

CHILD'S RIGHTS IN UKRAINE

UKRAINE THE REPORT PRESENTED IN THE FRAMEWORK OF THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW

The coalition of non-governmental organizations submitting the report: NGO Coalition "Child's Rights in Ukraine"¹:

1. All-Ukrainian Foundation for Children's Rights;
2. Association of the Young Professionals «Class»;
3. Danish Refugee Council in Ukraine;
4. Environmental Children's Organization «Flora»;
5. Women's Consortium of Ukraine;
6. International Charity Partnership for Every Child;
7. Human Rights Centre «Postup»;
8. Kharkiv Regional Foundation «Public Alternative»;
9. NGO «MART»;
10. Charitable organization "Charitable Fund "The Right to Protection" ;
11. Public Movement «Faith, Hope and Love»;
12. NGO «Kharkiv Institute for Social Researches»;
13. Sumy NGO «Kalynove Grono»;
14. Charitable Foundation «Rokada»;
15. Center of Public Initiatives «Intelligence of Sumy Region»;
16. Save the Children Ukraine;
17. International Charitable Foundation «AIDS Foundation East-West» (*AFEW-Ukraine*);
18. Human Rights Information Centre.

COALITION CHILD RIGHTS IN UKRAINE



Contact person: Maria Yasenovska, Kharkiv Regional Foundation "Public Alternative".
Ukraine, 61103, Kharkiv, 72/48 Nauky av., tel. +38(050)4023456,
public.alternative@gmail.com, crc.ngo.ukraine@gmail.com

With the technical support of Ukrainian Helsinki Human Rights Union and Save the Children International

¹ The coalition was created in 2012 to promote respect for rights of the child and monitor effective implementation of the Concluding Observations and Recommendations made by the UN Committee on the Rights of the Child.

Objectives of the Coalition:

- To promote respect for the rights of child in Ukraine.
- To track and promote compliance with recommendations of the UN Committee on the Rights of the Child on implementation of the UN Convention on the Rights of the Child.
- To share best practices in the field of promoting respect for children's rights.

The status of implementation of recommendations under the UPR procedure in the field of children's rights.

1. Some of the at least in part implemented recommendations include: introduction of a clear definition of child pornography; exploring opportunities to expand measures to counter discrimination against children; intensifying efforts to prevent violence against children; considering promotion of types of punishment other than imprisonment; providing for opportunities for receiving birth certificates and citizenship.
2. The other recommendations have not been implemented.

Legislation

3. Significant changes in the national legislation on child protection started in 2014 and were primarily due to:

- the need to gradually bring the legislation in compliance with provisions of the European Union legislation;
- occupation of part of Ukraine's territory and conducting the anti-terrorist operation in the territory of Donetsk and Luhansk Oblasts.

4. No comprehensive review of the legislation has been held, and there is no comprehensive law that would take into account provisions of the Convention and its Optional Protocols in their entirety. The only comprehensive law is the Law of Ukraine On Protection of Childhood, but it cannot be regarded as fully reflecting the standards of children's rights.

The National Action Plan and independent monitoring

5. The National Action Plan to implement the UN Convention on the Rights of the Child in Ukraine adopted in 2009 immediately faced the problem of its implementation - allocation of the necessary funding and inconsistencies in activities of ministries responsible for its implementation. The plan of activities to implement the National Action Plan is approved by the Cabinet of Ministers of Ukraine with a half a year or more delay.

6. When developing the plan of activities, all the objectives and targets contained in the document are not taken into account, in particular in 2013 not a single activity was included for implementation of the objective of protecting rights of children with disabilities. In the last year of the plan's implementation, decentralization was added to the circumstances that complicate its implementation.

Survival and development

7. Currently, the state has not developed a mechanism for civilians' evacuation from the combat zone. In connection with the threat to their life and health, some of the children (approximately 150,000 children) with their parents had to independently move to other Oblasts of Ukraine, while the rest - more than 500 thousand children - continue residing in the territory that is not controlled by the Ukrainian government. Facts of deaths and injuries of the children who tried to leave the dangerous territory; of obstructing evacuation of children in public care have been registered.

