



**Convention on the  
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COMMITTEE ON THE RIGHTS OF THE CHILD  
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**WRITTEN REPLIES BY THE GOVERNMENT OF UKRAINE TO THE LIST  
OF ISSUES (CRC/C/OPSC/UKR/Q/1) TO BE TAKEN UP IN CONNECTION  
WITH THE CONSIDERATION OF THE INITIAL REPORT OF UKRAINE  
SUBMITTED UNDER ARTICLE 12, PARAGRAPH 1, OF THE OPTIONAL  
PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD  
ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD  
PORNOGRAPHY (CRC/C/OPSC/UKR/1)\***

[Replies received on 18 April 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

**Replies to questions raised by the Committee on the Rights of the Child in connection with the initial report by the head of delegation of Ukraine on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

1. *Please provide data (disaggregated by sex, age and urban or rural area) for the years 2004, 2005 and 2006, on:*

*(a) Reported cases of sale of children, child prostitution and child pornography, with additional information on type of follow-up provided on the outcome of the cases, including prosecution, withdrawals and sanctions for perpetrators;*

*(b) Children trafficked to and from Ukraine, as well as trafficked within the country;*

*(c) Child victims provided with recovery assistance and compensation as defined in article 9, paragraphs 3 and 4, of the Protocol.*

Efforts to implement the Protocol are conducted by the central authorities and the country's law enforcement agencies in the various areas under their jurisdiction. Statistics from the ministries and departments responsible for countering trafficking in children, child pornography and child prostitution, given below and in the annexes to the present report, reflect the seriousness of this problem for Ukraine.

The country's central authorities and law enforcement agencies have set in place a range of organizational and practical measures designed to promote activities to combat trafficking in persons. A significant milestone in this endeavour was marked by the creation in August 2005, within the Ukrainian Ministry of Internal Affairs, of a department to combat offences relating to trafficking in persons, together with a system of regional offices. With the establishment of this new department, the work of the law enforcement agencies was considerably boosted in 2005, as follows:

- 415 criminal prosecutions were instituted under article 149 (Trafficking in or other unlawful transactions involving persons) of the Ukrainian Criminal Code, an increase of 54.3 per cent over the 2004 figure;
- 446 victims of trafficking in persons were identified and returned to Ukraine (increase of 74.9 per cent), 39 of whom were minors (increase of 16 per cent).

Particular attention is given to uncovering organized criminal gangs whose members are trafficking in so-called "human commodities". In 2005, a stop was put to the activities of 37 organized criminal gangs of this kind, 14 of which were engaged in cross-frontier operations. Overall, since trafficking in persons was designated a criminal offence (March 1998), 1,287 such offences had been brought to light (2 in 1998, 11 in 1999, 42 in 2000, 19 in 2001, 169 in 2002, 289 in 2003, 269 in 2004 and 415 in 2005), some 10 per cent of which involved trafficking in children.

In order to combat trafficking in children and the unlawful exploitation of children within the country, police officers conducted some 2,000 raids in 2005 and checked the legality of the activities of some 600 photographic and video studios, 270 modelling agencies, 2,500 nightclubs, 300 massage parlours, 420 hotels and campsites and more than 1,100 computer clubs and Internet cafés. As a result, some 100 criminal cases have been launched, the majority of which involve the import, sale and preparation of pornographic materials. The activities of tourist firms are also being scrutinized, with the aim of uncovering cases where children are being used in the pornography business or prostitution and smuggled across the State frontiers for those purposes. In 2005, more than 150 employment agencies specializing in finding jobs abroad were investigated, together with a large number of media publications running dating services.

In 2005, officials of the Frontier Service carried out the following:

- Halting the unlawful smuggling across the State frontier of more than 3,200 minors travelling without the consent of their parents;
- Halting 13 attempts unlawfully to smuggle minors across the State frontier in organized tourist groups for medical treatment and recuperation. These attempts were undertaken by charitable organizations which were not registered in Ukraine and had not submitted the necessary documents;
- Halting more than 40 cases in which foreigners were smuggling out adopted Ukrainian minors without having complied with the necessary documentary formalities.

In 2005, subunits of the frontier authorities carried out checks of 1,694 children departing from Ukraine who had been adopted by foreign citizens and, in 2004, checks were conducted of 1,750 such children. More than 40 cases of foreigners trying to transport adopted Ukrainian children across the State frontier without complying with the necessary documentary formalities were discovered and stopped.

| No.   | Type of crime  | 2004 | 2005 | 2006 |
|---|--|------|------|------|
| Article 149 (trafficking in persons or other unlawful agreement regarding the transfer of persons) of the Criminal Code |  |      |      |      |
| 1   | Number of criminal cases brought for trade in children | 15   | 39   | 52   |

In most cases, trade in children takes place with the specific aim of involving them in prostitution or pornographic activity, with subsequent sexual exploitation.

| Year | Article 301 (Smuggling, production, marketing and dissemination of pornographic material) of the Criminal Code |                | Article 303 (Pimping or enticing into prostitution) of the Criminal Code |                |
|------|--|----------------|--|----------------|
|      | Crimes reported  | Cases in court | Crimes reported  | Cases in court |
| 2004 | 6  | 5              | 8  | 7              |
| 2005 | 7  | 7              | 12   | 10             |
| 2006 | 6  | 3              | 13   | 9              |

Under Ukrainian law, coercing minors to take part in the preparation of material, pictures, films, video recordings or computer programs of a pornographic nature (article 301, part 3, of the Criminal Code), illegal activities in respect of adoption (article 169 of the Criminal Code) and failure to comply with the legally established procedure for human tissue or organ transplants (article 143 of the Criminal Code) are punishable offences.

2. *Please provide further information on budget allocations for the years 2005, 2006 and 2007 for the implementation of the provisions of the Optional Protocol*

It has not been possible to provide comprehensive data on government funding for activities to implement the provisions of the Protocol, as these fall under the budgets of separate subunits of a number of different ministries and departments. In addition, funding is provided for specific programmes designed to protect children from trafficking and involvement in prostitution and pornography.

