

NGO Group for the Convention on the Rights of the Child  
**Database of NGO Reports presented to the UN Committee on the Rights of the Child.**

---

**Document Title:**

**Supplement to the Report of the Ukrainian Government for the National Implementation of the Convention on the Rights of the Child**

**Region:**

Eastern Europe, Europe

**Country:**

**Ukraine**

**Issued by:**

All-Ukrainian Committee for Children's Rights

**Date of publication of NGO Report:**

**Date of presentation to presessional working group:**

06/95

**CRC Session**

(at which related national state party report was submitted):

10th Session : Oct - Nov 95

**Language:**

English

---

**Document Text**

[Link to related state party report at UNHCHR in English](#)

[Link to related state party report at UNHCHR in French](#)

[Link to related state party report at UNHCHR in Spanish](#)

Prepared by The All-Ukrainian Committee for Children's Rights with the participation of non-governmental organizations dealing with the problems of children's rights  
Kyiv, Ukraine. 1995.

**On The Preparation of This Information**

On May 29, 1993, the Constituent Conference devoted to the establishment of a nongovernmental human rights organization called The All-Ukrainian Committee for Children's Rights took place. The event was attended by representatives from 14 out of 25 regions of Ukraine.

The main objective of the Committee is to monitor the observance of children's rights in this state and attempt to influence the national and local authorities to strictly comply with the UN Convention on the Rights of the Child; its aim is also to collect, disseminate and analyze

information on children in Ukraine. Leaders of the Committee met with the Minister of Education of Ukraine, Mr. Talanchuk, as early as June 1993. The discussion was devoted to the issue of mass violations of children's rights in special reform schools for juvenile delinquents. The meeting resulted in the Ministry's decision to conduct a thorough inspection of these schools. Activists of the Committee, hailing from all regions of Ukraine, took part in the inspection. In November 1993, the aforesaid problem was discussed by the Collegiate of the Ministry of Education, resulting in the adoption of new working instructions pertaining to the regulations of upbringing the children in these institutions; the new instructions are more favorable for the children.

In December 1993, the Committee initiated a discussion devoted to the problems of mandatory state custody, which was attended by representatives from other non-governmental organizations dealing with children's issues, as well as governmental representatives in the spheres of education, health and social services.

In January 1994, children's issues in Ukraine were discussed at a meeting of representatives from various non-governmental children's organizations. The meeting was devoted to the first UNICEF mission in Ukraine.

From June to September 1994, similar discussions ensued, namely: "The Family as the Basis of Civil Society"; "Problems of the Rights of Sick and Handicapped Children"; and "Causes of Juvenile Delinquency".

Materials of the foregoing discussions are at the core of this report. Propositions and recommendations set forth herein are those voiced during the discussions by persons of different professions and representatives from non-governmental organizations. The final version of the report was approved on January 10, 1995, at a meeting of representatives from non-governmental organizations.

**The following is a list of the organizations:**

All-Ukrainian Committee for Children's Rights  
International Organization "Women's Community"  
Charitable Foundation "Diabetic"  
Civil Service of Ukraine  
Children's Foundation of Ukraine  
Association of Handicapped Children  
Foundation «Oncologist"  
Union of Families with Many Children  
"Cerebral" Organization for Assistance to Handicapped Children  
Private Charitable Foundation "Human Dignity"

September 27 marked the third anniversary of the ratification of the Convention on the Rights of the Child by the *Verkhovna Rada* of Ukraine. The Convention was adopted by the UN General Assembly on November 20, 1989. The fact that our state joined and ratified the Convention proves that Ukraine has professed its obligation to the world community for adherence to the provisions therein.

We must state that in accordance with Article 42 of the Convention, Ukraine pledged to widely inform both adults and children about the principles and provisions of the Convention.

Regrettably, not a single national institution nor official pursued the topic during this period of time. The Convention on the Rights of the Child remains unknown to the majority of the population; its 1993 edition numbered only 10,000 copies. Is this number sufficient for a nation of 52 million?

