

Policy & Legal review for children in alternative care & unaccompanied and separated children from Ukraine arriving in: CZECHIA

Contributors: Ministry of Labour and Social Affairs; Ministry of the Interior - Department for Asylum and Migration Policy; UNICEF Czechia; SOS Children's Villages Czechia; Eurochild

1. What are the laws and/or policies covering care arrangements for children temporarily or permanently deprived of family care (with translation into English if available)?

For general information on the system, see here: <https://www.mpsv.cz/web/en/social-and-legal-protection-of-children-general-introduction>. An amendment to the *Act on the Social and Legal Protection of Children of 2022* is currently in translation and verification of the correctness of terminology.

The old wording of the law is available here:

https://www.mpsv.cz/documents/625317/625903/Act_359-1999.pdf/87861589-c041-8606-40d1-a6dbfe35d356?msckid=bdf3cee0c56a11ec9c6549eedfedf49a

A special website has been set up for the situation regarding refugees from Ukraine:

<https://www.mpsv.cz/web/cz/ukrajina>

On 13 April, Czechia released a new Refugee Crisis Strategy. It is a 13-point priority area strategy for the 300,000 refugees in Czechia. The government points out that the strategy is an "open, living document" that is subject to change after consultations with governors, employee unions, non-profit organizations, etc. While child protection is not highlighted as the specific area, it is relevant across several of the priorities, including legal status, education, social areas, adaption and integration into Czechia etc. They have also set up a position of a national coordinator to oversee UA refugees. Find further details here (in CZ): <https://www.mvcr.cz/clanek/vlada-schvalila-strategicky-material-reseni-uprchlicke-vlny-i-pozici-jejeho-koordinatora.aspx>

Help for children from Ukrainian institutions needs to be coordinated (in CZ):

https://www.mpsv.cz/documents/20142/2786931/pomoc_deti_z_ukrajiny703.pdf

Relevant laws and policies:

- Law No. 359/1999 (incl. amendments) on social and legal protection of children in the CZ - available in ENG upon request
- Law No. 108/2002 on social services – available in ENG upon request
- Law on the residence of foreigners – available in ENG upon request
- Overview of changes implemented through the amendment to the Act on the Residence of Foreign Nationals effective as of 2 August 2021 – available in ENG upon request
- Act 65/2022 Law on Certain Measures in Connection with the Armed Conflict on the Territory of Ukraine Provoked by the Invasion of the Troops of the Russian Federation – available in ENG

upon request (CZ: Zákon o některých opatřeních v souvislosti s ozbrojeným konfliktem na území Ukrajiny vyvolaným invazí vojsk Ruské federace - <https://www.zakonyprolidi.cz/cs/2022-65>

- Act 66/2022 Law on measures in the field of employment and social security in connection with the armed conflict in the territory of Ukraine caused by the invasion of the troops of the Russian Federation (CZ: Zákon o opatřeních v oblasti zaměstnanosti a oblasti sociálního zabezpečení v souvislosti s ozbrojeným konfliktem na území Ukrajiny vyvolaným invazí vojsk Ruské federace - <https://www.zakonyprolidi.cz/cs/2022-66>
- Act 67/2022 Law on measures in the field of education in connection with the armed conflict in the territory of Ukraine caused by the invasion of the Russian Federation (CZ: Zákon č. 67/2022 Sb., o opatřeních v oblasti školství v souvislosti s ozbrojeným konfliktem na území Ukrajiny vyvolaným invazí vojsk Ruské federace - <https://www.zakonyprolidi.cz/cs/2022-67>
- Treaty between the Czech Republic and Ukraine on legal assistance in civil cases, Kiev, 28 May 2001 – <https://www.zakonyprolidi.cz/ms/2002-123> (in CZ)
- The Ministry of Labour and Social Affairs also referred to: Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children, see here: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22003A0221\(01\)&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22003A0221(01)&from=en)
- Civil Code (No. 89/2012 Coll.) (Občanský zákoník), 1 January 2014, CZ: <http://www.zakonyprolidi.cz/cs/2012-89>
- Code of Civil Procedure (No. 99/1963 Coll.) (Občanský soudní řád), 1 April 1964, CZ: <http://www.zakonyprolidi.cz/cs/1963-99>
- Act on the Social and Legal Protection of Children (No. 359/1999 Coll.) (Zákon o sociálně-právní ochraně dětí), 1 April 2000: Art. 17 (54), CZ: <https://www.zakonyprolidi.cz/cs/1999-359>; ENG: <https://www.mpsv.cz/web/en/system-of-social-and-legal-protection-of-children-in-the-czech-republic>

2. What are the laws and/or policies or bi-lateral agreements covering care arrangements for unaccompanied and separated children (UASC) from foreign countries (with translation into English if available)?

