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“We Must Provide a Family, Not Rebuild Orphanages”

The Consequences of Russia’s Invasion of Ukraine for Children
in Ukrainian Residential Institutions



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Summary

Lviv, in western Ukraine, had largely been spared Russian attack until around 8:30 a.m. on April 18, 2022, when four cruise missiles killed seven people. One missile hit a car tire factory a few hundred meters from a residential institution for children. The institution's director said 27 children had lived there before Russia's full-scale invasion of Ukraine on February 24, but that at the time of the attack there were an additional 50 children who had been evacuated from other residential institutions in eastern Ukraine, for safety. Some children were sleeping two to a bed.

Anton, 16, was from an institution in Lysychansk, a city in the Luhanska region. He slept through the air-raid sirens in Lviv that morning. "I woke up from an explosion and realized they were bombing because paint was falling from the ceiling," Anton told Human Rights Watch. He and his friend Volodymyr, 16, ventured outside and found jagged, heavy metal remnants of the missile on the institution's grounds, which they collected in a plastic bucket and later gave to Ukrainian war crimes prosecutors. One remnant flew through a kitchen window and landed between the cook's feet.

Three caregivers accompanied the 22 children from Anton's institution when they were evacuated to Lviv. The three women had been working for months without a break and were distraught about the lives and safety of family members left behind, and their own future. "We're exhausted, and we don't know what happens next," said Irina. "Our institution [in Lysychansk] was bombed two days after we left. We were sheltering in the hospital at the time, and it was hit later. My home was destroyed."

This report documents the consequences of Russia's 2022 war against Ukraine for children and staff who had been evacuated from institutions in areas of eastern Ukraine, at the front line of the war at the time, to a dozen institutions in the Lvivska region and three institutions in Łódź, Poland. The war meant many children in institutions had to shelter from bombardments in basements without electricity or running water, for weeks. A group of children from an institution in Mariupol did not speak for four days after they were evacuated to Lviv, in March 2022, apparently due to trauma, one volunteer said. Dozens of Ukrainian children's institutions have been damaged or destroyed. Most were built before 1991, during the Soviet period, likely with materials containing asbestos, a carcinogen,

which may have been released into the environment by attacks. Institutions that had housed tens of thousands of children are in areas which at time of writing are under Russian occupation or where hostilities are most intense. Human Rights Watch has documented Russia's forcible transfer of children from Ukrainian residential institutions. In December 2022, a Russian official in charge of children's rights stated in an interview that almost 400 Ukrainian children had been "adopted" by Russian families. Inter-country adoption is prohibited during armed conflict; the forcible transfer of civilians from occupied territory is a war crime.

The war adds to the urgency for Ukraine to implement promised reforms to its institutional care system for children, by expanding a system of family and community-based care. As Ukrainian officials have acknowledged, institutional systems are harmful to children. Studies from around the world have shown for decades that placing children in institutions deprives them of the chance to form stable emotional attachments and harms their cognitive development. The younger the child and the longer they remain in institutions, the worse the harms. The United Nations Committee on the Rights of Persons with Disabilities has called for universal deinstitutionalization of children and acceleration of deinstitutionalization plans including during armed conflict, and found that children placed in institutions are likely to develop impairments and that existing impairments are likely to be exacerbated.

At a meeting in Kyiv in May 2022, the Minister of Social Policy at the time, Maryna Lazebna, told Human Rights Watch, "for every child who suffered from the nightmare of this war we must provide a family, not rebuild orphanages." The current Minister, Oksana Zholnovych, told the UN Committee on the Rights of the Child in August 2022 that she, along with the President and the Prime Minister of Ukraine, "believe jointly that deinstitutionalization reform is highly needed in Ukraine, therefore together we are going to do everything possible to minimize the number of children in institutional care." In an interview with the BBC in September, Olena Zelenska, Ukraine's First Lady, said, "We want kids to stay in foster families and adopted families, in family-type settings. There should be no more orphanages around." On February 3, 2023, President Zelenskyy pledged that as part of Ukraine's European Union-accession reforms, and with EU support, the government will "change the system of children's institutions in our country" to family-type settings. The Ukrainian government should ensure, and its allies should support, the realization of these goals.

According to data reported by Ukraine’s National Social Service, there were more than 105,000 children in residential institutions in Ukraine when Russia launched its full-scale invasion on February 24, 2022. This is the highest number of institutionalized children in Europe, after Russia. Ukraine adopted a 10-year deinstitutionalization plan in 2007, but by late 2015 it had not closed any institutions. It launched another 10-year reform plan in 2017, which aimed to reduce the number of children in institutions by 90 percent by 2026, but in 2021 the government excluded institutions with about 50,000 children, many with disabilities, from reform plans. Despite the reform plans, the number of children’s institutions in Ukraine increased from 663 in 2015, to 718 in 2019, to 727 in 2022.

Russia’s full-scale invasion triggered the mass evacuation of many children from institutions, often mislabeled “orphanages,” to their families. Ninety percent of the children in Ukraine’s institutions have at least one parent with parental rights and were placed in the institutional system for reasons related to poverty or because their parents were otherwise not able to support them. To minimize the risk of attacks causing mass child casualties, Ukrainian authorities ordered institutions to send home children with parents or guardians. Ukraine is cooperating with the United Nations Children’s Fund (UNICEF) on a program to monitor and support the needs of nearly 39,000 children who were sent home from round-the-clock institutionalization during the war. But while the program was able to reach and assess 13,000 children, the remaining 26,000 children sent home from institutions had not yet been reached or supported. Responsibility falls to local authorities to monitor and assess these children, but they often lack the staff and resources to do so, according to Ukrainian and international child-rights and disability-rights groups, who have called for an urgent mapping of all children in institutions as well as those discharged from institutions to ensure they are identified, located, and supported.

Ukrainian civil society groups also voiced concerns that many families did not receive financial or other support to facilitate proper care. Many children’s needs may be greater now than when they were first institutionalized, as the World Bank estimates that Russia’s war against Ukraine and the Russian naval blockade has caused US\$349 billion in damage to Ukraine’s economy and may force 30 percent of Ukraine’s population into poverty. Without alternatives, families with prior experience of institutionalizing children may be likely to feel that their only option is to re-institutionalize their child when it is deemed safe to do so. In November 2022, an assessment by an international organization of 1,300

children who had been sent home from institutions in the Zhytomyr region, which was shared with Human Rights Watch in advance of being published, found that only 30 percent were still living with their families, after the Ministry of Social Policy issued an order permitting children to be returned to institutions that were equipped with bomb shelters. Ukraine's National Social Service informed Human Rights Watch that as of December 31, there were still 25,061 children staying in institutions.

The Ukrainian authorities, together with the governments of states hosting children from Ukrainian institutions, and donor governments giving aid to Ukraine, should ensure that children are not re-institutionalized, and that instead their families are provided with financial support to care for them. Parents and other extended family members of children with disabilities should also be provided with the necessary and systematic support to care for their child at home.

About 6,750 children were evacuated elsewhere in Ukraine or abroad; as of December 2022, 693 of these children had returned to their original institutions, and 537 had returned to their families, according to the Ukrainian authorities. Some of these children have disabilities and high support needs and might need 24-hour personal care and support. Because institutional staff themselves were facing the crisis of evacuating their families, only a fraction of staff traveled and remained with the children, which one official responsible for five residential institutions in Donetsk region estimated was often one adult per eight or more children. Ukrainian regulations for evacuation state that at least one caregiver must be available for 15 children, or one caregiver for 4 children with disabilities. A former administrator at one institution, who had not previously provided physical care for children, said, "I was assigned to evacuate with them just because I was there at the time." Like others who spoke to Human Rights Watch, she was exhausted after acting as a caregiver for children for months without a break.

In some reported cases, staff members accompanied children only until they reached another institution, meaning caregivers at the second institution struggled to cope, and children lacked adequate care. Ukrainian civil society groups have also called for urgent, nationwide monitoring of conditions at all institutions where children were not evacuated, to identify cases where many of the institutions' staff may have left and where wartime shortages and cuts may be harmful to children who remain. Disability rights groups, news media, and UN committees have reported cases in Ukraine of children with disabilities

who experience abusive situations in understaffed institutions, including children whom staff had restrained by tying them to their beds.

In a positive move, Ukraine set up an online system that allows families to register to foster children temporarily, during the war; more than 2,000 families had fully completed their applications and received the required trainings as of November 2022, although only 39 had succeeded in submitting all the required paperwork to adopt. But in the meantime, children are being newly institutionalized, including children whose parents were killed and wounded, as well as whose parents experienced mental health crises due to the war. Other children are stuck in the child welfare system: judicial procedures related to adoptions, parents' ability to regain custody, and the cancellation of parental rights have often been disrupted or suspended due to the war.

Ukraine, its allies, and humanitarian agencies should adopt a coordinated strategy with the goal of urgently ensuring the welfare of children still in institutions as well as those sent home to their families, and to prevent children from being newly institutionalized. They should also address risks to at least 4,500 children from institutions who were displaced abroad. In the chaotic first weeks following the full-scale invasion, millions of people tried to leave Ukraine, and Ukrainian border guards were confronted with queues that were in places dozens of kilometers long, in freezing temperatures. They adopted, as many had urged, a "simplified procedure," which meant they did not consistently register children's identification documents, and adults with children were sometimes waved through. European governments collected data on entering Ukrainian children that were not shared with the Ukrainian authorities. Ukraine instructed staff from the children's institutions who were evacuated abroad to register the children at Ukrainian consulates, but a Ukrainian monitoring mission had found in April 2022 that the number of children reported to have been sent abroad by Ukraine's National Social Service was hundreds higher than were registered at consulates. Ukraine should continue efforts to ensure that all children abroad are identified and registered. In a positive step, in January 2023, Ukraine requested Child Rights Connect, a civil society network, to collect and share data on children in institutions evacuated to Europe.

Ukrainian authorities often organized evacuations of children and staff from several institutions at once. To keep track of them, however, Ukraine has required these groups to remain together while abroad. In one case, a group of more than 700 children and

caregivers from several institutions was evacuated to Poland, where the only accommodation volunteers could find for them was an isolated resort hotel complex. A Ukrainian official told Human Rights Watch that the policy helps keep children in a familiar environment with staff who know their case histories. The government also has a legitimate interest in keeping track of the children, who it insists will return after the war. These goals could be met with a more flexible policy that better accounts for the best interests of the child, including their right to family and community-based living, as well as the welfare of staff. In October 2022, the UN committees on children’s rights and the rights of persons with disabilities jointly called for Ukraine to “repeal” this policy of requiring that “evacuated children must remain together in groups.” Ukrainian civil society groups have also called for the authorities to ensure that children from institutions who were evacuated abroad can be returned home and placed with Ukrainian foster parents.

Poland, which received the largest number of children from Ukrainian institutions—and of refugees—overall, has shown leadership by establishing new procedures to enable Ukrainian children’s relatives, foster family members, or caregivers to be recognized as temporary guardians under Polish law. Italy, however, requires that an unaccompanied child’s guardian be an Italian national. In one case, an Italian court exceptionally granted a form of guardianship to a Ukrainian institution director, but in another, a civil society group that helped evacuate children to Italy is tied up in expensive, time-consuming legal difficulties, and Ukrainian authorities have said the children should be returned to Ukraine. Some children also faced difficulties in Portugal; in one case, Ukrainian nationals brought 15 foster children to Portugal, but the authorities only recognized them as the guardians of five of the children, leaving the other ten children in their care unable to access government funding, healthcare, or education.

Ukraine has sought to negotiate formal agreements with 23 European governments on hosting children from Ukrainian institutions but succeeded in reaching agreements only with Poland and Lithuania. Such agreements should affirm the parties’ obligation to base all decisions about children on the child’s best interest, and comply with UN Guidelines on deinstitutionalization, which provide that “refugees and internally displaced persons should not be returned to institutions after emergencies or when conflict subsides.” Children who were evacuated from Ukrainian institutions to other European countries may benefit from better conditions—most European countries closed large institutions years ago and have foster-care and guardianship systems—but when it is safe to do so, it may

also be in the child’s best interest to enable their return to live with their parents or family members within their communities in Ukraine. Small group homes should be used only on a temporary basis and for the shortest amount of time possible until a child can be reunited with their biological family, or have an opportunity to live in other family-like environments with relatives, foster families, or adoptive parents. To avoid a scenario where funding to Ukraine would result in the funding of children’s institutions, in which returning children would be placed, donor countries should urgently work with Ukraine to improve its family- and community-based alternatives to institutions, and ensure that their funding, such as pledges of recovery funds, supports returning children to their parents or other family-like settings, not institutions.

Recommendations

To the Ukrainian Coordination Council for the Protection and Safety of Children, UN and other humanitarian agencies, and foreign donor governments providing humanitarian, multilateral, and bilateral aid to Ukraine:

- Support Ukraine to conduct nationwide monitoring to ensure the rights of all children who were living in institutions at the time of the full-scale Russian invasion, including access to adequate care, housing, food, and education.
- The UN should establish an inter-agency task force dedicated to identifying the whereabouts and ensuring the welfare and return of unaccompanied and separated children who were forcibly transferred within Ukraine or deported to Russia, including children who were illegally adopted and naturalised. Impartial humanitarian agencies should play a lead role in ensuring tracing and reunification protocols are in place and operating. The Office of the UN High Commissioner for Refugees (UNHCR) should seek access to all unaccompanied Ukrainian children in Russian-occupied territories of Ukraine and in the Russian Federation, and Russian authorities should ensure UNHCR's unfettered access to these children.
- Ensure that children who were sent home from institutions due to the war are not re-institutionalized, that their needs are assessed, and that their families receive financial and other support sufficient to care for the child, including the needs a child and the family might have because of a disability.
- Support and strengthen the families of children currently placed in institutions or abroad with the aim of reuniting these children with their families. Ensure that children in institutions can be reunited with and cared for by their parents or family members, or—if this is not possible because the child or parent was evacuated or because it is not in the child's best interest—that they are cared for through family- and community-based alternatives, such as foster or adoptive care systems. Ensure children with disabilities are included in these efforts without discrimination.
- Ensure that to the greatest extent feasible, children in institutions whose parents are deceased or had their parental rights canceled, can be placed with their other

- family members or with Ukrainian adoptive and foster families, respecting the ban on wartime inter-country adoptions.
- Establish policies to protect children from being newly placed in institutions during or after the conflict, particularly children from groups at risk of institutionalization, such as children from socio-economically disadvantaged families and children with disabilities. Address the needs of children with disabilities and their families in order to prevent their institutionalization, and establish and maintain a range of community-based services and support for children with disabilities, including financial support, rehabilitation and vocational services, and inclusive education.
 - Establish policies and develop a clear action plan for deinstitutionalization of all children, including by reversing the June 2021 law that excludes many institutions from such reform plans.
 - Adopt a deinstitutionalization strategy that meets or exceeds prior goals to move 90 percent of all these children into family- and community-based alternatives by 2026 or earlier.
 - Adopt a policy decision to ensure Ukrainian and foreign funding will not support institutions for children or perpetuate institutionalization, consistent with the 2022 Guidelines on deinstitutionalization by the UN Committee on the Rights of Persons with Disabilities, and to ensure transparency and monitoring to verify that financial support is directed to children and their families rather than institutions or children's return to or new placement in institutions.
 - Relieve the strain on caregivers who were evacuated from institutions and who have been caring for children since Russia's full-scale invasion, in Ukraine and abroad, by prioritizing reuniting these children with their families where possible, or providing them with family-like environments.

To the Ukrainian Ministry of Social Policy:

- Except when it is contrary to the best interest of the child, do not require displaced children abroad to remain in the same groups as when they crossed the border, where there is a lack of suitable locations that can accommodate large numbers of children and provide access to education, health care, and other services, or where such arrangements risk recreating the harms caused by institutionalizing children.
- Establish procedures to redress situations where decisions cannot be taken regarding the child's best interest, such as cases where Ukrainian civil court

- procedures are frozen or where the director of the child’s institution is considered to be their legal guardian but is not reachable due to the consequences of the war.
- Prioritize a family’s right to raise their children and the principle that children are usually best raised in their families, establish gatekeeping and monitoring procedures to prevent the institutionalization of children, and establish effective support mechanisms to prevent institutionalization of children due to poverty or difficult life conditions.
 - Establish and maintain a range of community-based services and support for children with disabilities, including financial support, rehabilitation and vocational services, and inclusive education. Ensure these services and support account for children who require intensive support or who may be at risk of remaining in institutions indefinitely. Include children with disabilities, their families, and disabled persons’ organizations in the planning and development of services.