This attests to the fact that the government does not realize the importance of adhering to its commitments and creating a clear procedure for the fulfilment of children's rights declared in the Convention.

Even today, the acting national legislation of Ukraine is not in compliance with the Convention; certain provisions therein have not been regulated by Ukrainian laws for three years. In so far as

the former Parliament began its work on the draft Law of Ukraine on Children's Rights, any proposals on the part of non-governmental organizations to improve the situation of children in Ukraine are ignored, allegedly for the reason that the problems will disappear upon adoption of the law.

However, according to the Law on the Implementation of International Treaties on the Territory of Ukraine, adopted on November 10, 1991, "...the lawfully ratified by Ukraine international treaties are an integral part of the national legislation". Accordingly, the Convention on the Rights of the Child must be implemented to full capacity; there exists, however, no procedure for its implementation.

Upon the proclamation of state sovereignty in Ukraine, numerous non-governmental organizations striving to improve the situation of children in Ukraine were established. It would be premature, however, to hope that the solution to the aforesaid problems will be attained by non-governmental organizations, irrespective of their scope. In order to radically change the situation, the government must supply the necessary will, authority and financing. Ukraine has a number of scientific-research institutions which have amassed certain experience in the study of the foregoing problems and possess the necessary information regarding possible solutions. Nonetheless, there has been no order on the part of the government to promulgate this experience and information, a dilemma plaguing a country populated by 52 million and caused by an absence of a uniform national organ which would coordinate and plan activities for family and child protection. Different ministries deal with these issues in varying ways. However, this dispersion of national efforts to solve the problem is a problem in itself; after all, it is a known fact that "too many cooks spoil the soup". We are discussing:

*1) the vitally necessary national program on the protection of childhood to be developed in compliance with a corresponding legislative foundation and the creation of a system of national institutions that would solely deal with the guardianship of Family and children;*

*2) the urgent introduction into the nation of an institution of social workers whose role will undoubtedly be to provide the desperate family or individual with psychological consultative and educational assistance. The experience of such services both state and private - in developed nations is instructive and thus worth borrowing*

Sadly, the situation of children in Ukraine is very disturbing. The birth rate has diminished over the past three years, its level now being lower than the death rate. Furthermore, Ukraine is foremost in the world for the number of abortions.

Every hundredth child in Ukraine is born with an abnormality. Approximately 5 per cent of all babies are born prematurely. The number of mentally retarded children is growing every year. Babies under the age of 12 months are subject to extremely high mortality. The mortality rate of children aged 5 and under is 4-5 times higher than that of children in developed European nations.

Every year, Ukraine loses 16,000 children aged 14 and under as a result of trauma, suicide, murder, and so on. Every day, an average of 32 children 12,000 children per year are found abandoned, lost or forgotten. It is a pity that almost half of them are under the age of 7. As a result, 84,500 orphans and children are placed in state institutions.

The state of children's health is particularly troublesome; almost half the nation has suffered as a result of the Chernobyl disaster. Neither the rights of sick children nor those of handicapped children are protected, and the latter are raised in isolation from their peers; in fact, society discriminates against their physical disadvantage.

Juvenile delinquency is becoming a social evil. Almost 10,000 minors serve sentences in conditions not at all conducive to their rehabilitation. The number of offenses committed by minors is rising. Any activity in the prevention of offenses is conducted by means of inhuman methods and consequently proves to be ineffective.

### **Definition of the Child**

The acting legislation of Ukraine does not consider a child a person under the age of 18 to be an individual subject of legal relations. Different branches of the law regulate different legal aspects for children: the right to child support and an inheritance; a defined minimal employment age; criminal persecution for rape (of both minors under 14 and those not yet of age 14-18) and for the involvement of minors in criminal activities, among others. It is considered conventional that the rights of children be implemented through their natural parents, their adopted parents, or legal guardians.

