



INTERIM REPORT ON ENFORCEMENT BY UKRAINE THE UN CONVENTION ON THE RIGHTS OF THE CHILD

(over a period of 2012 – 2016)

THE REPORT IS SUBMITTED BY UKRAINIAN HELSINKI HUMAN RIGHTS UNION

2016

This publication has been prepared and issued within the "Human Rights First" Project, implemented by the Ukrainian Helsinki Human Rights Union and funded by Global Affairs Canada (Affaires mondiales Canada).

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INTRODUCTION

During its 56-th session that was held in January-February 2011, the UN Committee on the Rights of the Child considered the consolidated third and fourth periodic reports of Ukraine on the implementation of the Convention. On the 21-st of April 2011, the Committee published the Final conclusions where it was recommended to the government to pay an attention to the number of problematic areas.

Among the areas that raised concern to the Committee are as well: preventing and counteraction to torture, cruel, inhuman or degrading treatment and punishment of children and counteraction to violence against children; non-discrimination and children rights protection of national minorities, including Roma children, children with impaired health and disability, children who are in conflict with law, asylum-seeking children, taking into account the views and opinion of a child; deinstitutionalization and development of family forms of parenting.

In view of the preparation by Ukraine of report on the implementation of the Convention in 2018, Ukrainian Helsinki Human Rights Union offers analysis of results achieved by Ukraine in implementing the Final conclusions of the Committee for five years after receiving them. In preparing the answers to recommendations made by the Committee, in particular we were looking up to the position of Ukraine in the estimates of international organizations and monitoring missions; analysis of the most important novels of legislation, laws, regulations, amendments in judicial practice; the activities of NGOs and dialogue with the government if the latter occurred.

The report had been prepared by experts of Coalition "Children's Rights in Ukraine" Anastasia Bondarenko and Maria Yasenovska. The text of the report is submitted in the author's edition.

GENERAL MEANS OF CONVENTION IMPLEMENTATION

The existing legal and regulatory provision of child protection is inappropriate. The main disadvantages are :

- no single attitude and approach to the protection of the child;
- lack of system that gets its expression in the absence of a unified system of child protection bodies, algorithm for the interaction between them;
- obsolete forms of work that are inefficient and do not give results, and outdated regulatory framework;
- almost all regulations governing child protection issues have specific pretentiousness and there are no mechanisms for the implementation of one or another provision;
- a common approach to the child as to the object of influence, not taking into account the fact that the child is a person who should be primarily the subject of relationships;
- lack of financing the institutions for the protection of children's rights.

All of this allows hold that that the work on the recognition and acceptance of the child as a full member of society and their protection has just started.

LEGISLATION

The national legislation of Ukraine on children's right protection provided by UN Convention on the Rights of the Child (the Convention) develops medium slowly mainly due to adoption of various government programs. These programs are funded by a residual principle and in practice, this reflected in the fact that the budget of the programs is approved late and with existing deficit. An example of financing and approving the measures for National programs is in National Actions Plan section. Another problem is that not all the tasks set in National Plans are taken into account when planning measures aimed at their implementation. At the local level, the relevant authorities and agencies have developed action plans aimed at the implementation of the relevant programs. It's noteworthy that, unlike the national level, most of the programs are approved in the first quarter of the current period, and even there is a practice when the measures are approved for a period of several years. However, in each region there is a different approach to planning. In some regions, there is no financing plan, following the example of the action plan of the central executive authorities. That is, the approach to the implementation of the programs is formal and, in some cases, declarative.

Significant amendments in national legislation on the protection of children's rights began in 2014 and were primarily caused by two factors:

- the need for a gradual alignment of legislation to the norms of the European Union legislation;
- the occupation of the territory of Ukraine and conduct of anti-terrorist operation on the territory of part of Donetsk and Luhansk regions.

The latter factor sharply exposed the gaps in legislation on child's rights protection and the urgent need to settle certain issues in terms of legislation.

This primarily concerns children's rights to life (Art. 6 of the Convention) and ensuring the survival and healthy development of the child to the maximum possible extent, the right to registration, acquisition of citizenship (Art. 7 of the Convention).

¹ According to materials of research "Tortures and Cruelty to Children in Ukraine." / Under the general editorship by Zakharova E.Y. – Kharkiv: Human Rights, 2013. – 244 p.

However, to some extent, this factor had a positive impact on the protection of children's rights, such as the strengthening of control over the departure from Ukraine of orphan children and children deprived of parental care, improvement of legislation on safe and controlled movement of children out of the country and / or to non-government controlled territory of Ukraine.

It's noteworthy that it has not been introduced both a comprehensive review of the legislation and an integrated law which would take into account the provisions of the Convention and the Optional Protocols thereto in its entirety. The only comprehensive law is the Act of Ukraine *On Protection of Childhood*, where occasionally some amendments are made. However, it cannot be considered fully displaying children's rights standards.

THE NATIONAL ACTIONS PLAN AND INDEPENDENT MONITORING

The National Action Plan on implementation the UN Convention on the Rights of the Child in Ukraine adopted in 2009 immediately faced with the problem of its implementation, which is primarily associated with the release of the required funding and uncoordinated activities of the ministries responsible for the implementation.

Action Plan for the implementation of National Actions Plan approved by the Cabinet of Ministers of Ukraine late – for 2016 had been adopted in 23.08.2016, for 2015 it had been adopted in 26.08.2015, for 2014 – 19.14.2014, for 2013 – 13.03.2013, in 2012 – 21.03.2012. However, this is a strategic document in the field of child's rights protection and therefore the situation with the definition of priorities for the current year only in the second half of the year is unacceptable.

Also during Action Plan making not all objectives and goals contained in the document were considered, in particular in 2013, no action was provided for the implementation of the goal of protecting the rights of children with disabilities. And in some cases the tasks are given that are completely opposite to the objectives of the National Plan, for example in actions for 2015 to fulfil the purpose: *to create conditions for realization of the right of every child for fostering*, the following goal had been set: *the monitoring of the functioning of educational institutions for orphan children and children deprived of parental care, children in difficult life circumstances* and execution of the task was entrusted to the Ministry of Education and Science. It's noteworthy that the anticipated funding increases annually: 2015 – UAH 436.247,6 ths., 2014–UAH 213.094,9 ths., 2013 – UAH 270.119,4 ths., 2012–UAH 328.111,3 ths., at the same time, this is due to increased budgetary allocations for health care: 2015– UAH 433.930,7 ths., 2014– UAH 206.397,4 ths., 2013– UAH 198.672,3 ths., 2012 – UAH 133.672,3 ths. As a comparison, for the protection of children against violence in the 2012–2015 any expenses from the state budget were provided.

In the last year of the plan's action to the circumstances that impede its performance was added the decentralization.

SURVIVAL AND DEVELOPMENT

The existing legislation on the protection of children's rights to life and survival is almost absent. In addition to previously existing problems, the situation in the east of the country was added, that threaten to life and health of children. Even taking into account the positive amendments in the law on entry and exit from ATO area, there have not yet fully documented all the opportunities to leave ATO area by children with a status "orphan child" and "child deprived of parental care", for example, if the guardian or institution, where a child studies has no plans to leave ATO area in spite of the existing threat to the life of the child.

Since March 2014, at least 109 children have been seriously injured and 42 killed in a collision with mines and explosive objects left after combat operations in Donetsk and Luhansk regions.

By the end of March 2015, the State Service for Emergency Situations of Ukraine had seized 33.717 explosive devices in the Donetsk and Luhansk regions. Only per one day, the Service removes an average from 21 to 36 munitions².

In May 2016 OHCHR recorded 9 children affected by explosives: seven girls and two boys (all had severe or medium severity injuries). At the same time, the state does not take proper efforts to inform the children about possible dangers. The SESU jointly with the UNICEF Office in Ukraine printed special posters and leaflets about landmine hazard for parents and children. At the SESU website the special Web Space of Safety children's portal was launched with the Dangerous Findings section describing explosive and other dangerous devices and instructing how to properly behave if a child finds one.

During the survey among children within the framework of the situational study "Situational analysis of observance of children's rights in the armed conflict", carried out by the All-Ukrainian Foundation "Protection of Children's Rights" together with the Coalition of Civil Society Organizations "Children's Rights in Ukraine", it was found out that such information is not accessible for children with disability, other children said it was insufficient³.

As of today, there is no mechanism of population evacuation from the combat zone. In connection with the threat to life and health the part of the children (about 150.000 children) together with their parents were forced to move to other regions of Ukraine on their own, the other part – more than 500.000 children continue to reside in non-government controlled areas. The most vulnerable category of children are orphan children and children deprived of parental care. In accordance with Art. 52 of the Constitution of Ukraine the support and education of orphan children and children deprived of parental care is entrusted to the state. By October 2014 from those institutions that located in ATO area had been evacuated more than 1.600 children. However, as of July 2015 in ATO area have remained children's unit of Rovenky regional orphanage for disabled people (27 children) and Krasnodon Regional orphanage of Luhansk region (80 children).

NON-DISCRIMINATION

In 06.09.2012 the comprehensive anti-discrimination law was adopted – the Act of Ukraine *On Principles of Prevention and Counteraction against Discrimination in Ukraine*⁴. The Act prohibits discrimination in any fields on any grounds. However, there is no special protection of children in the Act. Children are considered in the overall context of the potential victims of discrimination.

The problem remains the identification of crimes committed on the grounds of hate, hooliganism and vandalism. The lack of monitoring of access to services by the certain groups of children. Discrimination against certain groups of children covered in the sections on special protection measures for vulnerable groups of children.

² http://www.unicef.org/ukraine/ukr/media_27604.html

³ «Rights of persons with disability in the armed conflict in the East of Ukraine». Analytical report of the Ukrainian Helsinki Human Rights Union / Larysa Baida, Pavlo Zhdan, Bohdan Moisa, Yevheniia Pavlova, Myroslava Statkevych / overall edition by Arkadiy Bushchenko. / Ukrainian Helsinki Human Rights Union. — Kyiv, Rumes. 2016. – P. 37

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

THE BEST CHILD'S INTERESTS

In recent years, a number of amendments in the legislation had been made, that had the aim to improve compliance with the best interests of the child. During 2016, were made two important amendments in the basic regulations on compliance with the best interests of the child, namely the Orphan Children and children deprived of parental care.

Amendments have been made to the Family Code of Ukraine⁵, to the Act of Ukraine *On Protection of Childhood*⁶ as for the foster families, finally, is was established the concept of mentoring at the legislative level (amendments to the Act of Ukraine *On Ensuring Organizational and Legal Conditions for Social Protection of Orphan Children and Children Deprived of Parental Care*)⁷ and secured the basic terms of the contract, based on which mentoring will be performed.

Amendments from 06.11.2012 to the Act of Ukraine *On Protection of Childhood*⁸ are "Guaranteeing of legal assistance necessary for the protection of their rights." The purpose of these amendments is to provide the child with the opportunity to obtain legal protection from the state, even when the statutory representatives do not do it by any reasons.

By amendments from 16.05.2013, it was added the Art. 20-1 *Peculiarities of Children Stay in Places of Entertainment and Catering Establishments*⁹ – *the prohibition to children stay under the age of 16 from 10 p.m. to 6 a.m. without parents* – aims to minimize the negative impact on the child by such places and strengthen control over the legal guardians of children in order to prevent the negative consequences of a finding of children in the above places (such as alcohol abuse, possible access to drugs, gambling).

During 2012–2014, a number of amendments to the Act of Ukraine *On Bodies and Offices of Children's Services*¹⁰ had been made, among them:

the work performance on social and legal protection of children, the prevention of neglect and delinquency among them, socio-psychological rehabilitation of the most vulnerable categories of children, control and coordination of the Offices of Children's Services; implementation on matters within their competence coordination and methodological support of central and local executive authorities, local self-government bodies for the social protection of orphan children and children deprived of parental care, persons among them, as well as ensuring compliance with the establishment of guardianship legislation and guardianship of orphan children and children deprived of parental care, their adoption, the use of other forms of legislation provided for placement of children-amendments aimed at strengthening the work of the bodies and Offices of Children's Services for the comprehensive work, aimed at rehabilitation, development and monitoring of the work of such bodies. However, the mechanism of such control has not been developed and implemented, and there is no clear list of actions to strengthen the social and legal protection and rehabilitation that can lead to the fact that each body and Office of Children's Services will treat this rule in their favour, without actually doing the work.

facilitating the development of various forms of education of orphan children and children deprived of parental care – which reflects the trend of improvement of national legislation to comply with the best interests of the child, but it has the same problem as the pre-specified amendment, there is no clear and binding list of actions that may result in that the regulation will be discretionary, and will not become directly applicable.

Enhanced control over the stay of children in places where there is a risk of alcoholic or drugs consumption. It was identified the need for various forms of education of children requiring special social protection and assistance.

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

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

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

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

⁹ <http://zakon.rada.gov.ua/go/243-18>

¹⁰ <http://zakon3.rada.gov.ua/laws/show/20/95-%D0%B2%D1%80>

CIVIL RIGHTS AND LIBERTIES

BIRTH REGISTRATION¹¹

The majority of children who are not registered in accordance with the law and do not have personal documents stay in socially difficult and vulnerable families. Such children become hostages of irresponsible parents, and therefore they are in need of protection by the state. The Act provides the obligation of parents to register the birth of a child and, in their turn responsibility for failure to do so. In practice, the penalty for failure to register a child, is not always an effective way to protect the rights of the child.

Problematics of this issue relates to vulnerable families where parents have no identity documents. The latter produces a chain reaction with regard to their children. There have been violations of children's rights for social protection, access to education, health care and other rights, and all because of the lack of birth registration. First, it concerns the Roma families. After all, they are the main target group for issues related to birth registration in Ukraine. The frequent are attempts of NGOs to help large families of Roma, where both parents and children have no documents. The problem is that the state creates a number of bureaucratic obstacles, and they grow into legal proceedings in their turn, which does not always give an opportunity to obtain effective and rapid protection of the rights of children to register their birth. There are many examples of children's rights restoration who have reached the age of one year via court, in case of late registration of birth by parents. Even having the document confirming the fact of birth issued by health care institution, the registration of birth of a child who has reached one year or more is held by the Civil Status Registration Body at the place of residence of the child at the request of parents or other interested parties, if they have documents of the birth and residence of the child under the supervision of healthcare facilities and note from the child's place of residence. In the absence of these documents, the establishment of the fact of birth is possible only through the courts.

According to the part 8 cl.2 of Art. 13 of the Act of Ukraine *On State Registration of Civil Status Acts*¹² 12, if the child reached sixteen years the state registration of birth can be carried out according to their personal application with the presentation of a passport of citizen of Ukraine.

According to cl.1.3 of Section I of the Procedure for registration and issuance of a passport of citizen of Ukraine, approved by Order of Ministry of Internal Affairs of Ukraine from 13.04.2012 No. 320, the person shall submit a birth certificate to obtain a passport.

Roma, who do not have identification documents upon reaching the age of sixteen, fall into a hopeless situation. They cannot obtain a birth certificate because there is no passport, and the passport cannot be obtained because there is no birth certificate.

Even having applied for qualified legal aid, having on hands the local court judgment on birth fact funding and judgment of administrative court on obligation of Branch of Civil Status Registration Office to register the birth fact and issue the certificate is very difficult. It is necessary to apply to the migration service for temporary registration certificate or note that establishes identity. Without presentation of one of these documents, a birth certificate cannot be obtained, even with the enforcement of the court judgment.

A big barrier in realization of Act of Ukraine *On State Registration of Civil Status Acts*¹³, Art. 7 of United Nations Convention on the Rights of the Child determined ATO conducting in East of Ukraine and the annexion of the Autonomous Republic of Crimea. Worst of all is that appears a tendency for exacerbation of such problems.

¹¹ According to "Razvitie" Charity Fund (Mukachevo)

¹² <http://zakon4.rada.gov.ua/laws/show/2398-17>

However, it is noteworthy that there is existing legislative amendments that put a goal of facilitating the registration of a new-born baby.

Amendments from 10.05.2012 enhanced a control over the documents, based on which the registration of birth of a child (cl. 2) is performed, namely, if the registration is done on the basis of a duplicate of the medical birth certificate, state registration of the birth made after verification of the data specified in this document, the fact of the state registration of a birth at the place of birth, place of residence of the child's parents at the time of their birth. The absence of act record of birth is confirmed by the full extract from the State Registry of Civil Status Acts of Citizens in the absence of act of civil status according to form provided in Appendix 24 to the Regulations on keeping State Registry of Civil Status Acts of Citizens¹⁴, approved by the Ministry of Justice of Ukraine in July 24, 2008 No. 1269/5 registered in the Ministry of Justice of Ukraine in July 25, 2008 under No. 691/15382 (as amended). If the check identified a birth record, which is kept in a temporarily occupied territory of Ukraine, the Branch of Civil Status Registration Office restores it in accordance with legislation.