To the Ukrainian government, the European Commission, and countries hosting children from Ukrainian residential institutions:

- Ensure that every decision relating to the evacuation, reception, hosting, and return to Ukraine of children from institutions is based on the best interest of the child, including their right to live in family and family-like settings, and that this principle is at the core of any agreements between Ukraine and host countries.
- Ensure that all children who left Ukraine and traveled to European countries are accounted for and reunited with their siblings and their families.
- Urgently establish standard operating procedures and coordination mechanisms to prevent and address cases where children from Ukrainian institutions and unaccompanied children are caught between conflicting Ukrainian and host country laws and policies on unaccompanied children, foster care, and guardianship.

To the Ukrainian and Russian governments:

- Ratify the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

To the Russian government and Russian-affiliated authorities:

- Do not prevent civilians in areas occupied by Russian and Russian-affiliated forces from leaving to Ukrainian-controlled territory or any other third country if they choose, and in particular, do not jeopardize their safe passage. Allow independent, neutral parties to facilitate civilian evacuations to Ukrainian-controlled territory, including by providing buses to different destinations, to ensure civilians have a meaningful choice.
- Publish the number and whereabouts of all children and staff transferred from Ukrainian institutions to Russia or Russian-occupied territory, and facilitate their contact with their families, Ukrainian child protection agencies, and international humanitarian agencies, as well as their return to Ukraine.
- Do not enforce, and cancel any legislation that limits the ability of Ukrainian families, guardians, or authorities to obtain the return of Ukrainian children who were transferred to Russia or Russian-controlled territory, including laws on granting Russian nationality and enabling the adoption of Ukrainian children.

Methodology

This report is based on research conducted by Human Rights Watch in Poland in March and Ukraine in May 2022. In Poland, we interviewed 10 staff and 16 children from five Ukrainian residential institutions for children, including six children with disabilities, as well as nine Polish volunteers who had arranged for evacuation and housing, two Polish municipal officials, and staff from UN agencies with knowledge of evacuations of unaccompanied children including children who had been in institutions. The Polish Ministry of Family and Social Policy provided written information about policies and procedures regarding children from Ukrainian institutions.

In Ukraine, we visited 12 residential institutions for children in Lviv and the surrounding region, and interviewed 39 staff, 21 children, and two regional officials who had been evacuated from institutions in Donetsk, Luhansk, and elsewhere. We met with four civil society groups supporting alternatives to institutionalization for children in Ukraine, as well as with UN staff focusing on education and child protection. We spoke with Ukrainian government authorities including the Minister of Social Policy, the Advisor-Commissioner of the President for the Rights of Children and Children’s Rehabilitation, the Advisor to the President and Humanitarian Corridor Effort Coordinator, and the regional director of children’s rights and adoption in the Lvivska region. The National Social Service of Ukraine provided additional written information about children in institutions in January 2023.

Our interviews with Ukrainian children, caregivers and staff, government officials, and civil society groups were conducted in Ukrainian through interpreters, or in Russian. We interviewed Polish officials, volunteers, and civil society groups in Polish through interpreters or in English. We informed children and adults of the purpose of the interview, and that their participation was voluntary, would not be remunerated, and could be stopped at any time. Interviews with children were conducted in private, without the presence of institutional staff.

I. Background: Harmful Legacy of Children’s Institutions in Ukraine

There are more than 700 residential institutions for children in Ukraine, the vast majority of which were built before 1991, under the Soviet Union, and many in the 1950s and 60s.¹

Decades of studies conducted around the world have found that placing children in institutions is detrimental to children.² Institutions are ill-equipped to provide individual care and to support every child’s needs, and institutionalization can instead cause lifelong harm to children’s physical and psychological development. The younger the child, and the longer they remain in institutions, the worse the consequences.³ According to the UN Committee on the Rights of Persons with Disabilities, “children placed in institutions ... are likely to develop impairments, or existing impairments are likely to be exacerbated, as a result of institutional placement.”⁴

Since 2005, Ukrainian law has required the authorities to “take significant measures” to pursue “adoption, guardianship, foster families, or family-type orphanages” for children, rather than institutionalization.⁵ Under Ukrainian law, children ages 14 and older may have

¹ Hope and Homes for Children, *The Illusion of Protection: An Analytical Report Based on the Findings of a Comprehensive Study of the Child Protection System in Ukraine*, 2017, pp. 16, 64, https://www.openingdoors.eu/wp-content/uploads/2017/12/The-illusion-of-protection_eng.pdf.

² See The Lancet: Child and Adolescent Health, “Institutionalisation and deinstitutionalisation of children” (a Lancet Group Commission), June 23, 2020, <https://www.thelancet.com/commissions/deinstitutionalisation>.

³ Johnson R., Browne K., Hamilton-Giachritsis C., “Young children in institutional care at risk of harm,” February 2006, *Trauma Violence & Abuse* 7(1):34-60, DOI:10.1177/1524838005283696; Nelson, C. et al., “Cognitive recovery in socially deprived young children: the Bucharest early intervention project,” *Science*, 21 Dec 2007, Vol 318(5858): 1937-1940, DOI: 10.1126/science.1143921; Bos, K. et al., “Psychiatric outcomes in young children with a history of institutionalization,” 2011, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3445019/>.

⁴ Committee on the Rights of Persons with Disabilities, Guidelines on deinstitutionalization, including in emergencies, para. 45, CRPD/C/5, September 9, 2022, <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd-c5-guidelines-deinstitutionalization-including>.

⁵ Law on ensuring the organizational and legal conditions for the social protection of orphan children and children deprived of parental care, No. 2342-IV, January 13, 2005, art. 6, cited in Liudmyla Kryvachuk, “Transformation of Social Services in Ukraine: the Deinstitutionalization and Reform of the Institutional Care System for Children,” *Labor et Educatio*, nr 6/2018, January 2018, p. 141, available at https://bettercarenetwork.org/sites/default/files/2021-04/Transformation_of_Social_Services_in_Ukraine_the_D.pdf.

“guardians” who must approve decisions like travel and schooling, foster families have one to four children, and “family-type orphanages” have five to ten.⁶

Under international law, children “should grow up in a family environment.”⁷ Children may not be separated from their parents unless that separation lies in the child’s best interests.⁸ States may not remove a child from parental care due to poverty, and should prioritize solutions that address poverty through support to families and communities.⁹

Ukraine launched a 10-year deinstitutionalization reform plan in 2007.¹⁰ At that time, the United States Agency for International Development (USAID) supported a program to provide alternatives to institutionalization in Ukraine, but an internal review later found the program collected no baseline data or information about whether its targets, output, or impact goals were fulfilled.¹¹

A nationwide study conducted in late 2015 of all children’s institutions in Ukraine at the time—which included baby homes, children’s care homes, children’s homes, boarding schools of general education, education and rehabilitation centers, sanatorium boarding schools, “specialized” as well as “special” boarding schools of general education, and educational complexes—found that “not one had stopped being an institution as a result” of the reforms introduced in 2007.¹²

⁶ Kryvachuk, *ibid.*; Ukraine Ministry of Social Policy, “Family-type orphanage,” <https://www.msp.gov.ua/content/dityachiy-budinok-simeynogo-tipu.html>; see also, for example, Deti.zp.ua, <https://www.deti.zp.ua/a.php?n=900040>.

⁷ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 UN GAOR Supp. (No.49) at 167, UN Doc. A/44/49 (1989), entered into force September 2, 1990.

⁸ The “best interests of the child” standard is incorporated into Ukrainian domestic law. Law “On the Protection of Childhood,” April 26, 2001 No. 2402-III. Cited in Kryvachuk, “Transformation of Social Services in Ukraine: the Deinstitutionalization and Reform of the Institutional Care System for Children”. EU law also requires best interest determinations including for unaccompanied migrant children. European Union Fundamental Rights Agency, “Relocating unaccompanied children: Applying good practices to future schemes,” 2020, p. 9, <https://fra.europa.eu/en/publication/2020/relocation-unaccompanied-children>.

⁹ United Nations Guidelines for the Alternative Care of Children, adopted February 24, 2010, G.A. Res. A/RES/64/142, paras. 15, 56.

¹⁰ “State Targeted Social Program for Reforming the System of Institutions for Orphan Children and Children Deprived of Parental Care,” for 2007-2017, approved by Cabinet Decree No. 1242, October 17, 2007. Cited in Kryvachuk.

¹¹ USAID, Office of the Inspector General, “Audit of USAID/Ukraine’s Displaced Children and Orphans Fund Activities,” November 2008, <https://oig.usaid.gov/sites/default/files/2018-06/9-000-09-002-p.pdf>.

¹² Hope and Homes for Children, *The Illusion of Protection: An Analytical Report Based on the Findings of a Comprehensive Study of the Child Protection System in Ukraine*, 2017, pp. 12, 39.

The study found that just 9.3 percent of the children in institutions—about 9,300 children—were placed there by child welfare authorities because they were orphans or had parents whose parental rights had been cancelled.¹³ The other 90,600 children had been placed in institutions by their parents due to poverty, difficult life circumstances, or other reasons, rather than receiving support to live with their families and be included in their communities.¹⁴ In a November 2020 submission to the UN Committee on the Rights of the Child, Ukraine acknowledged that “most children enrolled in and staying in residential care institutions of all types are not orphans, have no serious illness or disease and are in an institution because their families are in difficult circumstances.”¹⁵

More than one in four children had been institutionalized for 5 to 10 years or longer, the study found. Around 90 percent of all children in institutions had been diagnosed with a disability, and the study found evidence that misdiagnoses were common. However, whether a child has a disability or not should not be the reason for a child’s referral to an institution. Institutionalization of children with disabilities because of the disability is discriminatory and a violation of their right to family and community life.¹⁶

The next 10-year reform plan, launched in 2017, aimed to reduce the number of children in Ukraine’s institutions by 90 percent by 2026.¹⁷ The plan created a National Office for Deinstitutionalization Reform, and placed the Ministry of Social Policy in charge.¹⁸ But by 2019, there were still 6,200 children in Ministry of Social Policy facilities, and 93,500 children in children’s homes and boarding schools run by the Ministry of Education and

¹³ Ibid., pp. 12, 43 (“Grounds for placing children in residential facilities”).

¹⁴ By the end of 2020, nearly 70,000 children were deprived of parental care or were orphans, 90 percent of whom were being cared for by other family members or in family-type arrangements. Committee on the Rights of the Child, “Combined fifth and sixth reports submitted by Ukraine under article 44 of the Convention, due in 2018, [received Nov 2020],” December 3, 2021, paragraph 112, and “Replies of Ukraine to the list of issues in relation to its combined fifth and sixth periodic reports [received: 4 January 2022],” January 14, 2022, paragraph 65, CRC/C/UKR/RQ/5-6.

¹⁵ Government of Ukraine, “Combined fifth and sixth reports submitted by Ukraine under article 44 of the Convention, due in 2018, [received Nov 2020],” December 3, 2021, paragraph 118.

¹⁶ Hope and Homes for Children, *The Illusion of Protection*. Child-care specialists in Poland who are now hosting Ukrainian refugee children told Human Rights Watch they suspected some of the children had been misdiagnosed as having intellectual disabilities. Human Rights Watch interviews with Łódź municipality director of foster care, and two volunteer experts supporting the municipality’s care for Ukrainian children from institutions, March 14, 2022.

¹⁷ “National Strategy for Reforming the System of Institutional Care and Upbringing of Children for 2017–2026,” Cabinet Decree of August 9, 2017, No. 526-p. The 90 percent figure is reported by the Ministry of Social Policy, “Deinstitutionalization” (website), <https://www.msp.gov.ua/timeline/Deinstituczalizaciya.html>.

¹⁸ “National Strategy for Reforming the System of Institutional Care and Upbringing of Children for 2017–2026,” Cabinet Decree of August 9, 2017, No. 526-p.

Science.¹⁹ Civil society groups highlighted special-interest lobbying by institutions, which employ tens of thousands of people and garner substantial budgetary support. The reform “was launched with huge PR, but they didn’t have money in the state budget for deinstitutionalization, while the institutions had a huge budget,” said a civil society advocate, who also helped evacuate many children’s institutions after the invasion.²⁰

The plan banned placing children younger than 3 years old in institutions, but by 2020, there were nearly 2,800 children ages 0 to 6 years old in 38 “baby houses,” many run by the Ministry of Health.²¹ A 2020 report on 415 children in five baby homes found that 60 percent had been placed there before they were 12 months old, and a third had been institutionalized for more than 2 years.²² Nearly half had parents with full parental rights.

In June 2021, a government decision ended monitoring of the ban on placing children younger than 3 years old in institutions. It also excluded from the deinstitutionalization reform several types of institutions—special boarding schools, education and rehabilitation centers, and sanatorium boarding schools—mainly for children with disabilities, with a combined population of more than 50,000 children, half the total number of institutionalized children in the country.²³ Ukrainian staff from children’s rights groups who were involved in the issue at the time told Human Rights Watch that the roll-back of deinstitutionalization reform plans followed legitimate concerns over rushed efforts to send children home from institutions during the Covid-19 pandemic in early 2020, but that these concerns were politicized.²⁴ The Ukrainian government reported to the UN Committee on the Rights of the Child in January 2022 that the number of children in

¹⁹ Ministry of Social Policy, “Deinstitutionalization” (website, data as of 2019). See also Liudmyla Kryvachuk, “Transformation of Social Services in Ukraine: the Deinstitutionalization and Reform of the Institutional Care System for Children,” p. 144-45.

²⁰ Human Rights Watch telephone interview with D., director of a civil society organization, May 14, 2022.

²¹ Hope and Homes for Children, *Behind the Mask of Care: A Report Based on the Situation Analysis of Baby Homes in Ukraine*, 2020, <https://www.hopeandhomes.org/wp-content/uploads/2022/03/Behind-the-Mask-of-Care-Hope-and-Homes-for-Children-Ukraine.pdf>.

²² Hope and Homes for Children, *Behind the Mask of Care*, p. 14.

²³ “On amendments to the National Strategy for Reforming the System of Institutional Care and Upbringing of Children for 2017-2026,” Hope and Homes for Children, Validity Foundation, ENIL, et al., “A worrisome U-turn on ending the institutionalisation of children in Ukraine,” October 2021, https://www.eurochild.org/uploads/2021/10/Joint-Statement_Care-reform-in-Ukraine_October-2021.pdf.

²⁴ Human Rights Watch interview with H., Kyiv, May 19, 2022, and G., by videocall, on December 9, 2022; the individuals work at different civil society organizations that advocate for deinstitutionalization.

“boarding institutions” had decreased to 77,010, a reduction of 19 percent of the pre-pandemic population in this type of children’s institution.²⁵

Based on nationwide surveys and governmental data and statements, the number of children’s institutions increased from 663 in 2015, to 718 in 2019, to 727 in 2022.²⁶ Meanwhile, from 2017 to 2022, the number of children in Ukrainian foster families decreased by 11 percent to fewer than 6,000 children, according to official data, civil society groups reported.²⁷ According to a Ukrainian civil society expert on institutions, the existing “gatekeeping” restrictions on the institutionalization of children are insufficient and give unlimited rights to the directors of institutions to enrol children without requiring standardized assessments or child-protection measures.²⁸

According to data from SURGe, a Canadian-funded initiative supporting the Ukrainian National Social Service, there were 105,459 children in institutions by the time of the February 2022 invasion.²⁹ As noted, more than nine out of ten Ukrainian children in residential institutions, which are inherently harmful, have living parents with full parental rights.

The deinstitutionalization reforms have, however, laid the foundations for a shift to family-based care for children. Since 2016, Ukrainian law has recognized foster families; a 2020 law on social services prioritizes support to families in “difficult life situations”; and the government had increased benefits for each child and adopted the principle of “the money

²⁵ Committee on the Rights of the Child, “Replies of Ukraine to the list of issues in relation to its combined fifth and sixth periodic reports [received: 4 January 2022],” January 14, 2022, paragraph 73, CRC/C/UKR/RQ/5-6.

²⁶ Hope and Homes for Children, *The Illusion of Protection: An Analytical Report Based on the Findings of a Comprehensive Study of the Child Protection System in Ukraine*, 2017, p. 12; Ministry of Social Policy of Ukraine, “Deinstitutionalization” website (citing data from 2019), <https://www.msp.gov.ua/timeline/Deinstitutualizaciya.html>; UN Committee on the Rights of the Child, 2635th Meeting, 91st Session, Consideration of Ukraine, remarks from the Ukrainian delegation at around 42 minutes, August 31, 2022 (“We also monitor 727 residential care facilities”), <https://media.un.org/en/asset/k1w/k1w4tzvcp1>.

