

THE RIGHT TO EDUCATION AND EDUCATION IN THE FIELD OF HUMAN RIGHTS

This report raises issues of the current situation with respect for the standards of the right to education in Ukraine and the fulfilment of the relevant international obligations by the state. Particular attention is paid to ensuring the right to education for people affected by armed conflict and the occupation of the Crimea, parts of the Luhansk and Donetsk Oblasts. In this report, there is also the Assessment of the fulfilment of state obligations in the context of providing educational services to Roma people and individuals with disabilities.

1. General assessment of the situation regarding the right to education.

1.1. According to the Constitution of Ukraine, a complete general secondary education in Ukraine is compulsory. The state ensures the availability of preschool, full general secondary, vocational and higher education in state and municipal educational institutions.

1.2. During the reporting period, there were no qualitative changes in the realization of the right to education. The problem remains that already implemented and planned reforms in the education system have not systemic nature, and the way of their implementation often leads to current results, far from expected.

1.3. MES declares the possibility of participation of NGOs and experts in the process of developing and evaluating of the educational policy in Ukraine. In particular, public activists were involved into developing and adoption of the Draft Bill *On Education* and documents of a conceptual nature (in particular, the draft concept of the *New Ukrainian School*). Since 2015, on the website of the Ministry of Education and Science of Ukraine have been introduced electronic consultations with the public, which consist in the discussion of educational policies and procedures, but there is no mechanism for submitting proposals and feedback from the public.

1.4. According to the State Statistics Service of Ukraine, a significant number of school-age children remain unreached by training in pre-school and general education schools. According to the State Statistics Service of Ukraine, the number of students aged 6-17 years who do not study for complete secondary education is 23.028 children and most of them are from rural areas. Criteria under which the data collecting is performed on the reasons for not attending the school by children, have not changed over the years, children *for health reasons, are admitted in special schools for children requiring correction of their mental development, learn a profession without obtaining a secondary education and by the other reasons*. As of 01.09.2016, the largest percentage of such children is in the Transcarpathian, Odessa, Dnipropetrovsk, Lviv, Luhansk, Zaporizhia and Donetsk Oblasts. The state does not properly analyse the causes of this problem and does not perform an appropriate respond. According to statistics, the number of children who do not get an education *by the other reasons* has increased significantly, and there is 48% of such children as at 2016/2017 academic year.

1.5. The problem of admitting Roma children with secondary education, children whose families are registered as crisis ones, who are below the poverty line, etc., remains practically unresolved. Human rights organizations have repeatedly pointed out this. This was highlighted in the NGO report, which was presented at the XIV session of the UN Human Rights Council for the UPR.

1.6. The situation with the education of children who are permanently residing in boarding

schools of the Ministry of Social Policy remains a problem. Children with mental health problems and physical disabilities actually do not have access to education. There are no special programs and state educational standards for such children.

1.7. The information on access to education of children who get treatment in narcological dispensaries is not available. Rehabilitation work is being conducted mainly in the medical aspect, and the methods of working with juvenile drug addicts for the purpose of their re-socialization are not developed.

1.8. Since 2016, Ukraine began the reform to optimize the system of general secondary education through the creation of a network of supporting schools, the main goal of which is to provide children in rural areas with access to quality education. According to statistics, at the beginning of 2016/2017 the number of schools was decreased by 241 units. It is especially difficult to access to education for children living in rural areas. Not all pupils can realize their right to education because of the large distance from the institution of residence. According to the State Statistics Service, 1/3 of the students who need transportation are not provided with these opportunities and, accordingly, do not attend school in certain circumstances. The School Bus Program created for pupils' transportation organization to the educational institutions in the other settlements, does not compensate this problem in the full scope and due to the low-quality organization of the transportation of pupils to the educational institution, it sometimes causes a threat to life and health safety of children.

1.9. There is no system of analysis and forecast of the functioning and development of the educational institutions network, which leads to unsanctioned/non economically feasible use of state resources of educational institutions funding.

1.10. Obligations that were taken by the state as for providing the safety of the general secondary education are not being used in the full scope.

1.11. The material base of general educational institutions remains unsatisfactory. Material support of the educational institutions does not allow guaranteeing even safe environment for pupils and completing performance of teaching and educational process. Despite the increased funding of educational institutions from the state and local budgets in previous years, in the conditions of the economic crisis and inflation, the current maintenance of the educational institution and the maintenance of the educational process was covered at the expense of the proprietary funds of budget institutions, that is, at the expense of charitable contributions – parental funds. In most cases, such donations are forced rather than voluntary.