Amendments 1607/5 from 02.08.2013 explained the procedure for recording the parents, the deceased mother, or the mother's surname change and other regulations pursuant to regulations of Art. 7 of the Convention, such as the right for name and the right to know the own parents.

Amendments from 12.06.2014 No. 919 of the Rules of State Registration of Civil Status Acts in Ukraine¹⁵ provided the possibility of civil registration acts such as birth, outside ATO area in any Branch of Civil Status Registration Office.

Now a problem is not solved that the form of medical certificate of birth 103/о, which is issued at the non-government controlled areas has stamps of self-proclaimed republics, so the bodies of Civil Status Registration Office do not accept it. In accordance with the current legislation of Ukraine in this case, the child's parents apply to the court for the establishment of birth fact that has its disadvantages, such as the procedure for consideration of such cases sometimes take more than a year, while the Act of Ukraine On State Assistance to Families with Children is set 12 month term for submissions to the bodies of social protection of the population for preparation of state aid at child birth. These amendments are generally aimed at ensuring compliance with Part 2 of Art. 7 of the Convention on the Rights of the Child, as for ensuring the implementation of the right to be born, for a name and acquisition of citizenship or nationality, but potentially violate the provisions of the Convention on the best interests of the child and the level of their life.

A separate problem is the registration of children born in the non-government controlled areas. Read more about the problem of registration in section *The Protection of the Rights of the Child from amongst Internally Displaced Persons*.

CHILD ABUSE

The control is tightened by law over those families where is a suspicion of improper observance of the child's rights, namely the family, which *is in the process of divorce and establishing the child's place of residence; where children are in boarding schools due to the inability of parents to meet the needs of a child; where it was made physical, mental, sexual or economic abuse to a child or if there is a threat of its commission; where school children miss classes* – these amendments in the Procedure of the Guardianship Authorities of Activities Related to the Protection of Child's Rights from 22.10.2014¹⁶. These amendments are

¹³ <http://zakon4.rada.gov.ua/laws/show/2398-17>

¹⁴ <http://zakon4.rada.gov.ua/laws/show/z0691-08>

¹⁵ <http://zakon4.rada.gov.ua/laws/show/z0719-00>

aimed at strengthening the focus of social protection bodies and bodies of children's affairs on families where there is a suspicion of improper observance of the rights of the child, and there were set the terms and procedure of notification the relevant authorities at revealing of such family.

Amendments to the Act of Ukraine *On Bodies and Office of Children's Services*¹⁷ say that in the case of a criminal offense and the detention of a child or declaration of suspicion to such a child – to inform the relevant Office of Children's Services about detained children or children whom was declared a suspicion in criminal offenses.

Amendments to the Act of Ukraine *On Prevention of Domestic Violence*¹⁸ from 16.10.2012 No. 5462-VI point out that *the central executive authority, which provides the public policy formation on prevention of domestic violence:*

develops and approves methodological recommendations for the completion of correctional program and organizes the provision of crisis centres by such methodological recommendations;

provides executive bodies and local authorities, enterprises, institutions and organizations regardless of ownership, associations of citizens, individual citizens with the methodical and practical assistance, consultations on prevention of domestic violence;

organizes and conducts education and outreach for the members of the family, where there is a real threat of committing domestic violence or where violence were committed within the family, the rights, measures and services, which they can use;

organizes and conducts education and awareness among the public about the problem of domestic violence and measures exist for the prevention of domestic violence.

It was approved a new order of the Ministry of Social Policy, Ministry of Interior, Ministry of Education, Ministry of Health from 19.08.2014 No. 564/836/945/577 *On approval of the procedure for the consideration of complaints and reports about child abuse or the threat of its commission*¹⁹, which improves the interaction of state bodies on the implementation of various forms of child abuse prevention in various fields.

The above amendments are aimed at strengthening control over families where there is a suspicion that the child's rights are ensured improperly, provides control and notification of the families that have problems, expanded the range of responsibilities of the bodies and services on violence prevention. In general, these amendments gradually increase the level of control in order to identify problems in the family at an earlier stage, that's definitely a positive impact on the prevention of child abuse, but the procedures have specified so far do not have a rapid response mechanism for identifying such families and the system of long-term rehabilitation and further adaptation of children subjected to abuse or tortured.

At the same time, physical forms of punishment remain quite common. There are almost no amendments with respect to the measures for adaptation of children who became victims of such violence. In addition, there is no mechanism under which abused child has the opportunity to complain to the appropriate body and get protection under a certain adequate mechanism. The existing response system assumes creation firstly, of appropriate conditions and secondly, the mechanisms under which a child themselves has the opportunity to appeal not only for legal aid, but also for the physical and psychological protection. It is necessary to take into account the recommendations of the UN Committee on the Rights of the Child, which states that special attention should be paid to such activities as holding awareness-raising campaigns and public education promoting positive parenting, incompatible with rigor.

¹⁶ <http://zakon4.rada.gov.ua/laws/show/624-2014-%D0%BF>

¹⁷ <http://zakon3.rada.gov.ua/laws/show/20/95-%D0%B2%D1%80>

¹⁸ <http://zakon4.rada.gov.ua/laws/show/2789-14>

¹⁹ <http://zakon4.rada.gov.ua/laws/show/z1105-14>

The problem of violence against children in places of unfreedom. Recently a number of monitorings on violence expressions in various public institutions for children were held (children's homes, infant orphanages, reception centres for children, prison-type institutions for children).

The research results point out that the practice of corporal punishment in child's institutions still exists. Children become victims of violence in conditions of closed institutions. For example, the interview held during the monitoring by the National Preventive Mechanism has revealed the facts of physical and verbal aggression on the part of police officers and social rehabilitation institutions staff, the use of sleep deprivation as a punishment, the prevalence of threats and verbal aggression, sexual harassment, the use of one students against the others "for education"²⁰.

Monitoring of the rights of the child in boarding schools, including the institutions for children with disabilities, found the problem of forced abortions among girls-inmates of institutions for children. The standards violations also creates conditions for child rights violations, such as sexual harassment, in particular close location of beds in the bedrooms of inmates with different ages such as 8-year-old children with 21-year-old inmates²¹.

Involvement of older children (or young people) in the process of observing the behaviour of the younger pupils in the various types of institutions. In 6 of 7 visited educational colonies for minors, the administration and staff of institutions keep aloof from their responsibilities for the protection and security of existence and coexistence of inmates by transferring their functions to the part of the condemned persons (the so-called "active"). This, inter alia, gives rise to unacceptable penalties and the impact on condemned persons²².

In the boarding schools the children with disabilities and "conduct disorders" are placed in the worst premises and subjected to ill-treatment.

It was noted that children with disabilities in some boarding schools are held bound to wheelchairs. It was recorded the use of sedatives and psychoactive drugs as a chemical means to limit movement to punish or control children. The staff of the one orphanage informed that chemicals are used on all residents to control their behaviour more easily.²³

According to a study within the National Preventive Mechanism against tortures in educational colonies for minors held in 2014, the following was noted:

- the systematic physical examinations of pupils are not implemented. This is evidenced by existing injuries that have condemned, not all injuries were properly recorded in the documents;
- the recording of the all incidents of violence was not properly performed. There is no informing about the fact of violence of all concerned parties-parents or convicted guardians, services for children, administration of the State Penitentiary Service of Ukraine in respective field, etc.;
- there is no appropriate response to cases of abuse and violence on the part of the colony itself, as well as the public authorities, in particular, the Prosecutor's Office and the State Penitentiary Service of Ukraine.

Inmates generally do not know where and how to complain about the actions of other inmates or staff and administration of the institution. The advocacy is not held sufficiently, there is no effective legal education of inmates.

²⁰ Rights of the child in social rehabilitation facilities in Ukraine: A Special Report on the Implementation of the National Preventive Mechanism/ Commissioner for Human Rights of Verkhovna Rada of Ukraine: Official Publication. – K. 2013. – 110 p.

²¹ Disability Rights International: No way home. Exploitation and abuse of children in orphanages in Ukraine. - Ukraine, 2015. <http://www.driadvocacy.org/media-gallery/our-reports-publications/>

²² Observance of the Rights of Minors in Educational Colonies the State Penitentiary Service of Ukraine: A Special Report on the Implementation of the National Preventive Mechanism/ Commissioner for Human Rights of Verkhovna Rada of Ukraine: Official Publication. – K. 2014. – 120 p. - <http://khisr.kharkov.ua/files/docs/1419178922.pdf>

²³ Disability Rights International: No way home. Exploitation and abuse of children in orphanages in Ukraine. - Ukraine, 2015. <http://www.driadvocacy.org/media-gallery/our-reports-publications/>

The absence of an independent body to investigate claims on ill-treatment leads to factual impunity of persons responsible for such acts. The existing sub-culture among condemned leads to a constant build-up of tension, and thus to the conflicts, beatings and self-mutilation among inmates of colonies²⁴.

According to the general study of display the tortures and ill-treatment of children in Ukraine, conducted in 2013, by Kharkiv Human Rights Group²⁵, violence and abuse against minors is moderately common in detention. At the same time the violence by law enforcement officers is not always due to the need to stop illegal behaviour; sometimes it is carried out in excess of official powers. The aim of the violence during the arrest may also be a desire of law enforcement officers to show the advantage to arrested, assert themselves, or defuse the mental tension.

The violence during arrest notes almost one-third of children (23 from 80). It's noteworthy that in describing the behaviour that was applied to them, the children indicated that violence had not had the aim to stop their illegal actions, but it had the character of unjustifiable cruelty and humiliation. In some cases, law enforcement officers, who carried out the detention, wore civilian clothes and refused to show documents that did not allow initially surely identify them exactly as MIA employees. The unsettling fact is also that in four cases children think that ill-treatment by law enforcement officers was justified (because of the state of alcoholic intoxication or aggressive behaviour).

The physical violence during interrogation is very common; the main objective of violence is to obtain evidence, in particular the admission of guilt. However, there are also motives of superiority demonstration, abuse of detained or person under investigation as a self-sustaining process, i.e. sadistic tendencies of the official. Physical violence may have the character of torture, beatings and often limited access to oxygen – were mentioned the tortures by suffocation (a gas mask, a plastic bag on the head), or strikes by means that do not leave obvious traces on the body. In one case, according to the respondent, the electric current for the purpose of torture applied to them. The highest prevalence has psychological pressure on detained, humiliations and threats; such methods of obtaining evidence are practically the rule. Almost half of children (37 of 80) during the inquiry forced to testify by means of physical violence combined with psychological pressure from the MIA employees, the psychological pressure was noticed just in 33 interviews. Advantageously, this happened on the first day after detention; but in a few cases, physical abuse and (or) the cruel treatment was extended, from a few days to several months and had a form of tortures.

Conditions of Temporary Detention Centres typically do not meet the requirements to the places where minors may remain. The very fact that the detainees remain in such circumstances can be regarded as cruel treatment. There are facts of keeping the minors more than two days in the same room with adults.

Violence against minors during their stay in Temporary Detention Centre may be associated with the investigative actions as a continuation of compulsion to testify or punishment for regime violation. In some cases, the staff of Temporary Detention Centre is responsible for the violence; in other cases, beatings or other ill-treatment takes place by placing in so-called "sweatbox" in other words, to the camera with aggressive neighbours, who are encouraged to perform violent acts. In addition, there are spontaneous displays of aggression by fellow inmates.

Unsolved problems of torture in prison-type institutions for children and the pressure on the children during the investigation lead to tragedy. Thus in 2015, the 14-year old boy was raped by a mop by two fellow inmates in Zhytomyr Temporary Detention Centre No.8. As a result, the child has already had several

²⁴ Observance of the rights of minors in educational colonies the State Penitentiary Service of Ukraine: the special report of the National Preventive Mechanism, Commissioner for Human Rights of Verkhovna Rada of Ukraine, Kharkiv Institute for Social Research, 2014
<http://khisr.kharkov.ua/index.php?id=1419178566>

²⁵ According to materials of research "Tortures and Cruelty to Children in Ukraine."/Under the general editorship by Zakharova E.Y. - Kharkiv: Human Rights, 2013. - 244 p.

operations, and still receives treatment. At the same time, none of employees of Temporary Detention Centre could not identify sexual violence despite its serious impact on the physical health of the child. Thus on the third day after the crime, the child was taken to the hospital with suspected acute appendicitis, but the examination found a rectal rupture. 16 year-old person, who was suspected of complicity in the same crimes, but for whom hadn't been chosen such preventive measure as detention in custody having being at Temporary Detention Centre, committed a suicide before the court session. Life conditions in Temporary Detention Centre have a number of serious shortcomings. The conditions of detention of minors and adults virtually identical, although it is expected to keep minors in separate cells. A special form of ill-treatment should be considered an extremely dragged stay in Temporary Detention Centre. Typical detention period for convicted is 8–10 months, minimal – 1 month, maximal – 16 months. Even a voluntary admission of guilt does not eliminate the pre-trial detention. The meaning of pre-trial detention as a procedure of "re-education" of minors is also quite questionable; consequences are health problems of varying severity, post-traumatic conditions and social exclusion, including the assimilation of norms of the criminal subculture.

A separate mention as a source of relatively high risks of violence deserves transfer procedure between institutions, the premises of Temporary Detention Centre reserved for prisoners in transit and vehicles.

FREEDOM OF THOUGHT, FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY²⁸

In accordance with the Act of Ukraine *On Public Associations*²⁹ were set certain age limits when a person can be the founder of the youth and children's public organization (14 years).

Regarding the holding of peaceful assembly – the legislation has not yet established on what grounds and in what order children can organize peaceful assembly, not even set what restrictions are in the interests of national security, public order and freedoms of others.

Considering what happened during the Revolution of Dignity, it is difficult to carry out some parallels between children's rights to peaceful assembly declared in law and the practical application of such legislation. According to operational information from the end of November 2013 to early February 2014 in the regions of Ukraine, law enforcement agencies detained more than 60 children in connection with their possible involvement in mass protests. Despite the fact that children are special subject of legal relations, which requires guardianship and protection from the state, law enforcement agencies detained the children only on suspicion of involvement in the mass protests. As a rule, such suspicions were totally unfounded and absurd, that violates the rights of children.

There are more than 10 cases of criminal proceedings against children under Arts. 15, 294, 341 of the Criminal Code of Ukraine, as well as 20 cases of administrative offenses, which accused the children and their parents.

In 2014, it was found some violations by law enforcement authorities of requirements of the Arts. 208, 213 of the Criminal Code of Ukraine regarding immediate reports on detention of a child to Free Legal Assistance Centre, the parents or other representatives of the child and the guardianship authorities.

²⁶ The suspect declared to the cellmates of 14-year boy, who had been raped in Zhytomyr temporary detention centre. Zhitomir.INFO: - http://www.zhitomir.info/news_150115.html

²⁷ 16-year guy suspected of theft hanged himself when he learned that his friend was raped in temporary detention centre. Zhytomyr First Information Portal: <http://www.1.zt.ua/news/misto/pidozryuvaniy-u-kradizhkah-16-richniy-hlopets-povisivsya-koli-diznavsya-shcho-yogo-druga-zgvaltuvali-u-sizo.html>

²⁸ According to NGO Flora

²⁹ <http://zakon3.rada.gov.ua/laws/show/4572-17>

At the same time "effective" and "productive" work of law enforcement staff has led to a number of cases when the children had different by degree of injury, bodily injury, traumatic brain injury, brain concussion and bullet wounds. Only in Kyiv there are about 20 results of the work of law enforcement staff in period from November 2013 – February 2014, so it's hard to imagine the scale of violations of children's rights throughout the territory of Ukraine in that turbulent period.

Considering the fact that in eastern Ukraine and AR of Crimea during the 2014, an armed conflict has being occurred, it is possible to establish the fact of a number of child rights violations. It is difficult to argue that during the combat actions, children can realize their right to peaceful assembly and freely express their own opinion. For example, during 2014–2015 to the public reception of the NGO "Flora" in Kropyvnytskyi, systematically applied displaced persons from the ATO area with underage and minor children who received threats or intimidation in the territory of eastern Ukraine for their vision of the events that were being deployed in the occupied territory.

RIGHT-TO-KNOW

Act of Ukraine *On Access to Public Information*³⁰ did not set an age limits for information requestor. Any individual without restriction in age can get a response to an inquiry.

