

ALTERNATIVE REPORT ON THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD IN UKRAINE 2002–2008

Prepared by
Ukrainian NGOs



Kyiv 2009

**ALTERNATIVE REPORT
ON THE IMPLEMENTATION
OF THE UNITED NATIONS
CONVENTION ON THE RIGHTS
OF THE CHILD IN UKRAINE
2002–2008**

Prepared by Ukrainian NGOs

Kyiv 2009

Alternative report on the implementation of the Convention on the Rights of the Child in Ukraine is a result of collaboration between experts and professionals from the non-governmental sector working in the sphere of children's rights protection. The report contains an update on the progress in the implementation of the provisions of the Convention made in Ukraine since submission of the Second State Report in 2002 through to the end of 2008. It has been produced by Ukrainian NGOs following the Guidelines for NGOs preparing alternative reports to the UN Committee on the Rights of the Child (The NGO Group for the Convention on the Rights of the Child. — Geneva, 2006).

The analysis and conclusions presented in the report have been publicly discussed during working group and round tables meetings and using internet resources of the organisations involved in the reporting process. Materials and researches provided by the non-governmental organisations incorporate the opinions and views of the children. Recommendations contain suggestions on how both governmental and non-governmental sectors can improve their work to ensure fulfilment of the obligations under the UN Convention of the Rights of the Child in the most efficient way.

In 2009 this report has been submitted to the UN Committee on the Rights of the Child.

The Alternative report has been prepared by the initiative group of the Ukrainian NGOs:

All-Ukrainian Civic Organisation “Women’s Consortium of Ukraine”
All-Ukrainian Coalition “Unite for Children”
All-Ukrainian Foundation “Protection of Children’s Right”
Association of the Young Professionals “Class”
Charitable Foundation “Rokada”
Charitable Foundation “Chirikli”
Chernihiv Civic Organization “M’ART”
Dnipropetrovsk City Civic Organisation “Women’s Information and Co-ordination Centre”
Environmental Children’s Organization “Flora”
EveryChild Ukraine
Human Rights Centre “Postup”
Kharkiv Oblast Foundation “Civic Alternative”
Sumy Oblast Youth Civic Organisation “Gender Agency of Consultation and Information”
Youth Civic Organisation “Club “Compass”

Preparation, publication and dissemination of the Alternative report have been co-ordinated by:

- **EveryChild Ukraine**
within the framework of the Project “«Improving Information and Public Accountability System” which is funded by EveryChild (UK)
- **All-Ukrainian Civic Organisation “Women’s Consortium of Ukraine”**
within the framework of the Projects “Monitoring of the Children’s Rights in Ukraine”, funded by UNICEF and “Child participation in monitoring of the UN Convention on the Rights of the Child. Workshop on Exchange of Experience”, financed by Save the Children Sweden
- **All-Ukrainian Foundation «Protection of Children’s Right»**
within the framework of the Project “Information support of the monitoring on the implementation of the Convention on the Rights of the Child (the Alternative report) in Ukraine”, financed by International Renaissance Foundation

Electronic version of the Alternative report and other materials relating to the implementation of the Convention on the Rights of the Child can be found on the web-site “Public Monitoring of the Implementation of the Convention of the Rights of the Child in Ukraine” at : www.childrights.in.ua

Photo on cover page © Olga Berkun / EveryChild Ukraine

Kyiv, 2009

Introduction	5
Executive Summary	6
1 General Measures of Implementation	11
1.1. Legislaion and Implementation (Article 4)	11
1.2. National Action Plan	12
1.3. Monitoring of the Rights of the Child	14
1.4. Resources for Children	14
1.5. Data Collection and Publication (Article 44.6)	15
1.6. Dissemination and Training (Article 42)	15
Conclusions	16
2 Definition of the Child (Article 1)	17
Conclusions	17
3 General Principles	18
3.1. Non-discrimination (Article 2)	18
3.2. Best Interests of the Child (Article 3)	19
3.3. Right to Life, Survival and Development (Article 6)	20
3.4. Respect for the Views of the Child (Article 12)	21
Conclusions	22
4 Civil Rights and Freedoms	24
4.1. The Right to Preserve Identity (Article 7)	24
4.2. Access to Appropriate Information (Article 17)	25
4.3. Protection from Degrading Treatment or Punishment (Articles 19, 37a)	26
4.4. The Right to Privacy (Article 16)	28
4.5. Freedom of Association and Peaceful Assembly (Article 15)	32
Conclusions	33
5 Family Environment and Alternative Care	36
5.1. Right to grow up in a family environment and maintain contact with both parents (Article 20)	36

5.2. The right of children deprived of a family environment to be cared for in foster families and other family-type alternative care (Article 25)	38
Conclusions	40
6 Basic Health and Welfare	41
6.1. Health and Health Services (Article 24)	41
6.2. Social Security, Child-Care Services and Facilities (Articles 26, 18 par.3)	45
6.3. Property Rights of Orphaned Children	46
Conclusions	47
7 Education, Leisure and Cultural Activities (Articles 28, 29, 31)	49
Conclusions	53
8 Special Protection Measures	55
8.1. Refugees and Internally Displaced Children (Article 22)	55
8.2. The Administration of Juvenile Justice (Articles 37, 40)	57
Conclusions	63
Recommendations	66
References	75
NGOs involved in preparation of the Alternative Report	81

In autumn 2008 the Government of Ukraine submitted to the UN Committee on the Rights of the Child the Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

This document describes implementation of all the rights recognised in the Convention and outlines in particular the realization of the right of the child to a family. The report provides detailed information on the legal framework for child protection in Ukraine. However, issues relating to practical implementation of the current legislation are covered in the report insufficiently.

On this basis NGOs working in the interests of children have jointly produced an Alternative Report specifying those issues which are lacking in the State Report. The initiative group included the All-Ukrainian Coalition of NGOs and another 14 agencies¹ working in different areas of the child protection in Ukraine. Due to the participants this enabled the report to cover practically all the rights under the present Convention.

¹ Full list of organisations is provided in the last chapter of the Alternative report.

The Initiative Group has been working on the document for a year. During this period they have organised five working group meetings and held discussions via the internet on a regular basis. Issues regarding data collection methodology, its generalisation, content of the report and recommendations made were among their discussion points. Gathering information was based on the analysis of reference and other monitoring materials, statistical information, official requests for the state authorities etc.

The draft report was also discussed via e-mails with other non-profit organisations. Therefore the information submitted below presents an objective coverage of the progress and challenges in the field of child's rights protection in Ukraine.

Executive Summary



According to a report previous recommendations by the UN Committee on the Rights of the Child were only partly taken into consideration. First of all it concerns general approaches in the state policy towards children's rights. Under the main approach a child is regarded not as a subject of his or her own rights but only as an object of protection. The Ukrainian legislation on children's rights remains correspondingly declarative; furthermore not all of the children's rights recognised in the Convention are implemented at the legislative level. At the national level there is no system approach with regard to the right of the child to express its views and having those views given due weight at all levels of public life. The principle of "the best interests of the child" is only an underlying basis for the state childcare policy and legal regulation of family relations. The State does not undertake any measures to combat or prevent discrimination against vulnerable and marginal groups including access to education and health care. The funding of the national policies and programmes for children has been done according to the "what is left over" principle rather than identifying the amount and proportion of the State budget spent on children. The office of the Ombudsman for Children has not been established yet. None of the state agencies monitor

respect for the children's rights in Ukraine. There is no systematic and comprehensive compilation of data regarding the observance of the children's rights. Juvenile justice as an integrated system to address the particular needs of children has never been introduced in Ukraine, however the National Programme on establishment of the juvenile justice system in Ukraine has been drafted already.

One of the positive developments that have taken place during the reporting period was an adoption of the Law of Ukraine "On the National Programme "The National Plan of Action for Implementation of the Convention on the Rights of the Child" for the period until 2016". Ukrainian NGOs working for the protection and support of children's rights were actively participating in drafting its statutory wording. There has been a considerable increase in the number of families who joined the national programmes to ensure placement of the orphans and children deprived of parental care in the family-based alternative care. Introduction of the state financial support for the foster families as well as Presidential Decree "On urgent measures to protect child rights" in 2005 have also contributed to the development of the family-based care in Ukraine. However there is an urgent need to extend the legal framework for the family-based solutions.

In the majority of the articles the Convention has found relevant reflection in the national legislation, but still their practical application remains more often either formal or does not correspond to the state obligations under the present Convention.

For instance, according to the national legislation definition of the child generally complies with the standards recognised in the Convention; however the UN Committee recommendations to rectify disparities in the minimum age of marriage for both boys and girls, to lower minimum legal age to seek and obtain medical advice and counselling/ or treatment without parental consent and to establish clear legal minimum age for sexual consent have not been taken into consideration yet. Implementation of the right of the child to preserve his or her identity in the cases of adoption remains a significant problem in Ukraine.

Another example is inappropriate measures taken by the State to diminish infant and child mortality. There are additional problems bubbling under the surface: insufficient professional development of the mother and child welfare services staff, undermining specifically in rural areas, lack of systematic approach to facilitate logistic, financial and administrative support in this field and adoption of the new technology. Instead of realistic plans and fault analysis to eliminate them immediately the Government brings forward vague policies and measures of a general nature.

A child's right to privacy has been also completely ignored. There is no statutory interpretation and thus guarantees to protect private life of the child in the national legislation. Total violation of children's privacy has been practiced in schools and special educational and social rehabilitation institutions (toilet cubicles, examination of correspondence and notes, public disclosure of private information, almost free access to the medical records) through full unawareness of the existing right and its importance as well as attempts to define and protect the best interests of the child at their own discretion.

Children in Ukraine continuously suffer violence. There are cases of violation of children's human dignity in schools, families and through contact with the police as well as in residential care institutions and family-type children's homes. At the same time there is neither efficient mechanism to detect and address cases of violence nor an enforcement mechanism to applicable legislation on prohibition of corporal punishment. Interrogation procedures for children (witnesses, victims and those charged with a crime) are still imperfect and highly traumatizing.

There are also no mechanisms for an early intervention for vulnerable families and a lack of assessment of children's needs. The results on the family situations are being made by the child welfare agencies based solely on a single document — inspection report on the housing and living conditions. The State has not implemented the UN Committee recommendation regarding financial assistance to the vulnerable families with children. Even though “money follows the child” principle is currently in

progression, it covers only unsubstantial amounts of the children in need and provides no support to the biological families of children. Recommendation of the UN Committee regarding institutionalisation of children only as a measure of last resort and as a temporary measure has also not been addressed. Steps necessary to join the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption have also not been taken at a legislative level yet.

As for funding and providing conditions for free and high-quality medical healthcare current legislation does not ensure implementation of the provisions of the Constitution of Ukraine. As a result health conditions of the children aged 0-14 are unsatisfying; there is an increase in the prevalence of STIs and other bad habits; the awareness of youth on HIV/AIDS is still superficial.

Maternal HIV infection is considered to be a contraindication for the breastfeeding in Ukraine. At the same time there are problems with supply of breast-milk substitutes for the HIV-positive women. According to the surveys of NGOs rights of the HIV-positive children are being continuously violated in medical institutions.

It is worth noting that the State has not implemented the following measures yet:

- to provide access to education for the street, migrant and refugee children;
- to eliminate discrimination against the right to education for children with HIV/AIDS;
- to provide full access to the pre-school education in the rural areas;
- to integrate all Roma children into the state system of education.

More than 20,000 children do not attend school. One of the major concerns is full realisation of the complementary education for children with mental or physical disorders. There is neither an integration of the system into the general educational system nor

an individual learning system for these categories of children. Books and reference materials appropriate for children with visual and hearing impairments are not sufficient enough. Children placed in state care institutions within the social welfare system do not receive access to education due to lack of both training and education activities and lack of teachers and personnel in them. There are plenty of examples of cases where refugee children do not attend school.

Due attention should be given towards teaching pedagogical staff on children's rights and training personnel working with children with disabilities in these types of institutions.

As can be seen from the above national measures on child's rights protection in accordance with the provisions of the Convention on the Rights of the Child are not satisfactory in Ukraine whilst recommendations made by the UN Committee on the Rights of the Child are not taken into consideration sufficiently.

1

General Measures of Implementation

1.1. Legislation and Implementation (Article 4)

All the rights and freedoms set forth in the Convention on the Rights of the Child are mainly guaranteed and promoted under the legislation of Ukraine. However the declaratory nature of the national legislation on children’s rights still remain the main drawback regardless of the comprehensive recommendations of the UN Committee on the Rights of the Child (CRC/C/15/AcI.191, para. 294-371)².

² Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AcI.191, para. 294-371. (Concluding Observations/Comments).

The Law of Ukraine “On Childhood Protection” as of 26 April 2001 №2402-III³ is an essential law in the legal system of the children’s rights protection. It defines general measures for the implementation of the rights recognised in the Convention. The title of the Law itself emphasises that children are the objects of protection. Three out of four guiding principles of the Convention (non-discrimination, best interests of the child and the right to life, survival and development) are included within the Law in full. The fourth principle — respect for the views of the child — is integrated within the Law only partially. For example, Article 9 of the Law⁴

³ The Law of Ukraine “On Childhood Protection”, Bulletin of the Verkhovna Rada, 2001, N 30, p.142.

⁴ Ibid.

stipulates that children have the right to be heard in competent authorities, other institutions and organisations with comments, propositions and petitions regarding realisation of their rights, however the idea of giving children's views due consideration has not been clearly defined by the Law.

There is no direct reference to the following civil rights of the children in the national legislation of Ukraine:

- Right of the child to freedom of thought, conscience and religion (Article 14 of the Convention);
- The right to respect for private and family life, home and correspondence (Article 16 of the Convention);
- The right for the protection of the child from information and material injurious to his or her well-being (Article 17 of the Convention).

Right of the child to preserve his or her identity (Article 8 of the Convention) is being brutally violated in a range of the articles of the Family Code of Ukraine⁵ dealing with adoption.

⁵ Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

1.2. National Action Plan

During 1996-2000 the National Programme "Children of Ukraine" (approved by the Presidential Decree №63/96⁶ as of 18 January 1996) was implemented in Ukraine. Another Presidential Decree №42/2001 as of 24 January 2001 established additional measures in order to implement the National Programme "Children of Ukraine" until 2005⁷. Both documents specified those actions aimed at improving the well-being of children in Ukraine (i.e. establishing different types of the health care facilities). Nonetheless the vaguely defined content in the documents made it impossible for the quantitative assessment of their implementation. Issues regarding decrease in child mortality rates were more specific. However to be able to identify whether these goals have been achieved more research is required. Vital necessity to extend the term of the State Programme for another 5 years indicates considerable problems with its realisation. We are not aware of any governmental documents which would provide complex

⁶ Decree of the President of Ukraine №63/96 as of 18.01.1996 On the National Programme "Children of Ukraine".

⁷ Decree of the President of Ukraine № 42/2001 as of 24.01.2001 On Additional Measures for the Implementation of the National Programme "Children of Ukraine" until 2005.

assessment of the implementation results of the National Programme.

After the expiration of the National Programme “Children of Ukraine” in 2005 several drafts of the National Action Plan on Implementation of the UN Convention on the Rights of the Child for the period of 2006-2016 were prepared although due to different reasons they were not adopted. As a result there were no State programmes or policies for children implemented in Ukraine for more than 3 years.

In March 2009 the Law of Ukraine “On the State Programme ‘National Action Plan on Implementation of the UN Convention on the Rights of the Child’ until 2016”⁸ was adopted in Ukraine. The document includes data which can be potentially used as the target indicators of its implementation. Most of the paragraphs in the document are yet again ill-structured; it makes it impossible to assess progress in the implementation of the Convention either quantitatively or qualitatively. The Law does not stipulate specific measures necessary to implement the National Plan or issues of possible improvement in the national legislation on child’s rights protection. The Government pledge is to elaborate and approve these measures as well as the programme budget every year towards the next year. It was expected to have such Plan of Action no later than 3 months after the Law came into force. As of the end of August 2009 both Plan of Action and the amount of state funding had not been approved yet.

8 The Law of Ukraine «On the State Programme ‘National Plan of Action on Implementation of the UN Convention on the Rights of the Child’ until 2016» as of 05 March 2009, № 1065-VI.