At the same time, the child's needs as a living being are ignored to be heard in the family, in school and, if badly needed, in a state institution (for example, in the event the child was mistreated by his/her parents or teachers). Not a single national institution will seriously heed an application or complaint submitted by a child; the legal representative of the child must act on his/her behalf.

Life abounds in cases of children requiring legal assistance or counseling from a psychologist; these children do not want their parents to learn of the visit. Theoretically, the minor has the right to turn to an appropriate specialist; in reality, the situation is more complicated and as a rule, such counseling is not free of charge, obviously preventing the child from being able to afford it.

Given the fact that the foregoing problem is not regulated by the law, the concept of the rights of a child to a private life has yet to be defined, and an institute for legal and psychological services to the family has yet to be established; the problem, therefore, remains unresolved.

According to civil law, a person is of age when he/she turns 18. Thus, prior to that day, he/she is deemed a minor and requires the special assistance and care of adults, as well as of the government. Alas, this legislative thesis is overshadowed by notorious by-law instructions which artificially shorten a child's life. Thus, diabetic children and paraplegics receive special treatment from a doctor in children's clinics only until the age 15, whereupon they are transferred to adult clinics and left without the special professional attention of doctors, vital to their health.

To a certain degree, an analogous situation may be observed in the sphere of social security. Thus, parents who have a handicapped child requiring special care are paid money by the state only until the child's sixteenth birthday.

### **Recommendations**

1. To provide legal grounds for every child to be heard. Within the framework of this law, the child must be deemed an individual subject of legal relations and thus able to protect and defend his/her interests;
2. To create a mechanism for guaranteeing this right on the part of the state, who would in turn provide every child with legal assistance of high quality;
3. To implement criminal proceedings for cruel treatment and abandonment of children.

### **General Provisions**

The Constitution of Ukraine proclaims legal equality of the citizens of Ukraine. In practice, this juridical guarantee is ignored. We admit that the situation is caused by a lack of funds in the nation for the creation of conditions that would secure such an equality in practice.

*Two examples:*

1) Ukraine has 120,000 handicapped children, only 8% of whom are being treated in state homes for handicapped children. The remaining children are raised and tended to in their families. The problem lies in the fact that these children, being within their own families, cannot enjoy a full life due to the lack of interaction with their peers. The family of the handicapped child leads a secluded life. Paraplegics are faced with a special problem: these children have no possibility to go out, as a standard wheel chair will not fit into an elevator; their use of public transportation is limited; there are no special street crossings or sloped sidewalks; there are no elevations or special entrances to shops, cinemas, theaters and other public buildings;

buildings have a different number of stairs and there are no entrances for wheel chairs.

Since educational establishments are not equipped to adapt to handicapped children, these youngsters are practically denied the right to acquire not only a desirable profession, but any profession whatsoever.

There are cases where paraplegics aged 16 are without families and relatives. Although these are intellectually healthy individuals, they are nonetheless sent away to special schools for the mentally retarded, allegedly 'for their own good'. In such cases, the physical handicap of the child is viewed by the authorities as complete inferiority.

2) The law of Ukraine on National Assistance to Families with Children (dated September 21, 1992) is the first of its kind in Ukraine. Formerly, such issues were regulated by Soviet, All-Union normative acts. This law, being of utmost necessity, marks a very positive step. Its content, however, does not correspond to its name, as it exclusively serves low-income families; it regulates conditions for providing national assistance to poor families and defines the volume of this assistance. However, judging by its name, the law is interpreted on a national level as an act of state care for the family in general, which does not correspond to reality. Thus, in its official interpretation, this law discriminates against children on grounds of the material status of their parents, as it is applicable only when the average total income of each family member does not exceed a certain amount within a 3-month term.

The law which provides for the interests of children and for conditions conducive to their proper development and upbringing (Article 1 of Code 69 of Ukraine on Marriage and Family) extends only to cases of legal proceedings in child disputes. Furthermore, the opinion and wish of a child (until **the age of 10**) is determined only when the question of the child's place of residence is brought up (that is to say, which of the two parents is **granted custody**), **as well as the** question of adoption. The child's wish is not accepted unconditionally, should the court come to the conclusion that leaving the child with the desired parent will not be in the best interests of the child. The acting legislation of Ukraine does not anticipate the opinion and wish of the child in considering issues of guardianship, separation of a child from his/her parents, deprivation of parental rights, and so on.