²⁷ Joint NGO report, “Situation on the Rights of the Child in Ukraine between 24th of February - August 2022 during the War in Ukraine,” August 2022, para. 176.

²⁸ Electronic communication with Human Rights Watch, January 24, 2023.

²⁹ Reuters, “Emptying Ukraine’s Orphanages,” September 9, 2022, <https://www.reuters.com/graphics/UKRAINE-CRISIS/ORPHANS/dwpxrxzwwvm/>. According to data attributed to UNICEF, there were 99,917 children in all forms of institutions. Joint NGO report, “Situation on the Rights of the Child in Ukraine between 24th of February - August 2022 during the War in Ukraine,” August 2022, Additional information to United Nations Committee on the Rights of the Child, para. 126. According to the “Deinstitutionalization” government data portal, there were 102,570 people in children’s institutions in 2019, of whom 99,000 were under the age of 18. Ukraine’s “Reply to the list of issues” at the UN Committee on the Rights of the Child in January 2022 stated that the number of children in “boarding institutions” was 77,000.

follows the child” to promote family-based child care, Ukrainian officials stated in August 2022.³⁰

³⁰ Remarks by Ukrainian delegation, 2635th Meeting, 91st Session, Committee on the Rights of the Child (CRC), August 31, 2022, <https://media.un.org/en/asset/k1w/k1w4tzvcp1>.

II. Risks to Children Evacuated from Institutions

The Russian Invasion: Forced Displacement of Children in Institutions

The hostilities that followed the full-scale Russian invasion on February 24, 2022 gravely endangered children in Ukrainian institutions. In May, Human Rights Watch spoke to staff from institutions or regional officials from four institutions for children, who knew that their facilities were damaged or destroyed after they had been evacuated, including a school for children with hearing disabilities and a sanatorium.³¹ One of the four, Irina, a caregiver evacuated from an institution in Lysychansk to Lviv, said, “We left on the 24th [of February]. Our institution was bombed two days after we left. The windows were all blown out by an artillery strike in the courtyard. We were sheltering at the hospital at the time. The hospital now is bombed too.”³² A residential institution with 51 children in Vorzel, near Kyiv, was reportedly damaged by Russian shelling on February 25.³³ As of December 2022, the Education Ministry reported that 36 schools and other institutions for children with disabilities that are under its authority had been damaged or destroyed.³⁴ The National Social Service informed Human Rights Watch that as of December 31, 2022, some 21 residential children’s institutions had been damaged or destroyed.³⁵ Ukrainian children’s institutions that were damaged or destroyed during attacks likely pose a risk of asbestos contamination.³⁶

³¹ The institutions include the “Ladybug” Mariupol Educational Rehabilitation Center, a school for children with hearing disabilities in Donetsk oblast, and an institution in Lysychansk. Interviews with directors and caregivers, Lviv, May 2022.

³² Irina, from the State Center for Social Rehabilitation of Children, in Lysychansk, interviewed in Lviv, May 16, 2022.

³³ CNN, “Russia says it’s not hitting Ukraine’s civilian infrastructure. Evidence suggests otherwise,” February 25, 2022, <https://edition.cnn.com/2022/02/25/europe/ukraine-russia-videos-civilians-intl-cmd/index.html>.

³⁴ Government of Ukraine, “Overview of the current state of education and science in Ukraine in terms of Russian aggression (as of December 2022),” Ukraine Ministry of Education and Science, p.3, <https://reliefweb.int/report/ukraine/overview-current-state-education-and-science-ukraine-terms-russian-aggression-december-2022> (accessed January 23, 2023).

³⁵ National Social Service of Ukraine, letter to Human Rights Watch, received January 31, 2023.

³⁶ Though asbestos is widely banned in the EU and other countries as a carcinogen, Ukraine was the second-largest consumer of asbestos in Europe after Russia before the invasion; 60 percent of the roofing in Ukraine consists of asbestos-reinforced tiles. In 2021, Ukraine’s parliament approved a bill banning asbestos, but the law is yet to be finalized. The Ukrainian Environment Ministry is not tracking asbestos contamination due to war damage. Olena Kryvoruchkina, “Азбестова бомба уповільненої дії: війна та радянський будівельний спадок,” *Liga Blog*, May 13, 2022, <https://blog.liga.net/user/koryvoruchkina/article/44864>; International Ban Asbestos Secretariat, “Asbestos Update: Ukraine 2022,” May 16, 2022, <http://www.ibasecretariat.org/lka-asbestos-update-ukraine-2022.php>; Prevention Web, “Rebuilding Ukraine: The Imminent Risks from Asbestos,” June 7, 2022, <https://www.preventionweb.net/blog/rebuilding-ukraine-imminent-risks-asbestos>. As of 2015, 425 of 663 existing institutions had been built during the Soviet era before 1991. Hope and Homes for Children, *The Illusion of Protection*, p. 16.

Based on government data, 100 institutions that had hosted more than 32,000 children before Russia’s February 24, 2022 invasion are located in the Donetsk, Luhanska, Khersonska and Zaporizka regions,³⁷ which were under partial or total Russian occupation and which Russia stated, falsely, that it had annexed on September 30 after conducting unlawful referendums.³⁸ In March, an institution near Lviv hosted a group of 90 children from Boarding School No. 1 in Sievierodonetsk, a city that Russian forces subjected to intensive, weeks-long artillery attacks, then occupied.³⁹ In August, the Ukrainian delegation to the UN Committee on the Rights of Persons with Disabilities stated that 7,700 persons with disabilities, including children, were in institutions in areas that had fallen under Russian occupation.⁴⁰

The invasion trapped some children and staff at institutions, including at least four institutions in the Khersonska region, another institution for young children near the Kyiv suburb of Irpin, and children in the Kharkivska, Luhanska, and Donetsk regions, according to a civil society representative who was “directly involved in negotiations to evacuate, but within days it was already too late.”⁴¹ The Ukrainian authorities and civil society “had evacuated 12,000 children in 2014,” she said, when Russian-affiliated forces occupied parts of the Donetsk and Luhanska regions, “but this time they invaded 10 regions at once.” For instance, 15 children had remained in institutions in the Mykolaivska region that fell under Russian control, the Ukrainian Ministry of Education and Science reported in June 2022.⁴² In some cases, institution directors and staff were reluctant to

³⁷ Human Rights Watch based this assessment on an interactive map published online in 2019 by the Ministry of Social Policy’s “Deinstitutionalization” website, which showed the names, locations and ministries responsible for each children’s institution in Ukraine; in late 2022, the map was removed from the website, possibly due to security concerns related to the conflict, <https://www.msp.gov.ua/timeline/Deinstitutualizaciya.html>.

³⁸ Human Rights Watch, “Fictitious Annexation Follows Voting at Gunpoint,” September 30, 2022, <https://www.hrw.org/news/2022/09/30/fictitious-annexation-follows-voting-gunpoint>.

³⁹ Human Rights Watch interview with M., principal, Lviv Boarding School for Children with Heart Diseases, May 14, 2022.

⁴⁰ Cited in Rosenthal, Kurylo, Milovanovic et al., “Human Rights Bulletin: Protection and Safety of Children with Disabilities in the Residential Institutions of War-Torn Ukraine: The UN Guidelines on Deinstitutionalization and the Role of International Donors,” *ScienceOpen.com*, October 31, 2022, <https://www.scienceopen.com/hosted-document?doi=10.13169/intljofdissocjus.2.2.0015>.

⁴¹ Human Rights Watch telephone interview with Darya Kasyanova, SOS Children’s Villages and Child Rights Network, May 14, 2022.

⁴² Ministry of Education and Science, “Overview of the current state of education and science in Ukraine in terms of Russian aggression (as of May 31 – June 04, 2022),” <https://drive.google.com/file/d/1kGTFHTKRuhSGEFYZnCGQHO01StuQ-CgP/view>. Of those abroad, 651 children went to Poland, 267 to Italy, 105 to Turkey, 85 to Spain, 66 to the Czech Republic, 59 to Romania, and 34 to Germany.

leave and either did not receive government instructions or “refuse[d] to relocate,” civil society groups said, and the Minister of Social Policy stated.⁴³

In August 2022, the Ukrainian government informed the UN Committee on the Rights of Persons with Disabilities that Ukraine was working to evacuate persons with disabilities in institutions, but that over 50 institutions could not be reached because they were in occupied territories. In total, 3,300 persons with disabilities had been evacuated; more than 3,000 were internally displaced; just 10 percent of all persons with disabilities had been evacuated abroad.⁴⁴ Rights groups, news media, and the UN have reported alarming conditions and abuse for some people with disabilities who remained in institutions after the invasion.⁴⁵

Staff and children sheltered from attacks for weeks in extremely difficult circumstances. One boy from an institution in Luhanska region had sheltered “in the basement for a long time, while one bomb hit the bathroom, one hit the garden, another hit the chicken coop, and then he saw a man picking up human remains by the side of the highway,” a caregiver said.⁴⁶ A two-year-old boy from an institution for children with disabilities in Kropyvnytskyi “was in a basement for eight weeks, and when he got here we all noticed—the way he smelled, he smelled like earth,” a caregiver in Lviv said.⁴⁷ A staff member from an institution in the Kharkivska region for children with disabilities recalled constant shaking from explosions, including a rocket attack that hit the garage, and a lack of water or heating for 11 days.⁴⁸ A caregiver for children with disabilities in the Mykolaivska region said a group of staff and children had to be evacuated twice before they were finally sent to Lviv, “because the frontlines kept moving closer. The children had no idea what was

⁴³ Human Rights Watch interviews with SOS Children’s Villages, May 14, and Disability Rights International, May 17, 2022. Ministry of Social Policy, “About 5,000 children from vulnerable categories being brought up in institutional care facilities were evacuated,” March 19, 2022, <https://www.kmu.gov.ua/en/news/evakujovano-blizko-5000-ditej-z-vrazlivih-kategorij-yaki-vihovuyutsya-u-zakladah-institucijnogo-doglyadu>.

⁴⁴ UN OHCHR, “Committee on the Rights of Persons with Disabilities Holds Meeting with States Parties on the Situation of Persons with Disabilities in Ukraine and in Countries where they Fled Following the Russian Aggression,” August 17, 2022, <https://www.ohchr.org/en/press-releases/2022/08/committee-rights-persons-disabilities-holds-meeting-states-parties-situation>.

⁴⁵ UN OHCHR, “Ukraine: UN experts sound alarm on situation of children with disabilities,” August 11, 2022, <https://www.ohchr.org/en/press-releases/2022/08/ukraine-un-experts-sound-alarm-situation-children-disabilities>; BBC, “Disabled children abused in Ukraine’s orphanages, warns UN,” August 11, 2022, <https://www.bbc.com/news/disability-62513459>.

⁴⁶ Human Rights Watch interview with M., caregiver, Lviv, May 15, 2022.

⁴⁷ Human Rights Watch interview, Lviv, May 17, 2022.

⁴⁸ Human Rights Watch interview with staff from the Kharkiv institution, Lviv region, May 16, 2022.

happening. We were always running to the [bomb] shelter, and we had to carry a child who uses a wheelchair.”⁴⁹ Staff from another institution “taught older children how to dress the younger ones and hold their hands and take them downstairs” during attacks at night.⁵⁰ Many children became ill while sheltering and during days-long evacuations in freezing temperatures and traveling on overcrowded trains.⁵¹

The war has also pushed more children into Ukraine’s institutional system. Human Rights Watch researchers met one child who was orphaned when her parents were killed in the Russian attack on the Mariupol Drama Theater.⁵² An institution director in Lviv said, “a child’s parent from Dnipro called us and said, ‘I already sent my son on the train to Lviv, can you pick him up,’ and then there was a chain of moms like this, and others where both the mom and dad are in the military.”⁵³ Children on a football (soccer) team from Kharkiv who were traveling to a game when the invasion began and whose parents have been unable to reach them, were placed in a Lviv institution as a temporary measure, but they had been there for nearly three months when Human Rights Watch visited in May.⁵⁴ Other children were sent home to their families but were then re-institutionalized, like Svitlana, 17, who was sent home from her institution in Sumi. After shelling killed her uncle, she traveled alone to Lviv, where she was placed in another institution.⁵⁵

Forcible Transfers of Children from Institutions to Occupied Territory and to Russia

Days before Russia’s full-scale invasion of Ukraine, authorities in the so-called “Donetsk People’s Republic” (DNR), an area controlled by Russian-affiliated armed groups and currently occupied by Russia, transferred 234 children from a boarding school in Amvrosiivka village to Russia’s Kursk region, according to media reports.⁵⁶ A Russian-

⁴⁹ Human Rights Watch interview with staff from the Mykolayiv institution, Lviv, May 16, 2022.

⁵⁰ Human Rights Watch interviews with staff from institutions evacuated to Łódź, March 24, 2022.

⁵¹ Human Rights Watch interviews with staff from institutions in Kharkiv and Zaporizhzhia regions, Lviv, May 2022.

⁵² She was placed in a family-style orphanage in Lviv, rather than a large, state-run institution. Lviv, May 18, 2022.

⁵³ Human Rights Watch interview with S., director of an institution in Lviv, May 15, 2022.

⁵⁴ Human Rights Watch interview with staff from an institution in Kharkiv, hosted at the Lviv regional school for children vulnerable to illness, near Lviv, May 16, 2022.

⁵⁵ Human Rights Watch interviews with Svetlana and Maria, at the “Ridni” group home in Lviv, May 18, 2022.

⁵⁶ “DNR” is used in this report as a reference to this area, not as recognition of any claims to sovereignty. Irene Benedicto, “Russia Is Transporting Ukrainian Orphans Over The Border, Violating International Law,” *Buzzfeed News*, August 3, 2022,

affiliated regional official reportedly stated that the children, at least 12 of whom have a disability, were separated into four groups and 108 were given up for adoption on July 14.⁵⁷ Some of the children were reportedly placed with Russian families in Tula, Voronezh, and Moscow.⁵⁸ Another institution in Donetsk reportedly sent 225 children to Russia, of whom 10 were placed with Russian families in April; the institution collaborates with Russian authorities to obtain Russian citizenship for the children.⁵⁹

In other cases, children and staff from institutions were forcibly transferred by Russian forces to occupied areas of Ukraine, some of whom were then sent to Russia.⁶⁰ In one example, in March 2022, a volunteer tried to take 17 children from a children's sanatorium in Mariupol to Ukrainian-controlled territory when they were stopped at a checkpoint. The next day, the children were taken by officials, accompanied by local media, from the Russian-backed de facto authorities in Donetsk.⁶¹ Twelve of the children are from two foster families. In June 2022, six of the children from one foster family were allowed to leave Donetsk for Russia, and then traveled onwards to France where they reunited with their foster parents.⁶² One boy, who was able to reunite with his foster family, said Russian

<https://www.buzzfeednews.com/article/irenebenedicto/ukrainian-children-russia-orphans-mariupol>; Nina Nazarova, ““Нас торопят, с Москвы звонят”. Как мальчик из Донбасса оказался в российской семье и получил российское гражданство,” *BBC Russian*, September 20, 2022, <https://www.bbc.com/russian/features-62917712>.

⁵⁷ Irene Benedicto, op. cit.

⁵⁸ Nina Nazarova, ““Нас торопят, с Москвы звонят”. Как мальчик из Донбасса оказался в российской семье и получил российское гражданство.”

⁵⁹ Associated Press, “How Moscow grabs Ukrainian kids and makes them Russians,” February 21, 2023, <https://apnews.com/article/ukrainian-children-russia-7493cb22c9086c6293c1ac7986d85ef6>

⁶⁰ UN News, “UN’s Bachelet concerned over Ukraine orphans ‘deported’ to Russia for adoption,” June 15, 2022, <https://news.un.org/en/story/2022/06/1120412>; remarks of Ilze Brands Kehris, UN Assistant Secretary-General, “Reports of Russian Federation Forces Putting Ukrainian Civilians in ‘Filtration’ Camps Must Be Investigated, Senior Officials Tell Security Council,” September 7, 2022, <https://press.un.org/en/2022/sc15023.doc.htm>.