3. *Please indicate whether there is a specific government body responsible for the coordination of the implementation of the Optional Protocol*

To coordinate the work undertaken by the various executive authorities pursuant to Cabinet Decision No. 1961 of 25 December 2002, an interdepartmental coordination council has been set up to consider the problem of trafficking in persons, including children, and standing regional commissions have been set up to coordinate efforts and exchange information on ways of preventing such trafficking. The interdepartmental coordinating council includes representatives of the Ministry of Labour and Social Policy, the Ministry of Health, the Ministry of the Family, Youth and Sport, the Ukrainian State Employment Service, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Education and Science, the Ukrainian State Frontier Service Administration and other central executive authorities whose tasks include combating trafficking in persons.

State policy relating to the protection of children is implemented by the Interdepartmental Commission for the Protection of Children, set up by Cabinet Decision No. 1200 of 3 August 2000. The Commission is responsible for coordinating activities to ensure children's all-round development and to enlist children in the country's political, cultural and spiritual development and efforts to implement the United Nations Convention on the Rights of the Child.

4. *Please provide the definitions, in the national law, of the following acts covered by the Optional Protocol:*
- *Importing, exporting and possession of child pornography (art. 3 (1) (c));*
  - *Improperly inducing consent, as an intermediary, for the adoption of a child (art. 3 (1) (a) (ii));*
  - *Transfer of organs of the child for profit (art. 3 (1) (i) (b)) and the criminal liability of legal persons (art. 3 (4)).*

*Importing, exporting and possession of child pornography (art. 3 (1) (c));*

Under article 301 of the Criminal Code, the import into Ukraine of products, pictures or other articles of a pornographic nature for the purpose of sale or dissemination, their production, transport or other transfer for the same purpose, their sale and dissemination, or the coercion of individuals to take part in their production, is punishable by a fine of between 50 and 100 times the non-taxable minimum personal income, by rigorous imprisonment for up to six months, or by restriction of liberty for up to three years, and confiscation of the pornographic articles and the equipment for their production and display.

The same actions involving films or video recordings or computer programs of a pornographic nature, and the sale to or dissemination among minors of products, pictures or other articles of a pornographic nature, are punishable by a fine of between 100 and 300 times the non-taxable minimum personal income, by restriction of liberty for up to five years or by deprivation of liberty for the same period, and confiscation of the pornographic films or video recordings and the equipment for their production and display.

The actions described in paragraphs 1 and 2 of this article, if committed repeatedly or by prior conspiracy among a group of individuals, and the coercion of minors to participate in the creation of products, pictures, films, video recordings or computer programs of a pornographic nature, are punishable by deprivation of liberty for a period of three to seven years, disqualification from certain posts and activities for up to three years, and confiscation of the pornographic articles, films, video recordings or computer programs and the equipment for their production and display.

Article 7 of the Ukrainian Public Morality (Protection) Act establishes that, in order to safeguard the moral and physical life of minors, it is prohibited: to involve minors in acts connected with the production and sale of material of a sexual or erotic nature or of pornographic material, or in the provision of services or the organization and conduct of visual performances of a sexual or erotic nature; to disseminate material of a sexual or erotic nature or pornographic material, or to provide services or conduct visual performances of a sexual or erotic nature among minors; and to use images of minors in any form in material of a sexual or erotic nature or in the conduct of visual performances of a sexual or erotic nature.

The right to protection from all forms of violence is guaranteed by articles 28 and 52 of the Constitution, which state that no one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment that violates his or her dignity, and that any violence against or exploitation of a child, shall be prosecuted by law.

*Improperly inducing consent, as an intermediary, for the adoption of a child*

Article 169, paragraph 1, of the Criminal Code makes procurement or other unlawful activity relating to the adoption or delivery of a child into guardianship or foster care a punishable offence.

Paragraph 2 of the article penalizes the same actions committed in respect of several children, or repeatedly, or by prior conspiracy among a group of persons, or through abuse of office, or where the consequences are grave.

*Transfer of organs of the child for profit and the criminal liability of legal persons*

Article 143, paragraph 1, of the Criminal Code establishes that a violation of the legal procedure for human organ or tissue transplantation is punishable by a fine up to 50 times the non-taxable minimum personal income, or punitive deduction of earnings for up to two years, or by restriction of liberty for up to three years, which may be accompanied by disqualification from certain posts and activities for up to three years.

Paragraph 2 of the article makes it an offence to remove, by coercion or deception, organs or tissue from a human being for the purpose of transplantation.

Paragraph 3 penalizes the actions covered by paragraph 2 when committed on a person who is helpless or is financially or otherwise dependent on the perpetrator.

Paragraph 4 penalizes illegal trade in human organs or tissues, and paragraph 5 deals with the acts covered in paragraphs 2, 3 or 4, when committed by prior conspiracy among a group of persons, and with participation in transnational organizations engaging in such activity.

As regards the **criminal liability of legal entities**, article 18, paragraph 1, of the Criminal Code currently defines a criminal offender as a physical individual, responsible for his or her actions, who commits a criminal offence at an age at which, in accordance with the Code, he or she can be held criminally liable.

5. *Please inform the Committee about measures adopted to detect and investigate cases of trafficking, child prostitution and child pornography*

In 2005, on the initiative of the Ukrainian President, Mr. Viktor Yushchenko, two national conferences were held with his participation to consider how to tackle the serious problem of homeless and abandoned children in Ukraine and to reform the system for the social protection of children, particularly orphans and children deprived of parental care. The conferences were attended by representatives of ministries, non-governmental and international organizations and other interested parties. They were indicative of the unprecedented concern shown by the country's leadership about the need to resolve these urgent problems.

With a view to ensuring compliance with the law designed to protect the lives and health of newborn children and preventing offences against them, checks were made in 2005 on the work of health establishments offering obstetric, gynaecological and paediatric services.

The main duties of the internal affairs authorities are to prevent, detect, uncover and investigate crimes related to human trafficking, prosecute people involved in such crimes and, along with other State and non-governmental organizations, offer assistance to the victims. The Ministry of Internal Affairs takes systematic organizational and practical measures to prevent and counter human trafficking, crimes against public morality, illegal adoption for commercial purposes, human tissue and organ transplants and the production and distribution of child pornography.

