

**POLITICAL DECLARATION  
BETWEEN  
THE MINISTRY OF FAMILY AND SOCIAL POLICY  
OF THE REPUBLIC OF POLAND  
AND  
MINISTRY OF SOCIAL POLICY OF UKRAINE  
ON THE SOCIAL PROTECTION OF CHILDREN AFFECTED BY  
HOSTILITIES AND ARMED CONFLICTS**

A significant number of children, in particular orphans and children (temporarily or permanently) deprived of parental care who were in public childcare institutions in Ukraine, and who fled from Ukraine due to the war that started on 24 February 2022, were placed in family/foster care or hosted by local families in Republic of Poland. There are threats of children being trafficked or exploited, as well as of adoptions bypassing the procedures established by the legislation of Ukraine.

The following instruments are recalled:

- the UN Convention on the Rights of the Child (1989), General comment No. 6 (2006): Treatment of Unaccompanied and Separated Children Outside their Country of Origin,
- the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000),
- the national legislations of Ukraine and the rules applicable in Republic of Poland for the children's rights protection and for data protection,
- the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, and in particular Article 6 therein concerning jurisdiction of the authorities of the hosting State over the refugee children who are internationally displaced to its territory.

Ukrainian children are entitled to temporary protection and to the rights set out in EU Council Directive 2001/55/EC of 20.07.2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (hereafter 'the Temporary Protection Directive')<sup>1</sup> to the extent that they fall within the categories referred to in Article 2(1) of Council Implementing Decision (EU) 2022/382 of 04.03.2022.<sup>2</sup>

<sup>1</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof OJ L 212, 7.8.2001, p. 12–23.

<sup>2</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, ST/6846/2022/INIT, OJ L 71, 4.3.2022, p. 1–6.

Articles 21 to 23 of the Temporary Protection Directive set out rules regarding the return and measures after temporary protection has ended in respect of persons enjoying temporary protection or whose protection has ended. Where applied in respect of children the child's best interests must be a primary consideration.

In accordance with Article 6(5)(c) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), (OJ L 77, 23.3.2016, p. 1), a Member State of the European Union may authorise entry of third-country nationals who do not fulfil one or more of the conditions laid down in Article 6(1) of that Regulation (entry conditions for third country nationals) to its territory on humanitarian grounds, on grounds of national interest or because of international obligations. This derogation may be applied in the context of current crisis to allow entry to all those fleeing the conflict in Ukraine, including children [as recalled in the European Commission operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders of 4 March 2022 (OJ 2022/C 104 I/01)].

On this basis, the Parties declare a mutual desire to protect the rights of children having left from Ukraine to Republic of Poland, as well as the mutual desire to preserve and protect the life and wellbeing of children, and to further strengthen and develop cooperation between the Parties in the following areas:

1. The Sides express their strong intention to cooperate for facilitating the voluntary return to Ukraine of children, orphans and children (temporarily or permanently) deprived of parental care who were in public childcare institutions in Ukraine, and who fled or were evacuated from Ukraine due to the war that started on 24 February 2022 and were placed in premises provided by Republic of Poland or in family/foster care or hosted by local families in Republic of Poland (Children) upon cessation of martial law on its territory upon cessation of the temporary protection status or, if a safe and dignified return are possible in due respect of the best interest of the child, prior to its termination.
2. The Sides, in accordance with the national legislation of their respective countries and applicable international treaties, and acting within their mandate, intend to exchange experience and relevant information on national legislation and procedures; if necessary they shall organize meetings of practitioners and experts, professional trainings and other activities in a format that is acceptable for the Parties and format agreed by them.
3. The Sides endeavor that minors citizen of Ukraine who arrived on the territory of the Republic of Poland without the supervision of a person exercising actual custody over him, and minors citizen of Ukraine who arrived on the territory of the Republic of Poland and before arrival was placed in foster care on the territory of Ukraine, are registered in dedicated ITC system administered by the Ministry of Family and Social Policy on the territory of Republic of Poland, prior cessation of martial law on the territory of Ukraine,
4. The Sides recognise that interstate and national adoption procedures for children-citizens of Ukraine shall not to be carried for the duration of martial law in Ukraine without due regard to the legislation of Ukraine or making the decision of the Ukrainian authorities. The Sides recognise, in line with the recommendation of UNICEF and the statement of

The Hague Conference on Private International Law<sup>3</sup>, that no on-going adoption procedure should be expedited and no new adoption procedure should take place in an emergency situations such as armed conflict.

5. Republic of Poland endeavors that free legal aid should be provided to the Ukrainian children enjoying temporary protection in the territory of Republic of Poland in relation to all procedures related to the temporary protection status or its cessation, in accordance with the national law and procedures of Republic of Poland.
6. Competent authorities of Republic of Poland should provide the unaccompanied minors and separated Children traveling from Ukraine with all information on their rights, available services and other information in a language he/she understands, taking into account their age and development level, if necessary, with the involvement of an interpreter, in particular, using remote interpretation.
7. Republic of Poland, to the territory of which children have been displaced, intends to provide high quality care for children from Ukrainian institutions and take all possible measures to preserve the close contact of groups of children from one institution and children, where this is established to be in line with the best interest of the Children concerned, as determined by the competent authorities of Republic of Poland in accordance with their national legislation.

This political declaration is not intended to create rights or obligations under international or domestic law. It does not have any financial implications on either side.

Signed at Warsaw..... on 30th of June 2022 in three copies, in Ukrainian, Polish and English languages.

In case of any divergence in the interpretation of the provisions of this Declaration, the English text shall prevail.

For Ministry of Family and  
Social Policy



Minister

Marlena MALAĞ

For Ministry of Social Policy of  
Ukraine



Minister

Maryna LAZEBNA

<sup>3</sup> <https://www.hcch.net/en/news-archive/details/?varevent=854>