⁶¹ Human Rights Watch interview with Petro Andryushenko, deputy mayor of Mariupol, April 27, 2022. See also Associated France Presse (AFP), “À Marioupol, l’inquietude pour des orphelins bloqués dans un sanatorium,” *Le Soleil*, March 19, 2022, <https://www.lesoleil.com/2022/03/19/a-marioupol-linquietude-pour-des-orphelins-bloques-dans-un-sanatorium-cda5b475ceb3eb77da0df825e2b803fa>; AFP, “Guerre en Ukraine: les orphelins bloques à Marioupol dans un sanatorium évacués vers une zone prorusse,” *20 minutes*, March 20, 2022, <https://www.20minutes.fr/monde/3256123-20220320-guerre-ukraine-orphelins-bloques-sanatorium-marioupol-evacues-vers-zone-prorusse>.

⁶² BBC News, “Ukraine war: Why I never gave up trying to find my children,” July 18, 2022, <https://www.bbc.com/news/world-europe-62178794>; Associated Press, “How Moscow grabs Ukrainian kids and makes them Russians,” February 21, 2023.

officials had told children that their Ukrainian parents had “abandoned” them.⁶³ At the time of writing, the whereabouts of the other 11 children was unknown.⁶⁴

The Organization for Security and Co-operation in Europe (OSCE) reported in July 2022 that some children had been “transferred to areas in the so-called [DNR] and Luhansk People’s Republics [LNR], but there is no attempt to find their parents or living relatives by the local administrations.”⁶⁵ The UN “received reports of forced transfers of children in institutions in Donetsk, Kherson, Kharkiv, Luhansk and Zaporizhzhia regions to other regions of Russian-occupied territory as well as deportations to the Russian federation.”⁶⁶ The UN cited a case of 30 children from the Donetsk region who had lost or been separated from their families, and who were transferred to a camp near Moscow on May 27, then placed in foster care, including a 15-year-old boy from Mariupol who was fostered by the Russian commissioner for children’s rights and given Russian nationality in September.⁶⁷

News reports have identified numerous children’s institutions taken over by Russian occupation authorities in the Khersonska region.⁶⁸ Russian authorities transferred 15 orphans and children deprived of parental care from the Novopetrivska Special School in the Mykolaivska region, to the Center for Social and Psychological Rehabilitation of Children, in the occupied Khersonska region.⁶⁹ Later, Russian authorities transferred

⁶³ New York Times, “Using Adoptions, Russia Turns Ukrainian Children into Spoils of War,” October 22, 2022, <https://www.nytimes.com/2022/10/22/world/europe/ukraine-children-russia-adoptions.html>.

⁶⁴ See “The Forced Transfer of 17 Children to the DNR,” in Human Rights Watch, *“We Had No Choice”: “Filtration” and the Crime of Forcibly Transferring Ukrainian Civilians to Russia*, September 1, 2022, <https://www.hrw.org/report/2022/09/01/we-had-no-choice/filtration-and-crime-forcibly-transferring-ukrainian-civilians>.

⁶⁵ This report uses “DNR” and “LNR” as a reference to these areas, not as recognition of any claims to sovereignty. OSCE Office for Democratic Institutions and Human Rights, Note Verbale, ODIHR.GAL/36/22/Corr.1, July 14, 2022, p. 95, <https://www.osce.org/files/f/documents/3/e/522616.pdf>.

⁶⁶ UN OHCHR, “Update on the situation in Ukraine, 1 August – 31 October 2022,” p. 3, https://www.ohchr.org/sites/default/files/documents/countries/ua/2022-12-02/HRMMU_Update_2022-12-02_EN.pdf.

⁶⁷ Ibid. The UN report cites two Russian websites: MK.ru, “Ombudsman Lvova-Belova took into custody a boy from Mariupol,” July 13, 2022, <https://www.mk.ru/social/2022/07/13/ombudsmen-lvovabelova-vzyala-pod-opeku-malchika-iz-mariupolya.html>, and 360tv.ru, “A teenager from [DPR] was issued a passport in Odintsovo,” September 22, 2022, <https://360tv.ru/news/mosobl/podrostku-iz-dnr-vydali-pasport-v-odintsove/>. See also “Comment of the Ministry of Foreign Affairs of Ukraine on the illegal adoption of Ukrainian children in the Russian Federation,” October 27, 2022, <https://mfa.gov.ua/en/news/statement-ministry-foreign-affairs-ukraine-illegal-adoption-ukrainian-children-russian-federation>.

⁶⁸ See “The Empty Orphanages of Kherson,” part of the EBU Investigative Journalism Network report, “The Missing Children of Ukraine,” *Eurovision News*, January 2023, <https://missingchildrenukraine.news-exchange.ebu.ch/the-missing-children-of-ukraine/the-empty-orphanages-of-kherson/index.html>.

⁶⁹ National Social Service of Ukraine, letter to Human Rights Watch, received January 31, 2023. In another case, Ukrainian consular officials became aware that 15 Ukrainian children, with their caregivers, arrived in Georgia on November 17, 2022. Consular officials questioned the children and deemed their “moral and psychological state” satisfactory.

children from institutions in Kherson as part of a larger evacuation of occupied areas before an expected Ukrainian counter-offensive. For instance, on October 20, 2022, Russian authorities transferred 16 children from the Oleshky Orphanage to Crimea.⁷⁰ On October 21, Russian authorities transferred 46 children as well as their caregivers from another institution in Kherson, run by the Ministry of Health, to Crimea.⁷¹ Two children from the second facility were taken to Moscow on September 2, ostensibly for medical treatment.⁷² Staff at several Ukrainian children’s institutions in the Khersonska region hid orphaned children with other families or falsely claimed children were too ill to travel, to prevent occupying authorities from taking them.⁷³

By March 9, the Russian children’s rights commissioner stated that 1,090 children from “various child-care facilities” in Ukraine had “arrived” in Russia.⁷⁴ An OSCE report published in July noted Ukrainian reports that at least 2,000 children from institutions had been transferred to Russia “even though they have living relatives and were in the institutions only for medical care.”⁷⁵ UNICEF reported in November that Ukrainian “officials have indicated that between 2,000 to 3,000 children from institutions had been received in non-government-controlled territory and the Russian Federation, though UNICEF is unable to verify the exact figures.”⁷⁶ In addition, Ukrainian authorities in Kherson said that Russian authorities had taken roughly 1,000 children from schools and orphanages in the region whose whereabouts were unknown as of December 2022.⁷⁷ The Russian website of orphans and children deprived of parental care eligible for fostering or adoption includes

⁷⁰ National Social Service of Ukraine, letter to Human Rights Watch, received January 31, 2023.

⁷¹ Verstka, “Russian Authorities Took at Least 14 Orphans under Age 5 from Kherson to the Yolochnka Children’s Home in Crimea,” January 26, 2023, <https://verstka.media/rossijskie-vlasti-vyvezli-ne-menee-14-sirot-iz-hersona/>. The institution was subject to a Russian investigation in 2020 due to reports of severe neglect of children, but no wrongdoing was found. RIA Novosti, ““Невесомый, как кукла”. Почему крымский дом ребенка стал “концлагерем”,” April 9, 2020, <https://ria.ru/20200904/sirot-1576702715.html>. A former employee of the institution claimed that nurses on staff instructed her not to hold children in her harms: “you’ll teach [the child]” to expect to be held, and so “the child will ask” to be held when “the next shift comes.” Ibid.

⁷² National Social Service of Ukraine, letter to Human Rights Watch, received January 31, 2023.

⁷³ Associated Press, “Ukrainians hid orphaned children from Russian deportation,” December 5, 2022, <https://apnews.com/article/russia-ukraine-health-europe-orphans-f283aa4d22fdab59a43a16ca0be54baf>.

⁷⁴ Kremlin, “Meeting with Commissioner for Children’s Rights Maria Lvova-Belova,” March 9, 2022, <http://en.kremlin.ru/events/president/news/67949>.

⁷⁵ OSCE Office for Democratic Institutions and Human Rights, Note Verbale, ODIHR.GAL/36/22/Corr.1, July 14, 2022, p. 95.

⁷⁶ UNICEF, “Guidance for protecting displaced and refugee children in and outside of Ukraine,” November 1, 2022, <https://www.unicef.org/emergencies/guidance-protecting-displaced-children-ukraine#3>.

⁷⁷ Associated Press, “Ukrainians hid orphaned children from Russian deportation,” December 5, 2022.

scores of children from Ukrainian institutions.⁷⁸ In total, the Ukrainian National Information Service reported more than 16,000 children had been deported to Russia as of January 2023.⁷⁹

In May 2022, Russia published a law that was revised to facilitate the adoption of Ukrainian children,⁸⁰ which president Putin had called for.⁸¹ The Russian children's rights commissioner, Maria Lvova-Belova,⁸² said that initially, "orphans" were placed under temporary guardianship in Russia, but "now that the children have become Russian citizens, temporary guardianship can become permanent." She also said she was working to unify adoption procedures with the DNR and LNR authorities.⁸³

Russia provides adoptive parents a one-time payment of up to 100,000 rubles (US\$1,630), as well as monthly utility bill reimbursements and payments of 29,000 rubles (US\$473), while Russians who adopt Ukrainian children also receive an additional monthly salary.⁸⁴ An article briefly posted online in August by authorities in Krasnodar stated that adoptive parents of Ukrainian children are eligible under Russian law for a lump-sum allowance of 20,472.77 rubles (US\$333) per child, or 156,428.66 (US\$2,547) rubles for a child with a disability, a child aged seven or older, or sibling children.⁸⁵

As of August 2022, at least 160 children from the "DNR" were placed in Russian foster families in at least six regions of Russia, and at least 133 children had received Russian

⁷⁸ The EBU Investigative Journalism Network found that the website usynovite.ru "lists children from Crimea and also the 'four new regions' of Donetsk, Luhansk, Kherson and Zaporizhia." Belén Lopéz Garrido, "The Missing Children of Ukraine," *Eurovision News*, January 2023, <https://missingchildreukraine.news-exchange.ebu.ch/the-missing-children-of-ukraine/index.html>.

⁷⁹ Children of War (Ukrainian government website), <https://childrenofwar.gov.ua/>.

⁸⁰ "Путин подписал указ об упрощенном приеме в гражданство РФ детей-сирот из Донбасса и Украины," *Interfax*, May 30, 2022, <https://www.interfax.ru/russia/843711>. The Russian-government-affiliated news agency RIA-Novosti published the legal text on its Telegram channel, https://t.me/rian_ru/165351, May 30, 2022.

⁸¹ Kremlin, "Meeting with Commissioner for Children's Rights Maria Lvova-Belova," March 9, 2022.

⁸² See "Maria Lvova-Belova," EBU Investigative Journalism Network report, "The Missing Children of Ukraine," *Eurovision News*, January 2023, <https://missingchildreukraine.news-exchange.ebu.ch/the-missing-children-of-ukraine/maria-lvova-belova/index.html>.

⁸³ Commissioner for Children's Rights under the President of the Russian Federation, "Answers to the questions on family placement of orphans from the DNR and LNR in Russian families" ("Ответы по вопросам семейного устройства детей-сирот из ДНР и ЛНР в российские семьи"), May 16, 2022, <http://deti.gov.ru/articles/news/otvety-po-voprosam-semejnego-ustrojstva-detej-sirot-iz-dnr-i-lnr-v-rossijskie-sem-i>.

⁸⁴ Irene Benedicto, "Russia Is Transporting Ukrainian Orphans Over The Border, Violating International Law," *Buzzfeed News*, August 3, 2022.

⁸⁵ See note 90.

citizenship.⁸⁶ The Russian children’s rights commissioner had said in June that these would include 30 “orphans” from Mariupol.⁸⁷ On August 23, a Russian government information portal published an article by the Krasnodar Region Office of Family and Childhood, stating that “more than 1,000 babies from ... Mariupol have already found new families in the Tyumen, Irkutsk, Kemerovo and Altai regions. More than 300 babies are being temporarily kept in specialized institutions of the Krasnodar region [before] ... meeting their new families.”⁸⁸ The article was subsequently taken down and replaced with a statement that the website had been hacked, but appeared to contain credible details.⁸⁹ In December, Lvova-Belova stated in an interview with Russian media that 380 Ukrainian children had been “adopted” by Russian families, and that many institutions in Russian-controlled areas of Ukraine had already been “evacuated” and that evacuations had stopped.⁹⁰

Children from institutions were among the more than 6,000 children sent from occupied areas of Ukraine to 43 children’s camps in occupied Crimea or in Russia, as far away as the Russian Far East, including hundreds of children who were not returned to Ukraine, some of whom were placed in foster care or adoption, according to a February 2023 report by Yale University.⁹¹ The report documents cases in which the occupation authorities told parents to sign over power-of-attorney forms where the identity of the person responsible for the child was left blank; cases where parents alleged that the length of stay and procedures for reuniting with their children they had agreed to, were violated; and cases where parents said they refused to provide consent “but were ignored by camp organizers

⁸⁶ Nina Nazarova, ““Нас торопят, с Москвы звонят”. Как мальчик из Донбасса оказался в российской семье и получил российское гражданство,” BBC Russian, September 20, 2022.

⁸⁷ “В начале июля 200 детей из Донбасса получают гражданство РФ,” *Mordovmedia*, June 28, 2022, <https://www.mordovmedia.ru/news/russia/item/111848>.

⁸⁸ The Ukrainian Mariupol City Council’s Telegram channel cited the article and demanded the return of the children (<https://t.me/mariupolrada/10659>). The Institute for the Study of War reported the article on August 23 (<https://www.understandingwar.org/backgrounder/russian-offensive-campaign-assessment-august-23>).

⁸⁹ The original webpage with the article was archived (<https://archive.ph/tYqoc>, accessed November 28, 2022). The article contained information such as detailed citations to relevant Russian legislation (for example, Federal Law of May 19, 1995 No. 81-FZ, art. 11, see <http://www.kremlin.ru/acts/bank/7871/page/1>) and the phone number for the Krasnodar Office of Family and Childhood.

⁹⁰ *Izvestia*, “«Они боятся громких звуков, переживают за свое будущее»,” December 19, 2022, <https://iz.ru/1441845/kseniia-nabatkina/oni-boiatsia-gromkikh-zvukov-perezhivaiut-za-svoe-budushchee>, archived at <https://archive.md/pXrob>.

⁹¹ Yale University, School of Public Health, “Russia’s Systematic Program for the Re-education and Adoption of Ukraine’s Children,” a Conflict Observatory Report, February 14, 2023, <https://hub.conflictobservatory.org/portal/sharing/rest/content/items/97f919ccfe524d31a241b53ca44076b8/data>.

who enrolled the children in camps regardless.”⁹² During the Russian occupation of parts of the Kharkivska region, scores of families agreed to Russian authorities’ plan to send their children to a summer camp in the south of Russia, three affected families told Human Rights Watch, but after Ukrainian forces re-took the region, the children were not returned to their families as had been agreed.⁹³ A Ukrainian civil society worker involved in efforts to reunite the children with their families said that Russian authorities have allowed some parents to retrieve their children, but required them to do so in person.⁹⁴

Ukraine’s Main Intelligence Directorate (GUR) has reported that 30 Ukrainian children from occupied areas in Donetsk were transferred to Nizhny Novgorod on the pretext of educational programs.⁹⁵

According to the Ukrainian government, Russian authorities have returned Ukrainian children to their families⁹⁶ in 119 cases as of December 8, 2022.⁹⁷ In at least six cases, children were returned to relatives other than their parents, because the parents had died during the war.⁹⁸

The laws of armed conflict prohibit the forcible transfer and deportation of civilians from occupied territory as war crimes, and prohibit a party to the conflict from evacuating children who are not its own nationals to a foreign country without their parents’ or guardians’ written consent, except temporarily as needed for compelling health or safety reasons.⁹⁹ Ukraine has suspended intercountry adoption. UNICEF has stated that adoption

⁹² Ibid., pp. 5, 13.

⁹³ Human Rights Watch interviews with three women whose children had been taken to the summer camp, Kharkiv region, November 3 and 4, 2022.

⁹⁴ Human Rights Watch text communications with a Ukrainian civil society representative working to help return children, October 25, 2022.

⁹⁵ GUR, “Окупанти погрожують штрафами батькам, які відмовляються віддавати дітей в російські школи також продовжується незаконне вивезення дітей на територію РФ,” August 23, 2022, <https://gur.gov.ua/content/okupanty-pohrozhuut-shtrafamy-batkam-iaki-vidmovliaiutsia-viddavaty-ditei-v-rosiiski-shkoly-takozh-prodovzhuietsia-nezakonne-vyvezennia-ditei-na-terytoriiu-rf.html>.