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<https://www.mvcr.cz/clanek/vlada-schvalila-strategicky-material-reseni-uprchlicke-vlny-i-pozici-jejeho-koordinatora.aspx>

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- Act 66/2022 Law on measures in the field of employment and social security in connection with the armed conflict in the territory of Ukraine caused by the invasion of the troops of the Russian Federation (CZ: Zákon o opatřeních v oblasti zaměstnanosti a oblasti sociálního zabezpečení v souvislosti s ozbrojeným konfliktem na území Ukrajiny vyvolaným invazí vojsk Ruské federace - <https://www.zakonyprolidi.cz/cs/2022-66>)
- Act 67/2022 Law on measures in the field of education in connection with the armed conflict in the territory of Ukraine caused by the invasion of the Russian Federation (CZ: Zákon č. 67/2022 Sb., o opatřeních v oblasti školství v souvislosti s ozbrojeným konfliktem na území Ukrajiny vyvolaným invazí vojsk Ruské federace - <https://www.zakonyprolidi.cz/cs/2022-67>)
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- Civil Code (No. 89/2012 Coll.) (Občanský zákoník), 1 January 2014, CZ: <http://www.zakonyprolidi.cz/cs/2012-89>
- Code of Civil Procedure (No. 99/1963 Coll.) (Občanský soudní řád), 1 April 1964, CZ: <http://www.zakonyprolidi.cz/cs/1963-99>
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- Act on the Residence of Foreign Nationals on the Territory of the Czech Republic (No. 326/1999 Coll.) (Zákon o pobytu cizinců na území České republiky), 1 January 2000, CZ: <https://www.zakonyprolidi.cz/cs/1999-326>; EN: <http://www.mvcr.cz/mvcren/article/asylum-and-migration-legal-framework.aspx>

- Act on Special Judicial Proceedings (No. 292/2013 Coll.) (Zákon o zvláštních řízeních soudních), 1 January 2014, CZ: <http://www.zakonyprolidi.cz/cs/2013-292>

3.

- a. What is the legal status of unaccompanied and separated children (UASC) [from Ukraine] in this country?
- b. Does this status guarantee that a child will be able to return to Ukraine once the situation normalises? Or if there is no such “guarantee”/clause please also indicate.
- c. Is there a difference in how the legal system treats the child classified as unaccompanied vs. separated?
- d. Does this status allow the adoption of the Ukrainian child who has entered this country without the consent or participation of parents and/or representatives of Ukrainian relevant state parties?

a.

Assistance and protection provided to children who come to the territory of the Czech Republic unaccompanied by other persons, takes place in the regime of protection of unaccompanied children. To the children who come to the Czech Republic accompanied by persons other than parents, protection and help is provided as needed. Social and legal protection authorities keep records of these children if they are informed about their arrival by Refugee Center (KACPU) or police. Further information can be found under Question 5.

Section 15(1) of *ACT No. 359/1999 Coll. On the Social and Legal Protection of Children* mentions “When a child has been left **without care adequate to his or her age, namely due to the parents’ death or the hospitalisation** etc. thereof, the municipal authority shall be obliged to provide such child with emergency care; in providing such care, the municipal authority shall prefer the child’s relatives. The municipal authority shall immediately notify the municipal authority of a municipality with extended powers of such measure.

https://www.mpsv.cz/documents/625317/625903/Act_359-1999.pdf/87861589-c041-8606-40d1-a6dbfe35d356?msclkid=bdf3cee0c56a11ec9c6549eedfedf49a

b.

Yes, a child will be able to return to Ukraine once the situation normalizes. However, the social and legal protection authorities for children, in cooperation with the Office for the International Legal Protection of Children and the Ukrainian authorities, verify that the child's return to the country of origin is safe and that the children will have adequate care.

c.

There is a clear difference in unaccompanied minors (children coming without any adult person) and separated children (children coming with another adult person than their own parents). For the purposes of social and legal protection, legal guardians of children according to Ukrainian law are also accepted, such as grandparents (great-grandparents) or adult siblings.

