

# Annex 1: Specific requests

March 2022

**Buses with children from residential care facilities in Ukraine (and/or from family-based houses) arrive in your country, together with the head of that respective residential care facility.**

**Are those children considered as unaccompanied or is the administration of the residential facility the legal representative?**

- As general remark, the 2014 Order of the Ukrainian President, establishing that children who have lost their parents in the conflict zones, take priority regarding measures of foster care, adoption or institutional placement should be disregarded as contrary to international standards.
- Secondly, evidence suggests there are too many children being accepted into alternative care without the application of a formal gatekeeping processes. Hence this is an issue that should be taken into consideration regarding these children for whom a new legal status has not being decided by a Court. According to our mission in Ukraine in 2020, **only 5.1% of children had been placed in institutions solely through decisions made by a relevant child welfare authority**, whereas most children (78.5%) are directly placed in residential facilities by their biological families. Moreover, a further concern is the number of children being transferred from family-based alternative care to an institution.
- **Hence, many children in institutions/residential facilities have not yet received a legal 'status' that allows them to be placed in foster care and/or placed on the adoption register.**
- As of 31.12.2020, **69,572** persons have been registered as orphaned children and children deprived of parental care, including 975 internally displaced ones, as per the Replies of Ukraine (January 2022) to the list of issues in relation to its combined fifth and sixth periodic reports ([CRC/C/UKR/RQ/5-6](#), para. 69)
- Thirdly, besides institutions, there are in Ukraine the so-called **Family Type Children's Houses** - a family-like arrangement allowing for care of up to 10 children in a carers' own home or a house that has in part, been built with some financial assistance. According to the Replies of Ukraine (January 2022) to the list of issues in relation to its combined fifth and sixth periodic reports ([CRC/C/UKR/RQ/5-6](#), para. 72), there are 1,236 family-type children's homes. Are you sure that the children coming from Ukraine are not from these types of facilities?
- Fourthly, there are 718 **institutions** run by the different Ministries, divided according to their age. According to results of our 2020 mission in Ukraine, **one of the challenges for these children is the lack of a legally named person responsible for decision making** on behalf of a child without 'status' should they require, for example medical treatment.



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- According to **Procedure for the implementation of guardianship activities related to the protection of the rights of the child,**” approved by the Decree of the Cabinet of Ministers of Ukraine (dated September 24, 2008 No. 866) (Decree of the Cabinet of Ministers of Ukraine “Issues of the activities of the tutorship and guardianship authorities related to the protection of the rights of the child” 2008), “status of a child deprived of parental care” is granted to children
  - (1) whose parents are deprived of parental rights, confirmed by a court decision,
  - (2) taken from parents without deprivation of parental rights, confirmed by a court decision,
  - (3) whose parents are recognized as missing, as evidenced by a court decision,
  - (4) whose parents are declared dead by the court, as evidenced by the death certificate issued by the civil registration authorities,
  - (5) whose parents are recognized as incapable, as evidenced by a court decision,
  - (6) whose parents are serving sentences in places of deprivation of liberty, which is confirmed by a court sentence,
  - (7) whose parents are in custody during the investigation, which is confirmed by a court order,
  - (8) whose parents are on the wanted list by the internal affairs bodies related to evasion from paying alimony and there is lack of information about their locations, as evidenced by a court ruling or a certificate from the internal affairs bodies on the parents search and the absence of information about their locations,
  - (9) due to the long-term illness of the parents, which prevents them from performing their parental duties, as evidenced by the conclusion of the medical-social expert commission on a father or mother having a disease, which prevents them from performing parental duties, issued in the manner established by the Ministry of Health, and
  - (10) foundlings, whose parents are unknown, abandoned in the maternity hospital or other health care institution or whose parents or other relatives refused to take from these institutions, which was drawn up in an act approved by the Ministry of Health and the Ministry of Internal Affairs.
- Art. 25 of the Law on Childhood Protection, it seems that the State has the legal guardianship over children in institutions.
- Art. 244 & 245 of the Family Code of Ukraine deals with the **custody and care of a Child Living in a Child Care Center or Health Institution:** *If a child permanently lives in a child care center or health institution, functions of the custodian and caretaker in respect of the child are performed by the **administration of these institutions.***

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