⁹⁶ Irene Benedicto, “Russia Is Transporting Ukrainian Orphans Over The Border, Violating International Law,” *Buzzfeed News*, August 3, 2022.

⁹⁷ Children of War (Ukrainian government website), <https://childrenofwar.gov.ua>.

⁹⁸ RBC, “Zakharova called Kyiv’s accusations of the deportation of children from Ukraine a lie” (“Захарова назвала ложью обвинения Киева в депортации детей с Украины”), <https://www.rbc.ru/politics/25/06/2022/62b6eb6e9a7947fbd996b47> (accessed July 13, 2022).

⁹⁹ Protocol Additional to the Geneva Conventions of 1949 (Protocol I), 1977, Art. 78.1, ratified by the Russian Federation in 1989.

“should never occur during or immediately after an emergency.”¹⁰⁰ The UN Guidelines for the Alternative Care of Children state that during armed conflict, children “should not be moved to a country other than that of their habitual residence for alternative care except temporarily for compelling health, medical or safety reasons. In that case, this should be as close as possible to their home, they should be accompanied by a parent or caregiver known to them, and a clear return plan should be established.”¹⁰¹

Risks to Children Sent Home: Lack of Monitoring, Lack of Support

Since the Russian invasion of February 24, 2022, as of early September some 38,882 children who had been institutionalized around the clock were sent to their parents or guardians, as well as 57,700 children who had been in institutions part-time before the invasion, according to figures collected by UNICEF and SURGe, a Canadian-government funded initiative working on behalf of Ukraine’s National Social Service, as reported by Reuters on September 5, 2022.¹⁰² According to these data, an additional 4,500 children from institutions were evacuated abroad, 2,050 were evacuated within Ukraine, and 3,400 remained in their original institutions.¹⁰³ Ukrainian officials have stated that most children were sent from institutions to their families soon after the invasion.¹⁰⁴

Ukraine reported to the UN Committee on the Rights of the Child in January 2022 that there were 77,000 children in “boarding schools”—one of several types of children’s institutions run by the Education Ministry—a 19 percent decrease since quarantine was imposed on schools in March 2020 due to the Covid-19 pandemic.¹⁰⁵ According to governmental data from 2019 that also covers institutions run by the Ministry of Health and the Ministry of Social Policy, nearly 99,000 children under 18 had been in residential institutions, most of

¹⁰⁰ UNICEF, “Guidance for protecting displaced and refugee children in and outside of Ukraine,” November 1, 2022, <https://www.unicef.org/emergencies/guidance-protecting-displaced-children-ukraine>.

¹⁰¹ UN General Assembly, A/Res/64/142, February 24, 2010, Annex: Guidelines for the Alternative Care of Children, para. 11.

¹⁰² UNICEF has reported similar figures: “In the first 7 months of the conflict, 38,800 were returned to their parents or other legal guardians. 1,611 were relocated to other areas inside Ukraine. At least 6,000 sought safety in Ukraine or in EU countries and Turkiye.” UNICEF, “Guidance for protecting displaced and refugee children in and outside of Ukraine,” November 1, 2022, <https://www.unicef.org/emergencies/guidance-protecting-displaced-children-ukraine>.

¹⁰³ Reuters, “Emptying Ukraine’s Orphanages,” September 9, 2022, <https://www.reuters.com/graphics/UKRAINE-CRISIS/ORPHANS/dwpxrxzwwvm/>.

¹⁰⁴ Darya Gerasimchuk, Ukraine’s children’s rights commissioner, as quoted in National Public Radio, June 7, 2022, “War displaced two-thirds of Ukraine’s children. Keeping them safe isn’t easy,” <https://www.npr.org/2022/05/29/1101973267/ukraine-children-displaced-orphanage-russia-war>

¹⁰⁵ Committee on the Rights of the Child, “Replies of Ukraine to the list of issues in relation to its combined fifth and sixth periodic reports [received: 4 January 2022],” paragraph 73, January 14, 2022, CRC/C/UKR/RQ/5-6.

whom had living parents with full parental rights, with the vast majority of these, 93,500 children, in institutions run by the Education Ministry.¹⁰⁶

The authorities set up information and help hotlines, but in June 2022, Ukrainian civil society groups said the government had not regularly monitored the whereabouts or welfare of the unprecedentedly large number of children who had been sent home from institutions, assessed their families' needs, or provided financial resources to support the children.¹⁰⁷ Efforts have been made to confirm the children's whereabouts, but out of the nearly 39,000 children sent home from round-the-clock institutionalization, a UNICEF-supported program was able to reach and support 13,000 children; the remaining 26,000 children were not being monitored or supported after having ostensibly been returned from institutions to their families or guardians.¹⁰⁸ Disability Rights International, a research and advocacy group, reported that the responsibility to track and monitor children sent home from institutions falls to social workers employed at the local government level, but that in many cases, according to Ukrainian officials in one region, there were not enough social workers available, and in some cases, none.¹⁰⁹ In response to questions from Human Rights Watch, the Ukrainian authorities noted in January 2023 that the UNICEF program, "[m]onitoring the needs and support of children in conditions of war," aimed to assess these children's needs and provide social support, but did not provide updated data about children who have not been traced.¹¹⁰ By late November 2022, the government reported that refrigerators, washing machines, and other appliances had been donated to foster families, guardians, and family-type children's homes with a total of 3,125 children, and that 500 adoptive families would receive additional cash support.¹¹¹

¹⁰⁶ Ministry of Social Policy, "Deinstitutionalization" (website), <https://www.msp.gov.ua/timeline/Deinstitutualizaciya.html>; Human Rights Watch interview with Maryna Lazebna, Minister of Social Policy, May 19, 2022, Kyiv; Hope and Homes for Children, *The Illusion of Protection: An Analytical Report Based on the Findings of a Comprehensive Study of the Child Protection System in Ukraine*, 2017.

¹⁰⁷ Human Rights Watch interviews with humanitarian agencies, Hope and Homes for Children, Ridni, SOS Children's Villages, Lviv and Kyiv, May and June 2022.

¹⁰⁸ Reuters, "Emptying Ukraine's Orphanages," September 9, 2022. Email from UNICEF Senior Regional Child Protection Advisor, to Human Rights Watch, March 2, 2023.

¹⁰⁹ Rosenthal, E., Kurylo, H., et al., "Human Rights Bulletin: Protection and Safety of Children with Disabilities in the Residential Institutions of War-Torn Ukraine: The UN Guidelines on Deinstitutionalization and the Role of International Donors," *International Journal of Disability and Social Science*, 2(2): 15-22, 31 October 2022, note 11, <https://www.scienceopen.com/hosted-document?doi=10.13169/intljofdissojus.2.2.0015#fn11-intljofdissojus.2.2.0015>.

¹¹⁰ National Social Service of Ukraine, Letter to Human Rights Watch, received January 31, 2023.

¹¹¹ Ministry of Social Policy, "More than 1,000 families caring for orphaned children received household appliances from benefactors," November 24, 2022, <https://www.msp.gov.ua/news/22367.html>; see also "The family is the best form of

Many children in Ukraine’s institutions were initially placed there due to their family’s low income or difficulty caring for the child.¹¹² The war with Russia has dramatically worsened economic and social vulnerability overall. The World Bank forecasted Ukraine’s economy to contract by almost half in 2022, and a protracted war could force nearly 30 percent of the population into poverty.¹¹³ Meanwhile, teachers and caregivers have lost between 18 and 28 percent of their pay that came in the form of supplementary allowances from regional administration budgets, because these budgets had to be diverted to support the war effort.¹¹⁴ For the same reason, regional administrations have had to reduce the number of community social workers, who would have otherwise been available to support children in their families, even though staffing shortages had been identified before the conflict.¹¹⁵

Risks to Children Evacuated to Other Institutions: Lack of Adequate Care

Of the children who were not sent home, 6,800 had been evacuated for their safety, more than half of whom (3,521) are orphans or children deprived of parental care.¹¹⁶ Of the 6,800 children who were evacuated, 4,505 children were evacuated abroad, while the rest had been taken to safer areas inside Ukraine, as of August 31, 2022.¹¹⁷ According to official figures, 2,500 of the children evacuated abroad are orphans or have parents who had been deprived of parental rights, meaning that about 2,000 children were evacuated abroad from institutions without their parents who have full parental rights.¹¹⁸

living for a child — Minister of Social Policy Oksana Zholnovich took part in the briefing ‘The child is not alone: Adoption in progress’,” October 1, 2022, <https://www.msp.gov.ua/news/22249.html>.

¹¹² Hope and Homes for Children, *The Illusion of Protection*, 2017.

¹¹³ World Economic Forum, “Ukraine’s economy will shrink by almost half this year, says World Bank,” April 22, 2022, <https://www.weforum.org/agenda/2022/04/ukraine-economy-decline-war/>.

¹¹⁴ For example, teachers’ salaries are paid by the Ministry of Education and Science, but supplementary allowances worth 18 to 28 percent of their salary were provided by their regional administration, and the regions’ budgets have been redirected to the war effort, officials said. Human Rights Watch interview with child protection expert, May 13, Lviv.

¹¹⁵ According to a civil society organization, the Zhytomyr region has had to cut 29 community social worker positions since the full-scale Russian invasion, and had previously faced a staffing shortage of 25 percent of needed positions. Communication with Human Rights Watch, January 24, 2023.

¹¹⁶ Ministry of Social Policy, “Уряд посилив контроль під час воєнного стану за дотриманням прав дітей з вразливих категорій, евакуйованих всередині України або за її межі,” May 10, 2022, <https://www.msp.gov.ua/news/21816.html>.

¹¹⁷ UN Committee on the Rights of the Child, 2635th Meeting, 91st Session, Consideration of Ukraine, remarks from the Ukrainian delegation, August 31, 2022, <https://media.un.org/en/asset/k1w/k1w4tzvcp1>.

¹¹⁸ Ibid. The Ukrainian child-rights group Magnolia said it had documented 2,200 cases of missing children nationwide as of early June, but reports did not say if any were from institutions. “Na Ukrajině se od začátku invaze ztratilo přes dva tisíce dětí, některé unesli okupanti,” June 2, 2022, <https://ct24.ceskatelevize.cz/svet/3497196-na-ukrajine-se-od-zacatku-invaze-ztratilo-pres-dva-tisice-deti-nektere-unesli-okupanti?fbclid=IwAR1L7PW9gi1gwZqtZdScf28IPfHwaUUwi-x7yZG4L5dzuw8KOWucpn9gpnk>.

Institutions in Ukraine that received children evacuated from frontline areas of hostilities usually sent the majority of their own residents home or overseas, but they still had to triage in order to host the newcomers. At an institution for children with heart diseases, in downtown Lviv, staff had converted specialized treatment rooms into dormitories. An institution outside Lviv for children with disabilities, including children with speech impairments, autism, and Down syndrome, had 20 children before the invasion, but was hosting 59 children displaced from other institutions when Human Rights Watch visited in May 2022. “We had to put beds in the classrooms,” a teacher said.¹¹⁹ A third Lviv institution designed for 25 children was already housing 27 children before the invasion and had 50 children in May. The gymnasium was converted to a dormitory for older boys, and children were banned from leaving the grounds.¹²⁰

The evacuations impacted children’s access to education. All the institutions which Human Rights Watch visited in the Lviv region hosted children displaced from other institutions, including many that are classified as schools and operated by the Ministry of Education and Science.¹²¹ The Ministry shifted institutions to distance learning after the invasion, but it was not possible to return to in-person instruction with the new school year in September in cases where residential institutions continue to host displaced children.¹²² Teachers from an institution in Lviv for children with hearing and intellectual disabilities said they provided online lessons but these were of little benefit to many children.¹²³ These problems could be partly addressed if children from institutions were supported to remain with their families, enrolled in schools, and provided with the accommodation they may need, and with devices and internet connections to access distance learning.

Only a small fraction of the staff from children’s institutions were evacuated along with the children, and those who did were often exhausted after weeks or months of non-stop work

¹¹⁹ Human Rights Watch interview with institutional staff, Lviv, May 16, 2022.

¹²⁰ Interview with institution director, Lewandowska St., Lviv, May 16, 2022.

¹²¹ Ministry of Social Policy, “Deinstitutionalization,” webpage, “заклади,” “власник: мон,” <https://www.msp.gov.ua/timeline/?t=1016&from=&till=&m=6#tagpanel> (accessed October 2, 2022).

¹²² One institution for children with cardiovascular illnesses in the Lviv oblast was hosting 90 children from another institution, while a second institution was hosting 85 children from elsewhere; in both cases, the children who normally attended the institutions’ schools had been sent home or abroad. Human Rights Watch interviews with staff, Lviv, May 15 and 16, 2022.

¹²³ Human Rights Watch interviews, staff at Lviv regional school for children with hearing and intellectual disabilities, May 18, 2022.

caring for them. At one institution, just 3 of 40 staff were selected by the director to accompany 38 children to Poland, “and we were picked just because we were at work at the time—we were all sheltering in the basement,” said Galina, who was acting as a round-the-clock caregiver. “I was the administrator, I didn’t dress the kids or wash the dishes or sweep the floors.” The other two caregivers are the institution’s nurse, and the psychologist, a single mother with an 8-year-old son.

In several cases, staff accompanied the children as far as another institution but then left to care for their own families or for other reasons. In a case reported by news media, 175 people with disabilities, ages 4 to 35, some of whom had high support needs and required 24-hour personal care, lived in an institution in Vilshany in western Ukraine before the invasion.¹²⁴ The institution then received an additional 38 people who had been evacuated from two different institutions in the east, who were placed in rooms where residents used to receive therapy.¹²⁵ The caregivers from one of these institutions did not remain to continue to provide support at the Vilshany facility, adding to the lack of capacity to provide adequate care.

The lack of caregivers for children due to the departure of most staff from institutions that were evacuated after the Russian invasion exacerbated problems of neglect and inadequate care. Some children have been left in soiled diapers, excessively medicated, not provided with proper support, experienced “severe scoliosis, contracture of joints and untreated spasticity resulting in pain,” and were forcibly restrained including by being tied to their beds, according to a report by Disability Rights International based on visits to five institutions hosting children with disabilities who had been evacuated.¹²⁶ The report cited reduced body weight and evidence of malnourishment from causes that likely pre-dated the invasion. It also cited reports of death from aspiration pneumonia and heart failure among children with disabilities in institutions since the invasion. The BBC reported on these and other institutions in Ukraine where children were tied to their beds with

¹²⁴ Anya Kamenetz, “War displaced two-thirds of Ukraine’s orphans. Keeping them safe isn’t easy,” *National Public Radio*, June 9, 2022, <https://www.npr.org/2022/05/29/1101973267/ukraine-children-displaced-orphanage-russia-war#:~:text=Vilshany%20Orphanage%20is%20a%20facility,around%2Dthe%2Dclock%20care>.

¹²⁵ Danielle Campoamor, “How to help Ukrainian children with disabilities who were left behind during war,” June 13, 2022, *NBC, Today.com*, <https://www.Today.com/today/amp/rcna33231>.

¹²⁶ Disability Rights International (DRI), “Left Behind in the War: the Dangers Facing Children with Disabilities in Ukraine’s Orphanages,” May 5, 2022, <https://www.driadvocacy.org/wp-content/uploads/DRI-Ukraine-Left-Behind.pdf>. DRI also filmed some of the institutions (while blurring the children’s faces), <https://www.youtube.com/watch?v=xor7lrwumSw&t=34s>.

makeshift cloth, or shackled.¹²⁷ In one case that revealed long-term neglect and abuse, a man in his mid-30s had been confined to a cot for most of his life since childhood.¹²⁸ In October 2022, the UN Committees on the Rights of the Child and the Rights of Persons with Disabilities stated they were “gravely concerned for the safety of children with disabilities and high support requirements” due to overcrowding, understaffing, and continued institutionalization.¹²⁹

Human Rights Watch did not visit institutions for children with disabilities that were not evacuated, but based on research and reporting by Disability Rights International and Better Care Network, “a triage approach has been employed in which children with less severe disabilities have been evacuated across borders, while children with more complex disabilities have either been moved to institutions in safer locations in Ukraine or have remained in institutions in occupied areas or areas experiencing active conflict. The reasons provided for not evacuating these children include insufficient staffing numbers to accompany children and a lack of transportation.”¹³⁰ Reporting on a July 2022 meeting with other child rights experts, the two groups highlighted concerns that not all children from institutions, including children with disabilities, had been accounted for.