8. In settlement along the contact line in Donetsk Oblast, there are about 22 thousand children, while in Luhansk Oblast - about 25,500 children under the age of 17 years, of which 7.5 thousand are preschool age children. There remains the pressing problem of preventing deaths and injuries of children due to detection of explosive devices and unauthorized treatment of them. Other relevant issues include obtaining documents, access to health care, education, and the problem of violence against children in dysfunctional families. Shelling of the areas causes significant destruction of education and health facilities. There is still no information about the fate of the 21 minors who were kept in institutions of the State Penitentiary Service of Ukraine in

Donetsk and Luhansk regions. There have been cases of illegal transfer of children under care of Ukraine to Russia.²

9. Provisions of the Criminal Code of Ukraine do not separate the category of crimes against children, the more so they do not cover specific offenses against children in armed conflicts. Statistical data from current reporting on criminal offenses do not make it possible to determine how many children are victims of these crimes.³

Non-discrimination

10. On 06.09.2012, a comprehensive anti-discrimination law was adopted⁴. Children are only considered in the overall context of potential victims of discrimination.

The best interests of the child

11. Amendments have been made in the Family Code of Ukraine⁵, the Law of Ukraine On Protection of Childhood⁶ on foster families, the concept of mentoring has been established legislatively⁷, and the basic terms and conditions of the agreement based on which mentoring will be provided have been stipulated. The concepts of "the best interests of the child", "a child in difficult circumstances", "a child who suffered from military actions and armed conflicts" have been introduced. The opportunities to obtain legal protection by the state, particularly when legal representatives do not do that, have been enhanced⁸. The legislative framework for bodies and services for children has been improved⁹, although no mechanism for implementing the changes has been introduced.

12. The most vulnerable category of children is children without parental care. Upon parents' applications, more than 97 thousand of these children are staying at the institutions, and they are in a worse situation compared to orphans.

Birth registration

13. Most of the children who are not registered according to the legal procedures are those staying in socially distressed and disadvantaged families. In particular this applies to Roma families and families whose members are stateless. The state creates a number of bureaucratic obstacles, which in turn develop into litigations, which prevents effective and rapid protection of the right of the child to birth registration. A penalty for failing to register a child is not an effective mechanism. Roma, having no identifying documents, on reaching the age of sixteen cannot obtain their birth certificates, because they have no passport, while they cannot obtain a passport for the reason of not having the birth certificate.¹⁰

14. A significant obstacle for civil registration, including registration of birth, since 2014 has resulted from holding the ATO in eastern Ukraine and the annexation of the Crimea. Since the beginning of 2016, registration of birth and death of a person in the temporarily occupied territory is considered immediately after receipt of the application to court and executed immediately¹¹. This has improved the situation of birth registration, but given the amount of court fees it does not solve the problem.

² Childhood At a Gun's Point: children's rights in the situation of the armed conflict in eastern Ukraine: research publications / O.A.Bida, A.B.Blaha, O.A.Martynenko, P.I.Parhomenko, M.H.Statkevych, S.V.Tarabanova; edited by A.P.Buschenko / Ukrainian Helsinki Human Rights Union. - K., KIT, 2016. - 82 p.

³ Ibid

⁴<http://zakon4.rada.gov.ua/laws/show/5207-17>

⁵ <http://zakon2.rada.gov.ua/laws/show/2947-14>

⁶ <http://zakon2.rada.gov.ua/laws/show/2402-14>

⁷ <http://zakon2.rada.gov.ua/laws/show/2342-15>

⁸<http://zakon4.rada.gov.ua/laws/show/2402-14>

⁹<http://zakon3.rada.gov.ua/laws/show/20/95-%D0%B2%D1%80>

¹⁰ According to data of Charitable Foundation "Rozvytok" (Mukacheve)

¹¹ <http://zakon3.rada.gov.ua/laws/show/990-19/paran2#n2>

Violence against children

15. A new Procedure for consideration of complaints and reports of violence against children or a threat of such¹² has been adopted, which improves the mechanism for receiving complaints by the coordinating body. However, the key problem is still response to cases of violence and prevention work. For example, in cases of child ill-treatment at school liability applies to the staff of the facility, without considering preventive activities conducted by the school. As a result, there is no motivation to register cases of ill-treatment or forward this information to the coordinating body. There is low awareness of the problem of bullying because not all cases of ill-treatment are recorded. More attention has been paid to the problem of violence against children in schools on the part of the media, community groups are created by the parents, one of their objectives being to counter violence in schools (the largest group, "Parents SOS", unites more than 21.5 thousand parents).

