

Situation of Ukrainian children in Poland

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On the twenty-fourth of February 2022, refugees fleeing Russian aggression began crossing the Ukrainian-Polish border. The vast majority of them were families and individuals with children, as well as children from various forms of group care arriving on the territory of Poland with institutional guardians. Less than three weeks later, on 12 March 2022, the Polish legislator adopted the Act on Assistance to Ukrainian Citizens in Connection with the Armed Conflict on the Territory of Ukraine granting the group designated in the title of the Act many rights applicable on the territory of Poland. These include a broad catalogue of rights, ranging from the granting of a residence permit and a PESEL number, through the possibility to take up legal employment and gain access to medical and social benefits, to the opening of Polish care and educational facilities for Ukrainian students.

According to estimates by the United Nations High Commissioner for Refugees (UNHCR), 3,097 million Ukrainian refugees arrived in Poland by 2 May 2022, of which 43.3% were children under 17 years of age (UNHCR, 2022). In contrast, UNICEF's estimate, one month later, shows that the proportion of children among those arriving in Poland from Ukraine was 50%¹.

Table 1. Percentage of refugees from Ukraine arriving in Poland between 24 February and 2 May 2022, by age and gender

Breakdown by age	Boys/men	Girls/women	Total
0–4 years	3.4%	3.3%	6.7%
5–12 years	10.1%	9.9%	20.0%
12–17 years	8.1%	8.5%	16.6%
17+	6.8%	49.9%	56.7%

Source: Own analysis based on UNHCR, Protection Analysis, May 2022.

The object of this chapter is to attempt to systematise the available knowledge about the experiences, condition and situation of Ukrainian children fleeing the war who found themselves in Poland, and to reflect on why, three months on, our knowledge of this group is relatively poor.

¹ Data presented by Milena Harizanova on 7 June 2022 at the conference of the Empowering Children Foundation entitled *Ostrożnie – dziecko!*, session Standards of child protection in the face of humanitarian crisis, title of speech *How to protect children during a humanitarian crisis*.

Education

Until 21 March 2022, children arriving in Poland in the first period after the start of the war in Ukraine and subject to compulsory schooling were entitled to start or continue their education under the general regulation concerning persons who received education in schools functioning in the educational systems of other countries, regardless of their citizenship (Dz.U. [Journal of Laws] 2020, item 1283). On 21 March 2022, the Regulation of the Minister of Education and Science on the Organisation of Education, Upbringing and Care of Children and Adolescents who are Citizens of Ukraine came into force, thus carving out this category of children from the previous general group of persons from outside the Polish educational system receiving education in schools. This regulation was followed two weeks later by another one (Dz.U. 2022, item 795) introducing further changes, inter alia increasing the number of hours of additional Polish language learning from at least two to at least six and making it possible not to subject students attending preparatory classes to final classification. It should be noted that both regulations of the Minister of Education and Science did not apply to all children fleeing Ukraine after 24 February 2022 and at the same time subject to compulsory education, but only to those with Ukrainian citizenship. This means that a certain group of children from Ukraine in a similar situation to those with Ukrainian citizenship did not receive additional educational facilities, although they needed them to the same extent and were in an analogous situation caused by the war.

Education – general information

Education is the area of the functioning of Ukrainian students in Poland about which the most hard data has been made available. The Ministry of Education and Science (MEiN) released the first set of data containing the number of Ukrainian children attending Polish kindergartens and primary and secondary schools by district on 29 March 2022 and has been releasing them regularly at weekly intervals since then. Similarly, information on the number of Ukrainian students receiving additional Polish language lessons is published and updated by the MEiN. This makes it possible to trace a trend that was upward until 16 May 2022, after which it reversed and the number of Ukrainian refugee students began to decrease. Between 16 May (the highest recorded number of students – 198,291) and 6 June 2022 (the last measurement at the time of chapter submission – 190,618), 7,673 children from Ukraine left the Polish school system. In turn, the data obtained and analysed by REACH2 shows that from the beginning of the humanitarian crisis, there were groups among Ukrainian persons registering for temporary protection whose intention to remain in Poland was wavering: while 51% of respondents declared that they planned to stay in Poland until the end of the war, 33% reported that their plans were not yet crystallised, while other two groups declared that they planned to stay in Poland “between one week and one month” (6%) and “longer than one month” (6%; REACH, 2022a). It is also known that among those who crossed the Ukrainian border in search of refuge after the Russian aggression began and then decided to return to Ukraine, as many as 37% travelled with children aged 0–18 (REACH, 2022b). This

2 REACH is a joint humanitarian initiative of IMPACT, ACTED and the UNOSAT Operational Programme providing detailed data and in-depth analysis on emergencies, disasters and displacement.

may explain the outflow of Ukrainian schoolchildren in Poland, which at the moment peaks in June 2022, with the possibility that observed in the longer term it will turn out to have a fluctuating nature marked by returns to Ukraine and re-entries to Poland.