Human Rights Watch researchers did not assess the mental health of forcibly displaced children or staff, but only one of the 12 facilities we visited in Lviv—a small, family-type facility for children without parents, operated by a charitable organization with support from the city council—conducted regular therapy sessions for children, and one other institution was providing trauma counseling for displaced caregivers.¹³¹

¹²⁷ Ruth Clegg, “Ukraine orphanages: Children tied up and men in cots,” *BBC News*, July 26, 2022, <https://www.bbc.com/news/disability-62226636> (accessed October 20, 2022). Shackling is a rudimentary form of physical restraint used to confine people with real or perceived disabilities, including by tying or binding them with rope or makeshift cloth. Human Rights Watch research documented shackling across 60 countries around the world. See Human Rights Watch, *Living in Chains: Shackling of People with Psychosocial Disabilities Worldwide*, October 6, 2020, https://www.hrw.org/sites/default/files/media_2020/10/global_shackling1020_web_2.pdf, p. 37.

¹²⁸ Ruth Clegg, “Ukrainian orphanages: children tied up and men in cots”; Dan Johnson, “Ukraine: disabled children ‘dumped’ in institutions,” *BBC*, May 4, 2022, <https://www.bbc.com/news/av/world-europe-61325277>.

¹²⁹ UN OHCHR, “UN experts call for urgent action to protect Ukrainian children with disabilities in residential care institutions,” October 7, 2022, <https://www.ohchr.org/en/statements/2022/10/un-experts-call-urgent-action-protect-ukrainian-children-disabilities>.

¹³⁰ Better Care Network, “Addressing the situation of children with disabilities in residential care as part of the Ukraine response,” September 2022, p. 2, https://bettercarenetwork.org/sites/default/files/2022-09/final_report_and_recommendations_addressing_the_situation_of_children_with_disabilities_in_residential_care_as_part_of_the_ukraine_response.pdf.

¹³¹ Human Rights Watch observations and interviews at facilities supported by Ridni Foundation, in Lviv, and an institution for children with immunodeficiencies, outside Lviv, May 14 and 18, 2022.

In some cases, longer term problems of neglect of children in institutions became apparent when children were evacuated. Volunteers and municipal officials in Łódź, Poland, who were hosting 90 children from three Ukrainian institutions, said that many of the children appeared underweight and small for their age, and that about a third of the 22 children from an institution for children with disabilities appeared to have been misdiagnosed by staff who had qualified as specialists in “defectology.”¹³² “They need a specialist to work with them, and we’re trying to hire one, but we don’t think they have intellectual disabilities,” an official said. Incorrect diagnosis should be corrected; however, a child’s right to family life and support should not depend on whether they have a diagnosis or not. Also, decisions on the type of support provided to a child, including in an effort to ensure their right to education, should not depend on a diagnosis. Treatment, therapy, or educational support should be tailored to a child’s individual needs, not to the name of their condition.

At one facility in Łódź, “every child had cavities, it seems the kids had never seen a dentist before,” a Polish child-care worker said. A report on the same facility later noted that 40 children there needed 258 cavity fillings.¹³³

Family Separation

Orphans and children whose parents’ rights had been canceled were often legally under the guardianship of the director of the institution. This arrangement had been established long before Russia’s 2022 invasion and was intended to ensure clear lines of responsibility for carrying out policy and ensuring children’s welfare. Since the invasion, the Ukrainian authorities have maintained the arrangement, and it is now the responsibility of the institutional director to ensure all children return from abroad after the war. “If they don’t come back, the director goes to jail,” the regional children’s rights official in Lviv said.¹³⁴ This old arrangement, established in peacetime, is not always fit for purpose and can conflict with the child’s best interest, especially during or post wartime. Directors of institutions in Lviv hosting children who were evacuated from frontline areas said the children were still registered at their original institution, whose directors had exclusive

¹³² Human Rights Watch interviews, Łódź, March 24, and Lviv, May 18, 2022.

¹³³ James Jackson, “What happened to Ukrainian children in care who fled to Poland?,” July 6, 2022, <https://www.opendemocracy.net/en/odr/what-happened-to-ukrainian-children-in-care-who-fled-to-poland/>.

¹³⁴ Human Rights Watch interview with Volodymyr Lys, Lviv, May 16, 2022.

legal authority over them, including cases where the director had remained in areas that fell under Russian occupation or had fled abroad separately from the children.¹³⁵ Some children who were evacuated separately from the director were left in legal limbo as a result.¹³⁶

Ukrainian law prohibits separating siblings who are in institutions, officials said. However, in one case identified by Human Rights Watch, Marina, 16, was evacuated from a boarding school in the Sumi region to Lviv, while her brother Vanya, 13, was evacuated to a foster family in Italy. The family had invited Marina to join them, but the director of the institution where Marina used to live had not provided the required permission for her to travel abroad, and she was stuck in another institution in Lviv.¹³⁷ The official responsible for children in institutions in the Lviv region, when notified of the case, told Human Rights Watch that he would try to contact the director of the institution as Marina’s guardian. He also described another case, which he was trying to remedy, where siblings had been separated and sent to different foster families in Slovakia.¹³⁸

Retention of Children in Institutions

Ukraine insists that children who were evacuated abroad cannot be adopted, consistent with international law.¹³⁹ However, the war also forced many courts that would ordinarily have adjudicated adoption and other procedures domestically, to close. “Normally any adoption would be checked thoroughly and a judge would have to approve, but the courts stopped working on these civil cases because everything is focused on the war,” said the director of a civil society group that supports adoption and foster care in Lviv.¹⁴⁰

Other judicial procedures are also suspended in many areas due to the war, including procedures to determine whether parents whose children were placed in institutions may regain custody. In one case, the mother of two children at an institution in the Kyiv region

¹³⁵ Human Rights Watch telephone interview with Darya Kasyanova, SOS Children’s Villages and Child Rights Network, May 14, 2022.

¹³⁶ Human Rights Watch interview with Y., Lviv, May 17, 2022.

¹³⁷ Human Rights Watch interviews with Marina, a caregiver, and an institution director, Lviv, May 17 and 19, 2022.

¹³⁸ Human Rights Watch interview with Volodymyr Lys, Lviv, May 16, 2022.

¹³⁹ Ministry of Social Policy of Ukraine, “Intercountry Adoption Under Conditions of Martial Law – A Clarification from the Ministry of Social Policy,” March 13, 2022, <https://travel.state.gov/content/travel/en/News/Intercountry-Adoption-News/ukraine---ministry-of-social-policy-statement-on-intercountry-ad.html>.

¹⁴⁰ Human Rights Watch interview with Mariana, director of Ridni, Lviv, May 17, 2022.

had found a job—the key condition a court imposed for her to regain custody—but the case was frozen, the director of the siblings’ institution said.¹⁴¹ The director and the children had been evacuated to Lviv on March 3, 2022.

In a positive move, the Ukrainian Ministry of Social Policy established a registry for families who wish to foster children on a temporary basis during the war. Nationwide, 5,100 families had submitted paperwork to register as of mid-May, a child protection official in Lviv said.¹⁴² By November 28, about 2,000 Ukrainians who volunteered to adopt or foster a child had passed all the required stages, including a six-day “basic training module” and another week of additional training that focused specifically on adoption, guardianship, or fostering, although only 39 had successfully applied to regional authorities to adopt.¹⁴³

Legal procedures to declare children as orphans, to terminate parents’ rights in cases of abuse or neglect, and to enable children to be fostered, have also been suspended or delayed due to the war. A large institution for children with health conditions, near Lviv, is hosting children with disabilities who were evacuated, including “a case where the mom [who was the only parent] died just before the war, her four kids are here, but they cannot be legally declared as orphans” because the required legal procedures could not be taken due to the war, staff at the institution said in May.¹⁴⁴ About 100 newborns whose parents had left them in hospitals in the Kharkivska and Donetsk regions were evacuated to a sanatorium in the Ivano-Frankivska region, but “now we don’t have legal representatives for the children, and they don’t have legal documents,” according to a civil society representative who helped with the evacuations.¹⁴⁵

Happy Kids Foundation, a Polish civil society group working with Ukrainian refugee children from institutions, was “getting calls daily” about children newly orphaned by the

¹⁴¹ Human Rights Watch interview with director of an institution in the Kyivska region, in Lviv, May 14, 2022.

¹⁴² Human Rights Watch interview, Volodymyr Lys, Lviv regional director for foster care and institutions, May 17, 2022. Ministry of Social Policy, “Convenient online resources for adoption or foster care,” November 28, 2022, <https://www.msp.gov.ua/news/22373.html>.

¹⁴³ Ministry of Social Policy, “UNICEF helped to conduct trainings for those who are ready to accept a child into a family,” December 9, 2022, <https://www.msp.gov.ua/news/22409.html>.

¹⁴⁴ Human Rights Watch interview with institutional staff, Lviv, May 16, 2022.

¹⁴⁵ Human Rights Watch telephone interview with Darya Kasyanova, SOS Children’s Villages and Child Rights Network, May 14, 2022.

war who could not be registered in Ukraine because legal processes had been suspended, a program manager said in March.¹⁴⁶ As a result, these children were ineligible for foster care and were automatically placed in institutions, including in “one [institution] where there are 60 war orphans,” the manager said. At another institution, the Ukrainian state was challenging the parental rights of 10 out of 30 displaced children, but according to staff quoted in a news report, “those [legal] cases can’t proceed, so the children are effectively in limbo.”¹⁴⁷

¹⁴⁶ Human Rights Watch interviews and observations at three children’s residential institutions, Łódź , March 24, 2022.

¹⁴⁷ Anya Kamenetz, “War displaced two-thirds of Ukraine’s orphans. Keeping them safe isn’t easy,” National Public Radio, June, 9, 2022, <https://www.npr.org/2022/05/29/1101973267/ukraine-children-displaced-orphanage-russia-war#:~:text=Vilshany%20Orphanage%20is%20a%20facility,around%2Dthe%2Dclock%20care>.

III. Risks for Refugee Children

Around 6,800 children were evacuated from Ukrainian institutions, about half of whom have a living parent or parents with full rights; of these, 4,500 children were sent abroad.¹⁴⁸ The first evacuations abroad of children in institutions were from Ukraine to Poland and were organized primarily by volunteers and civil society groups. The Ukrainian Ministry of Social Policy¹⁴⁹ circulated a letter from the Happy Kids Foundation, a Polish civil society group that provides foster-care and placement in small-group-homes for children, informing Ukrainian children’s institution directors that the foundation could support evacuations. The group worked with Polish municipal authorities and government representatives (*voivods*) to find “suitable places to stay in Poland that would be available for a minimum of one year,” to avoid further displacement, while the UN Global Compact helped arrange for businesses to donate the use of busses and hotels. These round-the-clock efforts evacuated 1,397 children from institutions, caregivers and the caregivers’ children, as well as about 100 more unaccompanied children, “plus their dogs and cats and animals,” said a former emergency coordinator for the group.¹⁵⁰ Polish government authorities took over the evacuations in March 2022. Persons involved in evacuations mentioned other cases in which children were evacuated from Ukrainian institutions to six other European countries.

Protection Concerns for Unregistered Children

In the chaotic first weeks of the war, as millions of people tried to flee Ukraine for Poland, a breakdown in border procedures meant that many children were not registered when leaving Ukraine, and that adults were able to leave with children without proving their legal connection. The Ukrainian border guard adopted a “simplified procedure” and did not consistently require adults traveling with children to prove they had the legal authority to do so or register their details, a Ukrainian government monitoring mission reported.¹⁵¹

¹⁴⁸ See “Risks to Children Evacuated to Other Institutions: Lack of Adequate Care,” Section 2, above.

¹⁴⁹ Initially, evacuation decisions were taken by the Department for Children’s Rights and Adoption, at the Ministry for Social Policy. Subsequently, the authority to order evacuations of children’s institutions was decentralized to the local government level.

¹⁵⁰ In-person interview and visits to facilities, Łódź, March 24, 2022.

¹⁵¹ Government of Ukraine, “Report on sending a Monitoring Group which includes the members of the Coordination Headquarters for the Protection of the Rights of the Child under Martial Law to the Republic of Poland, the Federal Republic of Germany, and the Italian Republic (18 April – 27 April 2022).”

Olga, a Ukrainian volunteer in Poland who helped receive children from institutions at the border, said that due to the fierce cold and days-long waiting times, “[w]hen there were huge crowds at the border, the guards were just waving people through, especially when we were with large groups of kids.”¹⁵²

Contributing to the chaos, hackers, presumed to be Russian, temporarily shut down the database into which the Ukrainian Border Guard Service normally registered departures, two officials at international agencies in Poland and in Ukraine confirmed to Human Rights Watch.¹⁵³ The hack led to “huge delays at the border” because Ukrainian border guards “had to do two or three checks” on each person, one official said.¹⁵⁴ An official at a third humanitarian agency said, “[t]here were huge lines, people were outside for hours in minus 12 Celsius, so they skipped some procedures at the border so people don’t freeze to death. But some children fell through the cracks, especially during the first wave, and we still don’t know where these children are.”¹⁵⁵

An ongoing protection gap exists for children who enter Poland from Ukraine with a parent or guardian in cases where the adult then returns to Ukraine alone, or the child otherwise becomes unaccompanied while in Poland, a humanitarian official said.¹⁵⁶ “Local authorities are aware of the problem but we need solutions” to ensure children in such cases are provided support, for example, by establishing temporary guardianship, she said. From March 4 to May 31, 2022, Polish authorities sent 2,710 children and caregivers from institutions to a central registration hub in the city of Stalowa Wola, which has since been closed.¹⁵⁷ But Ukrainian authorities reported that they had “no access to the register of children in Stalowa Wola,” and proposed establishing a Ukrainian-Polish coordination headquarters to ensure the rights of displaced children.¹⁵⁸ Poland closed the “hub” in Stalowa Wola but had not agreed to a coordination mechanism at time of writing.

¹⁵² Human Rights Watch interview, Łódź, March 24, 2022.

¹⁵³ The officials were involved with evacuating children from institutions to Poland, and with child protection in Ukraine. Interviews conducted on March 26, 2022, Warsaw, and May 13, 2022, Lviv.

¹⁵⁴ Ibid.

¹⁵⁵ Telephone interview with an international humanitarian agency official in eastern Poland, April 12, 2022.

¹⁵⁶ Ibid.

¹⁵⁷ Ministry of Family and Social Policy of Poland, Undersecretary Barbara Socha, letter to Human Rights Watch, June 21, 2022.

¹⁵⁸ Government of Ukraine, “Report on sending a Monitoring Group which includes the members of the Coordination Headquarters for the Protection of the Rights of the Child under Martial Law to the Republic of Poland, the Federal Republic of Germany, and the Italian Republic (18 April – 27 April 2022),” p. 9. As of mid-April, 2022, 1,900 people, including 1,230 children, had been processed at the facility, according to the report.

Ukrainian authorities have instructed the staff of institutions evacuated abroad to register the children at Ukrainian consulates, but the Ukrainian monitoring mission found discrepancies in Italy, Germany, and Poland. For instance, Ukraine’s National Social Service reported 1,837 children from institutions had been sent to Poland, yet the consulate had only registered 1,574.¹⁵⁹ Furthermore, several hundred children had traveled onward from Poland without the Ukrainian authorities being informed. Ukraine halted private transfers of unaccompanied children and children in institutions to Poland and requested that Poland ask for Ukrainian authorization if children wished to travel onward from Poland, officials with international agencies said.¹⁶⁰ In March, Polish and Ukrainian authorities had been unaware of a planned transfer of scores of children and caregivers from Ukrainian institutions staying in Warsaw to a third country, a person who notified the authorities said.¹⁶¹ In January 2023, Ukrainian authorities wrote to Human Rights Watch that “according to information received,” children abroad were registered with Ukrainian consular authorities, but it remains unclear if official procedures have accounted for all children abroad.¹⁶²

Governments appear to be reporting inconsistent numbers of children evacuated abroad from institutions in Ukraine. Ukrainian authorities stated in May 2022 that in total, almost 4,100 children from 181 institutions were evacuated abroad, to countries including Poland, Germany, Italy and others.¹⁶³ However, a Polish volunteer who participated in arranging several evacuations tallied 4,200 children who had been evacuated to Poland alone.¹⁶⁴

¹⁵⁹ Ibid.

¹⁶⁰ Human Rights Watch interviews with international humanitarian agency officials, March 26, Warsaw, and by telephone, April 12, 2022.

¹⁶¹ Human Rights Watch interviews with international humanitarian agency official, Warsaw, March 26, 2022.