At the same time, the above norm contradicts Art. 39 of the Act of Ukraine *On Fundamentals of the Ukrainian Legislation on Health Care*³¹: *the patient who has reached the age of majority has the right to receive accurate and complete information about their health status, including familiarization with relevant medical documents relating to their health.*

Since the provisions of the Act of Ukraine *On Access to Public Information* are newer than the regulation of Art. 39 *Fundamentals of the Ukrainian Legislation on Health Care*, we can assume that these amendments are positive for the child to access information from different sources.

CHILD'S ACCESS TO JUSTICE³²

Under the general rule, provided for in para. 1 of Art. 29 of the Civil Procedure Code, *the ability to personally exercise civil procedural rights and perform the own duties in court (civil procedural capacity) have the individuals who have reached the age of majority. The exception from this rule, which is ambiguous in the enforcement, provided for in para. 2 of the Article provided that "minors under the age from fourteen to eighteen years old can personally exercise civil procedural rights and perform their duties in court in cases arising from the relationships in which they are personally involved, unless otherwise provided by law.* Thus, a limited right of appeal to the court granted only to a minor between the ages from 14 to 18 years, persons aged less such a right is not granted at all.

³⁰ <http://zakon3.rada.gov.ua/laws/show/2939-17>

³¹ <http://zakon4.rada.gov.ua/laws/show/2801-12>

³² Report on the State of the Child's Access to Justice. White & Case LLP, CRIN: 2014 p., : http://wcu-network.org.ua/ua/defence-rights/publications/Zvt_pro_stan_dostupu_ditini_do_pravosuddja

In the case of criminal proceedings the minor of any age may apply to the investigator or the prosecutor with a message about the criminal offense, then as a result of consideration, the investigator or prosecutor enters the information about this offense to Unified Register of Pre-trial Investigations, so the criminal proceedings will be considered as open. At that, a question of the child's age, which refers to the investigator or the prosecutor may affect only a personal perception of the seriousness of such information by the investigator or the prosecutor, that will decide whether the information will be entered into the Unified Register of Pre-trial Investigations. In addition, the Commissioner for Human Rights of Verkhovna Rada of Ukraine, public authorities, local governments, individuals and legal entities can apply to a court to protect the rights, freedoms and interests of other persons³³. The legislation provides the right of Commissioner for Human Rights of Verkhovna Rada of Ukraine, prosecutors, public authorities to apply to a court and defend in litigation the rights and interests of a minor.

When considering the case of minors or underage person also has the following procedural rights: to express their opinions directly or through an agent or statutory representative; get the information on the trial through an agent or statutory representative; exercise other procedural rights and fulfil procedural obligations provided by international treaty, the consent to be bound by the Verkhovna Rada of Ukraine³⁴.

The court is obliged to clarify a minor or underage person their rights and possible consequences of the actions of their representative or statutory representative, if: 1) it is required by the interests of that person, and 2) the age and health condition allow them to understand their importance³⁵.

Irrespective of whether a child from 14 to 18 years applied to the court independently or with the help of statutory representative, a child on their own behalf will be recognized as plaintiff, i.e. a party in the case. Since the child under the age of 14 years may not apply to the court themselves at all, in such cases the plaintiff, i.e. a party in the case, will be recognized their statutory representative, who will act on the own behalf but in the interests of the child as provided for in Art. 39 of the Civil Procedural Code of Ukraine.

Civil Procedure Code contains a number of provisions that provide only partial possibility of independent protection of child's interests in court proceedings. In particular, according to Art. 27-1, a minor may to voice the opinion independently or through a representative or statutory representative and get their help in saying this opinion. The court clarifies a minor or underage person their rights and possible consequences of the actions of their representative or statutory representative, if the age and health condition, allow them to realize their importance. Court contributes to creation of appropriate conditions for the implementation by the child of their rights as defined by law and provided by international treaty, the consent to be bound by the Verkhovna Rada of Ukraine.

However, in the same Art. 27-1 the Civil Procedure Code provides that a minor *can receive information about the trial only through a representative or statutory representative*, which deprives the minor of any age fully realize the own procedural rights and necessitates the involvement of a statutory representative in the process. That is why, in para. 2 of Art. 29 of the Civil Procedure Code provides that the court in such cases may involve the statutory representative of a minor, and according to para. 2 of Art. 43, *if during the proceedings it is established that if a minor or a or underage person deprived of parental care, has no statutory representative, the court judgement sets over the child the proper care and guardianship on the proposal of the guardianship authority, shall appoint a guardian or curator and involves their participation in the case as statutory representatives*.

In any case, the effective use of the rights of minors in civil proceedings provide for mandatory participation of a statutory representative. A representative with the authority to conduct the case in

³³ Civil Procedure Code, p. 45.

³⁴ Ibid., p. 27-1.

³⁵ Ibid., p. 27-1.

court can make all the proceedings related to the case on behalf of the child. The court may appoint or replace a statutory representative at the request of the minor or the underage person if this satisfies their interests³⁷.

Another is the situation in the criminal process. According to para. 1 of Art. 44 and para. 2 of Art. 59 of Criminal Procedure Code, if the victim, suspected or accused is a minor, their statutory representative involved for participation in legal proceedings with them, and in accordance with the requirements of Art. 52 of the Code participation of the defence is obligatory to protect the interests of the suspected or the accused minor. If the minor acts as witness, then according to Art. 227 of Criminal Procedure Code their questioning should be conducted in the presence of a statutory representative, a teacher or psychologist, if necessary – a doctor. Thus, completely independent minor participation in criminal proceedings is not possible.

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

On 22.10.2014 the CMU Regulation No. 866 was amended by *Issues of Activity of the Inmatelyship and Guardianship Authorities on the Child's Rights Protection*³⁸ where in particular to Regulation was added the section *Social Protection of Children in Difficult Life Circumstances*. These amendments aimed at strengthening the attention of the authorities and social security for children in families where there is a suspicion of improper observance of children's rights caused by serious illness of parents or one parent; there is a process of divorce and establishing the child's place of residence; where children are in boarding schools due to the inability of parents to meet the needs of a child; where it was made physical, mental, sexual or economic abuse to a child or if there is a threat of its commission; where school children miss classes.

There were set the terms and procedure of notification the relevant authorities at revealing of such family.

Also in the Resolution added a section *Features of the Guardianship Authorities Activities Related to Children's Rights Protection, Displaced from ATO Area* – provided that children who move from ATO area unaccompanied by legal guardians shall be subject to enhanced care and the relevant authorities provide the status of orphan child or child deprived of parental care in accordance with cl. 24 *Orphan child status if parents do not fulfil their obligations for reasons that can not be ascertained due to the parents' stay at the temporarily occupied territory of ATO*, which is confirmed by the relevant act. However, these and other regulations, such as amendments from 06.08.2014 to CMU Resolution No. 905 enhanced the check of potential adopters. Consequently, persons among relatives circle with whom the child has formed a close relationship and who apply for the establishment of such a custody of a child based on departure from the ATO area according to the law, live in such conditions that almost exclude the possibility of registration of the guardianship. In 2016, several regulations were amended, that amends certainly can be considered as positive, so that improve the condition of children – Orphan Children and children deprived of parental care and became an important step in the gradual deinstitutionalization of children. These amendments are the amendments to the Family Code of Ukraine as well (section added to regulate this form of child care as patronage). Foster parents are not the guardians, or caregivers, their

³⁶ Civil Procedural Code of Ukraine, Article 44.

³⁷ Ibid., p. 43.

³⁸ <http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

task – the temporary childcare and their education for 3–6 months. Foster parents after appropriate training will be recruited by the local authorities and receive a salary from the local budget.

To be sure that the local budgets in most communities had already been adopted in 2016 and do not provide funding for foster families.

The control of family-type children's homes was enhanced, that is absolutely a welcome change in the law as it has the aim of improving the quality of life and respect for the rights of children in family-type children's homes.

The amendments have been made to the Act of Ukraine *On Ensuring Organizational and Legal Conditions for Social Protection of Orphan Children and Children Deprived of Parental Care with Respect to Mentoring*³⁹. According to these amendments, the term “mentoring” was introduced legislatively that aimed for giving the help to a child who lives in special institution for orphan children and children deprived of parental care to get the available information about their rights and obligations, to get an assistance in identifying and developing abilities of the child, the realization of their interests in professional self-determination, formation of practical skills of the child, aimed at their adaptation to the independent life, in particular, solution of everyday problems, the disposal of private property and funds, getting educational, social, medical, administrative and other services, child's familiarization with the practice of public dialogue and overcoming the difficult straits, encouraging the development of the child as a responsible, successful person, the formation of a child's healthy lifestyle habits.

It should be noted such positive point, that the conclusion of the mentoring agreement provides the child's consent if they have reached such an age and level of development that can express it as well as the written consent of their parents, other statutory representatives.

Notwithstanding the deinstitutionalization of children declared by the state as one of the priorities (in 2005 was introduced the Act *On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care*⁴⁰, which included the disaggregation of boarding schools and their gradual withdrawal, and in 2012 the Act included the *National Strategy of Prevention of Child Abandonment*⁴¹ which provides targeted measures on the family education of children and reduction the number of children in residential institutions) residential institutions in Ukraine remain a daily reality. Moreover, progress of past few years for reducing the number of institutionalized children is suspended in connection with the armed conflict in the East and the annexation of the Crimea.

Thus in Ukraine operates an extensive network of boarding schools of various types 967 closed institutions formed in Soviet times designed for 153.8 ths., where is currently 117.6 ths. children (where orphans are only 13 thousand children), with whom works almost 92 ths. of personnel⁴². Residential institutions subordinated to the Ministry of Education and Science, Ministry of Health and Ministry of Social Policy and their pupils are distributed as follows: in general (MES) – 38% of children; in special – 31%; in sanatorium – 13%; for gifted children (MES) – 5%; in boarding (MSP) – 5%; in orphanages (MES) – 3%; in infant orphanages (MOH) – 3%, in others – 2% of children⁴³.

Total funding for boarding institutions is UAH 5.7 billion per year, where expenditures on direct costs of child maintenance (food, clothing, shoes, medicine) makes up only UAH 789 million (14%) of the total

³⁹ <http://zakon2.rada.gov.ua/laws/show/2342-15>

⁴⁰ The Act of Ukraine No. №2342-15 as revised from 02.03.2014
<http://zakon4.rada.gov.ua/laws/show/2342-15>

⁴¹ Decree of the President of Ukraine No.609/2012 from 22.10.2012
<http://zakon4.rada.gov.ua/laws/show/609/2012#n9>

⁴² Boarding Schools are not the Place for Ukrainian Children, 20.11.2013 -
<http://health.unian.net/ukr/detail/254807>

⁴³ On the Implementation of the Decrees and Orders of the President of Ukraine for Provision of Quality Social Services for Families with Children. -
http://www.president.gov.ua/docs/zvit_2612.pdf

amount). 66% of the funding goes to staff salaries, other amounts – for the maintenance of facilities. At this occupancy of the boarding institutions is 15–70%⁴⁴.

It is important to note that in connection with the ATO in the East, 42 institutions of different subordination of Luhansk region (the estimated number of children is 2,752)⁴⁵ and the similar number in Donetsk region⁴⁶ located at the non-government controlled areas, therefore the situation with these children is unknown.

The number of children in boarding institutions has increased in 2014 compared to the previous year. A significant number of children stay in boarding schools under parents' applications who are not able to meet the needs of a child due to illness, poverty or unemployment and placement the child in specialized institutions is considered by parents as the sole ability to provide proper care for it, this educational upbringing and support. The problem of social abandonment is increasing by the evacuation of children without parents from territories where conflicts occur.

Boarding schools for orphans and children deprived of parental care are unreasonably reorganized in special boarding schools for children with impaired mental development, despite the fact that it is impossible to provide the child with mental retardation the effective assistance in boarding schools. This is one of the ways to reduce their number formally⁴⁷.

HEALTH AND MEDICAL CARE

Common problems of health care for children in Ukraine:

- lack of priority funding of measures for children's health care;
- lack of cooperation of all authorities and agencies on the implementation of state policy in relation to health care;
 - the weakening in recent years of attention to the implementation of preventive measures that must be a priority in the children's health care direction;
 - poor dynamics concerning supply of the personnel, especially primary care physicians and precisely those specialties (paediatricians, neonatologists, child anaesthesiologists) whose activities directly impact on mortality and disability of children;
 - insufficient orientation of scientific research in key areas, that solve the problem concerning the survival and development of children on the basis of evidence-based medicine and health-economic feasibility;
 - discrepancy of medical equipment, current needs and sanitary transport of health facilities where medical assistance is provided to children and mothers;
 - insufficient accessibility to specialized medical care, especially for children living in rural areas;
 - incomplete centralized provision of medical immunobiological preparations and irregular supply of the vaccine and its stay on long-time quarantines;

⁴⁴ Maintenance of Boarding Schools is 7.7 Billion per Year, 15% Reach Children. 22.10.2013 - <http://nbnews.com.ua/ua/news/103058/>

⁴⁵ According to Kharkiv Institute for Social Research - <http://khisr.kharkov.ua/index.php?id=1417345367>

⁴⁶ According to Kharkiv Institute for Social Research - <http://khisr.kharkov.ua/index.php?id=1417345144>

⁴⁷ Alla Kotlyar - Boarding Schools and Social Work Specialists: a War of Worldviews? http://gazeta.dt.ua/socium/internati-i-specialisti-socialnoyi-roboti-viyina-svitoglyadiv-_.html

- lack of awareness of the population about a healthy lifestyle, rational nutrition, prevention of infectious diseases, including sexually transmitted diseases, reproductive health, etc⁴⁸.

By the Act of Ukraine *Fundamentals of Ukrainian Health Care Legislation*⁴⁹ added the cl. 53-1 in 2014 for registration, determining measures and free treatment for people suffering from rare (orphan) diseases. This provision relates to the rights of the child to the highest attainable standard of health care services and to facilities for treatment, but significant amendments have not been identified in the basic regulations.

Vaccination coverage indexes has been falling over time, a third dose of vaccination indexes are falling almost to a third of age-appropriate children. Therefore, in 2013, almost all children aged 18–29 months (94.5%) during the first 12 months of age vaccinated with BCG, and 79.4% of children received the first dose of DPT vaccination. The proportion of vaccinated children reduce to 41.8% – those who have received the third dose. During the first 12 months of life, 79.0% of children received the first dose of vaccination against polio. The proportion of vaccinated children reduce to 47.8% – those who have received the third dose of vaccine. Vaccination against measles, mumps and rubella (MMR) covered 62.7% of children in the age group of 18–29 months. Only 65.1% of children under 1 year old received the first dose of vaccination against hepatitis B. The vaccination coverage for the third dose reduced to 26.1%. Immunization coverage against Hib infection during the first 12 months is 74.9% – for the first vaccination at the age of 1 month and 60.7% – for the second vaccination at the age of 4 months⁵⁰.

The level of exclusive breastfeeding of children under 6 months in the institutions with the status Hospital Friendly to Baby in 2013 was 62.9%, which corresponds to the figure provided for the National Program National Implementation of the UN Convention of the Action Plan on the Rights of the Child for the period until 2016. The proportion of children who received breast milk at the age of 12 months and more – 30.9%. Ensuring growth of breastfeeding level is a priority of initiative Hospital Friendly to Baby⁵¹.

However, according to other data the total level of breastfeeding is much lower and does not meet the recommended level 19.7% of children under 6 months are exclusively breastfed, 51.6% of children of this age are predominantly breastfed. 37.9% of children aged 12–15 months and 22.0% of children aged 20–23 months continue to be breastfed. Only 65.7% of children were breastfed within the first hour after the birth. 87.1% of mothers started breastfeeding within the first days after birth. Generally, 43.2% of children in the age of 6–8 months obtained a solid, semisolid or soft food.⁵²

In 68% of schools, there is no doctor, in 33% – a nurse, in rural schools in 85%, there are no doctors, in 59% – nurses⁵³.

The problem remains the lack of budgetary provision of medical field. Especially it concerns the treatment of rare diseases, including children. Thus, in 2012 the state budget expenditures provided needs in the treatment of "Gaucher" disease by 25%, renal failure (dialysis) by 37%, primary immunodeficiency by 10%, the Art. *Children's Oncology and Oncohematology* was financed at 45% of the demand. Expenditures for the treatment of certain diseases (autism, epilepsy and mucopolysaccharidosis) generally were not provided. Over time, these problems have not obtained a system solution but only aggravate.