9 Ibid.

Monitoring and evaluation of the National Plan⁹ implementation in Ukraine is undertaken by the Inter-agency Commission on Childhood Protection. The Commission’s main tasks include addressing issues calling for interagency coordination and multisectoral cooperation. Members of the Commission include representatives from the legal and executive authorities, NGOs and international agencies. Minister of Ukraine for Family, Youth and Sport is a Chairman of the Commission¹⁰. However the Commission does not play the full role in interdepartmental coordination since the range of issues is limited within the competence of a single Ministry. Minutes of the proceedings are submitted only in the forms of press releases.

10 Regulation of the Cabinet of Ministers of Ukraine as of 03 August 2000 № 1200 «On Establishment of the Inter-agency Commission on Childhood Protection».

Another example of its declarative nature is the fact of approval of the Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006) only after a month since the Report has been submitted to the UN Committee on the Rights of the Child¹¹.

¹¹ Based on the results of responses to the official requests «On Activity of the Inter-agency Commission on Childhood Protection during 2006-2009», Women's Consortium of Ukraine, 2009.

1.3. Monitoring of the Rights of the Child

There is no complex system of monitoring situation with children's rights in Ukraine. Some of the rights are being selectively monitored by the Ukrainian NGOs, national agencies and international organisations. Lack of co-ordination in monitoring activities is the reason for fragmentary data and duplication of the researches existing at present.

The State has not addressed recommendations 15 and 16 of the Committee on the Rights of the Child¹², where it has been recommended to establish an independent and effective Ombudsman for Children or an independent mechanism mandated to monitor the progress in the implementation of the Convention, and to receive and consider complaints from children or on their behalf.

¹² Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/Aclcl.191, para.294-371. (Concluding Observations/Comments).

At the same time two draft laws on establishment of the Ombudsman for Children in Ukraine have been registered in the Parliament in 2008. One of the drafts specifies establishing Office of the Ombudsman for Children within the scope of authority of the Commissioner for Human Rights. However according to the findings of the Central Scientific and Expert Directorate this initiative should be dismissed as early as in the first reading of the draft law. One of their arguments is that appointment of the specific commissioners is prohibited by the Constitution of Ukraine.

¹³ The Law of Ukraine «On the State Programme 'National Plan of Action on Implementation of the UN Convention on the Rights of the Child' until 2016» as of 05 March 2009, № 1065-VI.

1.4. Resources for Children

The major downside of the government policies and programmes for children is that the budgets for their implementation are not secured by the policies or programmes themselves. They are funded far inferior to their need, either using resources allocated to the Ministries and Government Departments or at the

expense of the finances left after meeting other governmental requirements (i.e. the “whatever is left over” principle). The new Plan of Action¹⁴ has accorded the annual budget allocations to ensure its implementation. The Committee’s recommendations towards identifying the amount and proportion of the State budget spent on children through public and private institutions or organizations in order to evaluate the impact of the expenditures and also, in view of the costs, the accessibility, the quality and the effectiveness of the services for children in the different sectors have not been implemented yet.

14 Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AcI.191, para.294-371. (Concluding Observations/Comments).

1.5. Data Collection and Publication (Article 44.6)

Since 1996 Digest of Statistics “Children of Ukraine” has been produced in Ukraine. It gives information on certain aspects of the children’s rights protection; however it does not provide data from all the areas covered by the Convention. For example, data on many violations of the children’s rights in Ukraine is not collected or published. There is no statistics on children suffering from tortures, all forms of ill-treatment, domestic violence and physical abuse. National Plan of Action¹⁵ stipulates improvements in monitoring the cases of juvenile delinquency and crimes against children. Recommendations of the Committee on the Rights of the Child¹⁶ regarding systematic collection disaggregated data incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with specific emphasis on those who are in need of special protection have not been followed up.

15 The Law of Ukraine «On the State Programme ‘National Plan of Action on Implementation of the UN Convention on the Rights of the Child’ until 2016» as of 05 March 2009, № 1065-VI.

16 Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AcI.191, para.294-371. (Concluding Observations/Comments).

1.6. Dissemination and Training (Article 42)

Dissemination of the Convention in Ukraine is done both among children and professional groups working with and for children. The provisions of the Convention as well as other information materials are disseminated by the Ministry for Family, Sport and Youth, Ministry of Education and Science, UNICEF, other international organisations and national NGOs. However the total amount of the existing materials is absolutely insufficient throughout Ukraine. Furthermore there is no state system for raising awareness

which would make provisions of the Convention understandable and widely known to children and their parents. Training on the principles and provisions of the Convention for all relevant groups of professionals working with and for children including teachers, medical staff, law enforcement personnel, lawyers and judges is not provided adequately and in a systematic manner. Recommendations made by the UN Committee on the Rights of the Child¹⁷ in this area have been insufficiently addressed.

¹⁷ Ibid.

Conclusions

1. The Ukrainian legislation on the rights of the child remains of a declarative nature: children are being objects of protection rather than subjects of their rights. Not all the children's rights recognised in the Convention are implemented at the legislative level in Ukraine.
2. The Law of Ukraine "On the State Programme 'National Action Plan on Implementation of the UN Convention on the Rights of the Child until 2016'" was adopted in Ukraine. At the same time the Decree of the Verkhovna Rada of Ukraine on approving 2010 Plan of Actions in 3 months term has not been implemented¹⁸.
3. There is no complex system for monitoring children's rights in Ukraine. Office of the Ombudsman for Children has not been established.
4. Instead of identifying the amount and proportion of the State budget funding of the government policies and programmes is far interior to their need and is based on "whatever is left over" principle.
5. There is no systematic data collection and publication of the information on the observance of the children's rights in Ukraine.
6. There is no state system to create widespread awareness and understanding of the Convention to children and their parents as well as professionals working with children. Total amount of the information materials on the provisions of the Convention distributed by the departments of the corresponding ministries is insufficient.

¹⁸ As of 17 August 2009.

2

Definition of the Child (Article 1)

¹⁹ The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

²⁰ Family Code of Ukraine (Article 6), Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

²¹ Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/ACl.191, para.294-371. (Concluding Observations/ Comments).

In accordance with the provisions of the national legislation mentioned in the National Report¹⁹ “a child is a person who is under 18 years of age (the majority age)”²⁰. The report defines also circumstances according to which the age of majority is attained earlier. The afore-mentioned provisions generally reflect the standards recognised in the Convention. Information about the real situation of implementation the Committee’s recommendations²¹, however, is withheld within the National Report. Those recommendations have already become traditionally non-executable. For instance previous recommendations to rectify disparities in the minimum age of marriage between boys and girls by raising the minimum age of marriage for girls to 18 have yet again been ignored by the State. Recommendations to lower minimum legal age for medical advice and counselling without parental consent and to establish clear legal minimum age for sexual consent have also not been implemented yet.

Conclusions

1. According to the national legislation definition of the child generally complies with the standards recognised in the Convention, however recommendations of the Committee to rectify disparities in the minimum age of marriage for both boys and girls, to lower minimum legal age for medical advice and counselling without parental consent and to establish clear legal minimum age for sexual consent have not been taken into consideration yet.

General Principles

3

3.1. Non-discrimination (Article 2)

Despite previous Committee's recommendations²² the principle of non-discrimination is not fully implemented for children of economically disadvantaged households, children living in rural areas, children in institutions, children with disabilities, Roma children and children affected with HIV/AIDS, especially in regards to health care, social welfare and education. The principle itself is generally integrated within the national legislation and reflects international standards concerning the rights of the child. However, in practice it is still not being appropriately applied. There are no adequate actions aimed at eliminating discriminatory attitudes or prejudices against children belonging to the above-mentioned vulnerable groups elaborated by the State. The State does not undertake any measures to combat or prevent discrimination against vulnerable and marginal groups including access to education and health care.

3.2. Best Interests of the Child (Article 3)

It is only child protection policy and legal regulation of family relations in the State that are based on the principle of “the best interests of the child”. A child is regarded not as a subject of his or her own rights but only as an object of protection by the State; rights of the child are seen only as the certain social guarantees for a child; there is lack of respect towards personal rights of the child. There is no systematic analysis of the state policy and programmes in terms of the best interests of the child; no assessment of the measures undertaken has been done. There is no interagency coordination for child protection, while budget costs allocated for this purpose are scattered between Ministries and Government Departments. In fact there is no any state body which could analyse childhood protection issues according to their priorities, submit proposals to improve state policy on protection of the different groups of children, and not only orphans and children without parental care²³.

²³ Based on the results of «Complex monitoring of the situation on children’s rights in Ukraine», made by the Foundation of the Children Rights, the Democracy Grants Program of the US Embassy in Ukraine.

The real possibility to consider interests of the child is within the court. Having heard the case, examined witnesses and weighed the evidence the court may decide that violation of child’s rights had taken place. Even though the decision itself can be used as grounds for deprivation of parental rights according to the Article 164 of the Family Code of Ukraine²⁴ yet the court may dismiss a claim for deprivation of parental rights, depending on the family law sanction imposed as well as interest and rights of the child. However court’s decisions are based more often on the resolutions made by the child welfare agencies, which involve the child’s interests insufficiently²⁵.

²⁴ Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

²⁵ Monitoring report «Judicial protection of the best interests of the child and the right of a child to a family», Kharkiv “Civic Alternative Foundation”, 2006.

Definition of the best interests of the child often happens without participation of the child himself or herself. For example, according to the Family Code (Article 226, para.3)²⁶ adopted children upon reaching the age of 14 have the right to obtain information about their adoption. This provision contradicts another article of the Family Code (Article 227)²⁷, which stipulates that the adoptive parent has the right to withhold the fact of adoption from the child and demand non-disclosure of this information by the other people both before and after attaining majority.

²⁶ Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

²⁷ Ibid.

3.3. Right to Life, Survival and Development (Article 6)

State measures to diminish infant and child mortality are ineffective. In 2003 the infant mortality rates were 3882 infant deaths (under the age of 1), in 2004 — 4024²⁸, in 2005 — 4265, in 2006 — 4433²⁹, in 2007 — 5188³⁰.

For example, in Zhytomyr oblast during 5 months of 2006 mortality rate of children under the age of 1 has increased by 25,7% compared to the same period in 2005. This number exceeds the average rates at the national level two-fold due to mortality of children from 28 days until 1 month of age. Among the growing reasons for infant mortality are deaths from respiratory diseases, injuries and accidents which indicate considerable problems in provision of medical assistance to mothers and children in Ukraine. Prevailing number of deaths among children from 28 days until 1 month of age occurs in rural areas (70% of cases). This reveals poor nursing and follow-up care for children at an early age. The biggest mortality rates of children at 1 month of age are caused by the birth defects, 70% of which have not been detected during routine ultrasound scanning in pregnancy. There are 5 death cases of children at 2-3 weeks of age registered in the maternity hospitals of the oblast; it shows a lack of stage-by-stage approach in the provision of medical assistance for newborns. Much is needed to be done to provide maternity units with the proper equipment in the oblast. Only 8 out of 23 maternity units are equipped with the fetal monitors and breathing equipment for new borns, 3 delivery departments with the average number of 150-170 deliveries per year have no bassinets. There is a problem with professional personnel supply — paediatricians and neonatologists — first of all in small and remote regions³¹.

Statistical data indirectly indicates either non-disclosure or manipulation of the real figures at the local level (i.e. shifting baby's weight into the other weight group, incorrect weighing etc.)³². Vasyl Knyazevych, Minister of Health of Ukraine has analyzed the situation with infant mortality in Ukraine in his report submitted for the final session of the Board of Ministry of Health on 28 March 2008. He highlighted that the reason

28 Human Rights in Ukraine — 2005, Chapter I. The Right to Life, the Annual Report by Human Rights Organisations. Ukrainian Helsinki Human Rights Union.

29 Human Rights in Ukraine — 2006, Chapter I. The Right to Life, the Annual Report by Human Rights Organisations. Ukrainian Helsinki Human Rights Union.

30 Human Rights in Ukraine — 2007, Chapter I. The Right to Life, the Annual Report by Human Rights Organisations. Ukrainian Helsinki Human Rights Union.

31 Human Rights in Ukraine — 2006, Chapter I. The Right to Life, the Annual Report by Human Rights Organisations. Ukrainian Helsinki Human Rights Union.

32 Ibid.

33 Report by the Minister of Health of Ukraine Vasyl Knyazevych submitted for the final session of the Board of Ministry of Health on 28 March 2008, a Medical Newspaper of Ukraine “Vashe Zdorovya” № 12 (886).

34 Based on the results of «Complex monitoring of children’s rights in Ukraine», conducted by the Foundation of the Children Rights, US Embassy Democratic grants Program in Ukraine.

35 Collected articles «The Right to Life: European standards and Ukraine’s realities», Kharkiv “Civic Alternative Foundation”, 2007.

36 Criminal Code of Ukraine, Bulletin of the Verkhovna Rada, 2001, N 25-26, p. 131.

37 The Law of Ukraine «On Childhood Protection», Bulletin of the Verkhovna Rada, 2001, N 30, p. 142.

38 Ibid.

for that is the introduction of the registration system on 1 January 2007 following WHO recommendations which implies a lower limit of viability (22 weeks of gestation or 500 grams birthweight)³³.

Ukraine has the highest abortion rates in Europe (21, 1 per 1,000 women of fertile age; 45,8 — per 100 known pregnancies, 84 — per 100 deliveries)³⁴. The legal time limit for termination of pregnancies has been reduced from 28 to 22 weeks in Ukraine. Such factors as the economically disadvantaged status of the women were excluded from the list of the indications for the late-term abortions. Notably, it has been done around the same time when the State has increased social benefits for mothers and newborns in the amount of 8,500 UA Hryvnia³⁵.

Under the Criminal Code of Ukraine³⁶ children are not duly protected from violent crimes, such as murder or infliction of bodily injury. Commitment of these crimes can be regarded as an aggravating circumstance only in relation to children under 14 years old. If children are between 14 and 18 years of age crimes committed against them cannot be regarded neither as the qualifying elements nor as the aggravating circumstances. However consequences of the serious bodily injuries are much adverse for children than they are for adults due to children’s continuous process of physical and mental development.

3.4. Respect for the Views of the Child (Article 12)

Children’s views are still taken into consideration on purely formal grounds. Article 9 of the Law of Ukraine «On Childhood Protection»³⁷ stipulates that children have the right to be heard in competent authorities, other institutions and organisations with comments, propositions and petitions regarding realisation of their rights, however the idea of giving children’s views due weight has not been clearly defined by the Law.

According to the Article 10 of the Law³⁸ “Any disclosure or publication of information relating to a child that may cause harm

is prohibited without the consent of his/her legal representative”. Child’s opinion towards making personal information public is not included in the provision of the article. It makes child’s legal representative responsible for defining level of harm on the public release of information. At the same time, it remains unclear:

- a) what are the criteria for the information that may cause harm to a child;
- b) what are the solutions if child’s opinion contradicts the views of his/her legal representative;
- c) why a child can not establish his/her own level of privacy;
- d) whether ‘not harmful’ information can be made public without consent of a child him-/herself.

The right of the child to express his or her views in the court is safeguarded in the civil proceedings insufficiently. For example, Code of Civil Procedure of Ukraine³⁹ stipulates interrogation process of minor and under-aged witnesses. At the same time there is no procedure of participation for children who are not witnesses in proceedings affecting them as it is claimed under the European Convention on the Exercise of Children’s Rights, applicable to the territory of Ukraine since 01 April 2007⁴⁰. Therefore while determining the best interests of the child courts in reality are using resolutions made by the child welfare agencies rather than hearing the opinion of a child him-/herself⁴¹.

39 Code of Civil Procedure of Ukraine, Bulletin of the Verkhovna Rada, 2004, N 40-41, 42, p. 492.

40 European Convention on the Exercise of Children’s Rights.

41 Based on the preliminary results of monitoring “Child-friendly court system”, Kharkiv “Civic Alternative Foundation”, 2008.

Conclusions

1. The principle of non-discrimination is generally integrated within the national legislation and reflects international standards concerning the rights of the child. However, in practice it is not appropriately applied.
2. The State does not undertake any measures to combat or prevent discrimination against vulnerable and marginal groups including access to education and health care.
3. It is only child protection policy and legal regulation of family relations in the State that are based on the principle of “the best interests of the child”.