The Ministry of Internal Affairs prepared proposals and comments on bringing article 149 of the Criminal Code into line with the provisions of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in

Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; these were taken into account in the final version of the Act amending the country's Criminal Code so that it imposed heavier penalties for trafficking in persons and for luring others into prostitution (adopted by the Ukrainian Supreme Council on 12 January 2007).

The Ministry has begun amending the existing procedure for the adoption of Ukrainian children by foreigners - specifically Decision No. 1377, issued by the Cabinet of Ministers on 28 August 2003, approving regulations to govern the register of children available for adoption and persons wishing to adopt, and arrangements for monitoring children's rights after adoption - by adding to paragraph 10 of the Decision the wording: "Foreigners wishing to adopt a child who is a citizen of Ukraine shall, by referral from the Department of State for adoption and protection of the rights of the child in the Ministry of Family, Children and Sports, be vetted, using the facilities of the Ministry of Internal Affairs, to see whether or not there exists any information about them of a compromising nature in the possession of the law enforcement agencies of other States or the General Secretariat of the International Criminal Police Organization (Interpol).

Another addition to the Decision has also been proposed: "While the requirements set out in paragraph 10 are being fulfilled, foreign citizens wishing to adopt Ukrainian children shall be informed in writing that in the event of failure to comply with those requirements the Ministry of Internal Affairs shall have the right to issue an international search warrant for the child as a missing person."

To shed light on such activities as sex tourism, the dissemination of child pornography over the Internet and the use of minors in producing pornography, the Ministry of Internal Affairs has begun gathering information by placing reference material on such issues on the website of the Interpol National Central Bureau (NCB), in particular in the section devoted to Interpol NCB efforts to counter human trafficking.

In the first quarter of the year, a separate section giving recommendations to citizens preparing to work abroad was placed on the Interpol NCB website, in order to avert human-trafficking-related crime and inform the public about the anti-trafficking activities of the Interpol NCB.

As human trafficking is a transnational phenomenon, the Ministry of Internal Affairs has worked to extend cooperation with such bodies as Interpol, the Southeast European Cooperative Initiative (SECI) Regional Centre for Combating Trans-border Crime, the European Police Office (Europol), international intergovernmental and non-governmental organizations and the law-enforcement agencies of other States in fighting this gross violation of human rights and freedoms.

For example, working meetings have been held with representatives of the law enforcement agencies of European Union countries, and the Ministry took part in the preparatory phase of an international operation by the GUAM member States (Georgia, Ukraine, Azerbaijan and Moldova) to block trafficking channels, codenamed "Chimera 2006". It also helped to take stock of the outcome (Baku, 20-21 November 2006) and to draw up an international cooperation project called "ILAERA" to combat human trafficking in South-East Europe

(Athens, 7-8 December 2006). In light of the growing dissemination on the Internet of Ukrainian-produced pornography involving minors, the danger to the public and the way in which such crime is committed, arrangements have been made with the United States Federal Bureau of Investigation to purchase pornography of this kind in the United States so that the illegal activity of the perpetrators can be properly documented.

As a result, there has been a constant exchange of information with the police forces of other countries relating to criminal gangs and individuals trafficking Ukrainian citizens, including minors, across the State frontier for the purpose of exploiting them in the sex trade or the labour market. Experience has shown that regional cooperation offers the most effective means of blocking the routes used by international traffickers through, for example, international preventive operations coordinated by Interpol, the SECI Regional Centre and other international law-enforcement agencies. The Ministry of Internal Affairs takes part in “Mirage” international prevention operations every year.

The effectiveness of exposing illegal pornographic activities is also largely influenced by such factors as the swift introduction and constant improvement of data exchange systems, the development of new and refinement of existing personal data and privacy protection techniques, simplified public access to information systems through smartphones, desktop, laptop and handheld computers, and a variety of new techniques for connecting to the Internet.

Some of the problems that remain to be solved in this context include detecting where pornographic sites are actually hosted, determining the physical location of the production, recording and editing/updating equipment, and identifying the individuals involved. The International Centre for Missing and Exploited Children (ICMEC), through its research, has drawn up a list of requirements for domestic law which, if implemented, should greatly facilitate the discovery and exposure of such crimes. The list comprises five items, one of which is that national Internet operators and service providers should be duty-bound to inform the law enforcement authorities of any illegal activities they come across related to the production, sale or dissemination of pornographic material involving minors.

Unfortunately, there is no such provision in current Ukrainian domestic legislation, because cooperation between the internal affairs authorities and representatives of the Ukrainian telecommunications market is based on bilateral, oral agreements. This does not make for effective action against this type of crime.

A round table was held on 16 November 2006 to establish cooperation between Internet operators and service providers and the Ukrainian internal affairs authorities in combating the production and dissemination of child pornography over the Internet. It was attended by representatives of Microsoft Ukraine, the Ukrainian Internet Association, the Ukrainian Internet Market Participants Association, the TeLas Ukrainian Association of Communications Operators, leading Ukrainian operators and service providers, the Organization for Security and Co-operation in Europe (OSCE), the International Organization for Migration and the consulates of the United States of America and Germany in Ukraine. It resulted in bilateral oral agreements with the leading Ukrainian operators and service providers to cooperate in combating the production and electronic distribution of pornography involving minors.



A major element in the work done by the Ministry of Internal Affairs to prevent trafficking in minors is cooperation with international governmental and non-governmental organizations, in particular with the international women's human rights centre La Strada, in setting up an information hotline and developing methodological, academic and publicity material.

One major consideration affecting the successful handling of criminal cases of this type in the courts is assistance to and protection for witnesses and victims who take part in the proceedings.

In 2003, following international practice in this field, a special division of the judicial police, the "Grifon", was established to protect people involved in criminal proceedings.

In accordance with the Participants in Criminal Proceedings (Protection of Safety) Act and the Court and Law Enforcement Agency Workers (State Protection) Act, the "Grifon" division ensures the physical protection of persons, their homes and belongings and issues special individual protective devices. It also safeguards the confidentiality of investigations and criminal proceedings related to child trafficking, child prostitution and child pornography, and arranges for victims to change where they live, work and study, and change their appearance.

