precedent.
 8. Ukraine has no separate judicial system to address the particular needs of children and youth. To compound the problem, the administration of juvenile justice is distributed loosely between different administrative and judicial bodies with no effective coordination. Juvenile detention centres are rife with human rights violations, including denying adolescents their rights such as to medical care, education, and access to facilities fostering individual development.
 9. There is a consensus of opinion (voiced *inter alia* by the UN Committee on the Rights of the Child) that there are significant gaps in Ukrainian legislation in relation to juvenile justice, especially concerning the monitoring and implementation of the relevant legal provisions. Unfortunately, in spite of these legal provisions, special courts for minors have not been set up, nor are there any judges specialising in such cases. The number of lawyers, social workers, civil activists and officials practicing in the area of juvenile justice is also very limited.
 10. A positive shift towards the implementation of international standards on juvenile justice was marked by the adoption by the Supreme Court of two Decrees (2004): '*Court Use of Legislation on Liability for Involvement of Minors in Crimes and other Anti-Social Activities*' and '*Court Use of Legislation in Cases Concerning the Crimes of Minors*'. They provide for an increase of criminal liability for those who involve minors in criminal activity; ensure different approaches to juveniles and adults in court proceedings; stress the necessity of paying more attention to the socio-psychological determinants of a crime; and make more prominent the role of restorative justice in contrast to punitive measures.
 11. Concerning the issue of domestic violence and its adverse effect on children, the two Government orders (No 5/34/24/11 of 16.01.2004 "On Approval of the order of Appeal Concerning Cruel Treatment of Children ...") and (No 3/235 of 09.03.2004: "On approval of guidelines on the Order of Joint Action of Departments of the Relevant Ministries...on Prevention of Domestic Violence") were of special importance, enabling the enforcement procedures following cruel treatment of children. However, it should be noted that the documents do not make difference between cruel treatment and violence

though the first is broader in scope. Moreover, only crimes against children under 14 years are considered as aggravating conditions for sentencing (Article 67 of the Criminal Code of Ukraine: Circumstances aggravating punishment, paragraph 6a), which leaves out crimes against a child between 14 and 18 years as non aggravating the punishment.

12. Each year more and more women are infected with HIV: according to official data currently 42 percent of infected people are women and as many as 60 percent of them are under 25 years old. Consequently, the number of HIV-positive children is increasing, despite the progress made in the reduction of the mother-to-child HIV transmission rate to 7 percent in 2006. The main challenge in the fight against HIV/AIDS in Ukraine is how to deal with societal taboos regarding the most at risk groups, to make effective use of all existing resources and to mobilise additional resources in order to implement large-scale interventions, in particular among most vulnerable and “bridge” populations. Stigma and discrimination towards HIV infected children continues, specifically noteworthy are the violations of the rights of HIV infected orphans in state institutions.
13. By the end of July 2007, nearly a third of all HIV-infected children with established status (482) were in state care. State care for orphans is organised by different Ministries and HIV-positive children as well as other “orphans” move from one institution to another depending on their age, without any consistency in provision of services. There is a high prevalence of psychological and developmental problems among HIV-infected children in orphanages and very limited access to schooling. No long term view has been taken with regard to HIV-infected orphans as they grow up and have to leave the orphanages. Although there are no legal barriers to the adoption of HIV-infected orphans, to date few have been adopted.
14. The *UN Committee on the Rights of the Child (CRC)* stated in its concluding observations to the second periodic report of Ukraine (CRC/C/15/Add.191, 9 October 2002), that the legislation of Ukraine on the Convention “has been considered to be of a declaratory nature and thus has not been fully implemented” and recommended that “the State party review, amend and renew, where necessary, the legislation in order to ensure full compliance with the rights contained in the Convention and strengthen the mechanisms for the implementation of all legislation relevant to the Convention.” The EU Action Plan for Ukraine urges the Implement of the Recommendations of the UN Committee.
15. The need for the development of an effective institutional framework for monitoring and enforcement of children’s rights in Ukraine has been identified, as well as for the implementation of policies, since good policy initiatives often do not receive sufficient funding for their implementation and government capacity (in particular human resources, management and financial capacities) to implement them is weak or non-existent.

3. Summary of UNICEF capacity building and technical assistance programmes

1. UNICEF’s 2006-2010 Country Programme (CP) is divided into four programme areas: 1) Child Health and Development; 2) HIV/AIDS, Children and Youth; 3) Child Protection; and 4) Advocacy, Information and Social Policy. The CP seeks to achieve the following key results: a) the development and adoption of policies, standards and norms that are supportive of children’s rights; b) 90 per cent of young people will know how to protect themselves from HIV/AIDS; c) the rate of mother-to-child transmission of HIV will be