Table 2. Ukrainian children benefiting from education in Polish schools and kindergartens from March to June 2022

Date	Number of students – refugees from Ukraine
29 March	147,340
4 April	160,686
11 April	177,897
18 April	186,159
25 April	191,733
2 May	195,900
9 May	197,413
16 May	198,291
23 May	196,245
30 May	194,262
6 June	190,618

Source: Own analysis based on the data of MEiN "Refugee students from Ukraine by type of school, class and district".

Ukrainian children receiving education in Polish educational institutions started or continued their education in a total of 10,330 establishments, of which 7,172 were primary schools, 1,257 – general secondary schools, 999 – kindergartens, 137 – day cares, 449 – technical secondary schools, 167 – 1st and 2nd degree vocational schools, 47 – post-secondary schools, 60 – music schools, 13 – ballet schools, 17 – special schools and 12 – schools of other types.

Additional Polish language classes

Out of 190,892 children attending all types of institutions in June 2022 (as of 6 June), 41% (i.e. 76,547 students) were receiving additional Polish language classes, with the percentage of children taking advantage of such classes differing significantly between voivodeships. The data presented in Table 3 should not, however, be read as data differentiating voivodeships in terms of the availability of additional Polish language classes, because children attending kindergartens and day cares were not, by definition, covered by such classes. This follows from the already cited Regulation of the Minister of National Education of 2020 (Dz.U. 2020, item 1283), according to which the right to additional Polish language classes is granted to children under

compulsory education who attend preparatory classes. Pursuant to Article 35(2) of the Education Law (Dz.U. 2018, item 996, as amended), compulsory education begins at the beginning of the school year in the calendar year in which the child turns seven years old, so by definition it does not apply to children attending kindergartens and day cares, as they have not yet reached school age.

Table 3. Additional Polish language classes by voivodship (as of June 2022)

Voivodship	Total number of students – refugees from Ukraine	Number of students – refugees from Ukraine attending additional Polish language classes
dolnośląskie	19,736	7,924
kujawsko-pomorskie	7,707	3,685
lubelskie	6,993	3,189
lubuskie	6,579	1,833
łódzkie	12,164	5,550
małopolskie	17,201	5,975
mazowieckie	35,041	12,713
opolskie	4,517	2,179
podkarpackie	4,726	1,825
podlaskie	3,386	1,508
pomorskie	14,529	7,237
śląskie	21,401	8,631
świętokrzyskie	3,070	1,016
warmińsko-mazurskie	4,376	1,420
wielkopolskie	19,711	7,824
zachodniopomorskie	29,433	11,862

Source: Own analysis based on the data of MEiN "Refugee students from Ukraine by type of school, class and district".

Gaps in data on the education of Ukrainian children

The cited data does not include children in crèche care, university students or children who arrived from Ukraine after 24 February 2022 but do not have Ukrainian citizenship. This is because, according to the instructions for the entry of data in the Educational Information System (SIO) prepared by the Informatics Centre for Education and Science (ICEiN), the database on students – refugees from Ukraine had to include only data of those children who have Ukrainian citizenship (ICEiN, 2022). The remaining children – even if they arrived in Poland from Ukraine after the Russian aggression – were and are registered in the SIO as foreigners according to the previous rules, i.e. by indicating their country of origin. This means that the total number of pupils arriving from Ukraine under humanitarian crisis conditions is reduced by this group of children.

It is not only this circumstance that makes it problematic to treat the database provided by the MEiN as a source of complete data on Ukrainian refugee children receiving education in Poland: the group of university students from Ukraine certainly includes minors, as in Ukraine the age of

entry into higher education is 16–17 years. According to Polish law, such persons still fulfil the definition of a child, but are not included in the database provided by the MEiN. On the other hand, according to data from the POLon system, 373 students with Ukrainian citizenship registered at Polish universities between 24 February and 4 April 2022, but it is not known at what age these persons are.