Unfortunately, the provision embodied in Article 3 of the Convention on the Rights of the Child, which is primarily meant to secure the interests of the child, has not been introduced into the Ukrainian legislation to this very day.

It goes without saying that the economic drawbacks diminish the state's ability to create the indispensable material base for the implementation of children's rights. Nevertheless, certain issues must be solved promptly. These include the provision of proper development and survival of Ukrainian children who found themselves in radio-active contaminated territory during the Chernobyl disaster in April, 1986. The problem lies in the fact that until now, that is to say over the past six years, 300,000 children have been living in dangerous conditions, hazardous to both their health and development.

It is difficult to agree with the official opinion that all educational establishments for children in Ukraine secure and respect the child's views and wishes.

In regard to education, almost all people are literate (education is both accessible and mandatory for the general population) on one hand; on the other side of the coin, there is a tendency to exert pressure on the individual to 'conform to the group', resulting in the formation of impersonal, passive individuals. In this case, a positive solution lies in the founding of private schools and establishing alternative forms of educational institutions (grammar schools, lycea, private schools, and so on).

In addition, there have been multiple incidents of child beatings in schools by the teachers. Thus far, there is no law regulating the right of the child to be heard and to act as plaintiff in court; this actually makes it impossible to investigate such cases, thus limiting the possibility to restrain these teachers from the educational process or to punish them.

When rendering a decision which strictly concerns the child, for instance in determining guardianship for that child, the latter's opinion is not taken into consideration.

Example:

Upon the death of a mother of two children, the question of guardianship for the younger child (aged 13) came up. The children's 80-year-old grandmother appealed to the state adoption agency; the woman was not only old, but was plagued with a handicap. The brother of the child had just come of age. One good Samaritan decided to take the boy into his family on the request of the late mother while she was still alive, took care of him and helped him in his studies. Over the course of five months, the child lived with the man's family, grew accustomed to him and found himself in good hands there. The child then personally applied to the state board of guardianship with a request to settle the matter in favor of his foster parent. The child's wish was not accounted for and he was reprimanded by the board, who said they were not interested in the child's opinion and that they know better who the right guardian should be. His 18-year-old brother, a student in a technical school, was appointed guardian of the 13-year-old child. The above example serves as a testimony to the fact that the child's interests were ignored; even upon the official appointment of his brother as guardian, the boy continued to live in the family of the people who cherished and cared for him.

#### *Recommendations*

1. To make amendments to the legislation on marriage and family; to take into consideration the child's wish when appointing a guardian, when separating the child from his/her family or when depriving a person of parental rights; 2.
2. In order to preserve the nation in the most positive sense, it is necessary to establish an institution for foster parents and to work out a mechanism of temporary fosterage;
3. To secure the best interests of the child in considering any questions pertaining to that child; this principle should be approved on the legislative level.

#### **Right to life**

An indispensable right regarding every child's living conditions is defined in Article 6 of the Convention. The state is responsible for providing the maximum possible level of subsistence and sound development of a child. In the official report, data were given concerning the child mortality rate in Ukraine. The statistics prove that there are certain drawbacks in the health protection system and in the formal approach toward the organization of this work.

The Ministry of Health ignored the recommendations of the World Health Organization (1979) to improve the post-natal system and care given to mother and child in maternity homes, in aim of preventing the spread of infectious diseases among infants, which cause unfortunate, sometimes tragic consequences.

By way of example, a recent tragedy occurred in maternity home No. 22 in Kyiv, where 20 infants died due to salmonellosis. Nine babies are in critical condition and are predisposed to becoming crippled for the rest of their lives. The reason for this tragedy lies in the carelessness of the staff, who had been keeping the infants grouped in boxes, isolated from their mothers, thus further spreading the infection and the mass mortality of children.