⁴⁸ Based on materials of the conference "Medical and Social Problems of Childhood" on April 11-12, 2013 on the basis of the State Higher Educational Institution "Ternopil State Medical University, Ministry of Health of Ukraine" <http://www.tdmu.edu.ua/ukr/news/informmm1.htm> -

⁴⁹ <http://zakon3.rada.gov.ua/laws/show/2801-12>

⁵⁰ Ukraine. Multiple Indicator Cluster Survey of Household, 2012 / State Statistics Service of Ukraine Y45 [et al.] .-K.: K.I.C., 2013

⁵¹ According to WHO / UNICEF initiative in Ukraine <http://kdm-ldd.org.ua/ldd/index.php?tab=1&subtab=1&submenu=138&entity=847>

⁵² Ukraine. Multiple Indicator Cluster Survey of Household, 2012 / State Statistics Service of Ukraine Y45 [et al.] .-K.: K.I.C., 2013

⁵³ State and Health Factors of Ukrainian Teenagers: a monograph. / Balakirev A.N., Bondar T.V., Artyukh O.P. et al.; Scien. Ed. by Balakirev A.N. - M.: UNICEF, Ukrain. in-te of soc. res. named after Yaremenko; K.I.C., 2011. – 172 p.

Insufficient is providing with medicines and irregularity of their supply, the absence of transplantation therapies, a stable phase of the rehabilitation treatment of children with cancer and conditions for granting the special palliative care. The right of children to parental care in the hospital is violated, including when the parents are not allowed to be in the hospital with the child, whose age is more than six years.⁵⁴

CHILDREN WITH DISABILITIES

Amendments from 04.07.2013 No. 410-VII of the Act *On State Social Assistance to Disabled from Childhood and Disabled Children*⁵⁵ increased the allowance amount for such a child care: *Allowance for a disabled child care of sub-group A is set as follows:*

for a disabled child subgroup A under the age of 6 years – the minimum subsistence level for children under 6 years;

for a disabled child subgroup A aged 6 to 18 years – the minimum subsistence level for children aged 6 to 18 years;

Allowance for the care of another disabled child is set as follows:

for a disabled child under the age of 6 years – 50 percent of the subsistence level for children under 6 years;

for a disabled child under the age of 6 to 18 years – 50 percent of the subsistence minimum for children aged 6 to 18 years.

The Order of the MES from 15.05.2013 No. 512 *On Creation of Working Group for Pre-school Children with Special Needs in Ukraine*⁵⁶ aimed at improving of implementation the right to education by children with disabilities.

It may be assumed, that the level of state aid increased for persons who care after people with disabilities and work is being conducted on the development program for children with disabilities. However, the legislation has not implemented so far the rules on compulsory arrangement of barrier-free space on all levels of educational institutions formal and informal education for children with disabilities. For example in 24.03.2016 after a long public hearing the Ministry of Health Care of Ukraine by its Order No. 234 approved the *Sanitary Regulation in Pre-school Education* that does not take into account the needs of children of limited mobility groups at all. The regulations of direct action do not reflect measures as for ensuring by the state a full-fledged life, and life in conditions that ensure dignity, and facilitate participation in the social life of children with mental or physical impairment that does not comply with Art. 23 of the Convention. In addition, the problem of integrating children with disabilities into society is not reflected at the legislative level (except for the development of inclusive education plan). Said regulations mainly concern the material condition of children with disabilities, and still do not meet the real needs. The other needs of children with disabilities were not taken into account, was not developed a system of integration and social adaptation of children in society, which would give the opportunity to make life for these children as much easier as possible. The liability for failure to provide barrier-free space was not established, causing almost complete isolation of such children from the society whereas the regulation that has no reinforcement in the form of strict liability in practice remains declarative.

The bill on the establishment of the temporary state aid provided to families with disabled children and single mothers raising children with disabilities in the amount no less than 30% of the minimum subsis-

⁵⁴ According to research by All-Ukrainian NGO "Spil'na Meta"
<http://commongoal.org.ua/?p=145>

⁵⁵ <http://zakon4.rada.gov.ua/laws/show/410-18>

⁵⁶ <http://osvita.ua/legislation/doshkilna-osvita/35904/>

tence for appropriate age of a child that had been submitted for consideration in the first decade of 2016 unfortunately remained ink on paper.

THE USE OF DRUGS, ALCOHOL, TOBACCO AND OTHER PSYCHOTROPIC SUBSTANCES

According to domestic narcologists, in Ukraine 1% of 12–13-year-olds and about 5% of 16–18-year-olds are constantly consuming alcoholic beverages. At the same time in respect of persons who had sold the alcoholic drinks and cigarettes to children, drawn only 1.3 ths. protocols on Administrative Violations. It was found only 102 offenses related to drug trafficking in 9 ths. checked educational and entertainment establishments⁵⁷. In June 2014 developed *Joint Action Plan of Ministry of Internal Affairs and Fiscal Services of Ukraine on Measures to Avoid Violations of the Law in Terms of Sales of Alcoholic and Tobacco Products to Minors*. 76% of adolescents (aged 14 to 16 years) have experience in the use of alcoholic beverages⁵⁸ .and 5.2% first tried alcohol before the age of 15⁵⁹.

In Ukraine, the start to smoke during adolescence is more often, the percentage of those who have smoked a whole cigarette for the first time to 15 years, is not significantly different in urban and rural areas (3.0–2.4%)⁶⁰. Experience in smoking cigarettes have 20% to 78% of adolescents; boys start smoking at the age of 11, girls – 13–15 years; 11% of adolescents smoke daily, and 4% – once a week. 15% of teenagers are starting to drink alcohol in 11 years, and have tried marijuana and hashish 16% of adolescents aged 15–17 years⁶¹.

More than half of young people use psychoactive substances periodically, at that the experience of first use fall at the age of 11–15 years⁶².

According to research among 1.335 students in 9–11 grades of Kharkiv secondary educational institutions⁶³:

- the average intensity of use 2–5 cigarettes per day in 21.1% of adolescents, 6–10 cigarettes – 13.6% (boys – 11.6%, girls – 14%); more than 10 cigarettes per day – 16.3% of young men; more than 17% of the students realize that they have formed tobacco addiction.
- almost 13% of adolescents recognize the experience of drug use (boys 24.4%, girls – 7.8%); 1.4% of students (boys – 2.45%, girls – 1%) use drugs.
- the level of consumption of alcoholic beverages is: beer 2–3 times a week, 12.7% of adolescents; almost every day – 3.7% (boys – 4.9%, girls – 3.3%); alcoholic beverages (Longer, Rum-Cola, Brandy-Cola) consumed almost daily – only 1.6% of girls; the degree of consumption of alcoholic beverages is 5.1% of teens once a week, 1.7% drank vodka 2–3 times a week, 83.2% of adolescents seen their friends in state of alcoholic intoxication.
- the beginning of an intimate relationship 16% of students (boys – 11.1%, girls – 18.2%) was the age of 14.

⁵⁷ According to All-Ukrainian NGO “Spil’na Meta” <http://commongoal.org.ua/?p=145>

⁵⁸ According to Ukrainian Research Institute of Social Forensic Psychiatry and Narcology <http://www.radiosvoboda.org/content/article/24321224.html>

⁵⁹ Ukraine. Multiple Indicator Cluster Survey of Household, 2012 / State Statistics Service of Ukraine Y45 [et al.] .-K.: K.I.C., 2013.

⁶⁰ Ukraine. Multiple Indicator Cluster Survey of Household, 2012 / State Statistics Service of Ukraine Y45 [et al.] .-K.: K.I.C., 2013

⁶¹ Alekseev O. O. Current Status and Health Factors of Ukrainian Adolescents // Herald of Kamenetz-Podolsk National University named after Ivan Ogienko. – 2013. – p.42.

⁶² According to the UN Population Fund <http://www.unfpa.org.ua/news/210.html>

⁶³ According to the socio-hygienic study conducted by SI "Institute of Child and Adolescent Health of AMS of Ukraine <http://www.moral.gov.ua/news/761/>

HIV/AIDS

As a result of the national AIDS program of 2009–2013 the trend to inmates the stabilization of the epidemic situation observed, in particular, reduced the rate of new cases of HIV infection growth (from 16.8% in 2006 to 3.6% in 2011), the proportion of HIV disease in the age group 15 to 24 years decreased, frequency the index of HIV transmission from mother to child decreased almost by six times.

According to official statistics of the Ministry of Health Care of Ukraine in 2013 were born 3.898 children whose mothers are HIV-positive. As of 1 January 2014, at 3.129 children who were born from HIV-infected women, HIV was discovered and 6915 children are waiting for the confirmation of their status. During 2013, 71 children died of AIDS-related illnesses, as at 1 January 2014, 908 children live with AIDS⁶⁴.

Regarding the prevention of HIV transmission from mother to child (MCT), the problematic question remains the achievement of 2% HIV transmission from mother to child as the target indicator of the *National Program to Ensure HIV Prevention, Treatment, Care and Support for HIV and AIDS-Infected Patients for 2009–2013*⁶⁵.

Only 44.8% of girls and 42.8% of young men aged 15–24 years have the correct comprehensive knowledge of HIV/AIDS. Percentage of young people aged 15–24 years who had risky sex during the last year (with a casual partner) is 69.5% among girls and 95.9 among young men. Among them only 72.7% of girls and 74.4% of boys used condoms during their last high-risk sex⁶⁶.

In 2013, was approved the *National Target Social Program against HIV/AIDS for 2014–2018*. Funding of the Program will be implemented at the expense of state and local budgets, the Global Fund against AIDS, Tuberculosis and Malaria, as well as other sources in the amount of 6.3 billion.

A system of youth-friendly clinics in the major cities was established and functions. Youth and children of small towns and villages do not have access to youth-friendly clinics. There are no free rehabilitation centres for children who use drugs.

Projects on HIV prevention among street children has not been supported since 2015 by any public fund or local budgets.

State does not allocate funds for information campaigns. Information activities mostly covered the children who study at schools, vocational schools, universities. Children who have dropped out of the educational process, street children are out of focus.

LIVING STANDARDS

Amendments to the Art. 11 of the Act of Ukraine *On State Financial Aid to Families with Children*⁶⁷ from 10.10.2013 as amended on 01.15.2015 simplify the procedure for obtaining a financial aid after the childbirth: *For the assignment of state aid for child birth, a parent (guardian) has to submit an application to the labor and social protection body in a form set by central executive authority, which provides development of public policy in the fields of employment, social protection and a copy of child's birth certificate upon presentation of a passport or other document proving the identity.*

Thus, it is specified a comprehensive list of documents required for registration of state aid for child birth. By the amendments from 03.02.2015, No. 221-VIII in the Act of Ukraine *On state Aid to Poor Fami-*

⁶⁴ According to the program of HIV/AIDS of UNICEF Representative Office in Ukraine http://www.unicef.org/ukraine/ukr/activities_11400.html

⁶⁵ According to ANTI/AIDS Foundation <http://www.antiaids.org/ru/hiv-aids/ukraine/1421/11411>

⁶⁶ According to the UN Population Fund <http://www.unfpa.org.ua/news/210.html>

⁶⁷ <http://zakon4.rada.gov.ua/laws/show/2811-12>

lies⁶⁸ was increased the amount of child support: *The amount of state social aid increases for each child under the age of 13 years to UAH 250, for each child from 13 to 18 years is UAH 500.* That is, increased the allowances for children from families with low income status.

Amendments in Art. 8 of the Act of Ukraine *On Ensuring of Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care*⁶⁹ is defined an increase of state aid amount for schools graduates to six subsistence levels for the corresponding age. Amendments from 16.10.2012 No. 5462-VI to the abovementioned Act was supplemented the Art. 39-11 which states that *during the holidays the persons from amongst orphans and children deprived of parental care who study in vocational, higher education institutions are paid (according to the norms of business trips) daily allowance for travel time (a round trip) and the cost of travel by rail, water, long-distance road transport to an institutions or families, where they are being grown up, or to a place of rest, on account of an appropriations allocated for this purpose by the central body of executive power, that ensures the formation of the state policy on the family and children affairs, from funds provided in the state budget as a separate line concerning the maintenance and social security of persons from amongst orphans and children deprived of parental care.* Thus, it was increased an amount of state aid to graduates of institutions from amongst orphan children.

In general, there is a tendency to improve living standards, but it is not systemic and it is intended only to support certain material living standards. Regarding the provision of children's rights to decent social and living conditions, personal development, etc. the legislation was not changed in positive direction. These provisions are aimed at regulating and perhaps as a result, on accelerating the receipt of appropriate payment and almost do not influence on another aspects except for the material ones. There is also no mechanism for monitoring the use of funds received for the benefit of a child.

An important problem that doctors see is the reform of medicine, which leads to the integration of Paediatrics to Family Medicine. This situation is justified in terms of a strong economy. In the opposite conditions, high-quality paediatric care is impossible⁷⁰.

EDUCATION, LEISURE, CULTURAL ACTIVITIES⁷¹

Amendments from 03.07.2012 No. 5029-VI of the Act *On General Secondary Education*⁷² note that *1. General secondary education provides the comprehensive child development as a person, their abilities, talents, labor training, professional self-determination and the formation of human morality, assimilation of certain social, linguistic, ethno-cultural needs of knowledge about nature, human, society and industry, environmental education, physical improvement. The state guarantees young people the right to receive complete secondary education and pays for its getting. Complete general secondary education in Ukraine is mandatory and can be obtained in different types of schools. The state guarantees free provision of textbooks to pupils of secondary schools from amongst orphans, children with disabilities / disabled I-III groups, children deprived of parental care and children of families that receive the aid under the Act of Ukraine On State Social Assistance to Families in Need. Pupils of secondary schools, who study national minority*

⁶⁸ <http://zakon4.rada.gov.ua/laws/show/1768-14>

⁶⁹ <http://zakon4.rada.gov.ua/laws/show/2342-15>

⁷⁰ <http://www.guoz.te.ua/XML/270320148.htm> - The Department of Health Care of Ternopil Regional State Administration (27.03.2014)

⁷¹ According to the annual report "Human Rights in Ukraine 2014", UHHRU http://helsinki.org.ua/index.php?id=1398061007#_ftn2

⁷² <http://zakon4.rada.gov.ua/laws/show/651-14>

languages, should be provided with textbooks in the manner prescribed by the Cabinet of Ministers of Ukraine.

Amendments from 05.06.2014 to para. 3, Art. 12 of the Act of Ukraine *On Preschool Education*⁷³ settle that *To meet the educational and social needs of correctional and developmental work in the preschool institutions may be established inclusive and special groups for education and training of children with special educational needs.* The key phrase that contains an error, we should consider the phrase "may be established". Since the regulation has not an indicative character, according to the trend, which has developed in this area, we can confidently state that actually the creation of these groups is impossible. *In addition, the regulation does not have clarification in what situation and under which procedure such groups should be created. In all types of preschool institutions at realization of the rights of children for preschool education are taken into account special educational needs in training and education of each child, including children with special educational needs in accordance with the principles of inclusive education.*

In para. 3, Art. 21 of the Act of Ukraine *On General Secondary Education*⁷⁴ is defined: *Children with special educational needs who study in special and inclusive classes of secondary schools are provided free hot meals for the entire period of study in general educational institutions.* Para. 1, Art. 25 introduces the title of teacher assistant of inclusive classes of general educational institutions.