4. There is no systematic analysis of the state policy and programmes in terms of the best interests of the child; no assessment of the measures undertaken has been done.
5. While determining best interests of the child in the court, in adoption proceedings in particular, children's views are not given due weight.
6. State measures to diminish infant and child mortality are inefficient. Additional negative factors are: insufficient professional development of the mother and child welfare services staff, undermining specifically in rural areas, lack of systematic approach towards problem solutions in logistic, financial and administrative support of this field and adoption of the new technology. Instead of realistic plans and fault analysis to eliminate them immediately the Government brings forward vague policies and measures of a general nature.
7. Ukraine has the highest abortion rate in Europe.
8. There is inefficient practical assistance provided to vulnerable children and children prone to suicide.
9. There is no definition of aggravating circumstances in cases of the grave crimes committed against children older 14 years of age.
10. At the national level there is no system approach with regard to the right of the child to express its views and having those views given due consideration at all levels of public life.
11. Having as a purpose to protect best interests of the child the Law of Ukraine "On Childhood Protection" does not stipulate procedure of giving children's views due weight; moreover it leads to violation of the child's right to respect for privacy.
12. The right of the child to express his or her views in the court is safeguarded in the civil proceedings insufficiently. In addition there is no practice for a child to be heard in civil proceedings whatsoever.

Civil Rights and Freedoms

4

4.1. The Right to Preserve Identity (Article 7)

Under the national legislation requirements for the registration of a child immediately after birth are satisfied in Ukraine. According to the Article 144 of the Family Code⁴² it is upon parents' responsibility to record the birth of the child in a civil registry office within a month's period. A child acquires citizenship at his/her birth. Under the Law of Ukraine "On Citizenship"⁴³ citizenship is also granted in cases of a child's adoption.

Human rights defenders show serious concerns relating to the right of a child to preserve identity in the context of adoption⁴⁴ in Ukraine. Provisions of the Family Code⁴⁵ regarding secrecy of adoption to meet the best interests of the child contradict Articles 7 and 8 of the UN Convention on the Rights of the Child. In adoption the name and the family name of the child may be changed even though a child might be aware of what he or she was called before. Their date and place of birth may also be changed in adoption proceedings. If best interests of the child are met the court decides to introduce these changes when granting the adoption order. In this view not only the right of a child to preserve identity is limited, such proceedings affect child's right for contact with their birth parents and other birth relatives (brothers, sisters etc.). At the same time there are no legal provisions to ensure the

42 Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

43 The Law of Ukraine «On Citizenship», Bulletin of the Verkhovna Rada, 2001, N 13, p.65.

44 Human Rights in Ukraine — 2006. The Annual Report by Human Rights Organisations. Ukrainian Helsinki Human Rights Union.

45 Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

right of adopted children to seek and to have access to information concerning their birth family, real date and place of birth. Disclosure of the secrecy in adoption is furthermore regarded as a criminal offence.

4.2. Access to Appropriate Information (Article 17)

⁴⁶ Human rights in the family-type children's homes of Ukraine. Monitoring Report. M. Yasenovska, O. Biletska, Kharkiv City Organization of International Organization "Zhinocha Gromada", 2004.

Children's access to information remains to be very limited, in particular with regard to orphans and children deprived of parental care. According to monitoring report "Respect for human rights in the family-type children's homes of Ukraine"⁴⁶ following issues have been ranked as the most important in terms of awareness by the orphans and children living in the family-type children's homes:

- procedures of appeal in case of violations of their own rights;
- information on their legal status and relevant benefits they are entitled to;
- information that will help them to get prepared for adult life.

Children's access to this kind of information must be actively provided by adults, and first of all by their house parents. However not all carers are fully aware of the importance of these issues and to provide due access to them in order to enable a child's further development and their transition to adult life. In most of the cases information is simply withheld by the house parents with the intent to protect the child or thinking they might be not interested in it or that they are too small to understand. More often neither parents nor social services do not possess this type of information and what makes it worse — the authorities do not even try to acquire it. It concerns information about biological parents of the child in a considerable way.

Children are insufficiently familiar with their own procedural rights: 21 % of children are familiar with certain procedures of appeal, children from only 14 family-type children's homes are aware of NGOs working to protect rights of orphaned children. There is no mechanism provided to children to appeal against the

actions of their house parents. Children from those family-type children's homes visited by the social worker or a child welfare body representative have been coming up with the ideas to resort to them to seek protection of their own rights even in those cases when they have not been informed about this option specifically. 27% of children are not aware of their legal status, 56% of children have no documents verifying their status. Children from 6 family-type children's homes are not familiar with the benefits they are entitled to. 77% of the interviewed children have scarce information about their relatives and only 25% of all children have the official information about them. Children from only 3 family-type children's homes are making decisions together with their house parents which periodicals to buy and/or subscribe to; 7 children have no access to television, for 17 of them the access is limited. It is explained by the time and content of the programs, children's age, religious beliefs of their parents and electricity saving costs.⁴⁷

47 Ibid.

Similar to this, orphaned children in residential care are not aware of their own property they may have. As prerequisite to exercise the right to peacefully hold property is awareness of its availability. Unfortunately there is evidence that the state authorities are not actively involved in raising awareness for orphans or children deprived of parental care about property belonging to them. During the interviews orphans and children deprived of parental care living in residential institutions have frequently responded with: "You'll never know about inheritance unless you ask", "We inform children about property belonging to them when they ask about it", "No, they are not aware of the property until they are in senior school when they show concern themselves"⁴⁸.

48 Respect for the right to property of the orphaned children in Ukraine. Monitoring rapport, O. Hrabovska, M. Yasenovska, O Kopanska, 2006.

4.3. Protection from Degrading Treatment or Punishment (Articles 19, 37a)

It was admitted by the State that children in Ukraine continuously suffer violence. There are cases of children's humiliation in schools, families and through contact with the police. Children's dignity is also violated in care institutions and family-type children's homes.

There is no efficient mechanism to detect and address cases of violence. Procedures for individual applications and notifications in relation to child abuse or the threat of such treatment⁴⁹ are practically inapplicable. As a matter of fact much of this document remains obscure to the teaching and medical staff, law enforcement personnel and other professionals working with and for children. Due to this fact they are neither aware of its importance nor realise their personal responsibility within its framework.

There are no prevention measures and raising awareness activities undertaken. “We bring up children as our own ones”, say residential care workers⁵⁰. Despite this corporal punishment is a widespread traditional practice at home. According to the Article 150 of the Family Code⁵¹ and Article 289 part 3 of the Civil Code⁵² physical punishment has been fully prohibited in Ukraine, however, mechanisms to ensure implementation of these provisions are non-existent. There is no information campaign to promote non-violent forms to discipline children and unacceptability of physical punishment in their upbringing. Widespread forms of corporal punishment contribute besides to the violent patterns of behaviour among young people.

Despite the UN Committee’s recommendations (42 a and b)⁵³ it is difficult to estimate the real scope of the problem of child abuse in Ukraine due to the lack of the complex research and systematic approach in data collection by different Government departments. As a matter of fact it varies because of the different compilation tools applied for its collection. The official statistics include such paradoxical cases when data on children victims of domestic violence and children being domestic violence offenders are cumulated and shown as the same figures. There is no joint statistics on unaccompanied children who came to Ukraine from other countries and from Moldova in particular⁵⁴. There is a practice of withholding information about the cases of violence in special educational and social rehabilitation institutions.

Interrogation procedures for children (witnesses, victims and those charged with a crime) are still imperfect. According to the reports of the General Prosecutor’s Office⁵⁵ during 2005-2006 more

49 Decree as of 16.01.2004, N 5/34/24/11 On approval Procedures for individual applications and notifications in relation to child abuse or the threat of such treatment.

50 Human rights in the family-type children’s homes of Ukraine. Monitoring Report. M. Yasenovska, O. Biletska, Kharkiv City Organization of International Organization “Zhinocha Gromada”, 2004.

51 Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

52 Civil Code of Ukraine, Bulletin of the Verkhovna Rada, 2003, № 40 — 44, p. 356.

53 Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AcI.191, para. 294-371. (Concluding Observations/Comments).

54 Based on the results of Terres des Hommes research in Moldova.

55 Human Rights in Ukraine — 2006, Chapter XIX. The Rights of the Child: Certain Aspects, the Annual Report by Human Rights Organisations. Ukrainian Helsinki Human Rights Union.

than 8,000 underage children have been recognised as victims of crimes in the courts of Ukraine. Until now however changes have not been made to the Code of Criminal Procedure of Ukraine⁵⁶ to ensure communication of child witness with interrogation officers are to be held in a safe child-friendly environment in the presence of qualified psychologist. In the Code of Criminal Procedure current wording of Article 168 stipulate obligatory presence of a pedagogue only and in cases relating to the children under 14 years old. As for children from 14 to 16 years of age it is upon officer's decision to provide teacher's presence during interrogation. Children from 16 to 18 years old do not have such possibility at all.

⁵⁶ Code of Criminal Procedure of Ukraine, approved by Law as of 28.12.1996, 1000-05, Bulletin of the Verkhovna Rada, 1961, № 2, p. 15.

Many challenges remain due to the lack of rehabilitation and treatment programmes for the victims and offenders of violence. Despite the recent increase in the number of state centres for social-psychological rehabilitation, they have been used mainly as shelters, meeting the basic needs of children for food, dwelling and medical services. There is a need for the additional development of programmes working with children's parents in particular, which has not been done so far. Deprivation of parental rights is still the only actual way to prevent family violence against children.

4.4. The Right to Privacy (Article 16)

Under national legislation due attention has not been given with respect to the right of the child to privacy. There are common drawbacks regarding the realization of this right in Ukraine for children. Despite clear definition of the right in the Constitution of Ukraine⁵⁷ (prohibition of collection, storage, use and dissemination of confidential information about a person without his or her consent; the right to examine information about himself or herself at the bodies of state power, bodies of local self-government, institutions and organizations; judicial protection of the right to rectify incorrect information about himself or herself) there is no comprehensive integration in the effective policies and laws of the reasons and conditions of interference with the right to privacy in Ukraine. The concept of the 'private life of a child' as it remains unclear in the national legislation. Furthermore it identifies a purely paternal object-subject approach to a child. The Law

⁵⁷ Constitution of Ukraine, Bulletin of the Verkhovna Rada, 1996, № 30, p. 141.

of Ukraine “On Childhood Protection” contains vague wording regarding such terms as “respect for dignity”, ‘humane treatment’ etc. which can be equal to the definition on respect to a child’s right to privacy.

Another document which promotes the right of a child to privacy is Family Code of Ukraine⁵⁸, however it contains the biggest violations of this right at the same time. Individual attention is required to that part of legislation which regulates secrecy in adoption. It directly contradicts to the UN Convention on the Right of the Child and violates the rights of the child to preserve identity and the right to privacy. Under the national legislation the best interests of the child are not met in adoption proceedings in Ukraine. For example, Article 210, para. 2 of the Family Code⁵⁹ stipulates that a child has the right to know about the new place of residence of his or her siblings if secrecy was not kept in their adoption. Therefore the requirements to keep secrecy in adoption can literally deprive children of the right to contact with the siblings. It interferes also with their right to their private or family life. The Code stipulates⁶⁰ that the adopted child has the right to secrecy in adoption including the fact not to know about being adopted him-/herself. Moreover if a child under 7 years old is being adopted the officials must provide secrecy in adoption for a child himself/herself. Therefore there is a mysterious regulation under current legislation which can be defined as freedom of a child of access to information about himself and his personality⁶¹. Under the Article 218 of the Family Code⁶² a child is well-informed about the legal implications of adoption. It is uncertain however how it makes it possible to happen since a child can be adopted without his or her agreement due to the fact he or she is not aware of adoption because of the age or health conditions. Under Criminal Code (Article 168)⁶³ not only criminal responsibility is stipulated for disclosure of the secrecy in adoption but the child is also deprived of the right to act on his/her own while making decision upon own adoption even after reaching the age of majority. According to the Criminal Code having obtained information about his/her own adoption a child has no right to disseminate it without agreement on that the adoptive parent.

58 Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135.

59 Ibid.

60 Ibid.

61 Petrova N. The right to respect for privacy and family life: civil aspects in legislation and current court practice of Ukraine // European Convention on Human Rights: fundamental principles, practical application and Ukrainian context, 2004. — p. 403.

62 Family Code of Ukraine, Bulletin of the Verkhovna Rada, 2002, N 21-22, p. 135

63 Criminal Code of Ukraine // Bulletin of the Verkhovna Rada, 2001, N 25-26, p. 131.

The problem in respect of the right of the child to privacy has not evoked any response from the State yet. There is not a single national programme which aims to improve the situation in the slightest. For example, typical practice existing in the secondary schools can demonstrate the real state of things regarding respect of the right to child's privacy. There are no individual cubicles in the toilets for schoolchildren in most of the secondary schools due to safety protection measures and to make cleaning process easier. Apart from sheer psychological consequences lack of toilet cubicles makes basic hygienic procedures for most of children complicated, especially for girls and those who have special needs due to medical complications. There is widespread practice when teachers are making letters or any other notes written by a child public. Children personal belongings may also be inspected in public. Prohibition of none for these actions has been regulated by the legislation. For many of the teachers such conduct of behaviour, however, is a usual way of keeping discipline, being a remnant from the Soviet era school system. These and other actions such as:

- disclosure of confidential information regarding children, his or her parents and other members of the family (i.e. education, marital status, religion, health conditions, place of birth, property status and other personal data)
- derogatory comments towards parents and relatives of the child (in most of the cases in the presence of the child and parents themselves) are being undertaken by the teachers in secondary schools to make a child feel guilty for his/her behaviour or to use it as means of obtaining extra financial aid from parents for school needs. There is relatively free access to the school record books which contain information on parents of the children, addresses and places of their work. Both students, their parents and teachers can obtain access to the school record books which means that due to the public access confidentiality of the information is being affected. As a matter of fact school record books also contain a sheet where all the medical diagnoses of the students in the class are recorded thus confidentiality of the private medical data is being also breached. There

are chances for strangers to obtain information of a private nature on children through school paperwork.

A similar situation has been observed in the special educational and social rehabilitation institutions (boarding schools, schools of social rehabilitation etc.). For instance, experts from the Ukrainian Helsinki Human Rights Union since 2005 are constantly reporting on the cases of violation of the right of the child to privacy⁶⁴. It concerns in particular the inspection of personal belongings of a child, inspection of the correspondence, public discussion of the private and sensitive topics, living conditions which cause interference with the privacy (bedrooms with transparent and glass walls, toilets without cubicles etc.) According to the experts from Kharkiv Oblast Foundation “Civic Alternative” and the Association of the Young Professionals “Class” no considerable changes has been achieved in the situation since the times of monitoring the respect for human rights in boarding schools of the social rehabilitation conducted by the All-Ukrainian Foundation «Protection of Children’s Right». The most frequent violations of the privacy in schools of social rehabilitation are:

- inspection of the personal belongings in the presence of other students;
- public disclosure of the private data regarding students’ families or health conditions;
- lack of storage solutions for personal belongings of the students (i.e. students from Kharkiv school of social rehabilitation have only a shelf each within the general storage unit for students);
- prohibition to keep student’s personal belongings (i.e. flower pots or posters);
- lack of place where the students can stay on their own for some time.

Another aspect concerns placement of the personal data (including photographs) on the Internet for children who need adoption. Among one of the positive developments the State notes is the setting up and promotion of the electronic data bases on orphans, children deprived of parental care and children

64 Human Rights in Ukraine — 2005, Chapter XIV. The Rights of the Child. Ukrainian Helsinki Human Rights Union.

from the so-called families in crisis. In particular in autumn 2007 a consolidated electronic data bank to simplify the adoption proceedings in Lviv oblast was set up. As of October 2008 approximately 5,000 children living within Lviv City or Lviv Oblast were included in the database⁶⁵. Half of their amount needed either guardianship or adoption. The databank was updated with the pictures and complete records about a child. There is identical data bank in Ternopil oblast⁶⁶; similar databanks are in the process of establishment in the other regions of Ukraine. On one hand it may be regarded as another achievement made to find a new family for a child, on the other such practice can become a feasible threat to the right of a child to privacy given that protection of the personal data is not safeguarded legally. It makes it also clear that disclosure to the public of such an information violates both the national legislation and the right to privacy.