#### *Recommendations*

1. To eliminate group keeping of children;
2. To create conditions for keeping the new-born with his/her mother.

#### **Civil rights and liberties**

The existing legislation of Ukraine is not in full accordance with the content of Articles 7 and 8 of Convention on the Rights of the Child.

Article 7 thereof determines the child's right to know his parents as closely as possible, disapproves of the practice of adoption secrecy and calls for criminal responsibility for its disclosure (Article 112 of the Code on Marriage and Family and Article 115 of the Criminal Code of Ukraine).

The situation becomes complicated when, in the aim of protecting such secrecy on the request of the foster parents, the name, surname and middle name of the child can be changed, along with the place of birth and, in exceptional cases, the date of birth (by no more than six months).

It is difficult to say that, in the course of such legislative regulation, the child will be able to retain his/her individuality, in cases where the child was, for various reasons, deprived of a family environment and thus given up for adoption.

Regrettably, the new wording of this section in the Code on Marriage and Family in Ukraine keeps both adoption and the means employed thereby a secret.

In reality, the observance of the confidentiality of adoption results in tragedy in those families where there are or were adopted children; the latter, having learned of the adoption by chance, discover that the people they considered to be their mother and father are really of another blood. A child in such cases often feels betrayed and becomes aggressive, even cruel toward his/her adopted parents.

As a rule, after the confidentiality of the adoption has been released, the reaction of the adopted parents varies from case to case; in most cases, however, they become indignant. Lacking the necessary knowledge on the psychology of relationships, they avoid the problem and look for a guilty party, motivating everything by the genes of the child.

#### *Recommendations on Improving the Situation*

1. To abrogate criminal responsibility for the disclosure of adoption secrecy;
2. To stipulate the right in the Code on Marriage and Family for every adopted person when coming of age to obtain complete information concerning his/her true parents from the local authorities, and thereupon renew his/her birth certificate.

#### **Family Surroundings and Alternative Care**

State control and participation in the assistance of upbringing is carried out in Ukraine through the state board of guardianship, which is affiliated with the body of local authorities. However, this organ functions on social principles, as only one out of two inspectors in the region work on staff and, as a rule, for the educational body. In fact, due to an overload of work, these people are unable to fulfill all functions; this explains the formal approach of the aforementioned organs in the solving of problems which are in their competence.

The board of guardianship takes mandatory part in drawing a conclusion in the hearing of cases regarding children. Often, due to the above-mentioned reasons, the representatives of the board of guardianship **may not appear in court**, as their **appearance could hardly** influence the court judgment.

The decision of the court on the deprivation of parental rights is not limited in time. As a rule, children are automatically deprived of the right to meet their parents and vice versa.

The right to appeal for a change in parenthood rights for those persons deprived thereof is a nominal issue. The state, in the person of the acting bodies of education and the board of guardianship, is insensitive to family tragedies. There are no qualified specialists to help them get through the crises and coordinate the relationship for the benefit of the children.

The most unfortunate aspect in the life of such a family lies in the follow-up of the court's

decision on the deprivation of parental rights, when a child is placed in an orphanage. In such a case, the child is literally forced into the orphanage; allegedly, it is in the best interests of the child to separate him/her from the parents, who have a negative influence on the child and cause irreversible moral damage to the psyche of the child.

#### *Recommendations*

1. To reform the system of the board of guardianship by means of employing qualified staff (or by establishing an institution) which would help families get through the crisis and could arrange meetings with the child's biological parents, who were separated from the child due to various reasons;
2. To introduce amendments into the Code on Marriage and Family in the section concerning the terms of deprivation of parental rights (the separation of the child from his/her family); to create a mechanism which would secure the child's right to the arrangement of meetings, whenever possible;
3. Within the framework of judicial reform, to establish a family court for a more qualified and humane legal solution to family problems;
4. To legally amend the institution of adoptive families to alternative forms of family care (foster family).