16. Monitoring of respect for children's rights in institutions, including for children with disabilities, has detected the problem of forced abortions among female students. Children with disabilities in some institutions are kept tied to their wheelchairs. There is reported use of sedatives and psychoactive drugs as chemical means to restrict movement, to punish, control, and manage their behavior.¹³

17. There are reported cases of violence and abuse in juvenile detentions¹⁴. Physical violence is common during investigation to obtain testimonies. Often it is about torture, beating, and limitations of oxygen access. Psychological pressure on detainees, humiliation and threats are common; such methods of obtaining testimonies are a regular practice.

18. In juvenile correctional facilities, administration and staff refrain from fulfillment of their duties to ensure security of the inmates' coexistence, delegating their functions to some of the convicted persons.¹⁵ In 2015, a 14-year-old boy was raped by two inmates with a mop in Zhytomyr Detention Facility No.8.¹⁶

Family environment and alternative care

19. There is increased attention of social security and child services to families where there is suspicion of improper respect for children's rights. The terms and procedures for notification of the respective authorities in case of detection of such a family have been established. Children displaced from the ATO area unaccompanied by their legal guardians are subject to enhanced care and the respective authorities register their status of orphans or children deprived of parental care.¹⁷

20. For children in difficult life circumstances and those temporarily deprived of parental care emergency foster care services were established. These comprehensive professional services provide temporary care, education, and rehabilitation for a child in a family of emergency fosterer as well as support services for biological family aiming to mobilize resources of biological parents or persons that replace them, in order to help overcome temporary crisis and strengthen parental capacity.

The term of placement of a child in a family of emergency fosterer may not exceed 3 months, but may be prolonged to 6 months, in case needed. At the end of the placement the child is reunited

¹²<http://zakon4.rada.gov.ua/laws/show/z1105-14>

¹³Disability Rights International: There is no way home. Exploitation and abuse of children in orphanages in Ukraine. - Ukraine, 2015. <http://www.driadvocacy.org/media-gallery/our-reports-publications/>

¹⁴Based on materials the research "Torture and ill-treatment of children in Ukraine". / Edited by Zakharov E. Yu. - Kharkiv: Human Rights, 2013. - 244 p.

¹⁵Respect for rights of minors kept in correctional facilities of the State Penitentiary Service of Ukraine: a special report on implementation of the national preventive mechanism / Parliamentary Commissioner for Human Rights of Ukraine: official publication. - K., 2014. - 120 p. - <http://khisr.kharkov.ua/files/docs/1419178922.pdf>

¹⁶ Suspicion was announced to cellmates of the 14-year old boy who was raped in Zhytomyr Detention Facility. Zhitomir.INFO: - http://www.zhitomir.info/news_150115.html

¹⁷<http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

with the biological family or (in cases when this is impossible) provided with another family care solution. Decisions on placements are taken by the guardianship authorities.

Thanks to the Law No. 1794 from Jan 20, 2016 a state subvention is introduced (starting from 2017) for local executive authorities nation-wide to develop emergency foster care services along with several other forms of family type alternative care.^{18 19}

21. The concept of "mentoring" introduced in legislation, aims to provide a child living in an institution for orphans and children deprived of parental care with assistance in access to available information about their rights and duties, assistance in definition and development of capabilities, implementation of his/her interest in professional self-determination, development of a child's practical skills aimed at his/her adaptation to independent life, etc. Entering into a mentoring agreement provides for a consent of the child, if he/she has reached the age and level of development that he/she can express it, and a written consent of parents or other legal representatives.²⁰

22. In 2016 the public debate to accelerate de-institutionalization intensified. With his Degree, the President of Ukraine²¹ set up a working group on this issue including representatives of relevant ministries and the public. At the same time, there is the trend towards reorganization of boarding schools for orphans and children deprived of parental care as special boarding schools for children with impaired mental development, sports boarding schools, boarding schools for gifted children, which hinders the process of de-institutionalization.²²

Health and medical care

23. Indicators of vaccination coverage decrease with time, at the third vaccine dose the rates go down to almost a third of children of the respective age.

24. According to information from civil society, the level of breastfeeding does not meet the recommended standards - 19.7% of children under 6 months are exclusively breastfed, 51.6% of children of this age are predominantly breastfed.²³

25. 68% of schools do not have a physician, 33% - of a nurse; among rural schools 85% have no physician, 59% - no nurse²⁴.