65 Lvivska Gazeta, №157 (465), as of 28.10.2008.

66 According to UNIAN: Ternopilshchyna: 7 children were adopted in Ternopil last year // Zdorovya — №5 (88).

4.5. Freedom of Association and Peaceful Assembly (Article 15)

The Law of Ukraine “On youth and children civil organizations”⁶⁷ which came into force in 1999 is aimed at developing partnerships between governmental and non-governmental organizations in Ukraine. Article 8 of the Law stipulates active involvement of children organisations by central/local bodies of executive power in development and discussion of the draft resolutions on state child protection policy. Children civil organizations are legally defined as associations of citizens between 6 and 18 years old for exercising and protecting their rights, freedoms and artistic creativity and for satisfying their own interests with the exception of restrictions established by law as well as for becoming productive members of society. Children aged 14-18 can also be members of youth organizations, which include citizens between 14 and 28 years old.

67 The Law of Ukraine «On Youth and Children Civil Organisations», Bulletin of the Verkhovna Rada, 1999, № 1, p. 2.

Development of children civil organizations is supported by the State. There is evidence for state mechanism of financial support, tax privileges, information and technical assistance for children civil organisations in Ukraine.

Notably, the number of non-governmental children and youth organizations is continuously growing: when in 2002 there were 77 national and 12 children's organizations in Ukraine, as of 01 January 2008 there were 156 national youth and 16 national children civil society organizations legally registered at the Ministry of Justice of Ukraine.

Numerous forms and methods of co-operation between governmental and non-governmental organizations have been developed in the past years. They enabled establishment of children's organizations as an effective democratic resource in the State. To ensure efficient state budget allocations and to provide support for the children's and youth civil organizations to implement their activities the Government of Ukraine approved Tender procedures on state programmes for children, youth, women and family drafted by NGOs as of 25 July 2002⁶⁸. Each year the Government seeks to define vectors of co-operation within state policy. As a matter of fact they concern issues of patriotic upbringing, healthy lifestyle, informal education, environmental awareness etc. Greater delegation of authorities to the children's NGOs in terms of implementation of the national programmes backed by necessary funding can be seen both throughout Ukraine (347,000 UAH secured in 2004, comparing to 15,350,000 UAH secured in 2008) and at the regional level. However the regional funding depends on the local budgets approved by the local authorities in the regions. It means that despite tendering procedures budget allocations within the regions are not transparent and open.

68 Regulation of the Cabinet of Ministers of Ukraine as of 25.07.2002 N 1062 On approval Tender procedures on state programmes for children, youth, women and family drafted by non-governmental organizations.

Conclusions

1. Under the national legislation requirements for the registration of a child immediately after birth are satisfied in Ukraine. A child acquires citizenship at his/her birth or in adoption.
2. The right of a child to preserve identity has not been ensured in adoption proceedings in Ukraine.
3. Children's access to information regarding procedures of appeal in case of their rights' violations, legal status, relevant

benefits, property and how to prepare for adult life remains very limited, in particular with regard to orphans and children deprived of parental care.

4. Children in Ukraine continuously suffer violence. There are cases of children's humiliation in schools, families and through contact with the police. Children's dignity is also violated in care institutions and family-type children's homes.
5. There is no efficient mechanism to detect and address cases of violence. The effective legislation is not applicable in practice.
6. Mechanisms to ensure implementation of the legal provisions regarding prohibition of the corporal punishment are non-existent.
7. There is lack of in-depth studies and systematic approach in data collection on child abuse.
8. Interrogation procedures for children (witnesses, victims and those charged with a crime) are still imperfect and highly traumatizing.
9. There is a lack of rehabilitation and treatment programmes for the victims-offenders of violence.
10. There is no explanation of children's privacy under the national legislation thus no guarantees to protect it.
11. Secrecy of adoption in adoption proceedings affect children's rights to preserve identity and to contact with their birth parents and other birth relatives.
12. There is a general misunderstanding of the children's privacy concept and existing practices of treating a child as an object of external educational influence.
13. Total violation of children's privacy has been practiced in schools and special educational and social rehabilitation institutions (toilet cubicles, examination of correspondence and notes, public disclosure of private information, almost free access to the medical records) through full unawareness of the existing right and its importance as well as attempts to define and protect the best interests of the child at their own discretion.

14. Personal information on children who need different forms of assistance has started to be placed in the Internet, however their rights to privacy under these conditions are not guaranteed.
15. National legislation stipulates active involvement of children organisations by central/local bodies of executive power in development and discussion of the draft resolutions on state child protection policy.
16. There is state scheme of financial support, tax privileges, information and technical assistance for children civil organisations in Ukraine.
17. There is an increase of children and youth civil organisations in Ukraine every year together with the financial assistance allocated for their support.

Family Environment and Alternative Care

5

5.1. Right to grow up in a family environment and maintain contact with both parents (Article 20)

It has been outlined in the National Report⁶⁹ that «...the right of the child to be cared for by parents is ensured by the system of the state control. In particular it is child welfare agencies responsible for control over conditions of child's upbringing and maintenance in the family». At the same time there is lack of the state mechanisms of an early intervention for vulnerable families and assessment of children's needs. Evaluation of the situations in the families is done by the child welfare agencies based solely on a single document — inspection report on the housing and living conditions. As a matter of fact this document is being released when the situation in the family is far too complicated. Lack of the child needs assessment system and late terms of intervention for vulnerable families with children result in a growing number of children deprived of parental care. For example, in 2006 the number of children acquiring status of orphans and children deprived of parental care has increased two-fold compared to 2002 and consists of 14,834 children⁷⁰.

⁶⁹ The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

⁷⁰ Ibid.

State policy is currently focused at providing survival to the separate members of a family rather than protecting and keeping families together as a unit. Paradoxically, though, under the national legislation a child can often benefit from acquiring the status of the ‘social orphan’ as a result of deprivation of parental rights due to the numerous privileges they will now receive (i.e. guaranteed access to higher education). In one case, for example, the mother of a child had already been deprived of her parental rights, it then went to court for a decision regarding depriving the child’s father of his parental rights and to appoint a grandmother as the child’s legal guardian. The father had been resisting the court claim; however he had only just returned from serving a sentence in the penal labour institution therefore he had no financial means to support the child. Only after it was explained to him that there was the possibility to still have contacts with the child and to restore his parental rights in the future the father accepted the claim. The following case study helps to illustrate state preference for the material interests of the child while providing social security benefits for a child in custody⁷¹.

71 Monitoring report «Judicial protection of the best interests of the child and the right of a child to a family», Kharkiv “Civic Alternative Foundation”, 2006.

The State has not implemented the UN Committee recommendation⁷² regarding financial assistance to the vulnerable families with children. It may directly cause a further increase in the number of children acquiring the status ‘deprived of parental care’. At the same time according to the National Report⁷³ introduction of the financing system for foster families and family-type children’s homes based on the “money follows the child” principle can be regarded as implementation of the recommendation. Without any doubt introduction of the principle has positively influenced development of the foster families in Ukraine. However such funding procedures do not support biological families of children and cover only unsubstantial amount of the children in need. Growth in the number of children deprived of parental care is possible due to inadequate measures undertaken by the State with regard to the current budget allocations for support to foster families and family-type children’s homes.

72 Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AcLcl.191, para.294-371. (Concluding Observations/ Comments).

73 The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

One of the problems of primary concern are discrepancies and gaps in the current legislation regarding legal status and scope

of authorities of the centres of social services for family, children and youth and first of all with regard to establishing village and township centres.

5.2. The right of children deprived of a family environment to be cared for in foster families and other family-type alternative care (Article 25)

During the reporting period the State has achieved considerable progress towards implementation of the UN Committee's recommendations⁷⁴ both at the political and legislative levels. It was the Presidential Decree № 1086 as of 11.07.2005 «On urgent measures to protect child rights»⁷⁵ that has galvanized the Government to seek problem solutions in the sphere of childhood protection and to set them as priority tasks. Among positive developments in activation of the national adoption was establishment of the State Department for Adoption and Protection of Children's Rights within the Ministry of Ukraine for Family, Youth and Sport. Another important achievement was securing the state funding to support for foster families. It has significantly accelerated development of the family-based alternative care over residential institutions. According to the State Committee on Statistics by the end of 2006 there were 744 foster families in Ukraine while in 2002 their number was only 45.

At the same time the reality is that family-based alternative care is being developed not instead but in addition to the residential care. There is a simultaneous increase of children's admissions to both family solutions and residential institutions. In comparison to the general amount of children in Ukraine the number of children in residential care makes up 1%, which may be regarded as an epidemic of the social orphaning in Ukraine. Moreover the number of children placed in residential care is growing — it increased two-fold during the last 10 years (from 35,200 children in 1995 to 64,000 children in 2006). Despite adoption of the Law of Ukraine «On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care»⁷⁶ in 2005 which

74 Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/Aclcl.191, para.294-371. (Concluding Observations/Comments).

75 Decree of the President of Ukraine as of 11.07.2005 № 1086/2005 «On urgent measures to protect child rights».

76 The Law of Ukraine «On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care», Bulletin of the Verkhovna Rada, 2005, № 6, p. 147.

has become a significant contribution towards development of the foster care and other family-based alternative solutions, it can not tackle the problem of social orphaning in Ukraine.

It remains the case when implementation of the child's right to a family and reform of the residential system must be focused on restricting admission of children into residential care. This has also been known as a gatekeeping mechanism when children's placement into residential care is seen as an emergency measure, it is based on the child needs assessment and is only for those children whose needs can not be met in the family or other alternative family-based solutions provided that services and support to families with children have been tried and not worked out. Having had positive experience of the introduction of the gatekeeping system in Kyiv oblast gives hope to its further distribution throughout Ukraine and in particular within the framework of the recently established State Special Purpose Programme to Reform Residential System for Orphans and Children Deprived of Parental Care⁷⁷.

77 Regulation of the Cabinet of Ministers of Ukraine as of 17 October 2007 № 1242 "On Establishment of the State Special Purpose Programme to Reform Residential System for Orphans and Children Deprived of Parental Care".

As can be seen from the above the State has undertaken significant measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care in order to address recommendations of the UN Committee⁷⁸. The Government has also acknowledged decreasing institutional care as a form of alternative care for children in Ukraine. On the other hand children's placement in institutions is only as a measure of last resort and as a temporary measure remains a major concern in relation to the other Committee's recommendation⁷⁹. There are no national programmes which would enable forms of the temporary (short-term) placement of children into family-based solutions.

78 Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/Acl.191, para.294-371. (Concluding Observations/Comments).

79 Ibid.

As of January 2009 Ukraine has not ratified the Hague Convention of 29 May 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption as recommended by the UN Committee. The Parliament has taken no definitive position on this issue while Commissioner for Human Rights in The Verkhovna Rada of Ukraine has called such ratification a step backwards. However the government officials have publicly expressed the intent to ratify the Hague Convention by the State.

Conclusions

1. There is lack of state mechanisms for an early intervention for vulnerable families and assessment of children's needs. Evaluation of the situations in the families is done by the child welfare agencies based solely on a single document — inspection report on the housing and living conditions.
2. The UN Committee recommendation to increase financial support for vulnerable families with children has not been implemented yet. Even though “money follows the child” principle is currently in progression, it covers only unsubstantial amounts of the children in need and provides no support to the biological families of children.
3. The State has not addressed the Committee's recommendation regarding placement of children in institutions only as a measure of last resort and as a temporary measure due to a lack of a complex child needs assessment tool as the basis in the decision-making process.
4. Introduction of the state funding to support foster families as well as Presidential Decree «On urgent measures to protect child rights» have both contributed to the development of the family-based alternative care in Ukraine.
5. No action has been taken to ratify the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption as recommended by the UN Committee.
6. Legal access to the family-based alternative care requires further development.

6

Basic Health and Welfare

6.1. Health and Health Services (Article 24)

According to the legislation, health protection is one the priorities for the state. The state forms a state policy for health protection in Ukraine and secures its implementation. But, when analyzing the legislation, we can claim that it does not provide the implementation of Constitutional norms⁸⁰ in the part of relevant financing and creation of conditions for medical services. Ukrainian legal fundamentals for health protection⁸¹ are most of a declarative character, and are not incorporated into legal acts and mechanisms of their realization. A big number of normative documents form Ministry of Health Protection of Ukraine has caused collisions, misunderstanding, and chaos. The legislation has not secured a provision mechanism for a right to free of charge health care, which is written in the Constitution. Instead of this there is a common practice for charitable payments system.

The state of health among children of 0-14 years remains unsatisfactory. In 2004 there was a proportion among 1000 people of 1790,91 of cases of illnesses among 0-14 year-old children against 1343,6; in 1990 there were 1307,39 cases of illnesses against 1070,0⁸².

There are not single cases of unqualified medical services towards children of early years in baby and children's homes, when psychic

80 Constitution of Ukraine, Bulletin of the Verkhovna Rada, 1996, № 30, p. 141

81 Law of Ukraine «Legal fundamentals on health protection in Ukraine», Bulletin of the Verkhovna Rada, 1993, № 4, p. 19.

82 Press conference of the Ministry of Health of Ukraine on women's reproductive health, 2005.

problems, sight and hearing problems, resistance and movement problems are diagnosed later than due. Their earlier diagnosis could have allowed earlier stage correction and could have prevented disabilities among the children, and growing number of children in boarding schools for children with mental and physical development disabilities. For instance, during a medical examination in children's homes of Kyiv oblast and city of Kyiv there has been found out more than 30 children with sight and hearing problems, urinal and cardio logical problems, infectious diseases (hepatitis)⁸³. These medical problems must have been diagnosed long in the past. Other examples from respondents of a public monitoring «Human rights in medical institutions for children and psychiatric hospitals for children»: in a regional hospital there were 2 children from a baby home, who were up to two years old. The children were without accompaniment of adults, and were starving due to bad nourishment in the hospital; they were given food by parents of other children in the ward; nearby there was a ward for children from internat: -- the children there were left alone; they were crying, but nobody came to them. The parents of the other children came to them and gave food to them, cared for them, whereas the medical staff did not allow them to do it and banned their entrance⁸⁴.

Access of children with disabilities to medical services in a daily life is limited (40,5% of the surveyed children and 67% of adults in central and northern parts of Ukraine and 65% in Crimea): free movement is not secured (49% in Crimea), no possibilities to choose qualification, and further work according to state of health; not always it is possible to receive a timely treatment, implants, hearing devices, etc⁸⁵.

Medical services for Roma children are unsatisfactory. In Zakarpattia oblast there are rayons, where the percentage of Roma people for tuberculosis is 80 %. The percentage of children there is unknown, because there was no research on spreading this illness among children; a complex annual examination was not done either⁸⁶.

In 2006 in Ukraine there was an unprecedented outburst of measles. According to Ministry of Health of Ukraine there

83 Results of «Complex monitoring of children's rights in Ukraine», conducted by Children's rights Foundation, US Embassy Democratic grants Program in Ukraine

84 Monitoring «Human rights in medical institutions for children and psychiatric hospitals for children», NGO M'APT. Chernigiv, 2004

85 Based on the results of «Complex monitoring of children's rights in Ukraine», conducted by the Foundation of the Children Rights, US Embassy Democratic grants Program in Ukraine.

86 Ibid

were registered around 45 thousand cases, which was 80% of all cases in Europe. The outburst was caused by a low effective vaccination, and a lowering scale of immunization. According to analytical report «Survey on knowledge, attitude, practice, and behaviour to issues of a planned vaccination against measles and scarlet fever in Ukraine»⁸⁷ 10% of respondents think that “vaccination is not needed, and is even harmful”. One tenth of the surveyed are aware of cases when a case of vaccination was written in the medical files, but not in fact made. This testifies about unserious attitude to vaccination from both medical staff and people to be vaccinated. Only a bit more than a half of the respondents is aware of a need to be vaccinated. The biggest issue is that parents are not aware of a Hib-vaccination in all regions of Ukraine. Without possessing the information about it, parents can disagree to have their children vaccinated, thus inflicting a risk to their children. Attitude of the population towards vaccination against measles and scarlet fever is rather negative. The majority of the respondents are not willing to vaccinate their children. The number of rejections from vaccination is also growing⁸⁸. According to a monitoring on how the money, given from Ministry of Health for vaccination activities, is used⁸⁹, a lot of governmental tasks to increase epidemiological control, as well as resolutions, directed at protection of children from infectious diseases, are not being fulfilled. There is no a state program, which would include a complex of interactions and prophylactic measures to protect population from infectious diseases. The Ministry is focused on buying vaccines, but has not secured a lower level of the illness cases.