6. *Please indicate if there are any legal provisions that would allow for the prosecution of a child involved in sale, prostitution or pornography, and, if so, under which conditions.*

At present, prostitution is an offence under article 181 of the Code of Administrative Offences.

At the same time, it should be noted that under article 12 of the Code, only individuals 16 years of age or older at the time of the offence can be held responsible.

7. *With reference to extraterritorial jurisdiction, please inform the Committee whether this jurisdiction covers cases when the child victim of one of the acts covered by the Optional Protocol is a national of Ukraine and whether this jurisdiction is subject to the requirement of double criminality.*

In accordance with article 2, paragraph 3, of the Criminal Code, no one may be prosecuted more than once for the same crime.

8. *Please provide further information on measures to ensure that all persons involved in adoption of a child act in conformity with applicable legal instruments and updated information on the process of ratification of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.*

Under article 52, paragraph 3, of the Constitution the maintenance and upbringing of orphans and children deprived of parental care is the responsibility of the State. The State encourages and supports charity towards children.

Under article 24 of the Protection of Children Act, the State sees to the maintenance and upbringing of orphans and children deprived of parental care.

By law, street children are temporarily placed in shelters, operated by the juvenile affairs services where, they can find decent living conditions, adapt to life in society and prepare to return to their natural families or be taken into guardianship or foster care. They are given legal, psychological, medical and other assistance.

Orphans and children deprived of parental care must be taken into guardianship or foster care, adopted, or placed for upbringing in a family (a host family), an orphanage, a boarding school or a family-style orphanage, entirely at the expense of the State. Such institutions provide the conditions necessary for the children to develop fully and harmoniously and prepare for independent life and work.

State and local officials, staff of the Ministry of Internal Affairs and of social protection agencies, custodial staff in residential buildings, staff in educational institutions, citizens and other individuals who become aware that a child has been left without parental guardianship (or care) must report this immediately to the childcare authorities.

By law, adoption is allowed only in the interests of the Ukrainian child. Adoption is the transfer, formalized by a special legal act (a court decision), of a minor to a family for upbringing, with the rights of a son or a daughter. A child who is a Ukrainian citizen may be adopted by foreigners only when all possibilities of guardianship, foster care, adoption or upbringing by a Ukrainian family have been exhausted.

Citizens of foreign countries that have concluded international treaties with Ukraine on the adoption of orphans and children deprived of parental care are given precedence over other foreigners.

The Cabinet of Ministers is responsible for establishing the adoption procedure and for monitoring the conditions in which children in adoptive families live and are raised. The commercial involvement of intermediaries in adoptions or the placement of children in the guardianship, custody or foster care of families of Ukrainian citizens, foreigners or stateless persons is prohibited.

Monitoring the conditions in which orphans and children deprived of parental care live and are raised in foster or adoptive families, family-style orphanages or host families is the responsibility of the childcare authorities, social service centres for families, children and young people, and other authorized agencies.

The Organizational and Legal Conditions for the Social Protection of Orphans and Children Deprived of Parental Care (Implementation) Act defines the legal, organizational and social foundations and guarantees of State support for children in such situations, and for their adoption; it establishes the framework for guardianship, foster care and transfer to a host family, a family-type orphanage or an institution. The Act is an integral part of the child protection legislation.

The question of Ukraine's accession to the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993 remains unresolved.

Implementation of this Convention requires the amendment of current Ukrainian law. Pursuant to article 9 of the International Treaties of Ukraine Act, the Ministry of Justice has drawn up and submitted to the President of Ukraine, for consideration by the Verkhovna Rada (Supreme Council), bills providing for Ukraine's accession to the Convention and amending some pieces of legislation in that connection.

On 12 December 2006, the Verkhovna Rada (Supreme Council) considered these bills at a plenary meeting. No decision was taken (the requisite number of votes was not attained).

On the payment and use of allowances for orphans and children deprived of parental care, it should be noted that, under the Compulsory State Pension Insurance Act, the Act on Pensions and the State Social Assistance for Persons Disabled from Childhood and Children with Disabilities Act, while children are living in an appropriate institution entirely at the expense of the State, they are paid 25 per cent of the allowance due and the remainder goes to the institution, for use in purchasing materials (for personal use), paying for services, covering other expenses, and procuring equipment and items that will be used over the long term, strictly in order to improve their stay at the institution. While on full State coverage, all orphans are paid the full loss-of-breadwinner allowance and State social assistance for people disabled from childhood and disabled orphans; other children have a 50 per cent entitlement. Payments are made to their personal bank accounts.

If, upon reaching the age of majority, orphans or children deprived of parental care are transferred from the boarding home or orphanage to another boarding establishment, when they find work or are sent to study they control the money in their personal bank accounts if legally competent to do so; otherwise the money is controlled by their legal guardian.

The entire adoption process in Ukraine is governed by the Family Code, the Code of Civil Procedure, the Child Protection Act and the Organizational and Legal Conditions for the Social Protection of Orphans and Children Deprived of Parental Care (Implementation) Act, along with the corresponding government decisions. The mechanisms and procedures for the adoption of children both within Ukraine and in other countries are set out in detail in Cabinet of Ministers Decision No. 1377 of 28 August 2003, which established Regulations to govern the register of children available for adoption and persons wishing to adopt, and arrangements for monitoring children's rights after adoption.

Information on children who have been orphaned or deprived of parental care is collected by district departments in the local authorities, which are directly responsible for cases involving guardianship or custody; they keep the primary register of children available for adoption. If after a month on the register a child has not been adopted by Ukrainian citizens or placed under guardianship or in custodial care, the information is forwarded to the provincial administration, and the child is placed on the provincial register. If after a month no one comes forward to adopt or become the guardian of a child on a provincial database, the child's particulars are sent to the central adoption agency, for inclusion on the central register.

The register of Ukrainian citizens wishing to adopt a child is kept by the district childcare departments, which are directly responsible for guardianship and care of children. Apart from the procedure for inclusion in the register, and how the cases both of children and of Ukrainian and foreign parental candidates for adoption should be handled, the Decision of the Cabinet of

Ministers also sets out a procedure for monitoring and checking on the observance of children's rights after adoption. This procedure is relatively clearly defined; it applies only to children taken for adoption in other countries. There is no monitoring system for children adopted within Ukraine. To a certain extent, this is a consequence of respect for privacy in adoption.