As stated in the official report, children deprived of a family environment are brought up in state boarding homes.

The system of boarding homes in this country is well branched and possesses many profiles. As a rule, all the homes are well supplied and the children are provided with good living conditions. However, a large number of children in each home (40-50) makes any individual emotional contact with them impossible. The children must also undergo a drill.

Requests of many Ukrainian citizens to adopt such children thus seem easy to satisfy; however, the legislation regulating these issues is obsolete and imperfect and thus, impedes the solution to these cases.

Sick children or those with physical or mental disabilities are not eligible for adoption. Children maintained in the boarding homes are sent there mainly from maternity hospitals on the refusal of their mothers to raise them; in other cases, these are lost, forgotten children whose background is unhappy or unknown. For this reason, people are reluctant to adopt them, which in turn explains the low rate of adoptions 10% per year.

There are other reasons for the low adoption rate, particularly the absence of a state program on helping orphans find a proper family. There is no governmental body in Ukraine willing to amass information on this issue.

Decisions on adoption eligibility are made by local administrative bodies.

The inter-state practice of the adoption of orphans by families of foreign citizenship (according to an official report children) does not conform to Article 21 of the Convention on the Rights of the Child.

There is no legislative solution of this problem in Ukraine. Nonetheless, this type of adoption was performed for four years, thus depriving children of their right to the protection of their individuality and the right to be brought up in their own language, culture, and so on. In many cases, children were adopted by foreigners with a different language and traditions than that of Ukrainians.

The statement that inter-state adoption is a rare case seems doubtful and insincere; when the numbers reach almost 500, such practice could not possibly be an exception to the rule. Today, this practice has been suspended by Parliament, until further amendments to the legislation are made.

The respectability and intentions of those citizens adopting Ukrainian children should not be doubted; however, let us bear in mind the official UNICEF statistics on experiences of inter-

state adoption, according to which 75% of the adoptions are successful and sincere, whereas 25% of the cases constitute violations of children's rights and blatant forms of child abuse. Regrettably, Ukraine exercises no control over the future of its children in other countries. The government did not participate in the Assembly of State Representatives on the issue of inter-state adoption in the Hague (May, 1993), and did not implement the Convention of the Assembly.

At the present time, there are no international agreements of Ukraine with other countries on the regulation of the aforementioned problems.

#### *Recommendations for the Solution to the Problems of Children in State Custody*

1. To introduce alternative forms of guardianship over these children. Existing mechanisms for solving the problems of orphaned children such as adoption and guardianship should be supplemented with foster families in which children could grow without the legal consequences of the change of family name or the creation of obligations by children to the family that raised them.

2. To bring the statute of the Code on Marriage and Family in Ukraine into agreement with the Convention on the Rights of the Child which has been ratified by Ukraine by eliminating the secrecy in adoption, since every child has the right to know his or her birth parents.

3. To secure the normal mental development of the child being adopted, precise requirements should be placed upon parents who wish to adopt, such as age qualifications and proof of the material ability to raise a child in good physical and mental health, as well would be adopters should be tested to determine their psychological ability to raise children and also be provided with psychological support for the raising of children, especially teenagers.

4. To increase the responsibility of parents for the raising and keeping of children, having developed and humanized the procedure of implementing court decisions to deprive parents of paternal rights.

5. To take measures for the speedy adoption of children from state orphanages, reducing the number of potential adopters and orphans by satisfying their mutual needs.

6 Taking into consideration Ukraine's deep economic crisis and the number of children in child welfare institutions and the inability to provided proper medical care to these children, to consider international adoption of Ukrainian children as a provisional measure forced upon us which requires:

- the creation of a single state body for adoption which could deal with all requests by foreigners who wish to adopt a child from Ukraine;
- the legal regulation of problems concerning international adoption of children from Ukraine and the development of concrete criteria for would be adopters such as family status, ethnic origin, age qualification, a presence or absence of their own children, etc.;
- immediately conclude inter-governmental agreements with all states where there are already Ukrainian children adopted by foreign citizens on the question of foreign adoption;
- immediately enter the Hague Conference (May 1993) on the question of international adoption and the creation of a mechanism to control the fate of Ukrainian children at the inter-governmental level.