87 Analytical report «Conducting a survey on knowledge, attitude, practice, and behavior to issues of a planned vaccination against measles and scarlet fever in Ukraine»,

88 Cherkasy communal city polyclinics № 3 <http://h.ua/story/82280/>, 08.02.2008

89 Bulletin «On results of the state expenditure monitoring of the Ministry of Health to administer immunoprophylaxis in Ukraine», Ya. Flissak, G. Shakh, Audit Chamber of Ukraine. — Kyiv. — 2008

According to Development and Health Survey the level of breast-feeding in 2007 was 23,6% of children up to 3 months, and 18% of children up to six months; there are 26% of the children at age of 12-15 months. At the same time Department of Statistics at Ministry of Health of Ukraine claims that 60% of 6-month-old children in Ukraine receive only breast feeding. This shows a problem of inadequacy of the data collection (unawareness by medical workers of variables, and hiding a real state of things). Till now there is no a national document similar to the International Code of Marketing of Breastmilk Substitutes. A resolution of

Coordination Council on “Support of breastfeeding in Ukraine for years 2006-2010” program has been prepared and presented for adoption at Ministry of Health. A procedure for a resolution “On following the International Code of Marketing of Breastmilk Substitutes in health protection institutions” has been delayed for several months, so Ministry of Health is taking the time to enforce it. In 2007 in Ukraine a Law «On Children’s Nourishment»⁹⁰ came into force, but it contains out of date recommendations on optimal nourishment for babies (in particular introducing pre-feeding since 4 months, instead of 6 months, recommended by WHO), which undermines a general practice of further feeding and is a risk to health and welfare of children.

90 Law of Ukraine «On children’s nourishment», Bulletin of the Verkhovna Rada, 2006, № 44, p.433

In Ukraine HIV positive mothers cannot breastfeed. According to a state report⁹¹, medical institutions are provided with breastmilk substitutes for babies, born by HIV positive mothers. At the same time according to a study «Assessment of the needs of children born to HIV positive parents»⁹²:

91 The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

- 11% of parents face difficulties in feeding a baby
- Only 40% of those, who need milk substitutes, regularly receive them from medical establishments; and 2% from NGOs
- Only 29% are provided with milk substitutes from time to time
- 13% are buying milk substitutes for own money
- 55% of mothers were consulted on not mother’s milk feeding, which is an additional risk for the children.

92 Study «Assessment of the needs of children born to HIV positive parents», NGO “Analytical centre Socioconsulting”

Despite a growing awareness of HIV crisis, youth do not know much about the problem. Comprehensive knowledge is: among girls of 15-17 years — 40,1%, among boys -- 29,2%. Aware of places to buy condoms (excluding friends, family members) — girls of 15-17 years — 94,3%, boys -- 96,3%.⁹³ 2,9% of boys and 6,2% of girls start a sexual life between 12 and 14 years; the percentage among 15-18 years is 70,9% for boys and 70,5% for girls. According to the study the main sources of information on HIV/AIDS are books, newspapers, magazines. Nearly a half of sexually active teenagers say that they’d like to use condoms, but 20% from a group of 15-18 years old mention that they cannot afford them due to economic reasons⁹⁴.

93 Ukraine DHS Preliminary Report, 2008

94 ibid.

During 6 months in 2007 60 children beyond 14 years old were diagnosed positive for AIDS. Despite a full scaled introduction of anti-retrovirus therapy in the regions, during first 6 months in 2007 HIV infection killed 8 children⁹⁵.

95 Scientific-practical journal "Medical universe", III.Nº1.2003 / Special issue on HIV/AIDS

Rights of HIV positive children are violated in medical institutions. A medical worker is not obliged to give information about social/psychological support, when informing about HIV diagnosis. An illness is not made a secret, which leads to alienation of children in the society. 32% of children experienced it, 21% experienced a refusal in receiving some medical services (from dentists, therapists, etc.), 40% experienced incorrect attitude to a child or parents from medical workers; 8% experienced lack of first aid ambulance, although they summoned for it, or refusal of first aid medical workers to provide the aid, 15% were refused to be given information about diagnosis, course of the illness. Other problems are: unavailability to buy medicine, vitamins for children– 47%; unavailability of regular medical examinations for children, who live in remote places; unavailability of medical treatment for a child due to regular migrations of the parents and their unsocial way of living⁹⁶. These children are not given a proper medical service (opinions of 60% surveyed in Crimea; 38,4% of children and 60% of adults in central and northern regions of Ukraine)⁹⁷.

96 Alternative report on rights of HIV positive children in Ukraine, December 2008, Kyiv

97 Based on the results of «Complex monitoring of children's rights in Ukraine», conducted by the Foundation of the Children Rights, US Embassy Democratic grants Program in Ukraine.

98 Ibid.

99 "10 health questions about the new EU neighbours", Regional Office for Europe, World Health Organisation

Other challenges are: spreading of syphilis among girls of 15-17 years old has increased in 31,2 times for the last ten years, and in a 20,2 times among the boys of the same age⁹⁸; every second boy or girl smokes, and every fifth at age 15 uses marijuana⁹⁹.

6.2. Social Security, Child-Care Services and Facilities (Articles 26, 18 para. 3)

In the national state report¹⁰⁰ there is mentioned a date, since when one-time aid for a childbirth was increased to 8497,6 UAH. Although the date is 01.01.2005, in fact mothers started receiving it from 01.04.2005. Constitutional Court of Ukraine found illegal an aid for a child till three years old lower than a living minimum per a person (children up to six years old). This aid was decided by state budget in 2007. Departments of Labour and Social Policy

100 The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

were giving 90 UAH monthly aid, instead of minimum aid per person, which was 463 UAH since 01 April 2007, and 470 UAH since 01 October 2007.

Equipment of the majority of medical institutions, especially in rural area, is out of date; they do not have modern equipment and have difficulties in providing a first aid. According to a monitoring report «Human rights in medical institutions for children and psychiatric hospitals for children»¹⁰¹, an equity principle in providing a medical aid to children is violated due to different well-being of their parents: there is a division into rich and poor patients; children, whose parents have money or “links’ are in a privileged situation, they are treated by a doctor they choose; attitude to the children of rich parents is different than that to children of poor parents; every second child mentions material or social status of the parents as a cause in different attitudes of medical workers to children. A big part of medical services is not free, although it is declared in the legislation, and not all can afford them. Children cannot get a quality treatment due to financial family problems (53% of adult respondents in Crimea think so). The executive state bodies of Ivano-Frankivsk oblast in 2006 received 120 complaints about refusals to provide medical aid to children free of charge¹⁰².

101 Monitoring report «Human rights in medical institutions and psychiatric hospitals for children», NGO M’ART. — Chernihiv, 2004

102 Based on the results of «Complex monitoring of children’s rights in Ukraine», conducted by the Foundation of the Children Rights, US Embassy Democratic grants Program in Ukraine.

6.3. Property Rights of Orphaned Children

Part of children in residential care does not possess documents, which verify their status of orphans or children deprived of parental care. The legislation does not impose responsibility for an improper issuing of the documents, which might make impossible for a child to legally own his/her property, which he/she owns in fact. In a case if a child did not possess lodging or was not registered in lodging before placement to residential care, it is impossible to say what state body is responsible for the child’s sustainability. There is no clear solution of this problem in the legislation.

Also there is an issue of paying communal bills for keeping the lodging of an orphan child, when the child is placed in residential

care. This issue is not written in the legislation, therefore there are no mechanisms to regulate and solve it.

Most of the children after leaving the residential care need a place to live. Because an issue of social housing is not solved in Ukraine, and an issue of providing lodging for children in care is usually raised when they are about to leave care, the only solution for administration of the institutions is to stream them into state education institutions, which can provide hostels for students. But this practice does not solve the problem.

There is no evaluation of a possibility for a child to get back to the lodging he/she used to live with parents before placement in the residential care: a child can claim the lodging on condition that the parents formally owned it. That means that after leaving care the child cannot formally come back to the previous place of living. On the other hand a fact of existing lodging does not make possible for a child to receive lodging benefits. In different regions material aids and payments differ. Both staff of residential institutions and children have claimed inconsistency of aid and payment with real needs¹⁰³.

¹⁰³ Respect for the right to property of the orphaned children in Ukraine. Monitoring rapport, O. Hrabovska, M. Yasenovska, O Kopanska, 2006.

Conclusions

1. Current legislation does not provide the implementation of the provisions of the Constitution of Ukraine in the part of funding and providing conditions for free and high-quality medical healthcare.
2. The state of health among children of 0-14 years remains unsatisfactory.
3. Today the population of Ukraine does not have true information about vaccination against measles/ scarlet fever; there are no strategies to promote this info either. The scale of immunization is getting lower; vaccines are not effective; number of refusals from vaccination is growing.
4. There is inadequacy in data collection on breast feeding. There is no national document similar to the International Code of Marketing of Breastmilk Substitutes.

5. In Ukraine HIV positive mothers cannot breastfeed, at the same time there are problems with provision of breast-milk substitutes to them.
6. HIV awareness among youth is rather superficial.
7. Rights of HIV positive children in medical establishments are violated.
8. There is a concern over a grow of STIs, and harmful habits among youth.
9. Against the Constitutional Court Resolution there is a practice to refuse an aid for 2007 for a child birth in the size of a living minimum.
10. Equipment of the majority of medical institutions, especially in rural area, is out of date; they do not have modern equipment and have difficulties in providing a first aid.
11. An equity principle in providing a medical aid to children is violated due to different well-being and status of their parents.
12. Part of children in residential care does not possess documents, which verify their status of an orphan or a child deprived of parental care. The legislation does not impose responsibility for an improper issuing of the documents, which might make impossible for a child to legally own his/her property, which in fact he/she owns.
13. In a case if a child did not possess a lodging or was not registered in a lodging before placement into residential care, according to the legislation it is impossible to say what state body is responsible for the orphan child or child, deprived of parental care.
14. An issue of paying communal bills for keeping the lodging of an orphan child, when the child is in care, is not solved.
15. There is no evaluation of a possibility for a child to get back to the lodging he/she used to live with parents before placement in the residential care: a child can claim the lodging on condition that the parents formally owned it.

7

Education, Leisure and Cultural Activities (Articles 28, 29, 31)

Although the Committee has had some concerns¹⁰⁴ about special preventive sweeps such as “Lesson”, “Street children”, “Railway station” and “Holiday”, the state in its report¹⁰⁵ remarks that implementation of the mentioned programs is in progress. Other recommendations have not been considered either: the state report does not possess information on measures about access of street children to education; measures to eliminate discrimination against children with HIV/AIDS have not been covered; in fact in the report there is only information about measures to prevent HIV spreading. A previous Committee’s recommendation on access of refuge and migrant children to education has not been met. The state is aware and mentions this in the report, justifying this fact by a lack of finance for the relevant programs.

Despite positive dynamics, according to the data in the annual reports of Ukrainian Helsinki Group on Human rights, more than 20 thousand children do not go to school (data from year 2005¹⁰⁶; although in the 2007 report the situation did not change

¹⁰⁴ Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AC1.191, para.294-371. (Concluding Observations/Comments).

¹⁰⁵ The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

¹⁰⁶ All-Ukrainian Report “Human Rights in Ukraine — 2005, chapter XIV, Children’s rights, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

essentially¹⁰⁷). The most acute situation is in Dnipropetrovsk, Donetsk, Zaporizhzhia, Kirovograd, Lugansk, Lviv, Kharkiv oblasts, and in Crimea. Access to pre-school institutions in rural areas has remained problematic. Only 83% of schoolchildren, who need transportation to and from school (total their number is 257 thousand), have been covered.

There is an issue of absence of Birth Certificates among Roma children. This causes unavailability of the children to access into pre-schools and schools. Due to strong negative stereotypes about Roma people in society, Roma children are often not admitted to schools, as schools' administration takes into consideration the views of other parents, who do not want their children to study together with Roma children¹⁰⁸. According to Rome newspaper "Roamani yag" by year 2006 in Zakarpattia oblast 83,7% Roma children have gained incomplete secondary education, 14,5% — secondary education, 1,4% — professional education, 0,3% — secondary specialised education, and only 0,1% — higher education¹⁰⁹. „The Program of state support for social and spiritual reviving of Roma people”, developed in 2002, and amended in 2006, remained practically undone, due to insufficient funding allocated to its realisation (100,000 UAH). The program was about opening specialised classes for Roma children in pre-schools and primary schools to raise their level of knowledge to that of the other children, but many aims of the program were not achieved¹¹⁰.

The right of HIV positive children to education is not being fully met, as civic initiatives to eliminate the stigma attached to HIV positive children in education institutions, and their admittance to them, have been ignored. The state institutions have not raised the issue of providing diagnostics and social follow-up of children from risk groups; a statistical analysis of children from risk groups has not been done, study of social-demographical characteristics of the children with HIV/AIDS has not been conducted, long term national campaigns (not including one-off charitable, information-education actions), aimed at the elimination of the stigma to HIV positive children and families, have not been conducted either¹¹¹.

107 All-Ukrainian Report "Human Rights in Ukraine — 2007, chapter 16, Right to education, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

108 International Charity Roma Women Foundation "Chirikli"

109 All-Ukrainian Report "Human Rights in Ukraine — 2006, chapter XII. Some aspects of a right to protection from discrimination, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

110 All-Ukrainian Report "Human Rights in Ukraine — 2007, chapter 12. Some aspects of a right to protection from discrimination and fight against racism and xenophobia, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

111 Provision of rights of HIV positive children in Ukraine. Alternative report, December 2008, Kyiv

According to the information from the National Assembly of People with Disabilities in Ukraine, a serious problem in the country is a full realisation of compulsory education of children with psychological disorders and children with physical disabilities. The legislation implies a negative practice of the residential care system in secondary schools for children with disabilities, which isolates the children from their families. A general education system is not yet adapted enough to integrate the children with disabilities, whereas the society is not ready yet for a full participation of the children with disabilities in a current education system. Individual form of study at home does not practically work. There is a practice to avoid teaching at home with an excuse that the state of a child does not allow a learning process. A positive fact is that there are no legal norms for this conclusion. A mere existence of such conclusion is a serious violation of Ukrainian legislation and human rights¹¹². Children with hearing and sight problems cannot fully realise their right to education, as in Ukraine there are not enough textbooks and specialise literature, printed according to special methodics, not enough technical means, which can help children with sensor disorders to gain a quality education and skills for independent life. An acute problem is access of children with movement disorders into not only education, but also to health care protection institutions, houses and transport, sports and culture buildings, which makes their lives isolated from society. In fact, there is no state system of after-classes education for children with disabilities¹¹³. There is a special problem for children with psychological disabilities. To start with, such children are not admitted into pre-schools; in the specialised schools there are no specialists, who can work with them (as an example Ministry of Health has identified autism as pathology, but there are no authorised programs for such children, and no programs for specialised training for pedagogical workers and psychiatrists). The main causes for the existing problem of access for children with disabilities into education are the lack of developed mechanisms for development and financing of inclusive education systems; lack of state education standards and programs for children with mental disabilities (except children with a light form of mental disorders); in legislation lack of monitoring mechanisms on availability of relevant infrastructure to meet access requirement

112 All-Ukrainian Report "Human Rights in Ukraine — 2007, chapter 21, Rights of people with disabilities, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

113 All-Ukrainian Report "Human Rights in Ukraine — 2005, chapter XIV, Children's Rights, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

of disabled people into higher education institutions; a current list of medical contraindications, authorised by Ministry of Health Care of Ukraine; lack of system for staff training, and adaptation of preschool institutions, when there are norms, enabling to form specialised programs in preschool education. A current practice in so important spheres of education, health care protection does not guarantee that a child is not separated from parents, due to disability of the child or one of the parents¹¹⁴.