¹⁶² National Social Service of Ukraine, letter to Human Rights Watch, received January 31, 2023.

¹⁶³ National Social Service data shared with Human Rights Watch. Daria Herasymchuk, Ukraine’s presidential children’s rights commissioner, cited the same figures of evacuated institutions in early June: see National Public Radio, “War displaced two-thirds of Ukraine’s children. Keeping them safe isn’t easy,” June 7, 2022, <https://www.npr.org/2022/05/29/1101973267/ukraine-children-displaced-orphanage-russia-war>. The Education Ministry reported that around 1,350 children remained in its institutions, about two-thirds of whom were displaced from other institutions, and that almost 1,270 had gone abroad in organized evacuations. Ministry of Education and Science, “Overview of the current state of education and science in Ukraine in terms of Russian aggression (as of May 31 – June 04, 2022),” <https://drive.google.com/file/d/1kGTFHTKRuhSGEFYzCGQH0o1StuQ-CgP/view>.

¹⁶⁴ There were 1,497 Ukrainian children evacuated by Happy Kids Foundation to Poland; 1,300 evacuated by the Polish Center for International Aid (PCPM); 1,200 children evacuated with support from the Prime Minister’s Office; and 200 children sent to Croatia by the Polish Government Center of Safety, the volunteer said. Human Rights Watch interview, Warsaw, March 26, 2022.

But Polish authorities said in June that they registered 2,700 children and caregivers. In August, Ukrainian authorities said that 4,505 children had been evacuated abroad.

European governments registered Ukrainian children from institutions but have not established mechanisms to share data with the Ukrainian authorities. Ukraine has proposed establishing UNICEF-supported “headquarters” in Poland, Germany, and Italy to share information and resolve problems for unaccompanied children and children from institutions.¹⁶⁵

Ukraine’s Policy that Large Groups from Institutions Must Remain Together

The Ukrainian Ministry of Social Policy arranged for the evacuations of children’s institutions abroad, including institutions operated by the Education Ministry. In the cases Human Rights Watch documented, the authorities arranged for several institutions from a given area to be evacuated to the same location and then to travel together in a large group to Poland, and designated one staff member as responsible for the entire group. Ukrainian authorities’ position is to require these large groups to remain together in Poland, although some have been able to separate. In October 2022, the UN committees on the rights of the child and the rights of people with disabilities urged Ukraine to “repeal regulations that stipulate evacuated children must remain together in groups.”¹⁶⁶

The former Minister of Social Policy told Human Rights Watch that “we evacuate with the caregivers and with the directors of the facilities, because they know everything about their residents, the caregivers know their medical histories, and it’s less stressful,” and that “an important [additional] consideration in such cases is that people from one institution aren’t separated.”¹⁶⁷ In response to a question from the UN Committee on the Rights of the Child about the policy of requiring the same groups to remain together abroad, the Ukrainian delegation stated that it served the goals of ensuring child

¹⁶⁵ Government of Ukraine, “Report on sending a Monitoring Group ... to the Republic of Poland, the Federal Republic of Germany, and the Italian Republic (18 April – 27 April 2022),” *op. cit.*

¹⁶⁶ UN OHCHR, “UN experts call for urgent action to protect Ukrainian children with disabilities in residential care institutions,” October 7, 2022, <https://www.ohchr.org/en/statements/2022/10/un-experts-call-urgent-action-protect-ukrainian-children-disabilities>.

¹⁶⁷ Human Rights Watch meeting with Maryna Lazebna, Minister of Social Policy, and staff, Kyiv, May 19, 2022.

protection as well as the “paramount goal” of ensuring the children are repatriated after the war.¹⁶⁸

In the cases we documented, only a handful of staff were evacuated with the children who could not be sent home, and these staff were not always caregivers but included whomever was at the institution at the time, including an office administrator.¹⁶⁹ The small number of staff evacuated to Poland said they were exhausted from weeks of work. While keeping children from the same institution together could help avoid anxiety and ensure oversight, the policy of requiring large groups of children to remain together, including from different institutions, poses problems in countries that for years have banned large institutions.¹⁷⁰ In Poland, law reform in 2012 prohibited institutions from housing more than 14 children.¹⁷¹ But in one evacuation, according to a Polish civil society volunteer, “we received a transport of 711 people, 646 of them kids, from multiple institutions in the Odeska region.” The volunteer added:

The Ukrainian Ministry had said that they should all remain together, so we found a massive hotel complex. But it makes sense that this huge group could be separated, while the kids from each institution remain together. Ukraine is insisting that these kids will be returned some day, so they are pushing to keep the structures as similar as possible to the way they were in Ukraine. But they have huge institutions, while the EU shifted to small orphanages. It stretches the child standards of the EU.¹⁷²

¹⁶⁸ UN Committee on the Rights of the Child, 2635th Meeting, 91st Session, Consideration of Ukraine, remarks from the Ukrainian delegation at 1:03, August 31, 2022.

¹⁶⁹ See “Risks to Children Evacuated to Other Institutions: Lack of Adequate Care,” Section 2, above.

¹⁷⁰ For instance, European Union member states are guided by the European Commission’s 2013 “Recommendation: Investing in children: breaking the cycle of disadvantage,” 2013/112/EU, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H0112>.

¹⁷¹ Human Rights Watch interviews with municipal director for foster care, Łódź, March 23, and with the director of Ridni, a Ukrainian civil society organization that helped evacuate children to Italy, Lviv, May 18, 2022.

¹⁷² Human Rights Watch interview, A., Warsaw, March 22, 2022. In Italy, for example, the number of children in institutions fell from 200,000 in the 1970s to around 15,000 by the 2010s. UNICEF, “Children in Institutions: The beginning of the end?,” April 2003, p. 18-19, <https://www.unicef-irc.org/publications/pdf/insight8e.pdf>; European Commission, Feasibility Study for a Child Guarantee, Target Group Discussion Paper on Children in Alternative Care, 2019, p. 19, <https://op.europa.eu/en/publication-detail/-/publication/f8373a0f-c7dd-11ea-adf7-01aa75ed71a1/language-en>.

The evacuation required 23 minibuses, and the resort hotel complex is in a rural area without nearby schools or medical facilities, the volunteer said. By late May 2022, it was hosting a total of 1,500 Ukrainian refugees, including children from institutions.¹⁷³

In other evacuations, the Ukrainian authorities have allowed large groups to be split up, where charity groups with private lawyers were involved. Another civil society group in Lviv evacuated 80 children from two institutions to Poland. They could only find accommodation for such a large group in a hotel, where they remained for a month. In this case, however, “we were able to work out a legal solution” and split the group, with children from one institution going to Switzerland, and from the other to Italy.¹⁷⁴

Challenges Hosting Children from Ukrainian Institutions in Poland

Nearly 8,900,000 Ukrainians have crossed the border to Poland due to the war.¹⁷⁵ During the first weeks of the war, the Polish refugee response was largely volunteer-driven. The central government sometimes struggled in its efforts to take control. Volunteers and municipal officials in Łódź described a case in early March 2022, when they urgently restored and repaired disused floors of an old orphanage to prepare places for 85 children from Ukrainian institutions, whom they had been asked to host by the Polish government’s crisis bureau.¹⁷⁶ People in the neighborhood donated new clothes, toiletries, stuffed animals, and books, and “left a present to welcome each new child,” a volunteer said.¹⁷⁷ But when busses were sent to pick up the children, the government had changed its policy, and the children were sent elsewhere.

Most Ukrainians moved on from Poland to other European countries, or returned home, but more than 1,500,000 remain, including thousands of children from institutions.¹⁷⁸ In the medium term, the government should ensure that municipal authorities have adequate support. Łódź is hosting a group of 48 Ukrainian children at one refurbished institution, and two groups of 21 and 22 children at a second institution, each of which also has 14

¹⁷³ PRA Group, “Global Company’s Poland Office Helps Colleagues Rescue Refugee Relatives,” May 27, 2002, <https://www.pragroup.com/news-and-stories/global-companys-poland-office-helps-colleagues-rescue-refugee-relatives/>.

¹⁷⁴ Human Rights Watch interview with staff at Ridni, Lviv, May 13, 2022.

¹⁷⁵ UNHCR, “Ukraine Refugee Situation,” Poland, data as of January 10, 2023, <https://data.unhcr.org/en/situations/ukraine>.

¹⁷⁶ Human Rights Watch interview with municipal director for foster care, Łódź, March 24, 2022.

¹⁷⁷ Human Rights Watch interviews with volunteers, Łódź, March 24, 2022.

¹⁷⁸ UNHCR, “Ukraine Refugee Situation,” Poland, *ibid.*

Polish children. “Our goal is that there be no distinction, the Polish and Ukrainian children should receive equal treatment,” the municipal official said, but he was worried that the cost of refurbishing disused orphanages and hiring new cooks, caregivers, and other staff has been borne entirely by the municipality. “For now it’s all coming from the budget of the orphanage, which is funded by the municipality. The government announced temporary support of 70 zloty [US\$16] per child per day, but our costs are three times that much. We hope to get donors interested,” he said.¹⁷⁹

Ukrainian and Polish authorities should ensure educational solutions for Ukrainian children and caregivers in the coming school year.¹⁸⁰ Ukrainian caregivers like Galina, from eastern Ukraine, praised Polish schools for welcoming children from their institutions: “It was a warm welcome. We just had to show a birth certificate, like at the border.”¹⁸¹ Polish schools did not require the children to take examinations, with little time remaining in the school year. However, the Ukrainian authorities required children from institutions to study the Ukrainian curriculum remotely. Requiring children to follow two curricula simultaneously is a recipe for failure and should not be repeated. Moreover, the burden of the Ukrainian curriculum falls on caregivers, who have not had time off since the full-scale invasion took place. A second caregiver in Poland said,

The [Ukrainian] homeroom teacher collects the assignments from all the subject teachers and sends them to us by email, and we make sure it gets done. They’re going to Polish school, without having to take exams, but the Ukrainian Education Ministry insists they take our exams. I help them with Polish school too, but the curriculum is different. I know geology, and biology, but not the other subjects. I can’t manage all this.

¹⁷⁹ Human Rights Watch interview with municipal director for foster care, Łódź, March 24, 2022.

¹⁸⁰ In Poland, children from Ukraine may participate in preparatory classes, additional language or remedial classes, or be assisted by a Ukrainian-speaking teaching assistant, as decided by the school head in agreement with the school managing body, based on the needs of each learner. European Commission / EACEA / Eurydice, *Supporting refugee learners from Ukraine in schools in Europe*, July 2022, p. 16; see also Polish Act (Law) of 12 March 2022 on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of that Country.

¹⁸¹ Human Rights Watch interview, Galina, Łódź, March 24, 2022.

Conflicting Laws on Unaccompanied Children, Guardianship, and Foster Care

Ukrainian law permits children with a passport to travel abroad at age 16 without a parent or guardian's permission, but some countries have treated 16- and 17-year-old Ukrainian children traveling alone as unaccompanied minors who require guardians, leading to problems. The United Kingdom had announced a "Homes for Ukraine" program to allow families to host unaccompanied Ukrainian children, but later issued rules requiring the child to travel with a parent or legal guardian unless the UK sponsor family had already known the child before February 24, 2022, leaving 1,000 children in limbo for months, according to news reports.¹⁸² Authorities implementing the scheme separated a 13-year-old girl, who was not granted a visa to enter the UK and returned to Ukraine, from her 18-year-old sister who was issued a visa.¹⁸³

Polish law considers any child under 18 travelling alone to be unaccompanied and requires them to be represented by a temporary guardian appointed by the state. Until recent amendments, the law required the guardian to be a Polish national. Dozens of Ukrainian children, many of them aged 16 or 17 at the time, were stuck at a Polish facility set up to register unaccompanied children and children from institutions in Stalowa Wola, a city 240 kilometers south-east of Warsaw. The process was meant to last no more than three days, but the Ukrainian governmental mission identified two 16-year-old boys, one of whom had been there for more than a month, because the boys had no contact with their parents.¹⁸⁴ A girl, 16, was from a Ukrainian institution where the director allowed her to leave with her aunt, who is not her legal guardian, but failed to provide them any legal documents; the girl and her aunt were "detained by Polish customs officers" and brought to Stalowa Wola. The Ukrainian mission was able to resolve all three cases during its one-day visit in April 2022, but by May 24, another 32 Ukrainian teenagers were waiting at Stalowa Wola to have temporary guardians appointed, in order to be able to leave the facility for a temporary

¹⁸² Emily Dugan, "Over 500 Ukrainian children stuck waiting for UK visa decision," *The Guardian*, May 29, 2022, <https://www.theguardian.com/uk-news/2022/may/29/homes-for-ukraine-children-stuck-waiting-for-uk-visa-decision>; BBC, "Ukraine refugees: UK set to admit lone teenagers after rule change," June 22, 2022, <https://www.bbc.com/news/uk-61887136>; Dugan, "Row over UK child visas as Ukrainian violinist's 3 month wait continues," *The Guardian*, July 10, 2022, <https://www.theguardian.com/uk-news/2022/jul/10/row-over-uk-child-visas-as-ukrainian-violinists-three-month-wait-continues>.

¹⁸³ House of Commons Library, "Homes for Ukraine Scheme and child refugees," Research Briefing, June 17, 2022, <https://commonslibrary.parliament.uk/research-briefings/cdp-2022-0115/>.

¹⁸⁴ "Report on sending a Monitoring Group which includes the members of the Coordination Headquarters for the Protection of the Rights of the Child under Martial Law to the Republic of Poland, the Federal Republic of Germany, the Italian Republic (18 April – 27 April 2022)," p. 5, on file with Human Rights Watch.

home in Poland or to move onward from Poland.¹⁸⁵ Children at the facility included boys and girls, infants, teenagers, and children with disabilities, “and they have little privacy, they all have to stay together in this large sports hall,” said a volunteer with a Polish civil society group.¹⁸⁶ The Polish Ministry of Family and Social Policy wrote to Human Rights Watch that one room at the facility “can accommodate 245 people. The beds are placed next to each other, there are no partitions, they are separated by chairs.”¹⁸⁷

Poland has since closed the facility, and law reforms led by the Polish government now allow Polish courts to appoint Ukrainians as temporary legal guardians for children from Ukrainian institutions. However, similar problems bedevil children and staff evacuated to other countries.

A Ukrainian civil society organization helped evacuate a group of several dozen children from institutions to Italy, where officials refused to accept the guardian for the group appointed under Ukrainian law, while Ukrainian criminal law prohibits the Ukrainian guardian from transferring or giving up their guardianship in foreign jurisdiction.¹⁸⁸ In at least one other case, an Italian court decision created a legal exemption that allowed a Ukrainian institution director to be recognized as the guardian of a group of more than 20 children.¹⁸⁹ Other officials have not deferred to the decision as a binding precedent. The director of the civil society organization said Italian authorities “didn’t recognize the Ukrainian power of attorney for our guardian, they treated the children as if they were unaccompanied and required every child to have an Italian guardian.”¹⁹⁰ The director and lawyer had traveled to Italy repeatedly for months but were unable to resolve the impasse. Ukrainian authorities were concerned that the Italian guardian could adopt the children, violating Ukraine’s ban on adoption during the war, the director said. In late June 2022,

¹⁸⁵ Minister of Social Policy of Ukraine, Visit to Stalowa Wola on May 24, 2022, <https://www.msp.gov.ua/news/21853.html>.

¹⁸⁶ Human Rights Watch interview with Polish civil society group volunteer involved in evacuations of children from Ukrainian institutions to Poland, Lodz, March 23, 2022.

¹⁸⁷ Ministry of Family and Social Policy of Poland, Undersecretary Barbara Socha, letter to Human Rights Watch, June 11, 2022.

¹⁸⁸ Ukrainian media have reported other cases where Italian authorities did not recognize Ukrainian children’s guardians. “Osadcha spoke about a Ukrainian woman who is not allowed to [see] her own daughter in Italy,” July 30, 2022, <https://tsn.ua/glamur/osadcha-rozpovila-pro-ukrayinku-yakiy-ne-viddayut-vlasnu-donku-v-italiyi-ditina-ne-mozhe-vihoditi-bez-suprovodu-chernic-2122660.html>.

¹⁸⁹ Remarks by Aaron Greenberg, UNICEF, European Parliament meeting on illegal adoption of Ukrainian children, April 21, 2022, see recording available at <https://www.europarl.europa.eu/news/en/press-room/20220412IPR27120/ukraine-dangers-related-to-illegal-adoption-of-children-fleeing-war>.