The register of foreigners and stateless persons who may adopt is kept by the central adoption agency, established by the State Department for Adoption and Children's Rights. Foreigners wishing to adopt a Ukrainian child must file a written request for addition to the register with the central adoption agency and submit an application to visit the appropriate State institution in order to select, become acquainted and establish contact with the child.

A child who is a Ukrainian citizen can be adopted by a foreigner if he or she has been on the central register for over a year. Exceptions may be made if the adopting person is related to the child, or if the child suffers from a disorder on the list of illnesses authorizing adoption without observing the requirements for listing on the register at the Ministry of Education Adoptions Centre, as established by Ministry of Health Order No. 2 of 4 January 1997.

The adoption of Ukrainian children by foreigners takes place by decision of the district or municipal court where the child is resident or domiciled, according to an established procedure, and can take place only with the consent of the appropriate Government administrative body (article 283 of the Family Code).

On instructions from the Ministry of Foreign Affairs, consulates keep a register of children adopted by foreigners and monitor observance of their rights. One of the documents which must accompany an application is an undertaking by the adopter that if the adoption goes through he or she will have the child entered in the register kept by the Ukrainian consulate in his/her country of residence within one month, report to the consulate at least once a year on the child's living conditions and upbringing, and allow a consular representative to visit the child. Under this mode of adoption the child retains Ukrainian citizenship until age 18, when an informed choice of nationality can be made. This gives rise to a complex legal situation, as in the overwhelming majority of receiving States, adoption confers upon the child the nationality of the adoptive parents, while in Ukraine such children are still considered citizens. There are no laws addressing this situation. In practical terms, it is impossible to defend the rights of a child living in another country if the adoptive parents become abusive or neglect their obligations in respect of the child's maintenance, upbringing and development.

Foreign adoptive parents send information to the Ministry of Foreign Affairs annually for three years after the adoption, and every three years thereafter. The report on the health and physical and mental development of the child and his or her relationship with the family must be checked by the Ukrainian consulate or diplomatic mission in the child's country of residence, which may also interview the child.

Such visits to the family are intended to protect the child's rights, and must respect the confidentiality of the adoption. For the time being, this requirement is a mere formality, as no mechanism has been developed to carry out such a check, and a visit to the family is anything but a guarantee that the adoption will be kept confidential. What is more, the very fact of

checking on the conditions in which an adopted child is raised casts doubt on the concept of adoption itself as a procedure whereby the rights of a son or daughter are conferred upon the adopted child; monitoring presupposes an invasion of the family's privacy.

Unfortunately, the Ministry of Foreign Affairs does not have complete information about the numbers of Ukrainian children adopted by foreigners and the reports that have been filed. The system for monitoring the departure from Ukraine of adopted children is inadequate. According to the State Border Service, in 2005 its units carried out border checks on 1,694 children adopted by foreign citizens. That figure does not tally with the information provided by the State Statistics Committee (2,156 children), which means that 462 children adopted by foreigners left the country without undergoing a border check.

On the whole, despite an adoption mechanism that has been thoroughly tested over the years both nationally and at the intercountry level, there are gaps in the legislation and the pre-adoption procedure. A number of issues have not been addressed: including abandoned infants in the register; returning to the register children whose adoption has been rejected; age limits for people wishing to adopt (there have been several cases, especially in intercountry adoption, where candidates over 50 years old have wished to adopt an infant or a child of preschool age); adoption by single persons and overly complicated procedures for intrafamily adoptions (i.e., by one of the spouses, of a child of the other spouse); a deficient updating procedure for information on children on the registers; and the thorny question of whether to diagnose children for illness when putting them on the adoption register. The corresponding standards urgently need to be revised.

Among domestic adoptions, more than half of the children adopted in 2005 - 1,666 (54 per cent) in all - were adopted by step-parents.

The numbers of adoptions of orphans and children deprived of parental care have decreased every year, from 1,760 in 2002, to 1,635 in 2003, 1,492 in 2004 and 1,419 in 2005. Those figures, when compared with the number of orphans and children deprived of parental care (or guardianship), which stood at 97,829 on 1 January 2006, clearly indicate that there is a crisis in the national adoption system.

In recent years there has been a steady trend towards more adoption by foreigners, as opposed to Ukrainian nationals. In 2005, foreigners adopted 2,156 children, or 41.2 per cent of the overall number of children adopted (the figure for 2000 was 2,200; for 2001, 2,672; for 2002, 2,341; for 2003, 2,242 and for 2004, 2,081). The State Institute for Family and Youth Development, with the support of Holt International's "Family for Children Programme", carried out the first research into adoption since independence.

The main conclusions of the research were:

- People applying to adopt children are usually middle-aged (31-35 years old) and are in well-educated families with a comfortable social and material situation;

- Two main reasons are given for adopting a child. For childless couples, adoption offers the sole possibility to have children. Candidates also decide to adopt children for moral reasons, or to serve God. Applicants are encouraged to adopt by the example of families already raising adopted children;
- The decision to adopt a child is heavily influenced by views of adoption in society;
- The decision whether to proceed with an adoption is also heavily influenced by the first contact with adoption officials;
- Adoptive parents mostly opt for infants from maternity hospitals or children under 5, but in exceptional cases they also may adopt 14- or 15-year-old adolescents. They show no preference for boys or girls.

At the time of adoption, one child in two was healthy, and nearly one in three was “ill” or “very ill”. At the time of the survey, the overwhelming majority of the children were healthy according to their parents.

The procedure for getting to know the child plays an overwhelmingly important role in influencing future parents’ decision to adopt.

There has been a long-standing discussion in Ukraine about the advisability of accession to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. Unfortunately, there are some misgivings about the Convention because:

- The Convention is a part of private law;
- It provides for the possibility of bringing not-for-profit agencies into the adoption procedure;
- It provides for the introduction of reasonable fees for adoption services.