1.12. Notwithstanding the obligations of the state, today not every child who learns in school is provided with textbooks and teaching materials. Textbooks for individual classes are printed with a delay for a whole year, and the lack of electronic devices and Internet access makes impossible to use electronic versions of textbooks proposed by the Ministry of Education. Schools in the ATO zone within government-controlled areas in many cases are provided with the Internet with the help of charity funds and NGOs.

1.13. Most teachers and school administrators do not have sufficient knowledge and expertise on human and children's rights. Inadequate attention is paid to the training of specialists who are able to work with disabled children or children with imperfect development or developmental disabilities. Teachers, for today, are limited in the choice of curricula and textbooks. The state standard of general secondary education predetermines the content of textbooks and teaching aids, excluding the existence of alternative textbooks through the approval mechanism and the provision of the stamp *recommended*.

Recommendations:

1. The content of curricula, textbooks and manuals should be based on the principles and values of democracy and human rights.
2. Introduce systematic monitoring and evaluation procedures for quality assurance as a part of external quality assurance in education. Such monitoring should definitely involve external independent experts and organizations.
3. Reorganization of the management of educational institutions should take into account the principle of real autonomy of school.
4. Ensure openness, transparency and accountability of the school before the community and society. Provide a state-public partnership in the management of state and municipal schools, by means of establishment effective parental and supervisory boards.
5. Introduce transparent mechanisms for the use of state and non-government financial revenues by schools. Create tax and regulatory incentives to support schools by local businesses.
6. Legislate the academic freedom of a teacher, the right to choose programs, methods and ways of teaching with the necessary achievement of the learning outcomes provided for by the relevant educational standards.
7. Provide demonopolization, decentralization and ensuring the principle of transparency in holding competitions for school textbooks. Organize the process of providing textbooks in accordance with the calendar plans.
8. Introduce a system of collection and analysis for disaggregated data (in particular, for disabled children, Roma, refugees and asylum seekers and other children who are particularly vulnerable groups) concerning the educational coverage of schoolchildren who study in general educational institutions.
9. Provide clear and effective system for responding to the situation of children of school age who are not covered by the general system of secondary education.
10. Ensure adequate and appropriate funding and material support for educational institutions and the education system as a whole.
11. To promote the diversity of educational institutions while maintaining the basic requirements and quality standards, the opening of new, modernized educational institutions, simplifying the registration and paperwork procedures for such institutions.

2. Ensuring the right to education of individuals with disabilities

2.1. The situation remains challenging for many disabled children, whose number is significant. Despite the introduction of the concept of inclusive education, only 69 schools from 16.395 can provide free access to disabled children all over the school.

2.2. The Ministry of Education and Science developed *Model Curricula of Special General Educational Institutions for Children in Need of Correction of Physical and/or Mental Development (Primary School)*, *Regulations on the Individual Form of Education in General Educational Institutions*; There was implemented the program for the development of children of preschool age with a spectrum of autistic disorders; a new pedagogical title has been approved - a teacher assistant in a class with inclusive education, but at the same time, the MES allows the incorrect discriminatory terminology that contradicts the Convention on the Rights of Individuals with Disabilities. Thus, in the textbook list recommended by the Ministry of Education and Science for use in general education institutions for the education of children with special educational needs in the 2016/2017 academic year, pointed out the

textbooks, which name contains the words for mentally-retarded children. The lack of a systematic approach and insufficient funding continues to restrict disabled children in access to quality education.

2.3. Financing of the education based on inclusion is not provided. Low or completely missing funding and material support for educational processes for children with disabilities threaten the creation of necessary conditions. Very often, the necessary provision completes with construction of ramps, which in overwhelming majority of cases do not meet the established standard.

2.4. There is no in the state any systematic training of the teaching staff at all levels. Most often, disabled children are taught by the teachers who did not undergo any special training.

2.5. According to the information placed on the influential online resources, the educational institutions that voluntarily made a decision on the formation of the inclusive education classes do not provide appropriate sanitary requirements and are not suitable for children with special needs.

2.6. A separate issue is the organization of an individual form of education in general educational institutions for disabled children. The corresponding Regulation establishes half less number of hours per week for mastering the curriculum than is provided for by the standards of general secondary education.

2.7. The education of children with disabilities continues to be a problem for the family, which is either forced to allow the child to study at specialized institution with separation from a family, or to be brought up at home with significant limitations or lack of access to education.