26. A problem that persists is lack of budgetary funding of the health care sector. This applies particularly to treatment of orphan childhood diseases. There is insufficient provision of medicines and irregularity of their supplies, lack of transplantation therapies, sustainable rehabilitation stage of treatment of children with cancer, conditions for provision of special palliative care.²⁵

27. In Ukraine, there are successful pilot projects of introduction of case history and early intervention services. However, these projects have found no support in their implementation at the national level. There remains the problem of palliative care for children and support centers for families who care of seriously ill children on their own.

Children with disabilities

¹⁸ <http://zakon2.rada.gov.ua/laws/show/2947-14>

¹⁹ Amendments to the Budget Code of Ukraine <http://zakon2.rada.gov.ua/laws/show/1794-viii>

²⁰ <http://zakon2.rada.gov.ua/laws/show/2342-15>

²¹ <http://www.president.gov.ua/documents/8182015-rp-19687>

²² Alla Kotlyar, Boarding and social work specialists: a war of ideologies? - http://gazeta.dt.ua/socium/internati-i-specialisti-socialnoyi-roboti-viyna-svitoglyadiv_.html

²³ Ukraine. Multi-indicator cluster household survey, 2012 / State Statistics Service of Ukraine [et al.] .- K.: K.I.S., 2013.

²⁴ The health status and factors for Ukrainian adolescents: monograph / O.M. Balakireva, T.V. Bondar, O.P.

Artyukh, et al. ; acad. ed. O.M. Balakireva. – K. : UNICEF, Ukr. inst. of soc. research named after O. Yaremenko; K.I.S., 2011. - 172 p.

²⁵ According to the study by NGO "Spilna Meta" <http://commongoal.org.ua/?p=145>

28. There remains the problem of timely detection of disability and timely provision of medical and social services for the children.
29. Lack of an integrated system of introduction and provision of the early intervention service. Despite the current positive aspects: the pilot practice to introduce early intervention services implemented in ten Oblasts, the memorandum of understanding among the relevant ministries (Ministry of Education, Ministry of Social Policy, Ministry of Health) and national and international institutions signed in late March 2017, regulations^{26 27}, there are a number of obstacles that prevent development of an early intervention system in Ukraine. Specifically, the deficient legal and regulatory framework; divergence of visions, definitions, and lack of a coherent early intervention strategy at the national level; insufficient training of experts and civil servants in the field of early intervention; an integrated system of inter-sectoral coordination and interaction; lack of multidisciplinary teams, lack of awareness of parents and their involvement into formation of early intervention; lack of funding, and so on. Early intervention services are provided primarily under the current projects financed by foreign donors.
29. The level of state assistance to those who care for people with disabilities has been legislatively increased, and work is being done to develop programs for children with disabilities. But the provisions on mandatory ensuring of barrier-free space at all levels of school and out-of-school education for children with disabilities have not yet been implemented in legislation. Liability for a failure to ensure barrier-free space is not stipulated.
30. It is stipulated that children with special educational needs enrolled in special and inclusive classes of general education facilities shall be provided with free-of-charge hot meals. The position of an assistant of a teacher of inclusive classes within general education facilities is introduced.²⁸ The possibility of creating inclusive groups for education of children with disabilities within the preschool education system is stipulated.²⁹ However, this requirement is not mandatory.
31. For children with disabilities, approximately 2,000 compensatory (sanatorium, special) and combined preschool facilities are operating, where in parallel with preschool education children get correction and rehabilitation assistance. In rural areas, coverage of children with disabilities with preschool education is insufficient due to almost complete absence of special preschool groups³⁰. Only 11% of schools in Ukraine are partially adapted for education of students with disabilities. Even fewer classrooms meet safety and free movement requirements.³¹
32. Teacher training at universities and systemic consultative and awareness-raising work among teachers, parents, and the public about the right to education for children with disabilities have been initiated.³²
33. The activities to protect the rights of children with disabilities in the National Action Plan to implement the UN Convention on the Rights of the Child are implemented sporadically, in 2014 no such activities were planned.