#### **Fundamental Medical Services**

It is worth supplementing this chapter of the official report with information on the right of the child to the most advanced health services, facilities of medical treatment and health rehabilitation (Article 24 of the Convention on the Rights of the Child); this right remains merely declarative in the event of saving the life of a child, namely in cases of cancer.

Children whose lives could be saved **abroad are tragically destined to be left** alone with their disease. Their parents appeal to the mass-media in search of money for medical treatment abroad, a step not always taken in due time.

At the same time, although the Ukrainian government annually allots certain costs for this purpose, they are not always fully used.

This situation is the result of the dispersion of **information on the** needs of medical treatment abroad.

#### *Recommendations*

1. To introduce a unified account of terminally ill patients among Ukrainian children for the effective coordination of financial aid for their treatment outside Ukraine, in all possible cases;
2. To create a center in Ukraine for these children and to take measures for maximal satisfaction of the needs of seriously ill children in home treatment, through the provision of a necessary treatment base and specialists.

There is no legal provision of the right of the child to protection from all forms of physical or mental violence, injury or abuse, neglect or negligent care, maltreatment or exploitation, including sexual abuse on the part of parents, legal guardians or any other person endowed with the care of the child (Article 19).

Although such cases do occur, but they are not investigated and the offenders are not punished; this is **due to the** absence of proper attentiveness to the opinions, evidence and feelings of children in this country.

Official statistics regarding the registration of children without lodging and children whose parents **or legal guardians left them without care** have not been presented in this country. At the same time, there is an increasing number of children in the streets and railway stations who beg or who are in the presence of adult beggars.

There is another right in regard to this issue, declared in Article 25 of the Convention; it is, however, practically dysfunctional.

Periodic evaluation of the conditions of child guardianship is mainly formal and takes place in the form of meetings with the guardians, in order to clarify any problems caused by the child.

The children's opinions, impressions or feelings about the guardianship are simply not taken into account. However, several complaints from children about the actions of their guardians were filed with the AUCHR (All-Ukrainian Committee for Children's Rights). In one case, an adopted girl was raped by her guardian, a crime which took place five years ago. She was overall abused, her deceased parents' property was misappropriated, and she was abandoned in a hospital where she lay in a coma as a result of diabetes. Nevertheless, the 15-year-old girl requested that no measures be taken against her guardian, as the latter had threatened her. In another case, a legal guardian abused her rights in the distribution of her ward's inheritance.

It is worth noting that in accordance with Article 115 of the Criminal Code of Ukraine, the abuse of guardianship to the detriment of the child or resulting in the abandonment of the child without any care or essential help is a crime and may result in criminal punishment through a fine or reformatory work. There is, however, no information available on the possibility of such court hearings; thus, it is difficult to affirm that the periodic assessment of the conditions of guardianship is conducted in an objective way in this country, free of the systematic control of the guardians' actions by state bodies and any disregard for the child's opinion.

#### *Recommendations*

1. To introduce regular meetings of responsible persons from the board of guardianship with the foster children, without their guardians;
2. To broaden the jurisdiction of the public prosecutor over these types of legal relations.

### **Extraordinary Measures of Protection**

The official report fully embodies all aspects concerning children who have broken the law.

However, we consider it necessary to amend it with the following information:

According to the Criminal Code of Ukraine, the following may be accepted as penal forms for juvenile delinquents, on the condition that the minor was proven guilty by investigative bodies as well as the court: mandatory reform, delay of the fulfilment of the sentence and imprisonment.

Imprisoned minors carry out their term, depending on their age and the seriousness of the offense committed, in reformatory settlements of both a general and intensive nature. Conditions in these settlements do not comply with international standards and, thus, on the whole do not contribute to the reformation of the children, as the rehabilitation is usually of a formal nature and is not aimed at the improvement of the minor and his realization of the danger caused by his misbehavior to the victims and to himself.