2.8. The State bodies continue to apply the terminology that does not correspond to the international standards and national legislation when implementing the information policy. On the official website of the Ministry of Social Policy of Ukraine, the incorrect term *handicapped children* is constantly used.

Recommendations:

1. Ensure equal access and access to education for individuals with disabilities of various nosologies.
2. Based on the developed indicators, certain target groups, to implement information and education explanatory work on the promotion of an inclusive approach to ensure an access to education.
3. Develop special programs and teaching aids for children with various disability nosologies, provide general education and special educational institutions with these teaching aids.
4. Provide a system for the training of pedagogical workers, regarding the forms, methods of working with disabled children, and the skills of providing first aid to children with special health problems.

3. Access to education for Roma people.

3.1. The people of Roma community in Ukraine continues to face with systemic problems and obstacles in access to basic education. The lack of a system for collecting, recording and analysis of the official information, streamlined communications with people of the community leads only to status quo consolidation. In fact, we can state that the lack of adequate and sufficient access to education becomes an important factor in supporting the segregation of the Roma community and their further social stigmatization in Ukraine.

3.2. The results of monitoring of the coverage of Roma educational services and the quality of their provision showed that the educational level of the Roma population is extremely low; a significant part of the population has no any education (24%), while the proportion of those who get or have higher education is incomparably small, 1% only.

3.3. The lack of access to education minimizes the Roma's chances on formal employment in the future, and builds significant barriers in communication with government authorities and providers of basic public and social services. Therefore, almost every fourth person of Roma nationality cannot read and write in Ukrainian (23% and 23% respectively). Every third person does it rather badly (33% reads, 36% writes). 14% of respondents do not know how, or rather speak Ukrainian bad, another 12% do not understand it at all or rather do not understand it.

3.4. National governments developed and adopted the *Strategy of Social Protection and Integration into the Ukrainian Society of the Roma Minority for the Period till 2020* and the related Action Plan at the national level and at the level of several regions. Unfortunately, the government did not take into account the numerous comments of NGOs and experts, applications, the position of the Office Commissioner for Human Rights to change the approach to filling the Action Plan of the Strategy.

3.5. The basic documents developed to correct complex problems of Roma integration both at the national and regional levels remain in most cases a declaration, accompanied by a missing system of assessment and monitoring, with a residual or zero level of funding. Thus, the Ministry of Culture of Ukraine, which is responsible for the preparation of a *Consolidated Annual Report on the Implementation of the Corresponding Action Plan*, prepares it in the form of a simple list of various activities and actions that are related neither to a common goal, nor quality assessment system and to the involvement of representatives of the target group.

3.6. Strategy and Action Plan does not take into account the cultural specificities of the Roma. In particular, *there is no clear anti-discrimination stance in the Strategy and the NAP do not have a, and gender equality is not defined as a complex problem*. Although the results of the polls showed that it is especially difficult to receive an education by women because of the cultural traditions and the patriarchal structure of the family. Thus, women are more often (45%) than men (33%) are uneducated (have no education at all or have an elementary education).

3.7. Notwithstanding the good practices in individual communities, Roma children encounter serious obstacles, such as discrimination, isolation, admission to specialized classes and they do not get the necessary support in the learning process. Some children become victims of violence in school.

3.8. The central and local executive authorities and local self-government bodies have not developed an evaluation system and corresponding indicators for the analysis of Roma education services. While developing state and local policies as for Roma, the educational needs of the community are almost are not being taken into account.

Recommendations:

1. Develop a system of comprehensive measures aimed at improving the access of Roma to pre-school education, general secondary education, extracurricular education, based on an analysis of their educational needs.
2. Develop and test the system for collecting and updating data on the educational needs

of the Roma community and Roma coverage by education together with NGOs and people of the Roma community.

3. End the practice of systematic directing of Roma children to the special schools or special classes in schools and classes exclusively designated for Roma children.
4. Develop and implement comprehensive desegregation programs in communities and schools aimed to increase the level of solidarity and implementing an inclusive approach.
5. Establish a system of exchange existing good practices and effective tools implementing inclusive approach in ensuring access of Roma to education, which were tested at the regional level.
6. Establish and develop a multi-level network that will unite professionals, parents and government representatives in the provision of quality education for Roma children.
7. Together with NGOs, to establish a system of engaging the so-called educational mediators / educational assistants (including educators and educators representing the Roma community) in order to improve the level of Roma education coverage.
8. Establish courses to overcome illiteracy for adults with the help of Roma NGOs, having involved Roma teachers on the basis of the institutions of general secondary education/
9. Consider gender equality and access to education for both genders when developing programs and action plans to ensure the educational needs of Roma.
10. Establish an effective mechanism for consultation with representatives of Roma in the elaboration and implementation of policies that relate directly to provision of their educational needs.
11. Ensure quality training and retraining of teaching staff in the field of multicultural education and an inclusive approach when dealing with ethnically diversified classes.