Adoption of the Hague Convention affords an opportunity to bring up to standard the intercountry adoption procedures in which at present individual representatives of families (their authorized representatives), translators and private notaries public are involved, and to reduce or eliminate the risk of commercial or criminal adoptions and corruption in this field. It solves the problem of the lack of accountability when children are adopted by foreigners. It is even now the case that there is not a single authorized State structure that bears responsibility for following up on children who are adopted by foreigners and checking on their welfare in their new families. While the adoptive parents are obliged to submit reports (albeit notarized) on the status and development of the children, they do so only as physical persons. There is thus a situation whereby the Ukrainian State concludes an adoption agreement with a physical person. The agreement (even if notarized) is in fact a unilateral one: the State hands over the child on trust but has no means of exercising influence if that trust is broken. Furthermore, if adoption lapses through force majeure, another State will claim the child as its national. Sometimes, the child is adopted a second time in the host State, and the Ukrainian Government is not informed, or is informed after the fact.

The widely-held view that the Hague Convention makes adoption more commercial is incorrect. Already today, all services offered abroad by State establishments to foreign adoptive parents have to be paid for and are thus commercial; they are also of a kind over which State bodies have no influence. That is precisely why the Ukrainian adoption system has been accused of lacking transparency and of being corrupt.

However, there is a more serious problem: how to involve authorized Ukrainian representatives and translators in intercountry adoption procedures. In practice, they now carry out intermediary and commercial activities that are prohibited by law. Some have for years dealt with up to 20, 30 or more foreign applicants at a time - an indication that such work is quite professional. They typically network with notaries, translators and others.

Such people currently bear no responsibility for the quality of applications for adoption or the well-being of the children after adoption. It follows that such family representatives often manipulate the rights of both the child and the foreigners for their own gain, tarnishing the image of Ukraine.

There needs to be a legislative ban on foreign adoption by single persons, as there is a risk that a child will end up with people of unconventional sexual orientation. In the Ukraine, unlike many other countries, intercountry adoption by single parents is allowed.

From the above short analysis of the situation, it is clear that Ukraine has a system beyond Government control in which private individuals work for extremely high fees in illegal, shadowy structures that are in fact professional teams. This is all the more dangerous because they lure the staff of the establishments caring for children into illegal activities as well. Unfortunately, there is a persistent negative image of Ukraine as a State where murky adoption deals are sealed, as has been pointed out by OSCE experts. It was precisely this kind of situation, in other States, that provided the impetus for the drafting and adoption of the Hague Convention.

The current practice whereby family representatives operate unsupervised is far more harmful than bringing such activity into the realm of private law under conditions set out by the State. It would also be helpful to conclude bilateral agreements on practical problems, such as when a child obtains dual nationality as a result of adoption, or agreements with countries that have not ratified the Convention. At the same time, it is important to remember that it generally takes two or three years to conclude an agreement, and the process is not always successful. Such lengthy negotiation must not encroach on the child's right to become part of a family through adoption. All these shortcomings can be addressed by:

- Ratifying the Hague Convention;
- Introducing a system of certification or licensing in Ukraine for activities by representatives of agencies with a good record of preparing applicants for adoption and the mandatory follow-up;
- Repealing the provisions of the Civil Code relating to representatives acting as physical individuals in adoption matters;
- Prohibiting intercountry adoption by single individuals;

- Prompting the “uniformed” Ministries to take action in their fields of competence against corruption in adoption matters;
- Amending the parts of the Criminal Code that relate to criminal activity in adoption matters.

Preference should be given to domestic adoption: a child properly protected and established in a family in his or her home country will not need to be established and protected elsewhere. The support and development of domestic adoption, foster families and family-type orphanages ought to reduce the field of child candidates for intercountry adoption.

9. *Please provide more detailed information on measures for the protection against all acts covered by article 3 of the Optional Protocol of children residing in institutions such as orphanages, boarding schools and similar settings.*

The law makes provision for centres to protect children who have lived in difficult circumstances or been trafficked. Such centres are now in operation; they include centres for the social and psychological rehabilitation of children, and rehabilitation centres for victims of trafficking in persons.

The opening paragraph of the Regulations governing children’s social and psychological rehabilitation centres, which were ratified by Decision No. 87 of the Cabinet of Ministers of 28 January 2004, defines such centres as welfare facilities for long-term (inpatient) or day care of children aged between 3 and 18 who have been found in difficult circumstances, offering a full range of social, psychological, educational, medical, legal and other forms of assistance.

The opening paragraph of the standard regulations on rehabilitation centres for victims of trafficking in persons, adopted by Decision No. 987 of the Cabinet of Ministers on 27 June 2003, says that such centres are specialized institutions providing a range of social and rehabilitation services and medical assistance for persons who have been victims of human trafficking, to help them overcome psychological crisis.

The health system is working to comply with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in the following areas:

- Measures to tackle the problems of child homelessness and child neglect;
- Provision of medical and social protection for this category of children;
- Prevention of “virtual” orphanhood;
- Refinement of laws and regulations.

Local health bodies work to prevent abandonment by mothers of their children at therapeutic and preventive health-care establishments, by informing mothers of the welfare



protection offered by the State, including the possibility of putting the child temporarily in a children's home, and the availability of free medical coverage for children with congenital defects.

The health system offers medical and social protection for orphans and children deprived of parental care at therapeutic and preventive health-care establishments; the objective is unconditional medical care for the inmates of children's homes, orphanages, boarding schools and shelters for minors. The Ministry of Health has published a Decree, No. 155, on better medical and health care for orphans and children deprived of parental care. Medical care for this category of children from birth to the age of 3 or 4 years is provided at the health system's children's homes, which is also where children from destitute families with numerous children, children of HIV-infected mothers and disabled children are raised.

On 1 January 2007, Ukraine had 48 children's homes with a total capacity of 5,953 places, for such children aged 0 to 3 or 4 years. At the end of last year, the homes housed 4,946 children, of whom 3,483 were children deprived of parental care. Children at such institutions are guaranteed medical and social care. They are seen by a paediatrician daily and by other specialists when necessary; they undergo more thorough medical check-ups and scheduled prophylaxis twice a year (in spring and autumn); treatment is given to children who, according to a physician, do not require inpatient care, and children with physical and mental impairments receive care, correction and rehabilitation; hearing aids, spectacles and medical supplies are provided; children receive specialized medical care and an education; new types of medical and social assistance and educational programmes are introduced; the childcare agencies are kept informed of orphans and other children who are legally available for adoption; and the living quarters are furnished in accordance with established health standards and provided with crockery and utensils. Children are given clothing and footwear and are fed balanced meals.