In regard to this issue, due attention should be paid to the special reform schools for juvenile delinquents who cannot be sentenced because of their age (between 11 and 14). The stay in these schools is mandatory; the most severe measure is the isolation of the children from society, and their exclusion from the common family environment.

Without questioning the right of the state to institute analogous establishments aimed at the prevention of juvenile delinquency, it is difficult to agree with the form of regime for the children and the methods of reformation applied to them.

Children sent to such schools for a period of three years are in fact kept there longer. Assessment of the conditions and results of the reformation are not presented by any independent body or the court. The principle of collective responsibility for wrongdoing reigns in these schools. Children are collectively deprived of rest, participation in cultural events, meetings with their relatives, rights to receive food parcels, and correspondence.

The mail received at the address of the children is unlawfully opened by the school's administration, a breach of privacy and criminal offense in itself. The children's letters addressed to their parents undergo internal censorship; in the event that any complaints of the regime or personnel are discovered, the letters are not sent to the addressees. Thus, there are grounds to declare major violations of the fundamental rights of the child in such establishments, officially subject to the Ministry of Education but in fact administrated by the Ministry of Internal Affairs through the use of police methods.

The analysis of the results of such "reformation" testifies to the fact that every second child who was kept in this type of establishment (there are 11-14 schools of this kind in Ukraine with children aged 15 to 18) commits a crime and is brought to court within two years of being released from the school.

In addition to the fact that reformation in the above-mentioned conditions is not possible, children who were kept in such schools are in desperate need of psychological rehabilitation and social integration, which is not conducted.

Under circumstances of an economic crisis, the state has no desire to spend money for the humanization of penal systems for minors and for the analysis of the actual causes of juvenile crime; instead, it adheres to the "Soviet methods of reformation", inherited from the former USSR and, thus, disregards the welfare of society.

A possible step in reforming this sphere of social life lies in the draft Law of Ukraine on the Bodies and Agencies for Juvenile Affairs, submitted to Parliament for consideration. However, the contents of this law does not conform to the Convention on the Rights of the Child and actually violates children's rights (the right to a private life, the right to protection from intervention therein), and leads to a breach of the code of medical ethics concerning confidentiality. The rights of the child defined in Article 37 c. and d. are not easily implemented in Ukraine. Minors wait for months for court proceedings in petty theft cases.

Arrested on suspicion, minors are temporarily kept in solitary confinement. Upon the arrest

sanction by the prosecutor, they are immediately moved to isolated cells of investigation with relatively acceptable conditions. However, due to a lack of space in such cells, minors continue to be kept in isolated cells of temporary detention which are not designed for long-term stays (no walks, one meal a day, no bed linen, and so on).

### *Recommendations*

1. To reestablish juvenile courts for reviewing cases involving minors, within the framework of judicial reform; to exert greater control over the reformation process while serving the sentence; to review the punishment in the child's best interests, aiming at the child's improvement;
2. With the aim of preventing a repetition of crimes, to introduce into the courts a probation service of individual work with the children who conflict with the law, in order to effectively improve their personalities;
3. Humanization of methods of work with the imprisonment or of the forced measures of reformation through persistent observance of the human rights and the rights of the child;
4. To launch an objective inquiry into the causes of juvenile delinquency and to establish an efficient state policy to overcome it.

### [Home](#)

---

The NGO Reports Database on Children's Rights includes all existing and public reports submitted to the Committee on the Convention of the Rights of the Child by NGOs and NGO Coalitions. The copyright of the reports are retained by the authors and use thereof must be duly acknowledged.

The database is the property of the Liaison Unit of the NGO Group for the Convention on the Rights of the Child and is managed by that unit. For further information or other enquiries please contact the Liaison Unit at [dcg-ngo.group@pingnet.ch](mailto:dcg-ngo.group@pingnet.ch).

---