114 All-Ukrainian Report “Human Rights in Ukraine — 2007, chapter 21, Rights of people with disabilities, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

An unsatisfactory state of material base of secondary schools has remained a problem. Official claims that every pupil has been provided with textbooks are not true. The state does not properly control the state of material base of schools. Despite a fact that according to the Constitution the secondary education in Ukraine is compulsory, access to education in Ukraine depends, to much extent, on economic situation of parents¹¹⁵.

115 All-Ukrainian Report “Human Rights in Ukraine — 2007, chapter 16, Right to Education, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

A problematic issue is an image of pedagogical workers, who work in conditions, which do not encourage a quality teaching. Little attention is paid to training of pedagogical workers about children rights, training of specialists, who are capable to work with children with disabilities. Teachers’ overload lowers the level of education, as well as the level of child’s security. The state controls and train pedagogical workers, but on the other hand doubts their qualification, limits pedagogical workers in their individual choice of teaching forms and methods. A choice of the textbooks has remained very limited¹¹⁶.

116 All-Ukrainian Report “Human Rights in Ukraine — 2005, chapter XIV, Children’s Rights.

There is a problem of access of children without vaccination into pre-schools and secondary schools. If parents are against the vaccination due to religious or other reasons, the child does not often have access to school and, in fact, is deprived of a right to an education¹¹⁷.

117 All-Ukrainian Report “Human Rights in Ukraine — 2007, chapter 5, Right to privacy, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

Children, placed in social care institutions, do not have access to an education, as social care institutions do not provide educational activities and do not have relevant specialists and pedagogical workers in their staff. Children, placed in private shelters, cannot go to school for a long period of time, as the lack of their definite

118 All-Ukrainian Report “Human Rights in Ukraine — 2005, chapter XIV, Children’s Rights, Report of human rights organisations. Ukrainian Helsinki Human Rights Group.

119 Monitoring report «Human rights in medical institutions and psychiatric hospitals for children», NGO M’ART. — Chernihiv, 2004

legal status does not make possible to access the child. In its turn, bureaucratic procedure to gain all necessary documents for the legal status of a child, takes a lot of time¹¹⁸.

There is not any normative document on education process at health care establishment. In many hospitals there are no playing rooms, rooms with tables, books, table games; rooms where children can communicate between themselves, illness allowing. The playing rooms are often in place, but not available to children. The state in fact acknowledges lack of access to education for children in drug-abuse clinics. A medical aspect of work is done there, whereas there are no developed methodologies on re-socialising of under-aged drug-addicts¹¹⁹.

Conclusions

1. Special preventive sweeps such as “Lesson”, “Street children”, “Railway station” and “Holiday” are continued in Ukraine.
2. There are no measures taken to secure access to education for street children, refugee and migrant children; to eliminate discrimination in right to education of HIV/AIDS children; there is no full access to education in rural areas; there is no process of integration of Roma children into state education system, access of refugee children into education.
3. More than 20,000 children do not go to school.
4. One of the major concerns is full realisation of the complementary education for children with mental or physical disorders. There is neither an integration of the system into the general educational system nor an individual learning system for these categories of children. Books and reference materials appropriate for children with visual and hearing impairments are not sufficient enough.
5. The unsatisfactory state of the material base for secondary schools has remained a problem.
6. Little attention is paid to training pedagogical workers about children rights, training of specialists, who are capable to work with children with disabilities.

7. There is a problem of access for children without vaccination into pre-schools and secondary schools.
8. Children, placed in residential care, do not have access to an education, as institutions do not provide educational activities and do not have relevant specialists and pedagogical workers in their staff.
9. There are not any normative documents on education process at health care establishment.

8

Special Protection Measures

8.1. Refugees and Internally Displaced Children (Article 22)

8.1.1. Children, who come into Ukraine without accompaniment of adults.

¹²⁰ Law of Ukraine on “Childhood Protection” // Bulletin of Verkhovna Rada. — 2001. No.30. — p.142.

In the article 1 of Law of Ukraine «On childhood protection»¹²⁰ there is a definition of a refugee child: a child, who is not a Ukraine citizen, and, because of a proved risk to become a victim due to race, religion, nationality, citizenship, belonging to a certain social group, political views, are out of the country of own origin, and cannot be protected, neither wants to be protected by the origin country due to certain fears; or a child without a citizenship, and outside of the country of origin, who cannot or will not come back due to the mentioned fears. This Law also mentions protection of refugee children, as article 31 says that the State must use all necessary measures through authorised bodies to protect refugee children on the territory of Ukraine.

Authorised representatives of refugee children, separated from their families, are social care and protection institutions. They are to use measures for temporarily placement into relevant institutions for children or families; take care of such children; participate in the

procedure of gaining a status of refugee for a child; enhance the realisation of their rights (article 8).

Migration Service is to seek their parents or other legal representatives of the refugee children, who are separated from their families; place such children into relevant institutions for children or families.

But in real life this scheme does not work. Today there is not a mechanism for coherent interaction between all responsible parties on appointing an authorised representative for the relevant category of the children. Social care and protection representatives are not aware of the rights of such category children without accompaniment of adults, and think that the laws only cover children who are citizens of Ukraine. They think that the legislation does not cover refugee children, and children, willing to gain the status of refugee; and that a person without citizenship of Ukraine cannot be an authorised representative for an underaged child.

For children, separated from their families, the procedure to gain a status of refugee cannot be started because local authorities do not provide them with a representative, as it is mentioned in legislation (they do not know much about this category of children), or in contradiction to the legislation they initiate age expertise of the child. Children, illegally crossing the border of Ukraine, are in most cases underaged, of so-called “edge” age.

Migration Service together with social care and protection bodies must take urgent actions for temporarily placement of the children into relevant institutions or family (article 9). Unfortunately in Ukraine there is no specialised shelter for the children who are not accompanied by adults. These teenagers live in rented flats, often change their place of living, and in many cases become victims of people trafficking.

8.1.2. Problems, faced by children, who live with parents in Ukraine

Material conditions of many refugee families, who received a status of refugee, are not sufficient. Till recently a payment

per a family had been 17 UAH per adult, and 12,5 UAH per a child. This aid is paid only once and on condition of gaining a status of refugee. A financial situation of refugee families is one of reasons why the children do not go to school: — they try to help parents, working at market places or doing other work¹²¹. The fact that the children work in the “shadow sector” of the economy is a violation of the Law of Ukraine “On Labour” in the part, which deals with dangerous and forced labour. Today refugees receive limited financial and other material aid only from NGOs, financed by international donors. This material aid includes buying school uniform, winter clothes, and other items for school, needed in learning process.

121 According to executive partner of Office of High Commissioner for Refugees at Charity Foundation «ROKADA»

Other reason for not going to school is the lack of preparatory courses of the Ukrainian language, the official language at school. Therefore, whatever the age a child arrives to Ukraine, the child is to start from the first form. Emotionally and psychologically this might be very difficult.

Refugee children have poor health, which is testified by International Medical rehabilitation Centre. In 2006-2008 the Centre was examining and curing refugee children within a project, joint with European Commission¹²². All children there have chronic diseases and need sanatorium treatment. A cause for this poor state of health is insufficient material condition of their families, unavailability of quality food, lack of necessary medicine and vitamins. It should be stressed that psychological state of the families and refugee children is not good, as they are depressed and do not see perspectives in future. Nourishment of families and refugee children, living in temporary shelters, is unsatisfactory. They receive a set of food, which is limited and do not contain food for children¹²³.

122 Report on the Project from International Medical rehabilitation Centre for support of victims of torture and totalitarian regimes

123 According to the data of executive partners of Office of High Commissioner for Refugees at Charity Foundation «NEEKA»

8.2. The Administration of Juvenile Justice (Articles 37, 40)

Juvenile justice as a complex system of justice to under-aged children in Ukraine has not been introduced yet, and that is mentioned in the National Report¹²⁴. Since 2004 on a state level there has been

realised a number of events, both of organisational and legislative character, to make legal proceedings in children's cases more human: a new Criminal Code of Ukraine was introduced¹²⁵ in 2004; changes into laws of Ukraine «On judicial system of Ukraine¹²⁶ in 2002 and «On Child Welfare Agencies and Services and Specialised Institutions for Children»¹²⁷ in 1995 were made; special board of justices to proceed cases of under-aged children was formed in 2005 at judicial chamber in criminal cases of the Appeal Court of general jurisdiction; resolutions of Supreme Court of Ukraine «On administering legal proceeding for responsibility of involving under-aged children into criminal or other antisocial activity»¹²⁸ (from 27 February 2004, № 2) and «On practice of administering legislation in criminal cases of under aged children»¹²⁹ (from 16 April 2004, № 5); a National Plan of Actions on realisation of UN Children Rights Convention was agreed¹³⁰ in 2009; a draft of Program for developing a system of juvenile justice in Ukraine was designed in 2008; a number of international and national events, initiated by mainly NGOs, on necessity to introduce juvenile justice in Ukraine were conducted.

Despite the mentioned organisational and legislative activities, there is a list of urgent strategic issues to be done at both state and ministry levels. In the international context a system of juvenile justice works on the condition of professional specialisation of subjects, dealing with children in conflict with law. Because the main principles and functions of the juvenile justice are protection, regeneration, and rehabilitation, its subjects are: judges, public prosecutors, advocates, criminal police for children, inspectors, social workers, penitentiary system and probation service workers, program coordinators and managers of restoring justice, psychologists, psychiatrists, teachers, who directly work with children in conflict with law. By now in Ukraine there has not been a specialised professional training of the mentioned categories of specialists. Introducing a specialisation of judges to proceed criminal crime cases committed by under- aged children, which is mentioned in the national report¹³¹, in practice means the appointment of a judge, usually Head of Court, who is responsible for proceeding of criminal cases of under-aged children. It does not mean the judge is specialised as a juvenile judge. When defining

124 The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

125 Criminal Code of Ukraine, Bulletin of the Verkhovna Rada, 2004, N 3-4, p. 21

126 Law of Ukraine «On judicial system of Ukraine», News of Verkhovna Rada, 2002, N 27-28, p.180

127 The Law of Ukraine «On Child Welfare Agencies and Services and Specialised Institutions for Children», Bulletin of the Verkhovna Rada, 1995, № 6, P.35.

128 Resolution of plenary session of Supreme Court of Ukraine «On administering legal proceeding for responsibility of involving under-aged children into criminal or other antisocial activity» from 27.02.2004 № 2

129 Resolution of plenary session of Supreme Court of Ukraine «On practice of administering legislation in criminal cases of under aged children» from 16.04.2004 № 5

130 The Law of Ukraine «On the State Programme 'National Plan of Action on Implementation of the UN Convention on the Rights of the Child' until 2016» as of 05.03.2009, № 1065-VI

131 The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006).

ways of introduction of juvenile justice, the national report points out a necessity to reform only law enforcing and judicial systems, which considerably narrows a concept of juvenile justice as integral system, and interprets it as a system of merely punishment.

Making criminal legal proceeding more human means: forming probation service; increasing the number of alternative punishments in relation with imprisonment; introducing programs of restoring justice. Development of probation service requires relevant legislation provision. There are two main drafts prepared «On probation service», where a definition “probation” has two opposite meanings, which provokes lasting discussions and makes impossible adoption of laws. Functions of probation service are done by criminal inspection, which is mostly staffed with law specialists, who are without corresponding psychological and pedagogical training. On the criminal list of the inspection in 2007 there were averagely 5 thousand under-aged children. There are certain problems in execution of the alternative sentences through public labour correction work: in fact there are neither places of executing the sentences nor an appropriate system of supervision of the correction works existing at the moment. For instance, in the year 2004 according to statistics from the criminal inspection 54 people out of 11402 who were under-aged and on the criminal list were sentenced to communal works; in 2005 there were 32 people from out of the 8050 who were under aged and on the list; and in 2006 there were 37 people out of 7549. Only 10, 4, 3 persons in the mentioned years were sentenced to remedy works¹³².

132 Reference on a number of convicted minors registered within Correctional Institution Inspection during the period of 2002 – 2006

In general prevention measures against juvenile delinquency an important role is played by the social rehabilitation institutions within the education system. This has also been mentioned in the National Report. But the national report has not covered issues of imperfectness and ambiguity, which exists in the legal proceeding system of Ukraine, unavailability of the institute of judicial educators, which leads to a number of negative consequences in the functioning of the institutions, one of them is staffing schools of social rehabilitation with their alumni. The legislation determines that staffing of secondary schools of social rehabilitation is done due to the verdict of the court. Nevertheless

in 80% of cases, children with unsocial behaviour, due to the verdict of the court, come back to their families and to the environment which caused their unlawful behaviour and which will continue to make a negative impact on the children. A lot of these under-aged children are out of parental control or the parents themselves negatively affect them. In other words children are taken back for parental care, although the parents have already proved their inability to provide it; or even might have involved a child into criminal activity. A considerable part of children come back to the street into marginalized environment. According to the official data from the Supreme Court of Ukraine in 2006 there were 2741 cases of under aged children, 1508 of whom were under 14 years old. In 2165 cases children were taken back for parental care. At the same time, although there is a database of families in crisis at state social service, a low number of specialists and lack of state financing do not allow them to cover all the clients with social patronage. As a result in 2006 113,622 families with 182,330 children were referred to the category of vulnerable families. According to the Ministry of Family, Youth and Sport social support has been provided to 23,069 families with 48,432 children which makes up 20% of the total number of families¹³³. Thus, pedagogical and social-psychological mechanisms of influence on children's behaviour remain unused. Despite a little decrease of under aged crimes in official statistics in Ukraine, about 9% of children, who used to stay at social rehabilitation schools, go to closed institutions for under aged children of penitentiary system. The Ministry of Education and Science of Ukraine is very concerned with a state of crimes among under aged children.

¹³³ Data from Ministry of Family, Youth and Sport (letter from 18.04.07, № 1/3460)

¹³⁴ Resolution of plenary meetings of Supreme Court of Ukraine «On practice of administration legislation in relation to the rights of the victims of crime» from 02.07.2004 № 13

¹³⁵ Resolution of plenary meetings of Supreme Court of Ukraine «On practice to use legislation in criminal cases of the under aged» from 16.04.2004 № 5

The practice of introduction of programs for restoring justice is spreading: the number of mediators in criminal cases grows, but their level of preparation is not systematic. On the state level there are no programs of training for relevant specialists; number of Universities, capable to train them, is not determined; monitoring mechanism to check the quality of programs is not developed. Despite the resolutions of plenary meetings of Supreme Court of Ukraine «On practice of administration legislation in relation to the rights of the victims of crime»¹³⁴ from 02.07.2004 and «On practice to use legislation in criminal cases of the under aged»¹³⁵

from 16.04.2004, which recommend using mediation programs in criminal cases of the children, this practice has not become systematic. Leaders in realization of restoring justice programs in criminal cases are: Kyiv oblast (Bila Tserkva city rayon court), Crimea (Krasnogvardiysk rayon court), Kharkiv oblast (Dergachiv rayon court), Zakarpattia oblast (Ivano-Frankivsk city court).

An important component of the juvenile justice is to secure a social follow-up for the under aged, which would enable their effective resocialisation and reintegration into society. According to State Department of Ukraine for Execution of Punishment in Ukraine during 2006 from penitentiary institutions for the under aged there were 1197 people freed. Nevertheless, of those only 587 people approached the social services centres for family, youth, and sport. 404 of them agree to a proposed social follow-up¹³⁶. A social follow up implies a complex approach to problem solving of a child in conflict with the law, based on interdepartmental interaction and effort coordination between specialists. In fact a model of interdepartmental interaction and social follow up is designed by most NGOs within their pilot projects. For instance, «Model of interaction of juvenile justice subjects for a complex follow up of an under aged child in conflict with law», «Individual Action Points» — is an individual program of resocialisation of an under aged offender with individual peculiarities, life situation, and risks, was developed by All-national NGO “All-national Foundation “Protection of Children Rights”. The program is implemented at specialized institutions for the under aged in cities Pryluky and Kremenchuk.

¹³⁶ Data from Ministry of Family, Youth and Sport from 18.04.07

More and more children of minor age (most of them are without care) are being involved into criminal and unlawful activities. In 2006 Ukrainian courts administered forced measures to more than 2,2 thousand of the under aged children, who had committed crimes at the age, which was lower from criminal responsibility. About 2 thousand of teenagers committed crimes for a second time, while being on a prophylactic list at the criminal inspection for children¹³⁷. During first 3 months of 2007 on the list of the criminal inspection for children there were 29572 under aged children; 5582 of them did not go to school; 1528 stayed at internat and children's homes; 12822 lived in families in crisis and tend to commit crimes¹³⁸.