Amendments to para. 4, Art. 11 of the Act of Ukraine *On General Secondary Education*⁷⁵ point out that 4. *The decision to establish a general educational institution based on private property is taken by the founder (owner) in manner prescribed by legislation Ukraine. Religious organizations which statutes (provisions) were registered according to the legislation may be founders (owners) of general educational institutions.*

In amendments to para. 3, Art. 16 of the Act of Ukraine *On Preschool Education*⁷⁶ is defined: *Religious organizations which statutes (provisions) were registered according to the legislation may be founders (owners) of preschool educational institutions.*

Amendments from 28.12.2014 No. 76-VIII to the Act of Ukraine *On Preschool Education*⁷⁷ point out that *local government bodies can provide travel privilege for pupils, foster children, students to the place of study and back home in the order and amounts determined by the local self-government bodies, and to provide this relevant expenses from local budgets and relative regulations in para. 3, Art. 5 of the Act of Ukraine On Protection of Childhood*⁷⁸ confirm that *local government bodies can provide travel privilege for pupils, foster children, students to the place of study and back home in the order and amounts determined by the local self-government bodies, and to provide this relevant expenses from local budgets.*

Amendments from 14.05.2015 No. 425-VIII to the Act of Ukraine *On Protection of Childhood*⁷⁹ as for state target-oriented aid note that: *The state provides the state target-oriented aid for getting the technical and vocational education in state and municipal educational institutions for persons recognized as combatants in accordance with para. 19 of Art. 6 of the Act of Ukraine On Status of War Veterans and Guarantees of their Social Protection and their children, children whose parent died (missed in action) in the area of anti-terroristic operations, war actions or armed conflicts or got a mortal hurt, contused wound or injury had been obtained in area of anti-terroristic operations, war actions or armed conflicts and also due to disease got during the period of participation of anti-terroristic operation and to children whose parent died during mass civil protest actions or died due to mortal hurt, contused wound or injury had been ob-*

⁷³ <http://zakon4.rada.gov.ua/laws/show/2628-14>

⁷⁴ <http://zakon4.rada.gov.ua/laws/show/651-14>

⁷⁵ <http://zakon4.rada.gov.ua/laws/show/651-14>

⁷⁶ <http://zakon4.rada.gov.ua/laws/show/2628-14>

⁷⁷ <http://zakon4.rada.gov.ua/laws/show/1841-14>

⁷⁸ <http://zakon4.rada.gov.ua/laws/show/2402-14>

⁷⁹ <http://zakon4.rada.gov.ua/laws/show/2402-14>

tained during mass civil protests, to children registered as IDP including children who get full-time education in vocational educational institutions – up to the graduation from educational institutions until they had reached the age of 23.

Thus, it can be noted that the amendments to the law on education, including the necessity to meet the needs in inclusive education, conferred on the possibility of religious organizations to be founders of the school and preschool educational institutions, according to the requirements of time are provided the benefits in education for children of participants of ATO and children – IDPs that complies with Art. 28 of the Convention. However, it is not enough for comprehensive resolving of problems of the right to education.

Only for the first half of 2013, the Commissioner of the President of Ukraine for Children's Rights received the information on the reduction of enrolment, termination of activities, or the threat of closure of more than 30 preschool education institutions from almost every region of Ukraine. The Ministry of Finances of Ukraine by its letter from January 28, 2013 No. 31-05030-10-5/2514 made a number of propositions which realization would result in mass closing of aesthetic education schools, decrease the number of children who visit after-school educational institutions. These proposals have been widely publicized in the media and caused a negative response in society.

At present, there is no accurate statistics about the after-school educational institutions network and about the children covered by after-school education. Each ministry (Ministry of Education, Ministry of Culture, Ministry of Youth and Sport) conducts departmental statistics but there is no unified state statistics that would reflect trends in this field. There is also no information on how many children receive after-school education services outside of school educational institutions at individual entrepreneurs' institutions. There is also no information on how many children receive after-school education services outside of school educational institutions at individual entrepreneurs' institutions. The situation in regions regarding the development of school education is different. At the beginning of 2013 the share of children covered by after-school education, ranged from 28.1% in the Transcarpathian to 92.7% in the Kyiv region. Primarily this situation happened due the deficiencies in the funding of after-school educational institutions. According to the Budget Code of Ukraine, expenditures on school educational institutions are made at the expense of local budget revenues that are not included in the calculation of intergovernmental transfers.

The year of 2013 was declared as the Year of Children's Crafts⁸⁰. According to the report of the Commissioner of the President of Ukraine for Children's Rights⁸¹ in March 7, 2013 the President announced the new social initiative "Children are the Future of Ukraine"⁸², which identified priority directions of activity of central and local authorities for creating favourable conditions for the comprehensive development of each child. In spite of this, the Government has not allocated the additional targeted funds intended for the modernization, development and opening of new after-school educational institutions. The problem is that a large number of workshops, particularly high quality and popular are not just paid but require substantial fees from parents.

The problem remains the access of children with disabilities to education. In general, today in Ukraine for such children run about 2 ths. pre-school educational institutions of compensatory (health, special) and combined type, where at the same time with access to education children receive correctional and rehabilitation services. However, it's noteworthy that in rural areas the coverage of children with disabilities in preschool education is at improper level by almost complete lack of pre-school groups for special purposes (of compensating type)⁸³. According to the Research of the Inclusive Education in Ukraine, today only

⁸⁰ Decree of the President of Ukraine from December 28, 2012 <http://zakon4.rada.gov.ua/laws/show/756/2012>

⁸¹ The Report of the Commissioner of the President of Ukraine for Children's Rights on the Work Held in the 1-st Half of the Year 2013 <http://www.president.gov.ua/news/29367.html>

⁸² http://www.president.gov.ua/docs/initiative_11.pdf

⁸³ <http://mlsp.kmu.gov.ua/document/156474/st.doc>

11 percent of schools in Ukraine are partially adapted for learning of students with disabilities. There are even less learning spaces meeting the safety standards and free movement: ramps, elevators, special hygienic rooms, appropriate doors, furniture and lighting⁸⁴.

According to statistics, in secondary educational institutions there were 58 586 children with disabilities in 2012/2013 academic year. The paragraph of the National Action Plan on the Implementation of the UN Convention on the Rights of the Child with respect to the introduction of inclusive education system to state-funded secondary schools is not fully financed by the state⁸⁵. As at 2014, any actions were provided to protect the rights of children with disabilities in the National Action Plan on the Implementation of the UN Convention on the Rights of the Child.

At the expense of donor funding there are certain positive changes. Within Canadian-Ukrainian Project "Inclusive Education for Children with Special Needs"⁸⁶ (CAD 5 Mio) it was developed regulatory and legal framework in inclusive education field, created 2 Inclusive Resource Centres (IRC) in Lviv and Crimean regions, published methodical literature. The centres are positioned as state and public institutions. With the support of The International Renaissance Foundation were conducted hundreds of trainings for teachers, inclusive education program designed for kindergartens and primary schools. The result was an order of the Department of Education and Science No. 1034 of 07.23.2013 On approval of the Implementation of Inclusive Education in Preschool and Secondary Schools for the Period till 2015, which provides to generalize all previous experience, to begin appropriate training of teachers in universities and to provide system consulting and explanatory work among educators, parents and the public about the right to education for children with disabilities⁸⁷.

Another problem is to ensure the right to education for children living in ATO sea and Crimea.

10.7 thousand of pupils from ATO area of Donetsk and 3.8 ths. from Luhansk regions study in the peaceful territory of these regions. 25.3 ths. pupils from Donetsk and 15.2 ths. pupils from Luhansk region were entered schools in other regions of the country. For technical and vocational education to the educational institutions of other regions of the country have applied 1.216 people from Donetsk and Luhansk regions. By the end of November 2014 from the ATO area had been evacuated 3 higher educational institutions with III-IV and 2 institutions with I-II levels of accreditation. In the universities of other regions of Ukraine transferred 5.538 students as temporarily admitted for studies. From the Luhansk region transferred 3.163 students, and from Donetsk 2.366 on a permanent basis. In the territories of Donetsk region, where military operations have being conducted, 147 of schools remain closed. 187 schools are partially or completely destroyed. In addition, only in the western part of Donetsk region destroyed more than 150 of schools, so about 50 thousand children are not able to study in normal conditions.

On the part of the Donetsk region, which is currently controlled by militants, there are 490 secondary schools of different types, and in Luhansk there are 363 institutions. On the non-government controlled areas the study conducted by Russian textbooks, programs, grading system changed to "five-point system." Children receive certificates recognized by Luhansk and Donetsk Republics.

Access to education is complicated by imperfect system of border crossings with non-government controlled area of ATO, so in spring children-the applicants who wanted to make UPE could not get to trial exams because they did not pass the checkpoints of LPR or DPR, as well as Ukrainian checkpoints.

⁸⁴ Research of the Status of Inclusive Education in Ukraine, <http://timo.com.ua/node/10040>

⁸⁵ Research of the Status of Inclusive Education in Ukraine, <http://timo.com.ua/node/10040>

⁸⁶ <http://www.education-inclusive.com/ircs/>

⁸⁷ <http://zakon2.rada.gov.ua/laws/show/v1034729-13>

RECREATION, LEISURE, CULTURAL AND ARTISTIC ACTIVITIES

Amendments from June 3, 2014 No. 1295-VII to para. 1, Art. 13 of the Act of Ukraine *On Rehabilitation and Recreation of Children*⁸⁸ noted that "children aged 4 to 7 years stay in children's institutions of rehabilitation and recreation with their parents or other statutory representatives". Amendments from 14.07.2015 592-VIII clause 9, Arts. 1 and 24 of the Act expand the list of children who need special attention and social support and funding of rehabilitation and recreation of this category of children.

The regulations are hardly reflect the need for consolidation in the legislation of various activities and the system to ensure the rights of the child to comprehensive participation in cultural and artistic life and the provision of equal opportunities for cultural creativity.

SPECIAL PROTECTION ACTIONS

REFUGEE CHILDREN AND ASYLUM-SEEKING CHILDREN IN UKRAINE

The Act of Ukraine *On Refugees and Persons in Need of Subsidiary or Temporary Protection*⁸⁹ had been adopted in 08.07.2011 and entered into force in 04.08.2011. According to the Act, appeared the new status – a person in need of subsidiary protection, which has provided an opportunity of status settlement of persons who are not Convention refugees (under the 1951 Convention), but in need of protection, since such a person can not or does not wish to return to country of their citizenship or former place of residence due to threats against their life, safety or freedom in the country of origin for fear of death or execution of the death penalty or tortures, inhuman or degrading treatment or punishment, or of common violence in situations of international or internal armed conflict or systematic human rights violations.

The Act also provides the exceptional regulations for refugee recognition procedure or person in need of subsidiary protection for children uprooted from the family. Namely, mandatory acceptance of the application for protection of the child, the adoption of the full consideration of the procedure on the day of acceptance of the application for protection, documenting at the day of acceptance of the application for protection, additional safeguards to ensure the rights (obligatory presence at the interview with a child advocate, psychologist and educator).

Providing children of the officially recognized refugees corresponding derivative refugee status can not be guaranteed by the Act. This provision is contained in delegated legislation – the Order of the Ministry of Internal Affairs of Ukraine from 07.09.2011 No. 649 *On Approval the Rules of Consideration of Applications and Documentation Necessary to Resolve the Issue on Recognition as Refugee or Person in Need of Subsidiary Protection, Loss and Deprivation of Refugee Status and Subsidiary Protection and Cancellation of Decision on Recognition of a Person as a Refugee or a Person in Need of Subsidiary Protection*⁹⁰. In particular, in cl. 6.5. of the said Regulation is provided that minor family members entered in application form the person who submitted an application for recognition as a refugee or a person in need of subsidiary protection (for the recognition that refugees or persons in need of subsidiary protection, expressed in writing the applicant's consent in the questionnaire or application), specified in the decision on recognition as a refugee or a person in need of subsidiary protection as ones who were granted pro-

⁸⁸ <http://zakon4.rada.gov.ua/laws/show/375-17>

⁸⁹ <http://zakon4.rada.gov.ua/laws/show/3671-17>

⁹⁰ <http://zakon4.rada.gov.ua/laws/show/z1146-11>

tection in Ukraine. Under this provision, children of persons who were granted protection in Ukraine after they reach the age of 16 can obtain certificates of the refugee or the person in need of subsidiary protection. However, consolidation of this provision not at the Act level but at the level of delegated legislation reduces guarantees for the regulation performance. Thus, delegated legislation provides a simpler procedure for amending it or its cancellation and adoption of the new one. In this case, the guarantee was not consolidated in Act, may not be reflected in delegated legislation.

Thus, the Act of Ukraine *On Refugees and Persons in Need of Subsidiary or Temporary Protection* provided that Inmateship and Guardianship Authority performs the function of the statutory representative of the child, uprooted from the family. In accordance with the Civil Code of Ukraine, Inmateship and Guardianship Authorities are district state administrations and district state administrations in Kyiv and Sevastopol, executive authorities of city and regional councils, rural and settlement councils. This authority consists of several departments (subdivisions, sections) of administrations or executive bodies of the city and district in the cities, rural, settlement councils, complicating the work of the authority. Moreover, the Inmateship and Guardianship Authority meets under the certain schedule, which makes impossible to make the urgent appointment of a statutory representative of the child, uprooted from the family on time. At the same time, Offices of Children's Services in Ukraine, were established to which the Cabinet of Ministers of Ukraine by its Resolution No. 866 from 24.09.2008, *Issues of Activity of the Inmateship and Guardianship Authorities on the Child's Rights Protection*⁹¹, put an immediate cases management and coordination for the protection of children's rights, including orphans and children deprived of parental care. It should also be noted that children uprooted from the family, according to the Act of Ukraine *On Protection of Childhood*⁹² are those children, who are deprived of parental care. Appointment of the statutory representative of the child, as well as their representation during the procedure of protecting them in the migration service bodies is also considered as protection of child's rights. Thus, the analysis of these rules indicates that the statutory representative should be appointed directly by the Office of Children's Services, without involving bureaucratic Inmateship and Guardianship Authority.

Whereas, the Instruction on the *Interaction of Enforcement Authorities to Work with Children, Uprooted from the Family who are not Citizens of Ukraine and Applied to the Competent Authorities with the application on Recognition as a Refugee or a Person in Need of Subsidiary Protection*, do not explain the provisions of the Act of Ukraine *On Refugees and Persons in Need of Subsidiary or Temporary Protection*, but simply reproduces the regulation contained in it. That is why in some regions of Ukraine the Offices of Children's Services do not appoint the statutory representatives for children uprooted from the family, but only hand over an application of the Migration Service to the Inmateship and Guardianship Authority for the further execution. Hence, the interests of the child are not taken into account at all. In addition, this leads to the fact that without a statutory representative a child can not make an application on granting protection in Ukraine, he remains undocumented and stays on the territory of Ukraine illegally, and unwittingly violates the legislation of Ukraine. Such a situation may lead to the imposition of administrative sanctions.

Regarding the provision of interpreter, despite the fact that the legislation (by Act and Instruction) imposed the obligation to provide an interpreter for a child uprooted from the family, to the State Migration Service of Ukraine, unfortunately, this guarantee is not met by SMS of Ukraine. While providing the statutory representative to the child during procedures of granting the child protection in Ukraine, the state continues to use the services of non-governmental organizations involved in refugees protection and in the absence of such organizations in the region such translation may not be provided.

Recommendation on measures to ensure that any asylum-seeking or refugee child was not deprived of freedom unfortunately is not implemented by Ukraine.

⁹¹ <http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

⁹² <http://zakon4.rada.gov.ua/laws/show/2402-14>

Despite the fact that according to the Standard Provision on the *Temporary Housing Area of Foreigners and Stateless Persons who are Illegally Staying on the Territory of Ukraine*⁹³ approved by the Cabinet of Ministers of Ukraine in 17.07.2003, the children uprooted from the family are not subject to placement in such Temporary Housing Areas but have to be sent to Children's Shelters, non-governmental organizations aware of 5 cases where children uprooted from the family, who declared their age were arrested and held in the said Temporary Housing Areas during 2013–2014.

It should also be noted that the period of detention in the said Temporary Housing Areas is up to 1 year (and in most cases this term is exactly 1 year). During this period, the person is in fact deprived of freedom because he has no opportunity to leave the institution freely and is constantly under surveillance. According to the Art. 26 of the Act of Ukraine *On Legal Status of Foreigners and Stateless Persons*⁹⁴ a decision on placement of a person in this Temporary Housing Area, shall not be taken by the court, but the State Migration Service of Ukraine or the authority of state border security. This provision contradicts the Constitution of Ukraine, which stipulates that no one shall be arrested or held in custody other than pursuant to a substantiated court decision and only on grounds and in the manner prescribed by law. In addition, the decision on placing of a person in Temporary Housing Area is accepted for the execution of a resolution of the Administrative Court on compulsory expulsion. The Administrative Court, in its turn, may hold the compulsory expulsion under the action of the central executive body that ensures the implementation of state policy in the field of migration, authority of state border security, or the Security Service of Ukraine if a foreigner or a person without citizenship had not fulfilled the decision on compulsory expulsion.

At the same time, the legislation of Ukraine provides that persons under the age of 18, shall not be applied the compulsory expulsion to the country of origin or third countries (Art. 26 of the Act of Ukraine *On Legal Status of Foreigners and Stateless Persons*).

Thus, the analysis of these regulations leads to the conclusion that if in respect of persons under the age of 18 years the compulsory expulsion can not be applied, they can not be compulsory expelled, and therefore a decision to place them in the above Temporary Housing Area can not be applied thereon.

It should also be noted that over time, i.e. during 1 year, when children are uprooted from the family had been staying in that Temporary Housing Areas, they had no access to learning Ukrainian language, to education, could not exercise their right to development.