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d.

In case of inter-country adoption the principle of subsidiarity must be respected.

The adoption of children with Ukrainian citizenship (especially orphans) in the Czech Republic is the last and most serious measures, in which the following conditions would have to be met at the same time: adoption stipulated in the Civil Code of the Czech Republic and in the Law on the Family of Ukraine. It always requires the consent of the competent central authority of Ukraine. This is time consuming the process by which, on the one hand, it must be carefully verified that there is no possibility of providing the child with any suitable form of alternative care in Ukraine, on the other hand, assessed the personality of the potential adopter so as to provide guarantees of proper upbringing and respecting the child's origin (the child must be granted citizenship for at least 18 years of age of Ukraine).

Office for International Legal Protection of Children recommends Adoption is not a good solution for UA children: Zvýšený zájem o osvojení dětí z Ukrajiny — Úřad pro mezinárodněprávní ochranu dětí (umpod.cz) - <https://www.umpod.cz/aktuality/detail/adopce-neni-pro-deti-prchajici-pred-vaikou-z-ukrajiny-dobre-reseni>;

See also: <https://assets.hcch.net/docs/eb1b47bb-9c5d-48ea-9ae1-249a7e5c2f80.pdf>

4.

- a. What is the legal status (especially the length of the status, benefits and restrictions) of the Ukrainian guardian accompanying a Ukrainian separated child arriving in this country (for example a member of staff from the evacuated institutions which has been appointed by the Ukrainian authorities as a guardian for a group of children during evacuation of an institution)?
- b. What safeguarding measures are in place to check and protect the best interests of the child if the child has a guardian from Ukraine (i.e., verifying who the guardian is, approve the guardian status in relation to the child, provide support and monitoring, etc.)?

a.

The role of a guardian is performed by an adult relative of an unaccompanied minor staying in the territory; if there is no such person or if such person cannot be appointed guardian, another suitable natural or legal person or municipal authority of the municipality with extended competence shall act as guardian, depending on the place where the unaccompanied minor is reported to reside.

For UASC, the guardian is appointed at the beginning of the procedure and it is typically from the Department for Social and Legal Child Protection (OSPOD). The decision on the appointment of the guardian for the international protection procedure is made by the Ministry of the Interior, Department for Asylum and Migration Policy. The main duty of the guardian is to represent the child in all the procedural acts of the international protection application procedure led by the Ministry of the Interior (at 1st instance). When the guardian for the stay is appointed, the procedural guardianship becomes redundant and is thus replaced.

When is a member of staff from evacuated institutions which has been appointed by the Ukrainian authorities as a guardian for a group of children, their custody rights are fully preserved. Other conditions, for example for granting temporary protection etc. are the same as for other refugees from Ukraine.

b.

The decision on the appointment of the guardian for the international protection procedure is made by the Ministry of the Interior, Department for Asylum and Migration Policy.

In general, the guardianship is monitored by the court. As part of the verification procedure, the criminal record of the guardian is verified by the authorities.

The court dismisses the guardian if he/she is not fulfilling his/her obligations. The court concurrently appoints a new guardian. It may be done on the request of the minor.

5.

- a. What are the regulations and procedures in case a child arrives without parents and any legal guardian (or any papers authorizing the person to care for the child), e.g., a child which is looked after by an adult (e.g., a family friend, a neighbour, someone who found the child alone on the street and took it along to keep it safe...)?
- b. May the return of these children to Ukraine, after the normalisation of the situation, be questioned/hampered by the legal status they receive?

a.

In the event that (any) child arrives in the Czech Republic (under 18) or a child accompanied by strangers:

- the child will be provided with social and legal protection as necessary
- the child will be provided with the care of third parties, surrogate families, facilities for children requiring immediate assistance or in an institutional setting for children and young people
- the child will be provided with counseling, psychological care and support, help as needed when looking for relatives or close people, education
- unless exception has been made due to the war in Ukraine, there is no legal provision of prioritisation of the asylum claim of the UAMs, as we have a few cases of UAMs applying for international protection per year. The residence status depends on the need of temporary protection. In case that the minor has been placed into a foster family/facility for children based on a court decision, it is possible to reside permanently in the territory of the Czech Republic based on § 87

Generally speaking, women, children and elderly are reported to have had no problem crossing the border, even without documents, but there have been instances of incidents where men attempted to cross. Public transport is free in most cities on provision of a UA passport or ID card.