¹³⁷ Information on administering legislation through public prosecution to prevent crimes committed by minors, letter of General Prosecutor's Office as of 20.04.07

¹³⁸ Report on the activities of criminal militia for minors and juvenile reception centres carried out on the territory of Ukraine during 3 months of 2007.

8.2.1. Right to education

By 1 June 2007 in penitentiary labour units there were 2139 imprisoned, 34% of which were under aged, who had not received a social and pedagogical care, as they had not studied nor worked. On the territory of the penitentiary labour units there were secondary education institutions, where 2018 children studied, and where there were 157 teachers. Alongside, 1,9 thousand of the imprisoned gained a working qualification and received Certificates on state education. Besides, the imprisoned have a right to study at Universities at an extra-mural form of study. In the beginning of 2007 among University students there were 13 imprisoned persons. According to the data of General Prosecution Office of Ukraine educationalists violate article 56 of Law of Ukraine «On education»¹³⁹; articles 3, 5, 17 of Law of Ukraine «On secondary education»¹⁴⁰; a values education is not done to schoolchildren. During a first half of 2007, 1,5 thousand of schoolchildren committed crimes, nearly 22,4 thousand of them are on a prophylactic list at criminal inspection. From total number of all under aged offenders, about 2/3 of them neither studied nor worked. From a total number of under aged, who needed employment, only 1/3 of them received it¹⁴¹.

139 Law of Ukraine «On Education», Bulletin of the Verkhovna Rada, 1991, № 34, p. 452

140 Law of Ukraine «On secondary education», Bulletin of the Verkhovna Rada, 1999, № 28, p. 230

141 Information on administering legislation through public prosecution to prevent crimes committed by minors, letter of General Prosecutor's Office as of 20.04.07

8.2.2. Right to an appropriate medical service

For the imprisoned in penitentiary institutions the following medical services are provided:

- a) a clinical examination and survey to evaluate their health conditions, and, during an illness to administer the right therapy and regain their ability to work;
- б) stationary and specialized treatment in the forms and methods, recommended by Ministry of Health Care Protection of Ukraine.

Persons, admitted to penitentiary institutions, undergo a compulsory medical examination. Examination results, which include psychological and somatic state, and laboratory analyses are registered in medical files of the imprisoned. To prevent infectious diseases all newly come imprisoned, after complex

sanitary measures and medical examination, are placed in isolated area of diagnostics and quarantine. The imprisoned have a right to address a private medical staff for consultations and treatment, which are charged. The payment for these services, as well as buying necessary medicine, is made by the imprisoned or their relatives. Such private consultations and treatment are conducted at medical area of the penitentiary institution, under the supervision of a medical staff of the penitentiary institution. Medical equipment in medical area of the penitentiary labour unit requires update and new items.

8.2.3. Right to information

Under aged persons in the specialized penitentiary labour units have a right to watch TV at their free time, which is fixed in a day schedule. Representatives of social services and NGOs inform the leavers of the penitentiary labour units about legal, social, healthy way of living issues. On the territory of penitentiary institutions and social rehabilitation schools there are libraries and reading halls. But library resources are out of date and cannot meet demands of children for proper information. Periodicals (3-4 in each institution) are subscribed to on the budget of the institution or due to a will of a child, and for the child's money. In social rehabilitation areas there are information meetings on a regular basis to prepare the imprisoned for their future life.

8.2.4. Right to leisure

An important element in re-socialization of the imprisoned under aged persons is leisure time, participation in cultural life of the society, creation of conditions for leisure. There are 212 clubs of interest in penitentiary labour units: 108 of which are on school subjects; 81 are on creative and artistic activities, sports; and 23 — on profession and qualification.

Conclusions

1. In Ukraine there are a lot of cases when refugee children do not go to school and they are laboured in a “shadow” business.

2. Almost all refugee children and children seeking asylum and those who are in Ukraine without adults have very bad health and needs treatment in medical establishments.
3. There is no state programmed aimed at providing support and integration of refugee into Ukrainian society.
4. There is a raise in children racial and xenophobic views towards migrants and refugees in the society.
5. There is a lack of clear mechanism of cooperation between different governmental authorities in the procedure of granting necessary status for children who are in Ukraine without family.
6. Juvenile justice as a complex system of justice towards the under aged has not been implemented in Ukraine, although a draft of the Program to develop juvenile justice system in Ukraine has been designed.
7. There is a lack of specialized training for judges, public prosecutors, advocates, criminal police for children, inspectors, social workers, penitentiary system and probation service workers, program coordinators and managers of restoring justice, psychologists, psychiatrists, teachers, who directly work with children in conflict with law.
8. International norms and standards on administering justice towards the under aged have not been systematically used in practice.
9. There are prepared two main draft laws «On probation service», where a definition “probation” has two opposite meanings, which provokes lasting discussions and makes impossible adoption of laws.
10. Judicial practice testifies that a forced measure of giving a child back for parental care is not effective.
11. A practice of restoring justice programs is spreading: number of mediators in criminal cases is growing, but their level of qualification is not systematic.
12. An effective model for social follow up of the under aged,

released from penitentiary institutions, has not been secured.

13. Social rehabilitation system remains non-effective, as it does not reflect issues of imperfectness and collisions in legal proceedings system of Ukraine, there is a lack of institute of judicial educators, which causes negative consequences in the functioning of the institutions, in particular in staffing social rehabilitation schools.
14. More and more children of minor age (most of them are without care) are being involved into criminal and unlawful activities.
15. On the territory of the penitentiary labour units there are secondary education institutions, the imprisoned have a right to study at Universities at an extra-mural form of study.
16. The imprisoned in penitentiary institutions receive minimal medical services, which are free of charge; there is an opportunity to receive and pay for private medical services; medical equipment of the penitentiary labour unit requires update and new items.
17. Access to information is secured on a minimal sufficient level.
18. In penitentiary institutions there are clubs of interest for the under aged.

Recommendations



For the last few years real progress has been made towards the implementation of children's rights in Ukraine. During the reporting period the social protection system has been improved for orphaned children and children deprived of parental care. Family based care has also been legally defined and ensured as a high priority. It was followed by state funding of family based solutions for these categories of children as well as a range of benefits and incentives for the adoptive parents, legal representatives and foster parents. Well-aimed actions of the Government have led to a bigger increase in placement of the abandoned and orphaned children into family based care. The child welfare system has been reformed; as a result in order to handle the guardianship cases child welfare departments within the structure of the services for children have been established. A centralised electronic data bank in relation to vulnerable children has been built up. Positive steps have been made at the legislative level to reform residential care system, to develop preventive services for vulnerable families with children and to enhance intersectoral co-operation between subjects of social work with families and children.

Despite the best efforts of the state authorities and non-profit organizations certain provisions of the Convention and Recommendations made by the UN Committee on the Rights of the Child have not been fully implemented yet.

Among the major problems are as following:

- The Government of Ukraine has not implemented the UN Committee recommendation to provide adequate budget allocations for support to families with children.
- Legislation development on the rights of the children from the 'risk groups' is based on a child rescue scheme. Only after acquiring the status of an orphan or a child deprived of parental care he or she may be placed in care/foster care. He or she is also entitled to monthly allowance from the state after that. The amount of benefits for these categories of children is 10 times bigger than the state benefits for children from the low-income families. Considering the high level of poverty in multichildren and single-parent families such discrepancy can stimulate social orphaning. It also contradicts the "best interests of the child" principle (Article 3 of the Convention).
- The State has not ratified the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption as recommended by the UN Committee. In this regard the adopted children can not implement their right to know biological parents; it also makes the procedure of monitoring the rights of internationally adopted Ukrainian children more complicated.
- No real steps have been taken to improve the justice system for children: juvenile justice system has never been introduced in Ukraine, neither family nor children courts have been established.
- In reality the situation with the child's right to health and medical care and access to effective health services has gotten worse. In particular it concerns children living in rural areas, children of economically disadvantaged households, children from single-parent families, children with birth defects or premature children, children living with cancer.

- There are no clear-cut governmental mechanisms of early intervention and protection of children suffering from different forms of violence, ill-treatment or neglect.

To tackle these and other important issues affecting children's rights implementation in Ukraine non-governmental organizations need to undertake a whole range of measures and actions.

Key recommendations regarding state policy priorities for the next reporting period

During the previous reporting period one of the key priorities in the state policy on implementation of the Convention on the Rights of the Child was to enforce rights of the orphans or children deprived of parental care. Given the fact that the positive changes have been achieved while implementing their right to a family, for the next reporting period it is recommended:

1. To set creation of a safe and loving family environment for the child to grow up in as a state policy priority in the sphere of children rights.
2. To improve the system of state benefits for families with children, to increase budget allocations for support to families with children (not only those already orphaned).
3. To provide quality changes in the decision-making system to ensure that the best interests of the child are met and that integrated social services are provided based on the needs assessment.
4. To re-allocate budget resources to enable development of the preventive and support services for children and families with children in the communities rather than fund programmes that institutionalize children.
5. To establish a mechanism of an early intervention and a response-to-intervention for children from the risk group families and for infants and young children in particular.
6. To adopt Law on principles and administration of the juvenile justice system in Ukraine.

Recommendations towards amendments to the legislation and practice

Changes to legislation

The State policy shall be based on the principle of implementation of every child's rights rather than on a principle of protection of the child as it exists currently. In particular a transition must be made from the "childhood protection" concept to the guarantees of respect of every child's rights in the state-level policy. It is recommended:

- To elaborate the Children's Code where Ukrainian legislation on implementation of children's rights shall be systematized. In the separate chapters to define the following issues:
 - Guarantees on freedom of thought, conscience and religion
 - The right to privacy, domestic peace and secrecy of correspondence
 - The right to be protected against arbitrary or unlawful interference with privacy, family, home or correspondence
 - The right to be protected from harmful information.
- Previous recommendation by the UN Committee regarding ratification of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption shall be implemented by all means.
- Another issue to be addressed is abolishing secrecy in adoption through making amendments to the Family Code and Criminal Code of Ukraine. Procedures of adoption and maintaining confidentiality in adoption also need to be changed in accordance with the international standards.
- To introduce amendments to the Criminal Code regarding qualification of the aggravating circumstances in murder or serious bodily injury of an under-age child (from 14 to 18 years old).
- To make changes to the effective legislation in order to legally safeguard respect for the child's rights. In particular this refers

to the procedure of giving children's views due weight in court proceedings or when making a decision as it is stipulated in the Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights.

- To introduce changes to the applicable/ developed by-laws in order to allow the decision making process to meet the best interests of the child; to support parents in exercising their parental rights; to prevent removal of the child from a family without providing complex support services; to prevent referral of children for residential care, in particular:
 - regarding the procedure of assessing children's needs and including its results into decision making and care planning process;
 - regarding the procedure of periodical case review of a child removed from a family due to deprivation of parental rights;
 - regarding the procedure of protection and implementation of the rights of the child whose parents have mental disorders which affect their abilities to look after him or her;
 - regarding placement of vulnerable children into family-based solutions without acquiring them status of an orphan or a child deprived of parental care. In this view changes to the Family Code, the Law of Ukraine "On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care" and other by-laws which regulate the procedure of children's placement into the family-based solutions shall be made
 - regarding designating a subdivision out of central/ local bodies of executive power, defining its authority and responsibilities to monitor law compliance towards orphans and children deprived of parental care (until reaching them the age of majority).
- To eliminate existing collision on the obligatory immunisation of children and their right to education.
- To ensure more effective implementation of the right of a child

- to education through better actions against discrimination based on nationality or other aspects (especially, Roma children, refugee, children in hospitals, and children placed in closed prison institutions and HIV-infected children).
- To approve National programmes on provision of the social housing for the residential care leavers.
 - To approve the Code of marketing for breastmilk in light of international standards.
 - To ratify Convention relating to the Status of Stateless Persons and Convention on the Reduction of Statelessness.
 - To develop and introduce the procedure of introduction of legal representative for children who are not citizens of Ukraine and who are in Ukraine without parents or legal representatives.
 - To introduce juvenile justice system.
 - To introduce principles of restorative justice into legislation and practice of the courts. It concerns the institute of approbation and victim-offender reconciliation in particular.

Monitoring of situation with children's rights

- To elaborate theory and practice of the social work on the principle 'best interests of the child' and implement it into the legislation.
- To introduce the Office of the Ombudsman for Children as an independent expert and protector of children's rights.
- To elaborate mechanisms which allow access to the information regarding children including their age, health conditions, place of residence and status.
- To ensure that the annual monitoring on respect for children's rights is performed. To provide preparation and further dissemination of the report on the results of monitoring.
- To set up the practice of annual public reporting of all level of government including Ombudsman for Human Rights as for the situation with ensuring children's rights. The government has also to make public all information about the meetings of Inter-agency Commission on Childhood Protection which was recently established and other advisory bodies using all modern means of communication including Internet tools.
- To ensure child and youth participation in the development,

implementation and monitoring of the programmes on implementation of their rights at the community or local level and through establishing advisory bodies or councils consisting of children.

- To elaborate performance indicators for the central and local bodies of executive power regarding implementation of the Convention on the Rights of the Child. To integrate them within a single system of the performance monitoring for the central and local bodies of executive power.
- To improve statistical data collection system on the vulnerable children and to categorize data in relation to orphans and children deprived of parental care.

Awareness and education activities

- To integrate a course “Convention on the Right of the Child and National Legislation on Childhood Protection” into the study plans of higher educational institutions.
- To introduce a course “Children’s Rights” into training and education activities for the civil servants from central and local bodies of executive power and different law enforcement agencies.
- To develop a state programme on job retraining for residential care workers.
- To introduce a programme on the restorative justice training for personnel at the national level.
- To ensure maintenance of confidential information regarding orphaned children, children deprived of parental care and vulnerable children in order to prevent information’s disclosure.
- To launch information campaigns covering issues of:
 - Parental responsibility for the care and well-being of a child and attachment theory;
 - Optimal feeding of infants and young children;
 - Right of a child to access health care;
 - HIV prevention;
 - Prohibition of the corporal punishment and promotion of the non-violent upbringing.

- To address previous recommendation by the UN Committee and adjust according to the rights of the child implementation of the following preventive sweeps such as “Lesson”, “Street children”, “Railway station” and “Holiday”.
- To ensure appropriate storage of personal data on children in schools: to remove school record and medical record books from public access and to withdraw data input on parents of the children (his or her guardians) into the school record books.

Funding and technical support

- To accord national and local budget allocations spent on implementation of the National Plan of Action within support programmes for families with children at the national and local levels.
- To develop and introduce a stage-by-stage approach in reallocation of the financial, material and human resources to enable development of the preventive and support services for children and families with children in the communities rather than to fund programmes that institutionalize children.
- To introduce new schemes of financial assistance for vulnerable families with children, which could solve the problem and encourage families towards greater economic independence.
- To ensure transparency and accountability of the state financial support of children and youth public organizations as well as funding of state programmes in the sphere of children rights.
- To enhance the current funding system of the social services for the exposed families. To create a market of the social services through their commissioning.
- To create conditions necessary to the provision of inclusive education for disabled children. To elaborate courses for the adequate tuition of the disabled children within the inclusive classes in comprehensive schools. To enhance control over accessibility and quality of such courses.
- To strengthen control over budget usage of the programmes providing access to education for refugee and migrant children.

Preventive work and service provision

- To ensure access for children and vulnerable families with children to the social services through:
 - increase in the number of social workers at the community level based on the needs assessment of the vulnerable families with children
 - profiling services and integrated approach and enhanced mechanisms of interagency co-operation in facilitation services to the vulnerable families and children
 - capacity building for the social workers, social care teachers and psychologists
- To improve the pre-school and afterschool education system.
- To introduce the social support scheme to the residential care leavers for a certain period of time after they leave care and to introduce the national educational reintegration programme for children who leave institutional care.
- To review the conditions of children’s maintenance and care in special educational and social rehabilitation institutions.
- To increase effectiveness of different measures taken aimed at health of the child.
- To decrease the level of HIV transmission from mothers to children through introduction of optimal forms of feeding.