Recommendation of the UN Committee on the introduction of an effective system of collection and storage of data on registration of refugees and asylum seekers; confidence that the official statistics on asylum-seekers and children refugees cover all persons under the age of 18 has not been fulfilled by the state.

Recommendation of the UN Committee on the introduction of an effective system of collection and storage of data on registration of refugees and asylum seekers; confidence that the official statistics on asylum-seeking children and children refugees cover all persons under the age of 18 has not been fulfilled by the state.

The recommendation to amend the existing regulations in order to ensure the registration of births and issuance of birth certificates for children of asylum seekers who were born in the territory of a Member State also has not been implemented.

⁹³ <http://zakon4.rada.gov.ua/laws/show/1110-2003-%D0%BF>

⁹⁴ <http://zakon4.rada.gov.ua/laws/show/3773-17>

SEXUAL EXPLOITATION AND ABUSE. CHILD TRAFFICKING

According to research *Sexual Exploitation of Children in Ukraine: State and Countermeasures*⁹⁵ from 2014, numerous reports in the media, such as "In Rivne Underage Prostitute was Detained"⁹⁶ etc., statistics of law enforcement authorities, NGOs' reports allows to confirm that sexual exploitation problem exists in Ukraine, and therefore needs to be resolved⁹⁷. Thus, according to the Ministry of Internal Affairs of Ukraine in the period 2009–2011 were registered 43 offenses concerning involving children in prostitution⁹⁸. In the same period, the law enforcement authorities identified 479 minors aged 16–18 years engaged in prostitution⁹⁸. In 2012 discovered 61 minors for 9 months of 2013 – 30 minors. For the year of 2014, the corresponding statistics has not being held by the Prosecutor General's Office of Ukraine. However, the statistics does not reflect the real extent of the phenomenon because of problem latency. According to sociologists, in particular, Ukrainian Institute of Social Research named after O. Yaremenko⁹⁹ every 6-th 7-th prostitute in Ukraine – a minor.

Over the last years a number of changes to the legislation had been implemented, which generally improve the regulatory protection of children from sexual exploitation and abuse and child trafficking.

Amendments to the Resolution of the Cabinet of Ministers of Ukraine No. 905 *On Approval of the Procedure of Adoption and Supervision of Observance of the Rights of Adopted Children*¹⁰⁰ from 06.06.2014 to counteract the possible removal of children from Ukraine enhance the control over children, adopted and taken outside of Ukraine and strengthen the control over the person of the potential adopter (clauses 13, 14, 23, 82 of the Procedure) control measures over a child provided by means of notification in case of child residence change (clauses 109–112 of the Procedure).

According to the amendments the Resolution of the Cabinet of Ministers of Ukraine from 16.10.2014 *On Approval of Rules of State Border Crossing by Citizens of Ukraine*¹⁰¹ departure from Ukraine of Orphan Children and children deprived of parental care under 16, especially those who live (stay) in the areas of ATO previously to be agreed with Offices of Children's Services of respective local administration or city council in the manner determined by the Ministry of Social Policy.

By amendments from 22.10.2014 to CMU Resolution No. 866 *Issues of Activity of the Inmateship and Guardianship Authorities on the Child's Rights Protection*¹⁰² was added the section Social Protection of Children in Difficult Life Circumstances. These amendments aimed at strengthening the attention of the authorities and social security for children in families where there is a suspicion of improper observance of children's rights caused by serious illness of parents or one parent; there is a process of divorce and establishing the child's place of residence; where children are in boarding schools due to the inability of parents to meet the needs of a child; where it was made physical, mental, sexual or economic abuse to a child or if there is a threat of its commission; where school children miss classes. There were set the terms and procedure of notification the relevant authorities at revealing of such family.

By CMU Resolution from 18.04.2012 No. 303 developed and approved *Regulations on the Establishment and Functioning of the Unified State Register of Human Trafficking Crimes*¹⁰³.

⁹⁵ http://la-strada.org.ua/ucp_mod_library_view_306.html

⁹⁶ TV Channel Rivne1 / <http://rivne1.tv/Info/?id=17965>

⁹⁷ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51366

⁹⁸ Child Prostitution is the Commercial Sexual Exploitation of Children. What is worth knowing / Evsukova M.V., Levchenko K. B., Mudrik V.V., Shved A.V.; La Strada Centre - Ukraine and the UN Children's Fund (UNICEF) in Ukraine — K., 2012. — 7 p.

⁹⁹ Information Agency UNIAN / <http://www.unian.ua/news/497616-v-ukrajini-kojna-shosta-poviya-nepovno litnya.html>

¹⁰⁰ <http://zakon4.rada.gov.ua/laws/show/905-2008-%D0%BF>

¹⁰¹ <http://zakon4.rada.gov.ua/laws/show/57-95-%D0%BF>

¹⁰² <http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

¹⁰³ <http://zakon4.rada.gov.ua/laws/show/303-2012-%D0%BF>

In the Act of Ukraine *On the Counteraction to Human Trafficking*¹⁰⁴ added the section The Counteraction to Children Trafficking.

In 2016 by the CMU Resolution No. 111 of 24.02.2016 was provided financing of activities and tasks stipulated by the State Social Program on the Counteraction to Human Trafficking by 2020 *On Amendments to clause 3 of the Regulation of the Funds Use Provided by the State Budget to Implement State Policy on Family and Child, namely 5. Ensuring the Protection of Child Victims of Children Trafficking:*

1. *implementation of methodological provision of the Office of Children's Services on providing assistance and protection of children victims of trafficking;*

2. *development of indicators identifying children victims of trafficking as an integral part of the process of establishing the status of child victims of human trafficking;*

3. *providing systematic professionals training, granting social services to children victims of trafficking for the implementation of modern practices of rehabilitation and reintegration of children victims of trafficking.*

Amendments to the cl. 5 of the Act of Ukraine *On the Bodies and Services for Children and Special Facilities for Children*¹⁰⁵ into responsibilities of authorized units of the law enforcement authorities added to *identify persons who are engaged in manufacturing and distribution of pornographic materials, publications that promote violence, cruelty, sexual debauchery.* Control over children in difficult life circumstances and children adopted in Ukraine was enhanced.

UNACCOMPANIED MINORS

Since 2002 Ukraine was the member of so-called Chisinau Agreement (*Agreement on Cooperation of CIS Member States on the Return of Minors to Their Countries of Residence*¹⁰⁶). According to the Agreement, there is a special procedure for redirection of children found on the territory of the country to the country of origin in case of stay without their parents or statutory representatives. It's noteworthy that the procedure under the Agreement does not meet the standards of the Convention rights. For example, an assessment of the child's best interests is not held, children of all ages stay with children in conflict with the law, MIA is responsible for children maintenance and moving, children unreasonably have been depriving of liberty for a long time, access to education, contact with the outside world, they almost can not influence to consideration of their case. Besides, children have no access to legal aid.

CHILDREN FROM AMONGST INTERNALLY DISPLACED PERSONS

Art. 3 of Act of Ukraine *On Protection of Childhood*¹⁰⁷ was duplicated by provisions of the Convention, but in fact – at the time of the ATO appeared a separate category of children in need of subsidiary protection – a children IDPs who left ATO area without guardians – parents or designated by law but do not have the status of a orphan child or a child deprived of parental care. The Resolution of CMU No. 866¹⁰⁸ was amended by cl. 24 *Orphan status if the parents do not fulfil their obligations for reasons that*

¹⁰⁴ <http://zakon4.rada.gov.ua/laws/show/3739-17>

¹⁰⁵ <http://zakon4.rada.gov.ua/laws/show/20/95-%D0%B2%D1%80>

¹⁰⁶ http://zakon4.rada.gov.ua/laws/show/997_614

¹⁰⁷ <http://zakon4.rada.gov.ua/laws/show/2402-14>

¹⁰⁸ <http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

can not be ascertained due to the parents' stay at the temporarily occupied territory or ATO territories, confirmed by acts. The procedure is supplemented by section Peculiarities of proceedings by the guardianship activities related to the protection of children's rights, temporarily displaced from the occupied territory or area of ATO. The same general procedures are applied to such children as to the children deprived of parental care, but excluding the fact that the relatives with whom the child has formed close relationships and are willing to take such a child under the guardianship in 90% of cases do not meet the legal requirements to families which can take the child under the guardianship.

Taking into account changes from 06.08.2014, the Resolution No. 905 *On Approval of the Procedure of Adoption and Supervision of Observance of the Rights of Adopted Children*¹⁰⁹ enhances the potential verification procedure of adoptive parents actually makes impossible to take positive decision in favour of relatives who have relationships with the child, but did not leave ATO area and therefore do not meet the relevant requirements for adoptive parents and guardians.

*Temporary procedure of control over the movement of persons, vehicles and cargoes (goods) across armed conflict line within Donetsk and Luhansk regions*¹¹⁰: the departure of the citizens of Ukraine who were born in 1998 and later and could not get the passport of the citizen (due to living in settlements where state authorities temporary do not perform or perform their powers not to the fullest extent) should be performed upon presentation of a birth certificate/copy of birth certificate or any other document that enables to identify such persons, and permission of the natural person the person(s), accompanied by citizens of Ukraine under the age of 16 depart from non-government controlled areas;

children under 16, shall be subject to the presentation of birth certificate or any other document as defined in Article 5 and the permission of the natural person as defined in Art. 5 of the Act of Ukraine *On Citizenship of Ukraine* or Art. 2 of the Act of Ukraine *On Procedure of Departure and Entry to Ukraine* by the Citizens of Ukraine of the natural person, person(s), accompany the child under 16 during their departure from the non-government controlled area.

a child who was born after ATO beginning and as a consequence of living in settlements in the territory where the public authorities due to living in settlements, where state authorities temporary do not perform or perform their powers not to the fullest extent, and a birth certificate was not issued for them, subject to the presentation of any document and the permission of the natural person as defined in Art. 5 of the Act of Ukraine *On Citizenship of Ukraine* or Art. 2 of the Act of Ukraine *On Procedure of Departure and Entry to Ukraine* by the Citizens of Ukraine of the natural person, person(s), accompany the child during departure from the non-government controlled area.

However, if a child is the orphan child or a child deprived of parental care, that person who is their legal guardian or institution in which the child stays has no intention to leave ATO area – there is no procedure in law by which a child may leave ATO area to protect their right to life.

Amendment from 06.12.2014 No. 919 to the *Procedure for Registration of Civil Status in Ukraine*¹¹¹ provides the possibility of state registration of civil status acts such as birth, outside ATO area in any Branch of Civil Status Registration Office.

Now a problem is not solved that the form of medical certificate of birth 103/o, which is issued at the non-government controlled areas has stamps of self-proclaimed republics, so the bodies of Civil Status Registration Office do not accept it. In accordance with the current legislation of Ukraine in this case, the child's parents apply to the court for the establishment of birth fact that has its disadvantages, such as the procedure for consideration of such cases sometimes take more than a year, while the Act of Ukraine *On State Assistance to Families with Children*¹¹² is set 12 month term for submissions to bodies of social protection of the population for preparation of state aid at child birth.

¹⁰⁹ <http://zakon4.rada.gov.ua/laws/show/905-2008-%D0%BF>

¹¹⁰ http://www.sbu.gov.ua/sbu/control/uk/publish/article?art_id=136476&cat_id=135945

¹¹¹ <http://zakon4.rada.gov.ua/laws/show/z0719-00>

¹¹² <http://zakon4.rada.gov.ua/laws/show/2811-12>

By the amendments adopted in 22.10.2014 to the CMU Regulation No. 866 *Issues of Activity of the Inmateship and Guardianship Authorities on the Child's Rights Protection*¹¹³, was added the section *Features of activities implementation by Inmateship and guardianship authorities related to the protection of children's rights, displaced from ATO area is provided that children who is moving from ATO area unaccompanied with legal guardians shall be subject to enhanced care and the relevant authorities provide the status of orphan child or child deprived of parental care in accordance with cl. 24 Orphan child status if parents do not fulfil their obligations for reasons that can not be ascertained due to the parents' stay at the temporarily occupied territory of ATO*, which is confirmed by the relevant act.

However, these and other regulations, such as amendments from 06.08.2014 to CMU Resolution No. 905¹¹⁴ enhanced the check of potential adopters. Consequently, persons among relatives circle with whom the child has formed a close relationship and who apply for the establishment of such a custody of a child based on departure from the ATO area according to the law, live in such conditions that almost exclude the possibility of registration of the guardianship.

The mentioned regulations are essentially new to the Ukrainian legislation, where until 2014 there was any particular direction, which concerned the internally displaced persons that creates fast, but flawed in many ways changes in legislation. Currently, the law relating to IDPs children violates Arts. 3, 6, 16, 18, 26 of the UN Convention on the Rights of the Child.

The necessary amendments to the basic document regulating the procedure for crossing the separation line in Donetsk and Luhansk regions has not been made so far, namely *Temporary procedure of control over the movement of persons, vehicles and cargoes (goods) across armed conflict line within Donetsk and Luhansk regions*, approved by the Order of the First Deputy Head of the ATC (Anti-terroristic Centre) at the SSU (the Security Service of Ukraine) from 12.06.2015 No. 415¹¹⁵ (the Temporary Procedure). In particular, this procedure defines the rules for crossing the separation line by children. Thus, according to the cl. 5.1. of the Temporary Procedure on entry and departure from ATO area for the citizens of Ukraine permitted upon presentation of any document that enables to identify person and permission of the natural person within the meaning of CMU Resolution from 27.07.1998 No. 1147 *On Boundary Regime*¹¹⁶. Thus, the person, who plans to cross the armed conflict line in advance, shall receive the approval. To do this, a person shall submit formalized statement electronically through the web-portal of the SSU, or in hard copy to one of the focal groups. Data on children below the age of 16 are recorded together with the data of persons who accompany them.

According to cl. 5.1.1 of the Temporary Procedure, the entry to non-government controlled area of children under 16, shall be subject to the requirements prescribed for such persons by the Rules of crossing the border by citizens of Ukraine approved by the Cabinet of Ministers of Ukraine dated 27 January 1995 No. 57¹¹⁷. Generally, the entry of children to temporarily non-government controlled areas of Ukraine is held with the consent of both parents (adoptive parents) and accompanied by them or by persons authorized by them.

The entrance to the temporarily occupied territory of children under the age of 16, accompanied by one of the parents or others, is carried out:

- 1) by notarized consent of the other parent, who is absent at the checkpoint;
- 2) without the notarized consent of the other parent:
 - if the other parent is foreigner of a person without citizenship (if there is a note on this in child's birth certificate);

¹¹³ <http://zakon4.rada.gov.ua/laws/show/866-2008-%D0%BF>

¹¹⁴ <http://zakon4.rada.gov.ua/laws/show/905-2008-%D0%BF>

¹¹⁵ http://www.sbu.gov.ua/sbu/control/uk/publish/article?art_id=136472

¹¹⁶ <http://zakon3.rada.gov.ua/laws/show/1147-98-%D0%BF>

¹¹⁷ <http://zakon2.rada.gov.ua/laws/show/57-95-%D0%BF>

- or if the production of documents or notarized copies: the death certificate of the other parent; judgment on termination of parental rights of the other parent; judgment on the recognition of the other parent is missing; judgment on the recognition of the other parent is incapacitated; judgment to grant a permission for departure to the citizen who is under 16 without the consent and support of the other parent; the child's birth certificate issued by the Branch of Civil Status Registration Office, stating the grounds for entering information about the father pursuant to section 135 of the Family Code of Ukraine (during a departure of child accompanied by a single mother).

In addition, the Temporary Procedure contains provisions on exit from temporarily occupied territory of certain categories of children. In particular:

- children who were born in 1998 and later and could not get the passport of the citizen (due to living in settlements where state authorities temporary do not perform or perform their powers not to the fullest extent) should be performed upon presentation of a birth certificate/copy of birth certificate or any other document that enables to identify such persons, and permission of the natural person the person(s), accompanied by citizens of Ukraine under the age of 16 depart from non-government controlled areas;

- children who haven't reached the age of 16 depart from temporarily occupied territory is performed by the presentation of the child birth certificate or any document and the permission of the natural person as defined in Art. 5 of the Act of Ukraine *On Citizenship of Ukraine*¹¹⁸ or Art. 2 of the Act of Ukraine *On Procedure of Departure and Entry to Ukraine*¹¹⁹ by the Citizens of Ukraine of the natural person, person(s), accompany the citizens of Ukraine under 16 during their departure from the non-government controlled area;

- children who was born after ATO beginning and as a consequence of living in settlements in the territory where the public authorities due to living in settlements, where state authorities temporary do not perform or perform their powers not to the fullest extent, and a birth certificate was not issued for them, subject to the presentation of any document and the permission of the natural person as defined in Art. 5 of the Act of Ukraine *On Citizenship of Ukraine* or Art. 2 of the Act of Ukraine *On Procedure of Departure and Entry to Ukraine by the Citizens of Ukraine* of the natural person, person(s), accompany the child during departure from the non-government controlled area.