What to do if the child (a child unaccompanied by relatives or close persons) arrives in the Czech Republic?

- If the separated/unaccompanied child is located by the Police or other authorities, they are by law obliged to contact local social authority in order to arrange the protection measures towards the child. Thus, Social and Legal Child Protection Authority (hereinafter also referred to as “OSPOD”) is always present. Its employee is designated as a guardian for the child in case there is a procedure in process, if there is not another relevant person.
- The OSPOD (Social and Legal Child Protection Authority) needs to be informed so that the child can be informed of the need to provide counseling and assistance and also to keep track of the child's whereabouts.

- If the child is in the care of the person who took him / her into care (eg in agreement with the parents), OSPOD will provide with family counseling as needed and keep a record of where the child is located.
- If the child does not have secured care, the OSPOD submits a proposal to entrust the child to foster care. For a temporary period, a facility for children requiring immediate assistance or a children's home and continues to monitor the child's situation.
- All children who come from a war must be offered a psychological one help that can be found, for example, on the website: Opatrujse.cz / www.nasiukrajinci.cz
- The Office for International Legal Protection of Children (UMPOD) within MoLSA is the one responsible for providing social and legal counselling for UAMs and municipal authority of the municipality with extended competence depending on the place where the UAM is reported to reside. UMPOD ensures overall social and legal protection of children in relation towards foreign countries, including protection of UAMs.
- During all of the above mentioned procedures the best interest of the child and his/her needs must be considered at first place. Family forms of substitute care should have priority to the placement in a residence facility.
- The separated or unaccompanied minors are every time asked if they have relatives in a Member State. If there is a relative, he/she can be contacted by police authorities or under Brussels IIa Central Authority. If the child has a relative in the territory, such relative can be appointed by the court as his/her guardian. An appropriate attention is payed to the proof of real kinship as well as willingness and capability of the relative to assume responsibility for the child.
- **Healthcare:** Ukrainian children apply preferably for Temporary protection. Under the temporary protection they get access to health care in the same manner as Czech citizens Therefore UAMs and minors seeking asylum have access to healthcare in the same manner as Czech citizens. Psychological support is also available through the staff of ZDC and with regard to the accompanied minors, the psychological support is available through the staff of the reception facilities. The other groups of minors have access to healthcare and psychological support through ZDC Praha. In addition, facility for children requiring immediate assistance is, by law, obliged to ensure healthcare and professional care through social worker and psychologist.
- **Education:** Guardian or tutor (OSPOD in most cases) of the UAM must apply for compulsory school attendance within the school network. UAMs seeking asylum who are place in ZDC Facility for Children – Foreigners are attending primary school within ZDC. Within the ZDC UAMs attend either elementary school (under 15 years) or diagnostic class (over 15 years). The aim of this school is to prepare foreign students for the most successful integration into standard primary or secondary schools in the Czech Republic. Facility for children requiring

immediate assistance ensures help with preparation of children for school and accompanies them to school.

- **Residence:** [From Ministry of Interior website](#): According to Section 93 (1) of the Act on the Residence of Foreigners 326/1999 Coll., a foreigner under the age of 15 is not obliged to report his/her place of residence. **Therefore, he/she does not have to register, but nevertheless, the minors need to hold a residence permit, e.g. temporary protection. Foreigners under 15 years of age are not obligated to attend the registration in person.** (https://www.mvcr.cz/mvcren/docDetail.aspx?docid=22370840&docType=ART#information_for_ua-general_information)

Providing information to the minor on their rights and on procedures:

- Child protection authorities and relevant NGOs as well as UNHCR inform the minors properly. If the applicant for international protection is an UAM and if there are reasonable doubts about his/her age, a medical examination shall be carried out to determine his/her age.
- Information provided in a child-friendly manner: The leaflets suitable for different age groups of minors, trained staff, etc.
- If an UAM refuses to undergo a medical examination, the Ministry will regard him/her as an adult applicant for international protection. If the medical examination to determine the age referred to in the first sentence is not conclusive, the Ministry shall treat the applicant for international protection as an UAM. The same is applied for UAMs not applying for asylum who are registered within the migration system.