- reduced to below 5 per cent; d) all HIV-positive children are to have access to antiretroviral therapy; e) systems will be in place to reduce violence and abuse of children; f) a preventive and reintegration-oriented juvenile justice system will be in place; g) the majority of children will be born in “baby-friendly” facilities; h) most parents of young children will have increased knowledge of child development; and i) iodine deficiency disorders will be eliminated.
2. UNICEF supports the government in the development of *legislation and public policies*, including development of a draft law on the State Programme ‘National Plan of Action (NPA) on Implementation of the UN Convention on the Rights of the Child’ until 2016, national legislation on universal salt iodisation, and development of a comprehensive National Programme ‘Healthy Child’ for years 2009-2013 based on the WHO European strategy for child and adolescent health and development.
 3. The NPA for Children is the first strategic document regarding a State policy on children in Ukraine and if adopted by Parliament will become a comprehensive legal instrument for the enforcement of child rights. The draft law has passed in two readings in the Parliament, but the President did not sign it due to the dissolution of the Parliament in May 2007. The document has to be considered by the newly elected Parliament again and then resubmitted for the President’s signature to make it a law.
 4. UNICEF has supported the development and adoption of national legislation on universal salt iodisation (USI) since 1997. The draft law on USI was rejected in May 2007. Instead, a national program for IDD prevention 2008-2012 is under development, but this is not sufficient to assure high coverage of iodised salt countrywide, which is a precondition for sustainable elimination of iodine deficiency, why UNICEF continues to support the adoption of a law on USI.
 5. UNICEF has also supported the Government to pursue a new focus on the most-at-risk adolescents (MARA) and HIV, thereby covering a major gap in the national HIV prevention response. Analysis of relevant policies and legislation and recommendations on amendments to the laws and regulations required for the development of a favourable policy and legal framework for services for MARA were produced in 2007. This work has laid the foundation for reducing access barriers to services for MARA, but for sustained results it is crucial to ensure ongoing involvement and ownership by different key actors, including the Government and civil society.
 6. UNICEF Ukraine is increasingly using a child-centred rights-based approach and technical assistance has been provided both to rights-holders (Civil Society Organisations acting on their behalf) and duty-bearers (government agencies) to enhance their capacity to claim rights on the one hand and be accountable for their implementation on the other hand. The following *human/child rights monitoring initiatives* were supported by UNICEF in 2007: a) Presentation of the Alternative Report on implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in Ukraine by the Coalition ‘Unite for Children’ for the UN Committee on the Rights of the Child; b) Preparation of the National Report on the WFFC Plus 5 Review in Ukraine; c) Development of the 3rd and 4th National Periodic Report on Implementation of the UN Convention on the Rights of the Child in Ukraine; and d) Development of the Alternative Report on implementation of CEDAW in Ukraine

7. UNICEF has supported the introduction of the DevInfo database system to monitor the MGDs in Ukraine into governmental systems and local data is now being inserted.
8. UNICEF *advocates for child rights, assists in public dialogue, partnering and inter-sectoral programming*. Examples of this are support to the monitoring of the Ombudsman's child rights activities and advocacy for an independent Child Ombudsman Office, introduction of Child Friendly City governance models in 10 cities with the aim to expand this further, advocacy for the adoption of the Code on Marketing of Breast-milk Substitutes, which is widely violated in all health facilities, strengthening of mass media partnership for children including drafting of and discussion with media organisations on an ethical code on mass media reports on children.
9. In line with the Concluding Observations of the Committee on the Rights of the Child vis-à-vis the State period Report (CRC/C/15/Add.191), recommending the appointment of an either a "commissioner specifically responsible for children's rights" or "a specific section or division responsible for children's rights, that would be specifically responsible for addressing complaints made by children in a child-sensitive manner", UNICEF co-organised the International Conference "«*Lessons Learned on Child Ombudsperson: Prospects for Ukraine*»" in Oct 2006. The conference raised awareness of the government institutions as well as civil society on the necessity of an independent institution for the rights of the child. However, an independent Child Ombudsman's Office is still to be materialised.
10. UNICEF has also supported setting up a multi-sectoral work group for monitoring and referral of cases of violence against children (VAC). The group includes government experts in social work, health, education and law enforcement, as well as NGOs working on prevention of VAC and domestic violence. A multi-sectoral Juvenile Justice Coordination Council under the Parliament Institute of Legislation working with juvenile probation was supported.
11. UNICEF assists in *generation of new local knowledge* to contribute to policy and institutional development. This is done for example by development and implementation of *models* for replication such as expanded baby-friendly hospitals incorporating low-cost evidence-based maternal and neonatal health care practices, parent counselling and young child development centres in rural areas, day care centres for HIV-infected children and their families offering multidisciplinary support, introduction of comprehensive individual needs assessments and care plans for institutionalised children, and establishment of Mother and Child Centres to provide shelter and social support to mothers at risk of abandoning their young children.
12. UNICEF also supports *training activities* in a comprehensive approach to capacity and institutional development including training of regional teams of doctors, nurses and psychosocial professionals to ensure implementation of a multidisciplinary approach to the care of HIV-infected children and to provide HIV prevention services for youth.