4. The right to education in terms humanitarian crisis.

4.1. The Ministry of Education and the relevant executive authorities tried to respond adequately to the challenges of the humanitarian crisis and armed conflict in Ukraine. The achievements of the Ministry of Education in the current academic year include the admission to the appropriate school facilities 46.5 thousand schoolchildren from internally displaced families.

4.2. Concern is about providing access to education for children who, due to the armed conflict in the East and the annexation of the Crimea, found themselves in the ATO zone and temporarily occupied territories. There are 490 general schools of various types, and 363 institutions in Luhansk on the part of the territory of the Donetsk Oblast, temporarily controlled by militiamen. In the non-government controlled area an education is conducted on Russian textbooks, programs, evaluation transferred to the *five-point system*. Children get secondary school diploma and certificate of Luhansk and Donetsk Republics.

4.3. The state has provided the opportunity to get complete secondary education to children who live in these areas through alternative learning - distance learning and external studies, but there are significant problems with the organization of such training. The congestion of pedagogical staff and the performance of these services free of charge does not allow carrying out such training in full that reduces its quality. Children from the non-government controlled areas do not have the opportunity to study some academic subjects: Ukrainian language and literature, the geography of Ukraine, the history of Ukraine. Lack of the Internet, power outages, insufficient number of computers and textbooks deprive these children of the opportunity to receive full-fledged education.

4.4. As of December 15, 2016, in general educational institutions study 142 people from the Autonomous Republic of Crimea (admission to the external school is carried out up to the end of the current academic year). The low level of the *demand* for Ukrainian education is justified by the almost lack of access to Ukrainian education, as because of the lack of sufficient level of development of distance education, as through the order of crossing the administrative border with the Crimea.

4.5. A large number of tests and exams (about 49) that applicants from the non-government controlled area need to obtain in order to get a document on secondary education, as well as the form and conditions of their passage, create significant overload for students and contribute to biased assessment, and also reduce the chances of these children to the further realization of their right to education in the territory of Ukraine, as was repeatedly reported by human rights organizations.

4.6. When submitting documents for admission to the universities, in the *Conditions for Admission to Higher Education in Ukraine in 2017*, where is defined the procedure for admission to the universities via Ukraine-Crimea Centres, there are discriminatory provisions that require applicants from the occupied Crimea to provide the Residence Certificate, the Residence Permit or military ID, that is impossible because of the residence of Ukrainian citizens in the occupied territory.

4.7. A challenging problem is logistic support of the educational institutions situated in the so-called *demarcation zone* and affected by armed conflict in Eastern Ukraine. Most of the funds spent on logistic support and renovation of the material and technical base that impaired in the result of military actions, at the expense of international and Ukrainian charitable foundations and organizations and volunteer assistance. As a result of a survey of educational establishments in government-controlled area, there was found the existence of practice of refusing in official financing of these expenditures on the grounds of futility of investing in educational institutions that may again suffer as a result of military actions.

4.8. The worsening of the situation with political, civil rights and economic situation on the peninsula causes further migration processes from the Crimea. According to the operational information of local educational authorities, as of December 15, 2016, 2.672 children from the ARC were admitted in general and pre-school educational institutions of Ukraine.

4.9. The legislative framework of Ukraine is not brought into compliance to enable organizing distance learning for residents of the occupied territories; at the MES level there were not developed curriculum for online courses at the level the *State Standard of the General Secondary Education*; there was not created any learning content in all subjects from 1st to 7nd grade; there is no IT platform, where the content will be located and was not determined by whom it will be guided and moderated; there is no possibility of a remote passage of the State Final Examination. Thus, education in external forms that provides independent study of educational material nowadays is the nearly only way to get Ukrainian education.

4.10. MES developed and approved the *Procedure for Admission for Higher and Vocational Education*. However, in a certain list by *Crimean-Ukraine Centres* there were not included any medical high school and universities of creative direction (conservatories, art academies, etc.). Accordingly, the possibility of implementing the right to choose specialization in higher education for Crimean entrants is artificially limited.