Use of drugs, alcohol, tobacco, and other psychotropic substances

34. The total number of adolescents in high-risk groups is estimated at 129,000 individuals aged 10 to 19. The cumulative number of adolescents from IDU, CSW, and MSM groups is 991 per 100 thousand adolescent population. Findings of estimation of the number of children and youth

²⁶ <http://zakon0.rada.gov.ua/laws/show/501/2015>

²⁷ <http://zakon0.rada.gov.ua/laws/show/1065-17>

²⁸ <http://zakon4.rada.gov.ua/laws/show/651-14>

²⁹ <http://zakon4.rada.gov.ua/laws/show/2628-14>

³⁰ <http://mlsp.kmu.gov.ua/document/156474/st.doc>

³¹ Research on inclusive education in Ukraine <http://timo.com.ua/node/10040>

³² <http://zakon2.rada.gov.ua/laws/show/v1034729-13>

at risk demonstrates an increasing trend in the number of adolescent IDUs, in particular boys involved into injection drug use.³³

35. According to findings of the 2015 survey conducted in Ukraine in 449 educational facilities among 7,333 pupils/students aged 15-17: more than half of the children reported that they had experience of smoking - 52.3%; smoking during the past 30 days was reported by 19.1% of respondents; daily smokers are 12.2% of respondents. Every one out of five respondents believes that he/she has unimpeded access to cigarettes.³⁴

36. On average, 83.4% of respondents have used any alcoholic beverages at least once in their lifetime: among those aged 15 - 78.5%, 16 - 85%, 17 - 84.6%. More than a third of students reported that they could "easily" or "very easily" buy alcoholic beverages. Access is the easiest for low-alcohol beverages (as reported by on average 59.5% of students) and beer (51.5%).³⁵

37. 11.3% of students aged 15 to 17 have had the experience of using any narcotic substances (15.4% of boys and 7.9% of girls). 10.6% of respondents have at least once in their lives tried marijuana or hashish (among boys - 14.5%, among girls - 7%). Prevalence of injecting drug use is 0.6% (boys - 0.9%, girls - 0.3%). 1.8% of students have ever used tranquilizers or sedatives without prescription. 1.4% of respondents have tried hallucinogenic mushrooms. The proportion of students aged 15-17 who reported use of anabolic steroids is 1.2% (among boys - 1.6% and among girls - 0.6%). Attempts at use of opium extract on average take place in the youngest age - 12.1 y.o. Use of marijuana is associated with the highest prevalence rate, but first attempts occur at older age - on average, at 14.6 y.o. 12.1% of all respondents said that it was easy for them to obtain marijuana or hashish (cannabis).³⁶

HIV/AIDS

38. The number of children under medical supervision as of 01.01.2015: 3,036 individuals, of which - 809 AIDS patients. 6,702 individuals are children with HIV at the confirmation stage.³⁷ As of 01.12.2016, ARV therapy was being provided for 2,874 children.³⁸ There is still the problematic issue of achieving the HIV transmission from mother to child rate of 2%³⁹.

39. According to the 2015 survey, among adolescent IDUs aged 15 to 19, HIV prevalence is 2.7%, among adolescent MSM aged 14 to 19 - 3.1%. Among street adolescents (data of 2014), prevalence of HIV significantly varies for cities and increases with age. For example, in Odessa HIV prevalence among 14-19-year-olds in the streets was 11%. The estimated prevalence of HIV among all target groups is at least 1.9%.⁴⁰

40. In 2013, the National Target Social Program for Combating HIV/AIDS for the period of 2014-2018 was adopted. However, HIV prevention projects among street children have since 2015 not been supported from either the national, or local budgets. The state allocates no funds for awareness-raising campaigns.

³³ ADOLESCENTS AT RISK: assessments and dynamics (2016) - https://www.unicef.org/ukraine/ukr/pidlitki_grup_riziku.pdf

³⁴ Smoking, alcohol and drug use among studying adolescents: prevalence and trends in Ukraine: According to the 2015 study held in the framework of the international European School Survey Project on Alcohol and Other Drugs - ESPAD / O. M. Balakireva (leader of the author team), T. V. Bondar, Yu. Yu. Pryimak, D. M. Pavlova, O. V. Vasylenko, O. T. Sakovych, S. Z. Salnikov, S. V. Sydyak, Yu. B. Yudin, N. S. Nahabych. – K. : Printing Center "Foliant", 2015. – 200 c. <http://www.uisr.org.ua/img/upload/files/ESPAD-ForWEB.pdf>

³⁵ Ibid

³⁶ Ibid

³⁷ According to data of the MoH Public Health Center: Table 20. Registration of children born by HIV-positive women at health care facilities providing comprehensive medical care for HIV-positive individuals in 2014 - <https://goo.gl/HYJQA1>

³⁸ According to data of the MoH Public Health Center: Report on provision of antiretroviral therapy for HIV-positive people in Ukraine (MoH, NAMS, and SPtS) - http://ucdc.gov.ua/pages/diseases/hiv_aids/statistics/art