In accordance with cl.5.13 of the Temporary Procedure, in case of entering to the security point of entry and departure (KPVV) of a child up to 16 years without a statutory representative, responsible officials of KPVV must provide a safe crossing by child the armed conflict line and take steps to further transmission them to MIA of Ukraine.

However, even though the Temporary Procedure contains enough regulations governing the procedures for crossing the armed conflict line by children, there are many problems directly at moving through KPVV in practice.

The procedure for crossing the separation line by children unaccompanied by statutory representatives (accompanied by relatives or at independent crossing of the armed conflict line) is not regulated for now. Temporary Procedure does not contain regulation, which sets restrictions on the right of the child to leave temporarily occupied territory without their parents or other statutory representatives. However, in practice, if a child departs accompanied by relatives, it is necessary to have complete set of documents confirming kinship of an adult with child. If there are no such documents, the accompanied child may not be released from the temporarily occupied territory of Ukraine.

In addition, many problematic issues arise with children over 16 and who wish to depart for living, study to the government-controlled area of Ukraine, but whose parents through their support of so-called "LPR / DPR" or for other reasons do not wish to depart to government-controlled area and take out a child. In fact, the Temporary Procedure excludes the prohibition of the independent departure of a child; more-

¹¹⁸ <http://zakon2.rada.gov.ua/laws/show/2235-14>

¹¹⁹ <http://zakon5.rada.gov.ua/laws/show/3857-12>

over, there is a regulation for the procedure of the behaviour of officials at KPVV at finding a child unaccompanied by statutory representatives (the abovementioned cl. 5.13 of the Temporary Procedure). However, this close does not actually work, and for crossing the armed conflict line is required the presence of adult statutory representative.

Due to the difficulties when crossing the armed conflict line (limited KPVV number, absence of railroad passenger service, long lines etc.) a fairly large number of residents of temporarily occupied territory of Ukraine departs via uncontrolled parts of boundary with Russian Federation and crosses the state border of Ukraine at established checkpoints on government-controlled area.

According to para. 1, Art. 4 of the Act, the fact of internal displacement is confirmed by a certificate of registration of internally displaced person. In addition, each child, including those who arrived without their parents, other statutory representatives, receives a certificate of registration of internally displaced person.

In accordance with Procedure for registration and issuance of registration notes of internally displaced person, approved by the Cabinet of Ministers of Ukraine dated 01.10.2014 No. 509¹²⁰ (hereinafter referred to as "the Procedure"), an adult or a minor shall apply personally to get the note of internally displaced person (hereinafter referred to as "IDP"), a child of tender years, incapable person or a person whose capacity is limited – via statutory representative, with the application of registration, the application form is approved by the Ministry of Social Policy, to the department of social protection of the population of regional and district state administrations in Kyiv, the executive bodies of the cities, city district (in the case of their establishment) boards.

The application for the registration of a minor child, who arrived unaccompanied by a statutory representative to get the note can apply on behalf of them a relative (grandmother, grandfather, grandmother, grandfather, adult brother or sister, aunt, uncle), or stepfather, stepmother, with whom lives (stays) a child.

If the minor child arrived unaccompanied by statutory representative or a person, a representative of the guardianship authority submits an application on behalf of them at the place of the child's residence.

However, during the registration process of children from amongst internally displaced persons, often arise the problems related not so much to the lack of regulatory control of an issue of registration of in-migrants, as with different application practices of the existing laws and regulations in different regions of Ukraine.

When applying for the registration of a minor child, who arrived unaccompanied by statutory representative, it is difficult to confirm kinship of the child with a relative, together with whom lives the child after their displacement and who is eligible to apply for the registration of the child as IDP. As stated above, if a child moves unaccompanied by statutory representatives (parents, guardians) but together with their relatives (brothers, sisters, grandmas, grandfathers etc.), they are entitled to submit an application on registration of the child as internally displaced person. However, at the submission of such application, the relatives must prove a kinship with a child, this is quite difficult considering that very often, especially after the emergency evacuation or after the destruction of housing and many families went out without any documents. For example, if the grandson went with his grandmother, she must have the original of his birth certificate, birth certificate of her son or daughter, who is the father (mother) of the child, and in the case of a name change – the marriage certificate of her son (daughter). These documents are usually difficult to recover in the event of loss, but they are necessary to confirm the kinship with the child and relatives in which company they went out.

For in-migrants children was provided monthly-targeted aid to cover their living expenses, including housing and utilities according to Resolution of CMU from 01.10.2014 No. 505. This kind of aid is appointed to a maximum of six months with the right to re-apply for its purpose, and its amount particularly per a child

¹²⁰ <http://zakon2.rada.gov.ua/laws/show/509-2014-%D0%BF>

is UAH 884 per month. Social benefits to individuals who were registered in the temporarily occupied territory of Ukraine shall be made only after their registration as IDPs. This regulation was established by CMU from 05.11.2014 No. 637 *On the Implementation of Social Benefits for Internally Displaced Persons*¹²¹ in practice means that the residents of the occupied territories, including Donetsk and Luhansk regions, no social benefits are held until people become in-migrants. This is a fundamental breach of the right to social protection and, in fact, the compulsion for displacement, because very often the social benefit from the state is the last resource for the existence of vulnerable groups' representatives. At that there are no mechanisms for obtaining social benefits by persons who are registered in the occupied territory and do not wish to become in-migrants.

Documents, the receipt of which is necessary for the realization of the basic rights of children (such as education, health care, social protection, etc.) are:

- child's birth certificate (getting the lost one or a duplicate of a child registration born in temporarily non-government controlled area of Ukraine);
- passport of Ukrainian citizen (both for children of 16 years and their parents, who lost their passports for various reasons or have to change it because of its invalidity, etc.);
- copies (duplicates) of judgments on the deprivation of parental rights, the appointment of child maintenance, etc., as well as enforcement orders issued prior to the temporary occupation of Crimea and several parts of Donetsk and Luhansk regions.

According to Art. 6 of the Act of Ukraine *On Ensuring the Rights and Freedoms of Internally Displaced Persons*, registration of identity documents and documents confirming Ukrainian citizenship, or identity documents and confirming their special status, should be made by the central executive body that implements the state policy in the field of migration (immigration and emigration), at the place of residence of internally displaced persons (as evidenced by a certificate of registration of internally displaced person).

The procedure for obtaining a passport of citizen of Ukraine (including the procedure for the exchange of passports, issuance of passports instead of lost or stolen) is regulated by the Procedure of the Ministry of Internal Affairs from 13.04.2012 No. 320 *On Approval of the Registration and Issuance of a Passport of Citizen of Ukraine*¹²² (hereinafter referred to as "the Procedure").

According to para. 1.3. of Procedure for registration of passport of citizen of Ukraine a person shall submit:

- passport application in prescribed form;
- birth certificate;
- two photos 3.5 x 4.5 cm;
- payment document marked by the bank on the payment of the state fee or a copy of the document on exemption from payment of state fees (citizens who have reached the age of 16 and get a passport for the first time, shall be exempt from paying the state fee).

To get a passport with contactless medium, a person under 16 submits the application form, birth certificate and copies of the documents confirming the citizenship and identity of their parents (for persons born before March 1, 2001).

Registration of birth of the child is held in accordance with the rules of state registration of civil status in Ukraine, approved by the Order of the Ministry of Justice of Ukraine from 18.10.2000 No. 52/5¹²³. Regulations provide an exclusive list of documents that can be the basis for birth registration (para. 2, Art. 1, Section III of the Regulations). As defined in this paragraph, in the absence of grounds for state registration of birth, the state registration of birth is based on a judgement establishing the fact of the child's birth by this woman. Since the medical documents issued in the temporarily occupied territory of Ukraine, have not

¹²¹ <http://zakon5.rada.gov.ua/laws/show/637-2014-%D0%BF>

¹²² <http://zakon3.rada.gov.ua/laws/show/z1089-12>

¹²³ <http://zakon3.rada.gov.ua/laws/show/z0719-00>

been recognized as valid in the government-controlled area, the only way to register the child's birth and obtain a certificate of their birth is the passage of a judicial procedure of verification of the child's birth. This procedure was considerably simplified in February 2016. Thus, in accordance with para. 1, Art. 257-1 of the Civil Procedural Code of Ukraine (hereinafter referred to as "the CPC of Ukraine")¹²⁴, the application for establishing the fact of the person birth in the temporarily occupied territory of Ukraine may be submitted by parents, relatives, their representatives or other statutory representatives of a child to any court outside that territory of Ukraine irrespective the place of residence of the applicant. Moreover, such application is considered immediately from the moment of receipt and taken decision is subject to immediate execution.

Another issue is getting duplicates of judgments and enforcement orders issued in temporary government non-controlled area of Ukraine prior to the ATO. In particular, more often, it goes about the judgment on the maintenance order on child support and a copy of the enforcement order to resume the execution of judgment in already government-controlled area of Ukraine or registration of temporary state aid to children whose parents refuse to pay child maintenance.

According to para. 4, Art. 222 of CPC of Ukraine, a copies of judgments re-issued under request of a person for a fee prescribed by law. In accordance with para. 1, Art. 370 of CPC of Ukraine, instead of the lost original enforcement order or a judicial order the court that issued the enforcement order or a judicial order is entitled to issue a duplicate thereof at the request of the claimant or the proposition of the state enforcement officer. The court, which issued the enforcement order on alimony, shall be entitled on proposition of the state enforcement officer, private executive to issue a duplicate of enforcement order if several work places had been found or to obtain the debtor's income.

According to Art. 1 of the Act of Ukraine *On the Administration of Justice and Criminal Proceedings in Connection with the Anti-terrorist Operation*¹²⁵, the Chairman of the High Specialized Court for Civil and Criminal Cases by their Order from 02.09.2014 No. 2710/38-14 defined the territorial jurisdiction of civil cases under the jurisdiction of the courts located in ATO area, the local general courts, located outside of the temporarily occupied territory of Ukraine. Namely it was determined the list of courts that consider cases instead of courts remaining in non-government controlled area, which would be under the jurisdiction of those courts.

Although receiving the above documents is extremely important and directly or indirectly affect the realization of children's rights from amongst internally displaced persons, however, there are many difficulties arising during the procedures for obtaining or restoring documents.

In fact, there is no possibility to obtain a passport of citizen of Ukraine upon reaching the age of 16 if the parents or one of them had not left temporarily non-government controlled area of Ukraine. Although, the procedure of registration and issuance of a passport of citizen of Ukraine, approved by the Order of the Ministry of Internal Affairs from 13.04.2012 No. 320, contains no provisions on the need to provide originals or copies of passports of parents of a child who has reached the age of 16, however, in practice, an essential requirement for the in-migrants children becomes the submission of both parents' passports originals, a child will not obtain a passport without the execution thereof. Even on the official website of the State Migration Service in the Section *Information for the Internally Displaced Persons from the Area of the ATO* in the description of services for obtaining a passport of the citizen of Ukraine upon reaching the age of 16 is provided an information on the need to submit parents' passports (and there is no such requirement in the general procedure of passport obtaining). Difficulties arise at those children whose parents do not live together or if they had not left and continue to live in temporary non-government controlled area of Ukraine.

¹²⁴ <http://zakon2.rada.gov.ua/laws/show/1618-15>

¹²⁵ <http://zakon2.rada.gov.ua/laws/show/1632-18>

JUSTICE IMPLEMENTATION FOR CHILDREN AND UNFREEDOM PLACES FOR CHILDREN

Juvenile Justice (hereinafter referred to as "JJ") has not been established in Ukraine as system so far. In 2012, in Ukraine was being developed the criminal justice system, which significantly narrows the principles, functions and objectives of juvenile justice. The information campaign to explain both conceptual apparatus of JJ, and its tasks and functions is not being held. Authority responsible for JJ management is still missing, leading to uncoordinated activities of key players of JJ (the evidence: non-fulfilment of the action plan implementing the concept of the development of criminal justice) and the absence of public funding of development programs of JJ in Ukraine. The main activity in this area is conducted mostly by civil society institutions at the expense of donors.

A positive aspect is the reduction in the number of educational colonies for minors and other special facilities for minors in conflict with the law. However, this fact does not indicate a total reduction of juvenile delinquency level. It is not a question of the creation of rehabilitation, correctional centres, including day care centres and probation.

In November 20, 2012 entered into force a new CPC (Criminal Procedural Code) of Ukraine¹²⁶. Along with democratic changes aimed at humanization of criminal proceedings against minors, such as: limiting of pre-trial detention term; the introduction of alternative punishment measures; introduction of specialization of judges and prosecutors (from 2013, the same was applied for investigators), the new CPC contains a number of significant conflicts and formalities:

- penalties may be imposed only on those minors who have their own income. Question: what to do with the rest?
- judges avoid to direct minors to social and correctional works due to the absence of adequate infrastructure, coordinating and executive bodies.
- definition of judges, prosecutors, investigators specialization actually is formal, since there is no special training/re-training of specialists and in fact it goes only about an appointment of experts to review cases of juveniles.
- electronic system of distribution of cases in the courts even complicates this procedure.
- category of children who had committed crimes before they reached the age of criminal responsibility is not clearly defined by the new CPC.

Children under the age of criminal responsibility. This category of children is bypassed by applicable law. The system of social rehabilitation schools aimed at education and rehabilitation of this category of children, has been virtually destroyed. From 11 schools of social rehabilitation for today remains 2 (5 schools were closed in 2012 and another 4 schools in 2013). Alternative facilities for the rehabilitation of such children are not provided.

In 05.02.2015 was adopted the Act of Ukraine *On Probation*¹²⁷, which is certainly a positive moment. However, this law has also spawned a number of collisions:

- the absence of trained specialists as defined by the law "probation body staff." Performance of functions has been assigned to the penal inspection so far, that, of course, can not be equated to a qualified inspector of probation. Programs, institutions to prepare "body probation staff," are absent.
- "Probation programs" and programs of social and educational work, stipulated by the law are absent as well.

A positive aspect can be considered the creation of the National Preventive Mechanism at the Commissioner for Human Rights of Verkhovna Rada of Ukraine. The function of created SPS also include monitoring of closed institutions for minors.

¹²⁶ <http://zakon4.rada.gov.ua/laws/show/4651-17>

¹²⁷ <http://zakon4.rada.gov.ua/laws/show/160-19>

At present, the penitentiary system, which deals with children, is such that regarded as a punishment with all its problems in modern Ukrainian society: poor nutrition, excessive brutal regime requirements, lack of access to resocializational and educational services, restrictions on contacts with the outside world, hard work and bad medicine. This situation is not conducive to the resocialization and correction of children with delinquent behaviour who committed crimes, but makes them victims, which in its turn is too complicates their return to normal life¹²⁸.

A child who is suspected in committing a crime during taking them into custody, and during the proceedings suffers significant limitation of rights and, therefore, becomes very vulnerable to various forms of abuse. For example, the CPC has no clear notification process of parents of the child or persons substituting them, and possible child detention period to resolve the issue of detention is not consistent with the recommendations of the Committee of Child's Rights, the legislation does not require the investigators, working with children, to have additional working skills with this category.

Certain provisions of the law work in the best interest of the child in conflict with the law. For example, it is implemented an individual approach to the child through bindingness of investigating authorities to gather information about the child (health, general development: living conditions). Children in conflict with the law should always have a defender¹²⁹.

As of May 2014 in the system of educational colonies of the State Penitentiary Service of Ukraine (SPS), there were seven educational colonies where there were 823 convicted inmates, among them 67 girls. Per 1.217 inmates in the colonies, work 823 employees that is in 1.5 times more than the number of children they serve. The largest number of personnel working in the juvenile correctional facility Kuryazh – 193 employees, the lowest – in Melitopol correctional colony – 151 employee. Nearly 4.5 colony employee are per one inmate in Sambir educational colony and almost 1 per one inmate in Pryluky educational colony. Among the total number of inmates 54% (441) – minors and 46% (382) – have reached the age of 18.

The results of SPS monitoring group visits in 2014 showed that in the colonies are absent adequate measures of violence and ill-treatment of convicted persons. Thus it was not implemented the necessary security of inmates coexistence due to the lack of proper categorization. In fact, educational colonies become corrective, because almost half of the people, who stay there, have reached an adult age. The inmates are not classified by types of committed crimes and adaptation features that becomes an additional risk for the normal relations between convicted persons. In addition, the selection of groups of convicted persons under preventive supervision becomes another lever of pressure and discrimination of such inmates instead of approach on establishing an effective educational work.