Child mortality and morbidity have begun to decline thanks to measures taken and followed up by the Ministry of Health to improve the health care provided directly at children's homes, round-the-clock observation of children by middle-level medical staff, doctors on round-the-clock call at children's homes and the addition to the staff of paediatricians and other doctors covering 11 paediatric specializations. An important role is played by certain types of child rehabilitation, in particular the "Tandem-Partnership" model of medical and social rehabilitation adopted by the Ministry of Health's Scientific and Medical Council, which seeks to prevent children from being labelled "disabled" and help them adapt to society.

In accordance with Order No. 1209/228 of 17 April 2006 approving Regulations to govern cooperation between social service centres for the family, children and youth and health institutions in the provision of medical assistance and social services to children and young people, and Order No. 1605/299 of 19 May 2006 approving action to prevent early "virtual" orphanhood in 2006 and 2007, both issued by the Ministry of Family, Children and Youth Affairs and the Ministry of Health, health establishments are striving to prevent "virtual" orphanhood. Thanks to the efforts of health and social services for families, children and youth, 190 mothers decided in 2006 not to abandon their newborn children.

Pursuant to Cabinet of Ministers Decision No. 1377 of 28 August 2003 approving "Regulations to govern the register of children available for adoption and persons wishing to adopt, and monitoring the rights of the child after adoption", and to improve the registration

system for children legally available for adoption, the Ministry issued two orders. On 17 March 2004 it issued Order No. 142/275, approving a registration form for children left at maternity hospitals or other health establishments by parents or other relatives, and for children abandoned or found, with instructions for its completion, and on 18 May 2004 it issued Order No. 252 approving a form for registration of a child left at a maternity hospital or another health establishment or rejected by its parents or other relatives, or a child abandoned or found. This facilitates the monitoring of this category of children.

The Ministry of Health constantly monitors the medical and social welfare of orphans and children deprived of parental care.

10. *Please provide information on the rules and practices concerning the protection of child victims of sexual exploitation who have to testify in criminal cases.*

The protection procedure for persons who take part in criminal trials, including minors, is set out in the Parties to Criminal Proceedings (Protection) Act.

For example, under article 1 of the Act, the “protection” of parties to criminal proceedings, i.e., those who discover, report, stop, uncover or investigate crimes or take part in criminal trials, means that legal, organizational, technical and other measures are taken by law enforcement agencies to protect the lives, homes, health and property of such persons against unlawful interference, with a view to ensuring the conditions required for the proper administration of justice.

Under article 2 (b), victims, including minors, and their representatives in criminal cases are entitled to the protective measures listed in articles 1 and 7 of the Act when there is sufficient justification.

Article 7 of the Act defines protective measures: a bodyguard and guards for the person’s home and property; the provision of special personal protection and warning devices; technical surveillance of telephone and other conversations and visual surveillance; change of identity and change in appearance; change in place of work or study; removal to another place of residence; placement in a preschool educational establishment or establishment run by a welfare agency; confidentiality of personal data; and trial in camera.

Depending on the type and extent of the danger to life, health, home and property, other protective measures may also be taken.

Under article 52, paragraph 3, of the Code of Criminal Procedure, the non-disclosure of information about people receiving protection may be ensured by limiting the information about them placed in investigative reports (statements, explanations, etc.) and in the case files and the records of the court proceedings themselves. The bodies conducting initial inquiries, investigators, procurators and courts or judges, having ordered protective measures, will issue a substantiated decision substituting a pseudonym for the surname, first name and patronymic of the individual concerned. Thereafter, the procedural documents will mention only the pseudonym, while the actual name (also date and place of birth, marital status, place of employment, type of studies or post, place of residence and other personal details) will appear only in the substitution order.

The order itself is not included in the case file, but is kept separately by the agency handling the criminal case. When a person under protection undergoes a name change, the trial record and other documents containing the actual information on that person are replaced in the case file with copies in which only the pseudonym appears.

Access to information about protective measures and individuals receiving protection is limited.

Article 174, paragraph 4, of the Code of Criminal Procedure stipulates that in exceptional circumstances, an individual may be kept out of sight of the suspect during a police line-up so as to ensure his or her protection.

To ensure the protection of a victim who is required to make a statement, the court, acting on its own initiative or at the behest of the procurator, legal counsel or the victim him/herself, may under articles 303 and 308 of the Code issue a substantiated decision to question the victim with the help of technical equipment from other premises, which may even be outside the court building, and allow parties to the proceedings to listen to such testimony and cross-examine the victim.

If there is a risk that the victim's voice might be identified, the questioning may be done using voice distortion.

If technical equipment cannot be used the court may question a victim in the absence of the defendant. Once the questioning is over, the victim will leave the courtroom.

Additionally, under article 290, paragraph 2, of the Code, the court may in exceptional cases waive the requirement for a victim receiving protection to testify in person, provided he or she submits a written affidavit of the testimony previously given.

11. *Please provide information on the social reintegration assistance as well as physical and psychosocial recovery measures available for victims of offences covered by the Protocol and on the State budget allocations for this purpose.*

It is one of the duties of the Ministry of Health to provide assistance to children who have been victims of trafficking, prostitution and pornography and to help them with their physical and psychological rehabilitation. The Ministry's efforts to prevent trafficking in children and child prostitution and its work with child victims are focused on the following areas:

- Identifying families with children at risk and conducting medical supervision of those children;
- Promptly reporting to the authorities responsible for working with minors any cases that have come to light;
- Arranging treatment for child victims in specialized clinics.

No medical statistics are kept in Ukraine about child victims of trafficking, sexual violence and exploitation or about the needs of such children for medical help. Comprehensive medical assistance is provided at State expense for child victims, entirely free of charge. Where

necessary, free treatment is provided in children's sanatoriums run by the Ministry of Health. The funding available for health care, however, including for children, is still insufficient.