³⁹ According to the AntiAIDS foundation <http://www.antiids.org/ru/hiv-aids/ukraine/1421/11411>

⁴⁰ Adolescents at risk: assessments and dynamics (2016) - https://www.unicef.org/ukraine/ukr/pidlitki_grup_riziku.pdf

Education, leisure, cultural activities

41. National targeted support for children whose parents died in the ATO area, during mass civil protest events, and for IDP children till they complete their education in the process of obtaining vocational training at national and municipal educational facilities is introduced.⁴¹

42. As of the end of November 2014, three higher educational institutions of the 3rd and 4th accreditation levels and two 1st and 2nd accreditation level institutions have been evacuated from the ATO area. 187 educational facilities have been partially or completely destroyed. Only in the western part of Donetsk Oblast, more than 150 schools have been destroyed. Access to education is complicated due the imperfect procedures of crossing the contact line with the uncontrolled ATO area. In the temporarily uncontrolled territory of Donetsk Oblast, there are 490 general education schools of different types, in Luhansk Oblast - 363 facilities. In the uncontrolled territory, teaching is conducted based on Russian textbooks, programs, they moved to the "five-grade" assessment system. Children receive certificates under the forms of Luhansk and Donetsk Republics.⁴²

43. Parents have to pay extra fees to cover operating costs of the schools. Over the past three years, charitable contributions for operating costs, which are mostly made up by money paid by parents, amounted to approximately 1 billion UAH (more than 50 million USD). However, this amount does not include levies from parents for repairs of schools and other needs.⁴³

Special protection measures

Refugee children and children seeking protection in Ukraine

44. Provision of children of officially recognized refugees with the corresponding derivative refugee status is not guaranteed by law⁴⁴. This provision is contained in a secondary regulatory act⁴⁵, which weakens the guarantees of enforcement of the provision.

45. Resolution of the Cabinet of Ministers of Ukraine of November 16, 2016 No.832 amended the Procedures for Activities of Guardianship Authorities Associated with Protection of Children's Rights. Adoption of the Procedures does not solve the problem of unaccompanied children who have no refugee status or the status of a person in need of complementary protection: asylum seekers cannot obtain the status of children deprived of parental care. An outstanding issue that has not been decided yet is whether those children whose parents stay in the country of origin and the domicile/residence of the parents/legal representatives of the children is known should be seen as children deprived of parental care.

46. No adequate conditions of living, education, social integration, or social assistance for refugee children, children recognized as individuals in need of complementary protection, or children separated from their families are provided.

47. The State Migration Service often neglects its duty to provide an interpreter for a child separated from his/her family.

48. The Order "On examination for determining the age of a child left without parental care and is in need of social protection" has been adopted. However, there are recorded facts of non-compliance with the procedures stipulated in the Order, in particular all children seeking asylum in Ukraine without exception were referred for age assessment, there were also recorded instances where psychological age assessment of children was held without respect for culturally sensitive specifics of the child and without accounting for information about his/her country of origin; cases where there was only physiological age assessment held, despite the fact that physiological age assessment is the last of the three stages of age assessment and is not

⁴¹<http://zakon4.rada.gov.ua/laws/show/2402-14>

⁴² Based on the annual report "2014 Human Rights in Ukraine", UHHRU
http://helsinki.org.ua/index.php?id=1398061007#_ftn2

⁴³ https://dostup.pravda.com.ua/request/faktichni_vidatki_po_ktkv_070201?nocache=incoming-29178#incoming-29178

⁴⁴<http://zakon4.rada.gov.ua/laws/show/3671-17>

⁴⁵<http://zakon4.rada.gov.ua/laws/show/z1146-11>

mandatory. There have been cases where children separated from their families stayed in detention facilities; there is the issue of birth registration and issuance of birth certificates to children of asylum seekers born in the territory of Ukraine. The issue of registration of newborn children of asylum seekers has not been resolved. The problem is that the Migration Service certificate (often it is the only official document of parents being asylum seekers) is not a passport-substituting document.