It is not provided a confidentiality of telephone conversations and short visits of convicted from other inmates. The presence of restrictions on the frequency and duration of phone calls and short visits, both in general and as a punishment.

Improper frequency and quality of visits to the colonies by the public bodies – authorities of SPS of Ukraine, prosecutors' office, social services etc.

Stay of significant number of convicted adults (over 18) creates additional problems with the education of minors. There are no clear algorithms for inmates transferring to adult colonies when they reach the age of majority (18 years).

There is no proper interaction of Offices of Children's Services at the place of primary recording of colonies' inmates and administrations.

¹²⁸ Observance of the rights of minors in educational colonies the State Penitentiary Service of Ukraine: the special report of the National Preventive Mechanism, Commissioner for Human Rights of Verkhovna Rada of Ukraine, Kharkiv Institute for Social Research, 2014

<http://khisr.kharkov.ua/index.php?id=1419178566>

¹²⁹ According to materials of research "Tortures and Cruelty to Children in Ukraine." / Under the general editorship by Zakharova E.Y. - Kharkiv: Human Rights, 2013. - 244 p.

Common material and living conditions meet the minimum standards of detention of condemned persons in educational colonies. At the same time, problematic issue in certain colonies is failure to comply with the occupant load requirements, the need for repair and renovation of furniture, inadequate natural and artificial lighting in the rooms of inmates, lack of hot water in residential areas, irregular change of bed linen, no partitions between showers and no doors in the bathrooms, etc. The latter concerns a general violation of the right to privacy and personal space of inmates: children have virtually no opportunity to be alone during the day, freely use their own things, to personalize their own space in the living room (photos, their own creative products, etc.).

Nutrition in most cases is unsatisfactory. The quality of medical support in educational colonies is unsatisfactory.

There is not enough attention paid to the diagnosis and prevention of diseases in the institutions, a part of inmates are constantly suffering from pustular skin infections. The privacy of medical services provision to condemned persons is violated, especially during the initial examination of newcomers. Maintenance of medical records is performed improperly. A separate problem is the room in the educational colonies of mentally ill convicted which complete treatment is impossible to perform there.

Despite the relatively good, at a first glance, material and technical equipment of schools of educational institutions, an attitude to the educational process raises serious questions both from the inmates, and from the administrations of the colonies. During monitoring visits, individual cases were found where children instead of learning worked at production by different reasons: at their own will and in agreement with administrations, to make money, were forced to carry out repair works during the educational process, served various kinds of penalties for violation of discipline. A significant problem is the absence or insufficient number of individual and additional classes for educationally neglected children.

Vocational training in educational colonies runs in such fields as mechanic on car repairs, turner, carpenter, welder, seamstress, joiner, plasterer, and so on. In all the colonies condemned persons have the right to choose a specialty, and complain that they would like to get the others, in their opinion, more demanded professions.

One of important elements of reintegration and resocialization of juvenile offenders into society is their involvement in socially useful work. However, in the colonies it comes with a number of violations of labor legislation, the Criminal Executive Code of Ukraine, as well as international standards of labor of juveniles, deprived of their liberty. The main ones relate to overtime work (over 10 hours and on weekends), violation of work and rest regime, remuneration (generally for free or less than UAH 100 per month for six-hours job every day) and production conditions (lack of protective equipment: gloves, goggles, respirators, safety non-compliance, wherefore there are cases of occupational injuries: getting chips and dust in the eyes, cuts, etc.).

With regard to rehabilitation and psychological support in the colony, in this direction mainly group work with inmates are held: psychologists assess moral and psychological climate, conduct career guidance tests, discussions on HIV/AIDS prevention, harm of drugs, smoking, and so on. Today in any colony there are no systematic comprehensive programs aimed at the individual child, their support, identifying the prime causes of imprisonment and work with the family. There are also no special programs for children who have committed crimes involving sexual and physical violence, or who before entering in the colony used alcohol, drugs or toxic substances.

Regime and schedule in educational colonies are strictly regulated and organized in such a way as to make convicted persons busy for almost the whole day. At that, the establishment of regime hardness degree is determined by the administration of the institution. In fact, unreasonable under their assignment are the following practices of some colonies: prohibition to use the own bedding and extra blankets in winter, use of gym only on weekends, prohibition to stay in the bedrooms during the day, prohibition of a free exit out of dormitories, prohibition to use the own clothes on weekends, rooms are cleaned 3–4 times a day, it is prohibited to have own food outside of the dining room and so on.

In addition to the formal structure of the regime compliance, there is also an informal one. In 6 of 7 visited educational colonies for minors, the administration and staff of institutions keep aloof from their responsibilities for the protection and security of existence and coexistence of inmates by transferring their functions to the part of the condemned persons (the so-called "active"). This, inter alia, gives rise to unacceptable penalties and the impact on condemned persons¹³⁰.

Depriving a child of liberty if they had committed law infringements is held via specialized institutions network also (schools of social rehabilitation, centres for medical and social rehabilitation, etc.). Placement in these institutions can not be regarded as fulfilment of a criminal sentence by a child with all known consequences. This point is not concerned in regulations, but the actual law enforcement practice indicates obligatory consideration during the study of such facts in "the biography" of the child. At the same time, such "consideration" always has a negative character and evaluation¹³¹.

It's noteworthy that observance of child's rights during detention in such institutions is not much different from their detention in educational colonies, as evidenced by the study within the SPS in social rehabilitation schools in Ukraine in 2013.

CHILDREN FROM AMONG OF NATIONAL MINORITIES OR ETHNIC COMMUNITIES

Actually is absent a number of actions as for prevention of discrimination and/or socialisation of children from amongst of national minorities notwithstanding the implementation by the CMU Executive Order No. 701-p from September 11, 2013 of Action Plan on Realisation of Protection Strategy and Integration to Ukrainian Society of Roma National Minority up to 2020. Provisions that would provide regulations of direct action are not found. Existing national legislation does not reflect today's needs in resolving these issues.

As in many other issues related to Roma, the total illiteracy in camping-grounds turned to endless circle that is incredibly hard to break. Illiterate parents are not able to give an impetus to development of their children, besides most of them do not see the great need in education, because they do not need it themselves, then the children will dispense with it.

In Ukraine, a state of education of the Roma national minority is in deep crisis, which is deepening and deprives Roma youth any chances, if will not be taken serious and immediate actions aimed at the situation change. A whole generation of children is growing and preparing for adult life, so that in the future they will have very little chance to avoid poverty, social marginalization and suffering. The direct refusal to enrol Roma children in general and (or) the elite schools is known and common practice in Ukraine. However, there is no relevant documentation on this issue because Ukrainian government never took appropriate steps to determine the extent and nature of this phenomenon. The result of refusal of school administration to enrol Roma children to secondary schools, sometimes on their own initiative, sometimes due to pressure of parents of other nationalities, is that Roma children study in special schools occasionally or permanently. For example, only in Transcarpathian region there are 20 fully segregated Roma schools. Most of them are located in old buildings without facilities that have secondary schools, have no playgrounds or gyms, cafeterias or dining rooms, equipped with a minimal set of school furniture and supplies, textbooks, books, learning materials, toilets are located on the outside, no water supply.

¹³⁰ Observance of the rights of minors in educational colonies the State Penitentiary Service of Ukraine: the special report of the National Preventive Mechanism, Commissioner for Human Rights of Verkhovna Rada of Ukraine, Kharkiv Institute for Social Research, 2014 <http://khisr.kharkov.ua/index.php?id=1419178566>

¹³¹ According to materials of research "Tortures and Cruelty to Children in Ukraine." / Under the general editorship by Zakharova E.Y. - Kharkiv: Human Rights, 2013. — 244 c.

In addition to the fact that Roma children study in segregated and inappropriate schools, the other critical phenomenon is the total absence of Roma students who have general secondary education. This is partly a consequence of the segregation of Roma children, as well as the result of inactivity of secondary schools administration, which do nothing to solve the problem. According to data from the Institute for Social Research in Ukraine, about 50% of Roma children regularly do not attend school.

One of the key problems of education for Roma children is the lack of opportunity to attend pre-school educational institutions. Sometimes the reason for this are the internal factors inherent in Roma communities, such as lack of transport to take children to kindergarten, lack of resources to get school kits, not understanding by parents the importance of visiting pre-school educational institutions by their children. Often it is also the result of discriminatory factors, such as the pressure from parents of non-Roma children on administration due to the fact that they do not want their children to study together with Roma, as well as the reluctance of teachers to teach Roma people.

CONCLUSIONS AND RECOMMENDATIONS

- It is proposed to consider the possibility of development of the unified regulation that will entrench basic child's rights and to obligate line Ministries to develop and submit for approval programs and by-laws containing the direct-action regulations to provide one or another child's right.
- Children need extra protection mechanisms against discrimination, which has not established so far. It is proposed to introduce a separate law or develop a subparagraph in a separate law on child's rights to non-discrimination of specific subject – a child, where develop complex of effective anti-discrimination counteraction on the basis of particular vulnerability and other specific features of this category.
- It is necessary to establish a comprehensive program aimed at resolving of actual problems of observance of the rights of children affected by armed conflict, and IDPs children that will cover all categories of children and where any exceptions allowed. To increase the guarantees of the right to life, security, right to education, medical and psychological support of children.
- There is a need for facilitation of the issuance of identity documents for members of the Roma minority by amending Article 13 of the Act of Ukraine On State Registration of Civil Status Acts/
- It is necessary to introduce special justice concerning children more actively to prevent cases of abuse by law enforcement authorities during the detention of children, including participants of peaceful assemblies.
- The legislation on counteraction to tortures and child abuse must have unified comprehensive regulation to indicate how, who and in what time frame should respond to applications not only from adults, but also from minors and a scheme of establishing the reliability of such information and rapid response. There is also an urgent need to strengthen the criminal responsibility for the commission of such violence, considering the subject of the action.
- It is necessary to define separately the regulations in criminal and administrative law (of offenses and crimes), providing liability for torture and ill-treatment of a child.
- It is proposed to amend the law, which would point to situations where minors can not perform and participate in peaceful assemblies and to allow in all the others. Develop a mechanism for enhancing the security of minors when they take part in such actions.
- The logical conclusion of legislative amendments in the area of child's access to information would make the regulations of the Act of Ukraine *On Fundamentals of the Legislation of Ukraine on Health Care* in consistent with the Convention and the Act of Ukraine *On Access to Public Information* as such that far more reflects the child's right to information.

- Actions for implementation of inclusive education should be intensified. It is necessary to abandon an idea of creating a separate inclusive classes and schools towards the creation of a continuous inclusive environment in educational institutions. We need a separate information campaign to support the implementation of inclusive education and explaining its benefits to all.
 - It is necessary to reconsider the procedures offered by the state to children from ATO area, to increase educational opportunities for them. Among other, it should be considered the issues of allowing getting higher education to children with so-called certificates of DPR / LPR.
 - It should be a fundamental change in the Act of Ukraine *On Rehabilitation and Recreation of Children* which reflects the real needs of today and the opportunities and mechanisms for financing of rehabilitation and recreation for children especially from the most vulnerable categories, including measures on further socialization of the children.
 - Ensure regulatory settlement of the issues on protection the rights and interests of children uprooted from the family, in particular regarding:
 - providing child uprooted from the family a status of a child deprived of parental care, in accordance with Acts of Ukraine *On Protection of Childhood, On Ensuring Organizational and Legal Conditions for Social Protection of Orphan Children and Children Deprived of Parental Care*;
 - placement of children uprooted from the family in the families of relatives and friends if any;
 - powers of the legal representative of the child for entry into the respective status or the age of majority;
 - informing the legal representative of a child uprooted from the family about the decision on granting or refusal to recognize the child as refugee or a person in need of subsidiary protection;
 - identification of trafficking victims among children uprooted from the family during their interview with the Migration Service Officers.
 - Regulate the procedure for the voluntary return of the child uprooted from the family, to the country of origin, provided their reunification with parents, subject to the conditions of personal security and social and economic conditions where a child returns to, the views of the child, as well as the terms being outside of country of origin.
 - Settle the order of interaction of the guardianship authorities and local branches of the Office of Criminal Police on Children's Affairs of the Ministry of Internal Affairs of Ukraine, the territorial bodies of the SMS (State Migration Service) and the State Border Service of Ukraine on the establishment of location of the children uprooted from the family, who are in the procedure of recognition as a refugee or a person in need of subsidiary protection in Ukraine.
 - Perform monitoring of activities within the approved methodical guidelines as for search of parents or legal guardians of children who are not citizens of Ukraine and addressed to the competent authorities with an application for recognition as refugee or person in need of subsidiary protection.
 - Amend the legislation of Ukraine concerning the registration of the birth of protection-seeker child, death of protection-seeker person, reception by them a taxpayer identification number based on certificates of applying for protection in Ukraine.
 - Provide unimpeded access to the education of protection seeking child, uprooted from the family, as well as asylum-seeking children accompanied by their parents (or one of them), and to settle the matter on the issuance of documents on education to such children on the basis of notes on applying for protection in Ukraine.
 - Provide regulatory support and funding of the centre for receiving and temporary residence of refugee children and children who are recognized as persons in need of subsidiary protection, and children uprooted from the family who have applied for recognition as refugee or person in need of subsidiary protection on the basis of temporary accommodation centres for refugees in the city Yahotyn, Kyiv region.
 - Establish an interdepartmental statistical data on children who in accordance with Acts of Ukraine *On Protection of Childhood and On Ensuring Organizational and Legal Conditions for Social Protection of Orphan Children and Children Deprived of Parental Care* are children uprooted from the family.

- According to results of the analysis it is proposed to amend the regulations governing the protection of children from among IDPs, aimed to the exclusion of those regulations therein that violate the Convention and have a negative impact on development and enforcement of children's rights in this specific category.
- The system of work with children in conflict with law and correctional education of children, needs radical changes and should be transformed into a modern service centre to provide resocialization services with specific, clearly defined restrictions, differentiated due seriousness of the child's offense. It is also necessary to implement social programs for children at the communities' level, instead of supporting institutions networks of children liberty deprivation.
- Any placement of a child into the closed institution should be carried out only in exceptional cases and should be subject to regular review on the subject of the necessity and acceptability of such placement.
- Rules for working of custodial restraint institutions should create conditions for a minimum privacy of each inmate – from the possibility of privacy to keep personal belongings in a separate place.
- Social rehabilitation of children with deviant behaviour should make greater use of the possibility to work of psychologists and social workers. To do this, it is necessary to increase the number of practicing psychologists in the system of social rehabilitation, vigorously develop education and training of psychologists on modern methods of work with children and families to use the supervision of their work by experts; develop areas of work based on the family's rehabilitation in the child's life.
- Create the conditions that make impossible the cases of application of illegal violence against children during their contacts with representatives of law enforcement authorities. To do this in all cases, without exception, when a child enters into contact with the police, the relatives must be provided with notice on contact, the child's acknowledgement with their rights and guaranteed opportunity to obtain legal and medical aid.
- It must be a unified requirement for all officials and persons working with children in conflict with the law, that should determine the obligatory presence of specific skills (perhaps even additional education) and experience of work namely with the children.
- Correcting the situation with access to educational services, but rather unification of opportunities for representatives of the Roma minority to use these services, requires more active and systematic measures and actions. Such actions can include: review of the elements of the educational process and curriculum change and plans taking into account the characteristics and needs of the Roma minority; introduction of additional training sessions for Roma children; intensify educational work directly in areas of compact Roma settlements; activation of educational work directly at the territories of Roma compact settlements via the creation of "mobile schools"; introduction of places in schools on conditions of exemption including vocational and higher places for Roma students who meet the minimum criteria for entry, etc.
- It is necessary to abolish the practice of racial segregation of Roma children in the educational sector, including the existence of special correctional classes for mentally disabled children and persons with disabilities, and other marginalized and specialized educational practices, as well as other forms of racial segregation in the school system.
- Establish a comprehensive desegregation school plans, according to which children of Roma minority will be able to exercise their right to education to the full extent; introduce Roma students to general classes and, where it is possible and appropriate, to develop and implement special programs with adequate funding and human resources to facilitate the transition from segregation to desegregation school.
- It is necessary to amend the Article 5 of a framework Act *On the Principles of Prevention and Counteraction to Discrimination in Ukraine*, defining segregation as a separate form of discrimination.