Recommendations:

1. Amend the legislation to exclude discriminatory rules with respect students,

- prospective university students- IDPs.
2. Legally regulate possibilities to pass the State Final Examination in the remote on-line mode, for 9th (and perhaps 11) class and to get the Certificate of Basic Secondary Education and the Complete General Secondary Education.
 3. Create a separate online resource that will become a prerequisite for distance learning of children living in the occupied territories of the Crimea and Donbas, and getting by them state-approved documents on obtaining basic and complete general secondary education.

5. Education in the field of human rights

5.1. As of January 2017, Ukraine had not yet developed the National Action Plan for Human Rights Education, which is one of the main requirements of the Action Plan of the World Program for Human Rights Education in accordance with the provisions of General Assembly Resolution 59/113; there is no national program on human rights education.

5.2. During the public events on the implementation of the principles and standards of the World Program for Human Rights Education, the Ministry of Education and Science of Ukraine notes that the work was begun to establish a working group for the development of a national program for human rights education, however, there is no regulation or another document, that declares these intentions.

5.3. The state does not fulfil its obligations to include international human rights standards in the curriculum. If in the human rights legal education curriculum for the 9th grade, which is valid for 2016-2017, the separate questions and several lessons are devoted to human rights, then the new legal education curriculum, which will teach students of 9th grade since the academic year 2017, is eliminated issue of the international standards, international documents on human rights, and the issue of *human rights* is only one of the items of the topic.

5.4. There is no continuous education system of human rights. Education on Human Rights continues is further being substituted with the term *legal education*. Fragmentarily, the state carries out information and educational work in the educational environment to share knowledge about human rights and fundamental freedoms. Separate educational and methodological seminars are held, the Ministry of Education and Science supports separate projects of NGOs. However, such actions are episodic, are not systemic in nature and, in fact, do not influence the change of the situation. Such materials quite often contain factual errors and extremely specific interpretation of human rights.

5.5. Despite the fact that the new educational standard of the *New Ukrainian School* notes that education helps to form a democratic culture in the school due to the development of appropriate procedures for the protection of human rights and the introduction of democratic values, the declarative nature of this document does not imply a systematic approach to human rights education and the formation of training competencies in the field of human rights.

5.6. The state does not fulfil its obligations under the Action Plan for the Implementation of the National Human Rights Strategy for the Period up to 2020 as for publication and distribution of human rights textbooks and manuals for general education, vocational and higher education institutions, legislative acts and supply such legal literature to library funds. Available manuals and textbooks on human rights in Ukraine are published mainly by NGOs, they available in a limited number in paper versions and in electronic format and are not widely popularized and are not shared by the official bodies of the education system.

5.7. The analysis of public measures of the Ministry of Education and Science and regulations provides grounds to argue that there is no action to develop a modern methodological framework for the introduction of a human rights training course.

5.8. Actions aimed at informing and popularizing of human rights and freedoms in the educational environment are minimal and formal, mainly being limited to weeks (decades) of legal education, meetings with law enforcement officers for the criminal and administrative responsibility of children, etc.

5.9. The training of teachers for the teaching of human rights is not systematically implemented either in the system of professional development of pedagogical workers or in higher pedagogical educational institutions. There are individual examples that continue to be the initiative of individual teachers and have an unsystematic nature. Thus, today there is not enough specialists, who are able to teach human rights.

5.10. There is no system for monitoring and evaluating the teaching of human rights in educational institutions, the official education authorities do not involve NGOs to this process and in addition, they make obstacles to alternative monitoring studies, introducing procedural and financial difficulties. This makes it impossible for NGOs to have an access to these procedures and affects the objectivity of the results obtained.

Recommendations:

1. Develop and approve the National Program on Human Rights Education, which should become the basis for the development of state standards, and, of course, include interested NGOs in the above-mentioned process;
2. On the basis of the Program, develop principles, methods of activity and knowledge, and standards reflecting a systemic approach to the implementation of Human Rights Education in Ukraine.
3. Develop textbooks and training aids on Human Rights Education, create an electronic resource base on human rights on the website of the Ministry of Education and Science;
4. To conduct a real systematic informational and educational work among representatives of the educational process (pupils, teachers, parents) in relation to Human Rights Education with the involvement of representatives of NGOs and the use of modern and diverse forms of interaction and learning other than lecture and seminar forms (trainings, watching and discussing of films, festivals, competitions, projects, essays and other creative activities).