Sexual exploitation and abuse. Trafficking in children

49. The problem of sexual exploitation of children exists in Ukraine.⁴⁶ Each one out of 6 or 7 sex worker in Ukraine are minors.⁵¹ There is no information on the number of child victims of sexual violence. The national legislation is not harmonized with the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which was ratified on 20.06.2012⁵². There is no support for a child who suffered sexual violence in the course of criminal proceedings, responsible authorities have no interaction mechanism, which results in a large number of interrogations and questionings of the child in the process of criminal proceedings. There is still the problem of lack of specially trained professionals: juvenile investigators, psychologists, and so on. The lack of mechanisms to protect the child in the process of criminal proceedings leads to the fact that the children and their legal representatives do not report the crimes.^{53 54}

50. Control over those children who are adopted and taken outside of Ukraine and over the potential adopter has been enhanced.⁵⁵ Taking out of Ukraine orphans and children deprived of parental care under 16 years of age must be previously agreed with the service for children. As for orphans' leaving abroad for rest and recreation, their approval of group lists and consent to their travel abroad for rest and recreation are issued by the Ministry of Social Policy.⁵⁶

51. Establishment and functioning of the Unified State Registry of Trafficking Crimes have been developed and approved⁵⁷. The Law of Ukraine On Combating Human Trafficking⁵⁸ has been complemented with the Trafficking in Children Section. Allocation of funds for activities and tasks within the State Social Anti-Trafficking Program for the period until 2020 is planned.

52. Duties of the authorized departments of the law-enforcement agencies have been extended with the duty to identify persons who are engaged in manufacturing and distribution of pornographic materials, publications that promote violence, cruelty, and sexual debauchery.⁵⁹

Children among internally displaced persons

⁴⁶ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51366

⁴⁷ "Rivne 1" TV channel / <http://rivne1.tv/Info/?id=17965>

⁴⁸ Komsomolskaya Pravda in Ukraine / <http://kp.ua/daily/071211/314508/>

⁴⁹ Magnolia - TV / <http://magnolia-tv.com/text-news/2013-04-12/23282-na-donechchin-ml-ts-ya-v-dvol-kla-v-droboti-13-r-chnu-prostitutku>

⁵⁰ http://la-strada.org.ua/ucp_mod_library_view_306.html

⁵¹ UNIAN News Agency / <http://www.unian.ua/news/497616-v-ukrajini-kojna-shosta-poviya-nepovno-litnya.html>

⁵² http://zakon2.rada.gov.ua/laws/show/994_927

⁵³ Study on preconditions for introduction of new practices of questioning and examination of child victims of sexual abuse. Women's Consortium of Ukraine: 2016. - https://wcu-network.org.ua/ua/Zaxist_prav_dtei/publications/Doslzhennja_peredumov_zaprovadzhennja_novoi_praktiki_dopit_u_opituvann

⁵⁴ M.Kuleba, President's Commissioner for Children's Rights. Transcript of the roundtable "Protecting children from sexual abuse and sexual exploitation" (14.12.2016).- http://komsport.rada.gov.ua/documents/round_tab/73544.html

⁵⁵ <http://zakon4.rada.gov.ua/laws/show/905-2008-%D0%BF>

⁵⁶ <http://zakon4.rada.gov.ua/laws/show/57-95-%D0%BF>

⁵⁷ <http://zakon4.rada.gov.ua/laws/show/303-2012-%D0%BF>

⁵⁸ <http://zakon4.rada.gov.ua/laws/show/3739-17>

⁵⁹ <http://zakon4.rada.gov.ua/laws/show/20/95-%D0%B2%D1%80>

53. The law defines the procedure for children's leaving uncontrolled territories and the list of documents required for travel.⁶⁰ There is no provision that would set restrictions on the right of the child to leave temporarily occupied territories or the ATO area without their parents or other legal representatives. In practice, however, if a child leaves accompanied by relatives, it is necessary for them to have to a complete set of documents confirming kinship of the adults with the child. If no such documents are presented, the accompanied child may not be allowed to leave temporarily occupied territories of Ukraine. If the child is an orphan or deprived of parental care and the person who is his/her legal guardian or the institution where the child stays do not intend to leave the ATO area, the legislation offers no procedure for this child to be able to leave the ATO area.

54. IDP children who left the ATO area without their official guardians but who do not have the status of an orphan or a child deprived of parental care are subject to the general procedures as children deprived of parental care, if necessary they are provided with the respective status⁶¹, but without account for the fact that the relatives with whom the child has close relationships and who are willing to take such a child into care in 90% of cases do not meet the legal requirements to families that can take a child into care or adopt a child.

55. The fact that internal displacement is confirmed with the IDP registration certificate. During the procedure of registration of IDP children, there are often difficulties associated with the differing practiced of the regulations' application in different regions of Ukraine.