Special opinion on recommendation from All-Ukrainian Civic Organisation “Women’s Consortium of Ukraine”:

To renew the operation of All-Ukrainian children helpline and ensure its continuous functioning.



References

Legal framework

1. Constitution of Ukraine // Bulletin of the Verkhovna Rada. — 1996. — № 30. — P.141
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=254%EA%2F96-%E2%F0>
2. European Convention on the Exercise of Children's Rights, ratified by the Law of Ukraine N 69-V (69-16) as of 03.08.2006 including Declaration // Bulletin of the Verkhovna Rada. — 2006. — № 41. — P. 354
http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=994_135
3. Family Code of Ukraine // Bulletin of the Verkhovna Rada. — 2002. — № 21-22. — P.135
<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2947-14>
4. Code of Civil Procedure of Ukraine // Bulletin of the Verkhovna Rada. — 2004. — № 40-41, 42. — P.492
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1618-15>
5. Code of Criminal Procedure of Ukraine, approved by Law as of 28.12.1960, 1000-05 // Bulletin of the Verkhovna Rada. — 1961. — № 2. -P.15
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1001-05>
6. Labour Code of Ukraine, approved by the Law N 322-VIII as of 10.12.71 // Bulletin of the Verkhovna Rada. — 1971. — Annex to N 50. — P.375

- <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=322-08>
7. Penal Code of Ukraine // Bulletin of the Verkhovna Rada. — 2004. — N 3-4. — P.21
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1129-15>
 8. Civil Code of Ukraine // Bulletin of the Verkhovna Rada.— 2003.— № 40– 44.— P.356
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=435-15>
 9. Criminal Code of Ukraine // Bulletin of the Verkhovna Rada.— 2001.— № 25-26.— P.131
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2341-14>
 10. The Law of Ukraine “On Childhood Protection” // Bulletin of the Verkhovna Rada.— 2001.— № 30.— P.142
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2402-14>
 11. The Law of Ukraine «On the State Programme ‘National Plan of Action on Implementation of the UN Convention on the Rights of the Child’ until 2016» as of 05.03.2009, № 1065-VI
<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1065-17>
 12. The Law of Ukraine «On Citizenship» // Bulletin of the Verkhovna Rada. 2001.— № 13.— P.65
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2235-14>
 13. The Law of Ukraine «On Youth and Children Civil Organisations» // Bulletin of the Verkhovna Rada.—1999.— № 1.— P.2
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=281-14>
 14. The Law of Ukraine «On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care» // Bulletin of the Verkhovna Rada.— 2005.— № 6.— P. 147
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2342-15>
 15. The Law of Ukraine «Fundamental Principles on Health Protection in Ukraine» // Bulletin of the Verkhovna Rada.— 1993.— № 4.— P. 19
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2801-12>
 16. The Law of Ukraine «On Child Nutrition» // Bulletin of the Verkhovna Rada.— 2006.— № 44.— p.433,
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=142-16>
 17. The Law of Ukraine «On Judicature in Ukraine» // Bulletin of the Verkhovna Rada.— 2002.— № 27-28.— P.180
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=3018-14>
 18. The Law of Ukraine «On Child Welfare Agencies and Services and Specialised Institutions for Children» // Bulletin of the Verkhovna Rada.— 1995.— № 6.— P.35

- <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=20%2F95-%E2%F0>
19. The Law of Ukraine «On education» // Bulletin of the Verkhovna Rada.— 1991.— № 34.— P. 452
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1060-12>
20. The Law of Ukraine «On Secondary Education» // Bulletin of the Verkhovna Rada.— 1999.— № 28.— P. 230
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=651-14>
21. Decree of the President of Ukraine №63/96 as of 18.01.1996 On the National Programme “Children of Ukraine”
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=63%2F96>
22. Decree of the President of Ukraine № 42/2001 as of 24.01.2001 On Additional Measures for the Implementation of the National Programme “Children of Ukraine” until 2005
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=42%2F2001>
23. Decree of the President of Ukraine № 1086/2005 as of 11.07.2005 « On urgent measures to protect child rights».
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1086%2F2005>
24. Regulation of the Cabinet of Ministers of Ukraine № 1200 as of 03.08.2000 «On Establishment of the Inter-agency Commission on Childhood Protection»
<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1200-2000-%EF>
25. Regulation of the Cabinet of Ministers of Ukraine N 1062 as of 25.07.2002 On approval Tender procedures on state programmes for children, youth, women and family drafted by non-governmental organizations
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1062-2002-%EF>
26. Regulation of the Cabinet of Ministers of Ukraine № 1242 as of 17.10.2007 “On Establishment of the State Special Purpose Programme to Reform Residential System for Orphans and Children Deprived of Parental Care”.
<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1242-2007-%EF>
27. Resolution of the Plenary Session of Supreme Court of Ukraine «On administering legislation on responsibility for involving under-aged children into criminal or other antisocial activities» as of 27.02.2004 № 2
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=v0006700-83>
28. Resolution of the Plenary Session of Supreme Court of Ukraine «On practice of administering legislation in criminal cases of under aged children» as of 16.04.2004 № 5
<http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=va005700-04>

29. Resolution of the Plenary Session of Supreme Court of Ukraine «On practice of administration legislation in relation to the rights of the victims of crime» as of 02.07.2004 № 13
<http://www.viaduk.net/clients/vs.nsf/0/A78739119E3E2563C3256F08002065BA?OpenDocument&CollapseView&RestrictToCategory=A78739119E3E2563C3256F08002065BA&Count=500&>
30. State Committee of Ukraine for Family and Youth, Ministry of Internal Affairs of Ukraine, Ministry of Education and Science of Ukraine, Ministry of Health of Ukraine Decree as of 16.01.2004, N 5/34/24/11 On approval Procedures for individual applications and notifications in relation to child abuse or the threat of such treatment
<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=z0099-04>

Non-governmental and academic researches

1. Monitoring report «Human rights in medical institutions and psychiatric hospitals for children», NGO M'ART. — Chernihiv, 2004
2. «Complex monitoring of children's rights in Ukraine». — Foundation of the Children Rights, the Democracy Grants Program of the US Embassy in Ukraine
3. Human Rights in Ukraine — 2004. The Annual Report by Human Rights Organisations. / edited by Ye. Zakharov, I. Rapp, V. Yavorskyi. Illustrated by B. Zakharov. Ukrainian Helsinki Human Rights Union. — Kharkiv: Folio, 2005. — 312 p.
4. Human Rights in Ukraine — 2005. The Annual Report by Human Rights Organisations. / edited by Ye. Zakharov, I. Rapp, V. Yavorskyi. Illustrated by B. Zakharov. Ukrainian Helsinki Human Rights Union. — Kharkiv: Prava lyudyny, 2006. — 320 p.
5. Human Rights in Ukraine — 2007. The Annual Report by Human Rights Organisations. / edited by Ye. Zakharov, I. Rapp, V. Yavorskyi. Ukrainian Helsinki Human Rights Union. — Kharkiv: Prava lyudyny, 2008. — 304 p.
6. Based on the results of responses to the official requests «On Activity of the Inter-agency Commission on Childhood Protection during 2006-2009», Women's Consortium of Ukraine, 2009
7. According to International Roma Women Charitable Foundation «Chirikli»
8. Monitoring report «Judicial protection of the best interests of the child and the right of a child to a family», Kharkiv Oblast «Civic Alternative» Foundation, 2006

9. Collected articles «The Right to Life: European standards and Ukraine's realities», Kharkiv Oblast "Civic Alternative" Foundation, 2007
10. Human rights in the family-type children's homes of Ukraine. Monitoring Report. M. Yasenovska, O. Biletska, Kharkiv City Organization of International Organization "Zhinocha Gromada", 2004
11. Respect for the right to property of the orphaned children in Ukraine. Monitoring rapport, O. Hrabovska, M. Yasenovska, O Kopanska, 2006
12. Study «Assessment of the needs of children born to HIV positive parents», NGO «Analytical centre «Socioconsulting»»
13. The rights of HIV-positive children in Ukraine. Alternative report, December 2008, Kyiv
14. Petrova N. The right to respect for privacy and family life: civil aspects in legislation and current court practice of Ukraine // European Convention on Human Rights: fundamental principles, practical application and Ukrainian context, 2004. — p. 403.

Information from state authorities and mass media

1. Report by the Minister of Health of Ukraine Vasyl Knyazevych submitted for the final session of the Board of Ministry of Health on 28 March 2008, a Medical Newspaper of Ukraine "Vashe Zdorovya" № 12 (886)
2. The Third and Fourth Consolidated Periodic National Report on the Implementation of the Convention on the Rights of the Child in Ukraine (2002 — 2006). — Kyiv: State Institute for Family and Youth Development. — 2007
<http://www.ditu.gov.ua/protection/1707>
3. Press conference on women's reproductive health hosted by the Ministry of Health of Ukraine, 2005
<http://www.moz.gov.ua/ua/main/press/?docID=3125>
4. Analytical report «Survey of knowledge, attitude, practice and behavior related to planned vaccination against measles and scarlet fever in Ukraine», Cherkasy municipal children's hospital № 3
<http://h.ua/story/82280/> [as of 08.02.2008]
5. Bulletin «On results of the state expenditure monitoring of the Ministry of Health to administer immunoprophylaxis in Ukraine», Ya. Flissak, G. Shakh, Audit Chamber of Ukraine. — Kyiv. — 2008
http://www.ac-rada.gov.ua/achamber/control/uk/publish/article/main?art_id=1143621&cat_id=412

6. Scientific-practical journal “Medical universe”, III.№1.2003 /Special issue on HIV/AIDS
7. Reference on a number of convicted minors registered within Correctional Institution Inspection during the period of 2002 — 2006
8. According to Ministry for Family, Youth and Sport (letter as of 18.04.07, № 1/3460)
9. Information on administering legislation through public prosecution to prevent crimes committed by minors, letter of General Prosecutor’s Office as of 20.04.07
10. Report on the activities of criminal militia for minors and juvenile reception centres carried out on the territory of Ukraine throughout 3 months of 2007
11. Letter of General Prosecution Office from 20.04.07
12. Lvivska Gazeta (Daily newspaper in Lviv), №157 (465), as of 28.10.2008
<http://www.gazeta.lviv.ua/articles/2008/10/27/35419/>
13. According to UNIAN: Ternopilshchyna: 7 children were adopted in Ternopil last year // Zdorovya — №5 (88)
http://unian.net/products/d_detail.php?id=76113

International sources

1. Concluding Observations of the Committee on the Rights of the Child: Ukraine. 09/10/2002 CRC/C/15/AcI.191
2. “10 health questions about the new EU neighbours”, Regional Office for Europe, World Health Organisation
3. Ukraine DHS Preliminary Report, 2008



NGOs Involved in Preparation of the Alternative Report

All-Ukrainian Civic Organisation “Women’s Consortium of Ukraine”

Organisation focuses on advocacy campaigns, educational and promotional initiatives aimed at prevention of children and women abuse including home abuse; promotion of equal opportunities.

Contacts: 10, Kostyolna St., 28 office, Kyiv, 01001, Ukraine
Tel. +38 044 5926854, fax: +38 044 279 0026
E-mail: consortium@bigmir.net

All-Ukrainian Coalition “Unite for Children”

Main activities include lobbying and advocacy for children rights at all levels, promotion of principles and rights of UN Convention of the Rights of the Children; monitoring of implementation of the Convention and preparation of Alternative reports.

All-Ukrainian Foundation “Protection of Children’s Right”

The overall goal of organisation is to gather and analyse information on the situation with rights of the children in

Ukraine, coordination of work in the sphere of childcare and child protection. Organisations implements projects aimed at legislative, social and institutional changes for fulfilment of children rights as well as provide support to governmental authorities and non-governmental institutions in implementation of UN Convention on the Rights of the Child.

Contacts: 49, Predslavynska St., 4 office, Kyiv, 03150, Ukraine
Tel. +38 044 3319898, fax: +38 044 5283748
E-mail: jane_p@ukr.net Web-site: <http://www.childfund.com.ua>

Association of the Young Professionals “Class”

The goal of organisation is to involve youth in active participation in social life, strengthening their educational, leadership and social potential. Organisation provides social support to youth in difficult life circumstances.

Contacts: P.O. Box 3058, Kharkiv, 61034, Ukraine
Tel. +38 067 5747902, +38 057 7573465
E-mail: kolena2000@ukr.net; contact@class.org.ua

Charitable Foundation “Rokada”

Main activities include social support to refugees and asylum seekers as well as legal and medical assistance when needed.

Contacts: P.O. Box 12, Kyiv, 04200, Ukraine
Tel. +38 044 501 5696, +38 044 4281370
E-mail: office@rokada.org.ua
Web-site: <http://www.rokada.org.ua>

Charitable Foundation “Chirikli”

Main activities include social support to Roma children and refugee children, children with disabilities, single mothers and multichildren families; lobbying necessary legal changes as for Roma people.

Contacts: 53, Vasylykivska St., 1 building, 93 office, Kyiv, 03127, Ukraine
Tel. +38 097 3395974
E-mail: kondurzola@yahoo.com

Chernihiv Civic Organization “M’ART”

Organisation’s mission is to support children and young people in protection of their rights. Main activities include monitoring

of human rights; education in human rights; legal assistance; organisation and support to public actions in human rights.

Contacts: P.O.Box 79, Chernihiv, 14000, Ukraine

Tel. +38 046 2774110

E-mail: mart.ngo@googlemail.com

Dnipropetrovsk City Civic Organisation “Women’s Information and Co-ordination Centre”

Main activities include promotion of gender equality; prevention of domestic abuse; children protection and promotion of family care for children deprived of parental care; entrepreneurship development; fostering civil society development.

Contacts: 8, Dzerzhynskoho St., Dnipropetrovsk, 49044, Ukraine

Tel. +38 057 3702535, +38 056 2320085, +38 056 7442915

E-mail: wiccdnipro@gmail.com

Web-site: <http://www.dwicc.org.ua>

Environmental Children’s Organization “Flora”

Main activities include educational and social support to children; ecological activities; and involvement of young people.

Contacts: 19, Yegorova St., 2 office, Kirovograd, 25015, Ukraine

Tel. +38 052 2270463

E-mail: Flora2000@inbox.ru

EveryChild Ukraine

EveryChild Ukraine empowers children, their families and communities to create opportunities for a better life. We are working for the world where children are safe and secure. Organisations focuses on blocking admission of children into institutions and contribute to their onward progression-back to their families, into a form of substitute family care, or moving to some form of independent living.

Contacts: 49-A, Polyova St., Kyiv, 03058, Ukraine

Tel. +38 044 4572910, 4573977

E-mail : info@everychild.org.ua;

Web-site : <http://www.everychild.org.ua>

Human Rights Centre “Postup”

Since 2000 organisation works in the sphere of protection of children of different risk groups. Organisation coordinates network of children rights organisations and supports Legal advice centre for vulnerable children.

Contacts: 10, Hradusova St., 138 office, Luhansk, 91000, Ukraine
Tel. +38 064 2495963, +38 050 6235846
E-mail : reutski@gmail.com

Kharkiv Oblast Foundation “Civic Alternative”

Main activities include educational programmes on human rights and children rights; monitoring of human rights in Ukraine; prevention of child abuse; implementation of European standards in human rights sphere; promotion of human rights in schools.

Contacts: 72/48 Lenina prospect, Kharkiv, 61103, Ukraine
Tel. +38 050 4023456, Fax: +38 057 3450707
E-mail : public.alternative@gmail.com

Sumy Oblast Youth Civic Organisation “Gender Agency of Consultation and Information” (IBFAN-Sumy Group)

Organisation provides information and consultation services in the sphere of youth and gender policy as well as promotes health way of life and campaigns for breastfeeding.

Contacts: 1/41 Antonova St., Sumy, 40030, Ukraine
Tel. +38 050 9249433, +38 054 2620957

Youth Civic Organisation “Club “Compass”

Main activities include support to civil society development through social development of youth. Organisations provides space for youth to develop their potential and master life important skills.

Contacts: P.O. Box 128, Kyiv, 02152, Ukraine
Tel. +38 044 5537857
E-mail: office@compass.org.ua