Procedure for family reunification:

- A member of the family of a recognised refugee will be granted asylum for the purpose of family reunification in case of special consideration, even if the grounds for granting international protection are not found in his/her international protection proceedings. Includes: a) the spouse or partner of the recognised refugee; b) a single child of a recognised refugee under 18 years of age; c) the parent of an asylum seeker under 18 years of age; d) an adult responsible for an unaccompanied minor; or e) a single sibling of an asylum seeker under 18 years of age.
- The relevant rules of the Act on the Residence of Foreigners in the Czech Republic are applicable in the case of UAMs not applying for international protection. It is necessary to mention that there is not much experience because the Czech Republic has very few cases of UAMs.

- Relevant regulation: under the Dublin Regulation (No. 604/2013) & the Act on the Residence of Foreigners 326/1999 Coll.

6. Which government ministry/department is responsible for the:

- a. the care of children temporarily or permanently deprived of family care & would it be possible to provide immediate contacts?
- b. the care of unaccompanied and separated children (UASC) [from Ukraine] & would it be possible to provide immediate contacts?

a.

The Ministry of Labour and Social Affairs (MoLSA) — Department of Social and Legal protection of Children – marketa.ferencova@mpsv.cz, posta@mpsv.cz; <https://www.mpsv.cz/web/cz/kontakty-na-pracovniky-mpsv>

Office for International Legal Protection of Children (UMPOD). Contacts: podatelna@umpod.cz, <https://www.umpod.cz/en/contacts/e-mail-and-phone>

b.

The Ministry of Labour and Social Affairs (MoLSA) — Department of Social and Legal protection of Children – marketa.ferencova@mpsv.cz, posta@mpsv.cz; <https://www.mpsv.cz/web/cz/kontakty-na-pracovniky-mpsv>

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7. Has the government adopted specific legislation/policy or bi-lateral agreements on USAC from Ukraine? If not, would the government develop such legislation / regulations or bilateral agreements?

On March 17, 2022, a special law Lex Ukraine was passed, which responds to the situation in Ukraine and simplifies and speeds up processes as much as possible in order to provide all necessary support and care to all refugees from Ukraine:

- Law No.65/2022 on certain measures in connection with the armed conflict in the territory of Ukraine caused by the invasion of Russian troops federation

- Law No. 66/2022 on employment and social security measures in connection with armed conflict on territory of Ukraine caused by the invasion of troops of the Russian Federation
- Law No. 67/2022 on measures in the field of education in connection with the armed conflict in the territory of Ukraine caused by the invasion of troops Russian Federation

Dedicated website: <https://www.mpsv.cz/documents/20142/2942091/Lex+Ukrajina.pdf/6b4c4499-71be-5fd9-7d8f-ec4335af4514>

8.

- Has the government in this country put in place a system/process to track children from Ukraine, especially UASC?
- Who is responsible for identification and registration of these children, as well as accommodation and care?

a. We were unable to confirm whether such a system exists in Czechia.

b. We were unable to confirm who is responsible for this information in Czechia.

9. Which authorities have responsibility for family tracing and reunification? Contact information provided where available.

Family tracing is initiated by the authority which knows indications about the family members abroad. The Office for International Legal Protection of Children (UMPOD) is, by law, obliged to cooperate with state authorities and other institutions abroad and help to search for parents or other relatives of the UAM. For more information, see: <https://www.umpod.cz/>.

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mention that there is not much experience because the Czech Republic has very few cases of UAMs.

Relevant regulation: under the Dublin Regulation (No. 604/2013) & the Family Reunification Directive 92003/86/EC).

Additional relevant information & resources:

- Dedicated website: <https://www.mvcr.cz/clanek/informace-pro-obcany-ukrajiny.aspx>; Ministry of Interior helpline: +420 974 801 802; ukrajina@mvcr.cz
- Information guide on the web: <https://www.nasiukrajinci.cz/>
- The government has set up a national coordinator who will coordinate and manage measures in cooperation with ministries, regions and cities. The National Coordinator will report directly to the Government and will have its own strategic team, including a Strategic Communication Coordinator and a Coordinator for providing financial support from the EU budget. Based on the government's decision, these positions will be temporarily held by Vít Rakušan (National Coordinator & 1st Deputy Prime Minister and Minister of the Interior), Media and Disinformation Commissioner Michal Klíma (Strategic Communication Coordinator & Adviser to the Prime Minister of the Czech Republic) and Minister for European Affairs Mikuláš Bek (EU Budget Support Coordinator).