56. Social benefits for individuals, including children, registered in territories uncontrolled by Ukraine become available only after their registration as IDPs.⁶² This provision in practice implies that residents of the occupied territories receive no welfare payments until they are registered as displaced persons.

57. There are difficulties regarding obtaining the electronic passport for unaccompanied children, particularly because the finger scanning process requires presence of a legal guardian.

Implementation of juvenile justice and detention facilities for children

58. Juvenile Justice (JJ) has still not been set up as a system in Ukraine. Since 2012, development of the criminal justice system has been declared that significantly narrows down the principles, functions, and objectives of juvenile justice. However, even this concept is not being implemented. There is no proper awareness-raising campaign to explain both the JJ conceptual framework and its tasks and functions. The authority responsible for JJ administering has still not been set up.

59. The number of correctional facilities for children in conflict with the law has been reduced. There are even no plans to establish rehabilitation, correctional centers, including day care and probation ones. Children who have not reached the age of criminal responsibility are actually skipped in the applicable laws. Of the 11 social rehabilitation schools, only 2 have been preserved till now. There are no alternative facilities for rehabilitation of such children.

60. On November 20, 2012 the new CCP of Ukraine⁶³ was enacted, which humanizes criminal proceedings against children: limitation of pre-trial detention terms; introducing alternative penalties; introduction of the specialization for judges, prosecutors, and investigators. However, it contains a number of significant collisions and formalities.

61. On 02.05.2015 the Law of Ukraine On Probation was adopted⁶⁴. However, there are no trained specialists or training programs, no probation and socio-educational work programs.

62. There are no clear algorithms for transfer of students to adult colonies when they reach the age of majority (18 y.o.), organization of education at penitentiary institutions is inadequate.

⁶⁰http://www.sbu.gov.ua/sbu/control/uk/publish/article?art_id=136476&cat_id=135945

⁶¹<http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

⁶² <http://zakon5.rada.gov.ua/laws/show/637-2014-%D0%BF>

⁶³<http://zakon4.rada.gov.ua/laws/show/4651-17>

⁶⁴<http://zakon4.rada.gov.ua/laws/show/160-19>

63. There is no proper interaction of services for children at the place of primary registration of students in penitentiary facilities and the facilities' administrations.

64. It is possible to mention as a positive aspect establishment of the National Preventive Mechanism under the Commissioner of the Verkhovna Rada of Ukraine on Human Rights, which covers institutions for children.

Children of national minorities or indigenous populations

65. The Strategy for protection and integration into the Ukrainian society of the Roma minority has been developed for the period until 2020. However, there is actually no set of measures to prevent discrimination and / or ensure socialization of children of national minorities.

66. Direct refusal to enroll Roma children to general education schools and (or) elite schools is a known and common practice in Ukraine. The result is that Roma children study sporadically periodically or permanently at special schools. Only in the Carpathian region, there are 20 fully segregated Roma schools. About 50% of Roma children do not regularly attend school. Roma children lack opportunities to attend kindergartens.

Recommendations

- To harmonize the law with the Convention on the Rights of the Child and recommendations of the UN Committee on the Rights of the Child. In particular, the legislation must prevent militarization of children and their involvement into armed conflicts, and if this happens - treat children as victims disregarding the type of their involvement in a conflict.
- To ratify the Rome Statute.
- To ratify the Istanbul Convention.
- To bring the national legislation and practice in line with the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.
- To improve the mechanism for preventing cruel and humiliating and degrading treatment against children in all areas of the child's life
- To go back to the issue of introduction of an independent institute of the Commissioner of the Verkhovna Rada for Children's Rights.
- To adopt a specific law on children's rights, which would have a universal nature and provide for the opportunity to protect all categories of children in the territory of Ukraine and / or under its jurisdiction. This includes children of IDPs and those who are outside the controlled territories. The issue of respect for children's rights should be based on the principle of non-discrimination, the best interests of the child, taking into account his/her views and providing opportunities for survival and development.
- To implement a juvenile justice system, to ensure its operation at the legislative level. In particular, to set up a system for working with children in conflict with law within the National Police.
- To activate the procedure of de-institutionalization of children and ensure the right to being raised in a family environment.
- To support development of inclusive education, applying it not only to children with disabilities.
- To create a case history system and introduce early intervention programs in all regions of Ukraine.
- To analyze the impact of legislation on children when implementing reforms and adopting legislation, especially the budget. For this end, to set up a separate analytical body involving experts from NGOs.