Essential medical assistance is given to victims of offences relating to trafficking in persons. Such assistance is provided by specialists at the health and social service centres and, in regional areas, by specialists at local medical establishments.

12. *Please inform the Committee whether special training, particularly legal and psychological, is provided to persons working with the social reintegration and physical and psychological recovery of child victims.*

The Ministry of Education and Science has provided teachers at both ordinary schools and other educational establishments with specialized literature on teaching methods and techniques.

- Training handbooks have been produced and distributed on:
  - “Working children as a social and pedagogical phenomenon”;
  - “The psychological and educational rehabilitation of former street children; and
  - “The psychological and pedagogical rehabilitation of children who have formerly worked in agriculture”;
- Recommendations have been issued for teachers, social workers and consulting psychologists on:
  - “Psychological work with children who have formerly worked in agriculture; and
  - “Consultation with the parents of children who have formerly worked in agriculture;
- A web page has been set up and duly registered under the URL [www.Ipec-osvita.kiev.ua](http://www.Ipec-osvita.kiev.ua);
- The problem of child labour is now being systematically addressed in educational periodicals (the Compendium of Orders issued by the Ministry of Education and Science, *Ukrainian Education* (newspaper), *Consulting Psychology and Social Work* (journal) and so forth) and in the publications of the Academy of Educational Sciences of Ukraine.

A major role in increasing awareness among children, parents, teachers and the public of the adverse effects of child labour is played by consulting psychologists and social workers, as they are professionally best placed not only to prevent the problem, but also to act in an advisory and therapeutic capacity. They work with children and teenagers who have experienced the physical and psychological violence of the worst forms of labour, including prostitution and pornography.

To boost staffing levels of consulting psychologists and social workers at ordinary schools and vocational colleges, the Ministry of Education and Science has amended the standards governing the numbers of such posts.

Pursuant to the 2002-2005 comprehensive programme to suppress trafficking in persons, which was approved by Decision No. 766 of the Cabinet of Ministers on 5 June 2002, the Ministry of Education and Science:

- Has established a standing commission to coordinate efforts and exchange information on the prevention of child trafficking;
- Holds annual seminars with the heads of provincial departments of education and science;
- Ensures compliance with the law when vacations and health trips for children to other countries are organized, and in the work of therapeutic, preventive and other health establishments looking after orphans and children deprived of parental care;
- Facilitates the production and publication of publicity for schoolchildren and students on social protection for children and young people;
- In areas with a high incidence of crime involving trafficking in adults and children, raises awareness among pupils, students, teachers, parents and the public of the means and methods used by traffickers and of the risk that illegal emigrants may fall victims to exploitation, violence and abuse.

The Ministry of Education and Science has worked to improve:

- The curricula of the following courses: in ordinary schools, Basics of everyday living and safety; Basics of career choices; Basics of healthy living; Basic health; The person and society; Basics of psychological knowledge; and at vocational training institutes, Occupational Safety, Basics of legal knowledge, and Adapting to society;
- Career guidance methods in schools, acquainting children with the state of the labour market and encouraging forward-looking skills acquisition.

With a view to implementing Order No. 648-r ratifying the plan of action giving effect to the policy framework to prevent and eradicate the worst forms of child labour, issued on 29 October 2003 by the Cabinet of Ministers, and Cabinet of Ministers Order No. 766, of 5 June 2002, on the 2002-2005 comprehensive programme to suppress trafficking in persons, the Ministry of Education and Science, together with the Ukrainian Red Cross and the Ukrainian Women's Consortium, and with the support of the International Organization for Migration (IOM) office in Ukraine, prepared the way for educational activities on preventing trafficking in children to be carried out in schools.

To offer children greater protection from violence and exploitation in all its forms and to increase awareness among youths in school and teachers of the problem of child trafficking and means of combating it, on 10 November 2005 the Ministry issued Order No. 649 calling for awareness and educational events at schools on the prevention of child trafficking in the period 2005-2007. The results of this include:

- On 31 October and 1 November 2006, a national practical and scientific seminar was held in Kyiv on “Prospects of developing principles for the joint organization, by Government agencies and non-governmental organizations (NGOs), of social and educational activities to prevent human trafficking”. Experts from the Ministry of Education and Science of the Autonomous Republic of Crimea and from the education and science departments of the provincial and Kyiv and Sebastopol municipal Governments took part, along with the heads of provincial centres for consulting psychology and social work;
- Cooperation is continuing between the Ukrainian Scientific and Methodological Centre for Clinical Psychological and Social Work, the Ukrainian Red Cross and the Ukrainian Women’s Consortium;
- District and municipal learning resource offices are being supplied with educational videos for children and young people between the ages of 16 and 19 on the problem of combating human trafficking. These include films entitled “Destination: Life” and “Victims of Silence”. There is also a handbook for trainers entitled “How to raise awareness of the problem of human trafficking” and a handbook with the same title for pupils and students, published by the IOM office in Ukraine;
- Postgraduate education training institutions have added to their curriculums advanced courses for consulting psychologists and social workers, courses in educational work for deputy school principals, and training in “How to raise awareness of the problem of human trafficking” among class leaders;
- Specialized study seminars have been held for professional staff working to prevent child trafficking, ill-treatment and sexual exploitation. Pilot projects have been carried out in ordinary schools and vocational training institutes in Kherson, Donetsk, Vinnytsia and Kyiv provinces. Special study seminars were laid on since this kind of work requires a high level of professional training and a broad knowledge of psychology, teaching and the law;
- Provincial centres for consulting psychology and social work hold seminars for expert trainers, heads of district psychological services and NGO representatives on “Problems of cruelty to children”, “A violence-free family”, “Protecting pupils’ health in modern schools”, “Prevention of family violence”, “Violence and its aspects”, “Violence: Protecting children’s psychological and moral health”, “Psychological help for children from problem families”, and “Fathers and children: Conflict and mutual understanding”. Dnipropetrovsk province has staged training courses and screenings of the film “Preventing violence”;
- Expert trainers work routinely to ensure that consulting psychologists, social workers, supply teachers and training and resource specialists follow the same practice in seeking to avert domestic violence and child trafficking.

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