¹⁹⁰ Human Rights Watch interviews with M., Lviv, May 13, 17, and June 22, 2022.

“our government had a huge conflict with Italy and decided to bring all the kids back to Ukraine. They can’t be in Italy, but we don’t know if Lviv will be safe, and we don’t have anywhere to return them [in Ukraine].”

A Greek Catholic church in Lviv had hosted 20 displaced children from a “family-type orphanage” in eastern Ukraine: “it was a family with 5 of their own kids and 15 others who had not been registered as their children,” said a priest who continued to support the group after they were relocated to Portugal.¹⁹¹ “They were promised to get medical checks and care, but they didn’t, because the authorities didn’t recognize the foster family, so the 15 children got stuck and the group hosting them could not get any [Portuguese] government funding for them, they were not official,” he said. Without a legally recognized guardian, there was no one to register the 15 children for school or for mental health support, he said.

¹⁹¹ Human Rights Watch interview with R., Greek Catholic Church, Lviv, May 17, 2022.

IV. Ukraine and Donor Governments

The European Union, the United States, and other countries providing funding for the care of children in Ukraine have yet to make any commitments to ensure their support goes to community- or family-based child care, and would not be used to fund the institutionalization of Ukrainian children.¹⁹² The European Commission proposed a funding facility to be led by the Ukrainian authorities in partnership with the EU and G7 governments, and a donor conference in July 2022 reiterated the need for reconstruction aid as well as reforms in the context of Ukraine’s path to EU accession.¹⁹³ The conference pledged to “restore the infrastructure of educational and research institutions,” without addressing the issue of residential institutions operated by the Ministry of Education.¹⁹⁴

The European Commission has pledged to address several of the problems Human Rights Watch documented in this report, including by “develop[ing] standard operating procedures and uniform guidance for the reception and support of children, paying particular attention to the needs of children with disabilities, unaccompanied minors and separated children, including swift identification and registration ... [and] specific standard operating procedures for the transfer of unaccompanied minors.”¹⁹⁵ The Commission has set out child protection obligations for member states regarding migration and border procedures under the EU Temporary Protection Directive, and the Brussels II(b) Regulation, which may apply simultaneously alongside EU member states’ family law and child

¹⁹² The US provided \$53.6 billion in military aid to Ukraine as of June 15, 2022. Brian Cavanaugh, “The US Should Start Helping Ukraine Rebuild Now,” *Foreign Policy*, June 15, 2022, <https://foreignpolicy.com/2022/06/15/ukraine-war-reconstruction-us-eu-assistance/>. Some commentators have urged the US to appoint a special representative to oversee US reconstruction aid to Ukraine. Benjamin Jensen, “Winning in Ukraine requires a special representative and strategy to rebuild,” *The Hill*, August 1, 2022, <https://thehill.com/opinion/national-security/3579735-winning-in-ukraine-requires-a-special-representative-and-strategy-to-rebuild/>.

¹⁹³ European Commission, “Ukraine: Commission presents plans for the Union’s immediate response to address Ukraine’s financing gap and the longer-term reconstruction,” May 18, 2022, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3121; Ukraine Recovery Conference, Lugano Declaration, July 5, 2022, <https://www.urc2022.com/conference-materials>.

¹⁹⁴ Ukraine Recovery Conference, “Social Recovery,” July 5, 2022, p. 2, https://uploads-ssl.webflow.com/621f88db25fbf24758792dd8/62bd01b9049cb35af0bbe702_ENG_Social%20Recovery_URC.docx.pdf.

¹⁹⁵ European Commission, “The 10 point plan for Stronger European Coordination on Welcoming People Fleeing the War from Ukraine,” https://www.consilium.europa.eu/media/56941/the-10-point-plan-for-stronger-european-coordination-on-welcoming-people-fleeing-the-war-from-ukraine_en.pdf.

protection law.¹⁹⁶ Within the EU, the 2021 EU Strategy on the Rights of the Child “invites” EU member states to “speed up de-institutionalization and the transition towards quality, family- and community-based care services,” including for unaccompanied migrant children, and pledges to “invest in the development” of such care.¹⁹⁷

The European Parliament has called for “an EU strategy to step up humanitarian action on the ground to rescue ... vulnerable children, including ... those in institutional care and foster care ... as well as children with disabilities, orphans and unaccompanied children, especially in combat zones.”¹⁹⁸ In April 2022, the chairperson of European ombudspersons for children called for governments to implement family tracing and family placements but not adoption, a mandatory screening and protection system, and timely appointment of legal guardians for children from institutions.¹⁹⁹ Representatives from UNICEF and the European Commission noted the importance that member states meet their pre-existing deadlines to implement the “European Child Guarantee,” an EU measure to ensure every child has access to their basic rights including food, education, and healthcare, and which should extend to Ukrainian children. Only five member states had met the deadline to submit action plans.²⁰⁰

¹⁹⁶ The Brussels II(b) Regulation entered into force on August 1, 2022. Eurochild, Child Circle, UNICEF, “Discussion paper on guardianship, care arrangements and custodial responsibilities for unaccompanied and separated children fleeing Ukraine and arriving in the Europe Union,” May 6, 2022, <https://eurochild.org/uploads/2022/05/Child-Circle-Discussion-Paper-on-guardianship-and-care-for-UASC-from-UA.pdf>.

¹⁹⁷ European Commission, “EU strategy on the rights of the child,” 2021, pp. 12, 20.

¹⁹⁸ European Parliament, Resolution of 7 April 2022 on the EU’s protection of children and young people fleeing the war in Ukraine (2022/2618(RSP)), [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/2618\(RSP\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/2618(RSP)).

¹⁹⁹ Remarks by Theoni Koufonikolakou, Chairperson of the European Network of the Ombudspersons for Children (ENOC), Deputy Ombudswoman for Children’s Rights in Greece, “Ukraine: MEPs discuss the dangers of illegal adoption related to illegal adoption of children fleeing war,” April 21, 2022, see recording available at <https://www.europarl.europa.eu/news/en/press-room/20220412IPR27120/ukraine-dangers-related-to-illegal-adoption-of-children-fleeing-war>.

²⁰⁰ Remarks by Mr. Aaron Greenberg, UNICEF, Mrs. Anna Krawzac, Empowering Children Foundation, Mrs. Katarina Ivanković Knežević, Director, Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL). “Ukraine: MEPs discuss the dangers of illegal adoption related to illegal adoption of children fleeing war,” April 21, 2022; see recording. See also European Commission, “European Child Guarantee,” <https://ec.europa.eu/social/main.jsp?catId=1428&langId=en>.

V. Legal Standards

International humanitarian law provides that children affected by armed conflict are entitled to “special respect and protection.”²⁰¹ Children benefit from protection in general as civilians and specifically as minors with unique vulnerabilities. Children, as with all civilians, are entitled to access to humanitarian assistance, such as food, clothing, and healthcare, and to education. Children who are orphaned or separated from their families must be identified and protected, and their physical safety must be ensured. Children with disabilities caught up in armed conflict can experience multiple forms of human rights violations based on their disability, while international human rights norms specifically call for the protection of children with disabilities in situations of armed conflict.²⁰²

Additional Protocol I to the Geneva Conventions sets out a prohibition on parties to a conflict evacuating children who are not their own nationals to a foreign country, with an exception for temporary evacuations on compelling medical or safety grounds.²⁰³ Any such evacuations require parental or guardian consent. The Fourth Geneva Convention calls for orphaned or separated children to be able to continue the exercise of their religion and their education, and under Additional Protocol I this also applies if they are evacuated to a third country for safety.²⁰⁴ Several provisions in the Fourth Geneva Convention and Additional Protocol I require that appropriate steps be taken to facilitate the reunion of families temporarily separated. During an armed conflict, international human rights law also continues to apply.

The preamble to the Convention on the Rights of the Child recognizes the family as the natural environment for the growth and well-being of children. For the full and harmonious development of their personality, children “should grow up in a family environment, in an

²⁰¹ See the study by the International Committee of the Red Cross on customary international humanitarian law, Rule 135, available at <https://ihl-databases.icrc.org/en/customary-ihl>. Originally published as Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, 2 volumes, Volume I. Rules, Volume II. Practice (2 Parts), Cambridge University Press, 2005.

²⁰² United Nations Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, UN GAOR, 61st Sess., Supp. (No. 49) at 65, UN Doc. A/61/49 (2006), entered into force May 3, 2008, art. 11; UN Security Council Resolution 2475.

²⁰³ Protocol Additional to the Geneva Conventions of 1949 (Protocol I), 1977, Art. 78.

²⁰⁴ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949, Art. 24; Protocol Additional to the Geneva Conventions of 1949 (Protocol I), 1977, Art. 78(2).

atmosphere of happiness, love, and understanding.”²⁰⁵ International human rights law ensures that the family is entitled to the widest possible protection and assistance by society and the state.²⁰⁶

Ukraine, the EU and member states, and other states are obliged under international law to ensure that children are not separated from their parents unless that separation lies in the child’s best interests.²⁰⁷ The United Nations Guidelines for the Alternative Care of Children state that financial and material poverty should never be the only justification for removing a child from parental care or receiving a child into alternative care, and that States should take all necessary measures to provide for adequate alternative care options that grant priority to “family- and community-based solutions.”²⁰⁸

Ukraine, EU member states, and Russia have ratified the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), which oblige them to ensure that children with disabilities enjoy their rights without discrimination and to remove barriers that prevent these children from full inclusion in society.²⁰⁹ The CRPD prohibits separating a child from parents “on the basis of a disability of either the child or both of the parents,” and requires states, in case the immediate family is unable to care for a child with disabilities, to “undertake every effort to provide alternative care with the wider family, and failing that, within the community in a family setting.”²¹⁰ The explicit right to live in the community contained in the CRPD stems from a long history of arbitrary institutionalization and segregation of persons with disabilities. People with disabilities would usually enter an institution as children and remain there their entire lives, while often being denied the right to make decisions about their lives or

²⁰⁵ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 UN GAOR Supp. (No. 49) at 167, UN Doc. A/44/49 (1989), entered into force September 2, 1990.

²⁰⁶ International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, art. 23(1); and International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976, art. 10(1).

²⁰⁷ The “best interests of the child” standard is incorporated into Ukrainian domestic law. Law “On the Protection of Childhood,” April 26, 2001 No. 2402-III, cited in Kryvachuk, *ibid.* EU law also requires best-interest determinations including for unaccompanied migrant children. European Union Fundamental Rights Agency, “Relocation of unaccompanied children: Applying good practices to future schemes,” 2020, p. 9, <https://fra.europa.eu/en/publication/2020/relocation-unaccompanied-children>.

²⁰⁸ United Nations Guidelines for the Alternative Care of Children, adopted February 24, 2010, G.A. Res. A/RES/64/142, paras. 15, 56.

²⁰⁹ CRC, art. 2; CRPD, art. 19.

²¹⁰ CRPD, art. 23(5).

participate in the community as equal citizens. Institutionalization on the basis of disability is discriminatory and might amount to arbitrary deprivation of liberty.²¹¹ It is crucial to ensure that social and physical environments enable all persons with disabilities including those with high support needs can live, be included, and participate in their community.

The CRPD notes that governments should take “all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict.”²¹² CRPD Guidelines on deinstitutionalization call on states to “abolish all forms of institutionalization” and to “continue and accelerate” deinstitutionalization during armed conflict situations.²¹³ The Guidelines affirm that institutionalization of children with disabilities is harmful and violates their rights, and that institutionalization of children can both cause impairments and exacerbate existing impairments.²¹⁴ States “should ensure that institutions are not rebuilt or repopulated after emergencies,” including during armed conflicts and regarding refugees and internally displaced persons; emergency and recovery funding should support accelerating deinstitutionalization plans and not continued institutionalization.²¹⁵ In August 2022, UN experts called on donors to reconstruction in Ukraine to “decline to invest in institutions and instead assist Ukraine to ... enable children with disabilities to flourish with their families and in family-like situations.”²¹⁶

The Committee on the Rights of the Child, the UN expert body which monitors implementation of the treaty, has called on states to establish programs to move children with disabilities out of institutions, returning them to their biological or extended families

²¹¹ The European Court of Human Rights recognizes people who have been placed in institutions without their consent, “if the staff at the institution exercises complete and effective control over [their] care and movements,” have been deprived of their liberty within the meaning of Art. 5 of the European Convention on Human Rights (See European Court of Human Rights, *H.L. v. United Kingdom* (no. 45508/99) Judgment of October 5, 2004, para.91. See also European Court of Human Rights, *Storck v. Germany*, (no. 61603/00) Judgment of July 16, 2005, for state responsibility for those deprived of their liberty in private institutions paras. 74, 89.)

²¹² CRPD, art. 11.

²¹³ Committee on the Rights of Persons with Disabilities, “Guidelines on deinstitutionalization, including in emergencies,” 10 October 2022, CRPD/C/5, arts. 8, 107, <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd-c5-guidelines-deinstitutionalization-including>.

²¹⁴ *Ibid.*, art. 45.

²¹⁵ CRPD, “Guidelines on deinstitutionalization, including in emergencies,” 10 October 2022, CRPD/C/5, arts. 107-113.

²¹⁶ UN OHCHR, “Ukraine: UN experts sound alarm on situation of children with disabilities,” August 11, 2022, <https://www.ohchr.org/en/press-releases/2022/08/ukraine-un-experts-sound-alarm-situation-children-disabilities>.

or placing them in foster care, and providing children’s families with systematic support to raise children at home.²¹⁷ The Council of Europe’s Committee of Ministers has issued recommendations to states on actions to ensure full inclusion of children and young persons with disabilities into society and on the deinstitutionalization of children with disabilities.²¹⁸

Right to be Consulted and to be Heard

The Convention on the Rights of the Child sets out that children have the right to express their views and their views should be given due weight in accordance with the child’s age and maturity.²¹⁹ Therefore, a child has the right to be consulted as well as to be fully informed about the alternative care options.²²⁰

The views of the child, including those with a disability, must be taken into account in order to determine the best interests of the child, not only at the time of separation from the parents, but also at the time of decisions regarding changes in living arrangements, placement in foster care or homes, development of care plans and their review, and visits with parents and family.²²¹

²¹⁷ Committee on the Rights of the Child, General Comment No. 9, para. 49.

²¹⁸ Recommendations CM/Rec (2010)2 and CM/Rec(2013)2 of the Committee of Ministers to member States.

²¹⁹ CRC, art. 12(1).

²²⁰ UN Guidelines for the Alternative Care of Children, para 57 and 64.

²²¹ See for example Committee on the Rights of the Child, General Comment No. 12: “The right of the child to be heard” (2009), paras. 53-54; and CRPD, art. 7.

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“We Must Provide a Family, Not Rebuild Orphanages”

The Consequences of Russia’s Invasion of Ukraine for Children in Ukrainian Residential Institutions

When Russia began its full-scale invasion of Ukraine in February 2022, there were more than 105,000 children in residential institutions in Ukraine, according to Ukrainian government figures. Nearly half were children with disabilities.

“We Must Provide A Family, Not Rebuild Orphanages”: The Consequences of Russia’s Invasion of Ukraine for Children in Ukrainian Residential Institutions, documents how these children have suffered traumatic experiences of war and displacement, face ongoing risks due to the war’s impact on the institutional system, and need more monitoring and support to live in family settings. The report also records the forcible transfer to Russia or Russian occupied territories of many of these children, which constitutes a war crime. Russia has given Ukrainian children Russian nationality and placed them for guardianship and adoption by Russian families, in violation of international standards.

Most children in Ukraine’s institutions in February 2022 had parents with full parental rights and were only institutionalized due to their families’ poverty or because the child has a disability. Many were sent home from institutions to their families or evacuated due to Russian attacks, yet some children remain unaccounted for. With international support, Ukraine should map the whereabouts of all children from institutions and ensure their wellbeing. In cases where children from institutions were evacuated abroad, those countries and Ukraine should forge agreements that uphold the best interest of the child. As Ukrainian officials have acknowledged and decades of studies have shown, institutions are inherently harmful to children. Ukraine and its allies should ensure that all children who were or remain institutionalized are provided with support to live with their families or in family-like settings. In addition there must be an urgent concerted international effort to identify and return those children forcibly transferred by Russia.

(above) Children from a residential institution in Polohy wait in an evacuation train leaving to the western part of Ukraine, at the railway station in Zaporizhzhia, Ukraine, March 26, 2022.

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(front cover) A child walks down a hallway of a residential institution where he is staying, April 8, 2022 in Lviv, Ukraine.

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