It is also worth bearing in mind that a certain group of Ukrainian children of compulsory school age have not been enrolled in Polish schools due to continuing their education in the Ukrainian school system remotely – and it is not known how large this group is. These children are by definition invisible to the Polish education system and their numbers cannot be estimated. However, from the data provided to the Empowering Children Foundation by the Ministry of Family and Social Policy (MRiPS) in response to a request for public information, it follows that by 30 April 2022, 229,905 applications for the “Family 500+” child-support benefit were registered after submission by Ukrainian citizens entitled to the benefit under the Act on Assistance to Ukrainian Citizens in Connection with Armed Conflict on the Territory of Ukraine, also known as the Special Act (Dz.U. 2022, item 583). Thus, in principle, these are applications submitted by persons arriving from Ukraine after 24 February 2022. Comparing this number with the number of children reported in the database provided by the MEiN (190,733 students [as at 25 April]) during the same period, it follows that on the territory of Poland were then present 39,172 children from Ukraine who did not attend Polish educational institutions. This number therefore included children who belonged to at least one of the following categories:

- children under preschool age attending a crèche or staying under the care of a parent/caregiver;
- children over 16 years of age receiving education in a public or non-public higher education institution;
- children subject to compulsory schooling or compulsory education, but who continued their education in the form of distance learning within the framework of Ukrainian education system;
- children who have interrupted (or completed) their education within the Ukrainian education system and have not resumed their education in Poland;
- children with disabilities whose disability certificates have not been recognised in Poland, and the procedures related to the local evaluation (visits to specialists, translation of medical documentation, deadlines to appear before the evaluation board, etc.) have taken or are taking so long that these children have been left without real access to special education in Poland.

Of the five groups mentioned, two deserve special attention. The first are children continuing their education remotely, which may contribute to their further social isolation, and raise concerns about time organisation, contacts with peers and security of care if their parents or caregivers work outside the home. The second are children with disabilities who, upon arrival in Poland, find themselves in an exceptionally vulnerable situation in terms of education, but also rehabilitation and treatment. In the case of these children, the basis for their admission to a special school or referral to remedial classes is a certificate of the need for special education issued by the evaluation teams at psychological and pedagogical counselling centres. Certificates issued in Ukraine are not taken into account in Poland (Dąbłak, 2022) and the medical documentation of these children has often not been taken from Ukraine or requires a sworn translation into Polish, which entails costs for the parents or caregivers, who are generally in a difficult financial situation as refugees. In many situations, this amounts to a necessity to go through the whole evaluation pathway from the beginning, including visits to specialists, which can be a very time-consuming process. The scale of exclusion or inclusion of Ukrainian students with disabilities in the Polish schooling framework is not known, but it can be assumed that children with disabilities make up a significant share of the total number of 39,172 children who are not registered in the Polish education system. It is also worth noting that all children from the five groups mentioned above experience systemic invisibility, in this case illustrated by their absence from the education system,

and confirmed by the number of applications for the “500 plus” child-support benefit. This may involve an inability to provide support to these children, ranging from psychological support to material and intervention support, since they have no contact with educators, psychologists and social workers. For a certain proportion of these children, this may mean exposure to various forms of abuse from relatives or people in their environment, which the system will not stand a chance to detect or respond to, since it has no contact with this group of children and therefore no knowledge of their real experiences. Relevant data to interpret the quoted figures in a fuller context could be provided by the Ministry of Health, through the release of information on the number of Ukrainian children who received health services between 24 February and 6 June. Unfortunately, we have not received such figures from the Ministry of Health.

In addition to the above-mentioned groups of children whose parents or guardians have applied for the “500 plus” child-support benefit, thus indirectly confirming the presence of the child on the territory of Poland, there are also groups of children – it is not known how many – whose presence has not been recorded either in the databases of the MEiN or in the applications for the “500 plus” child-support benefit. These are children of parents/guardians who, for various reasons, resigned from applying for additional benefits and at the same time did not enrol their children in any educational institution on the territory of Poland.

Unaccompanied children, separated children and children from institutional care

The categories of unaccompanied children, separated children and children in institutional care refer to the three life situations of children highlighted by the European Parliament (EP) which stated in its Resolution adopted on 7 April 2022 regarding child refugees from Ukraine:

[The European Parliament]

E. whereas with such high figures, children, especially when unaccompanied, are at increased risk

of violence, abuse and exploitation and there is an increased risk for children of going missing and falling victim to trafficking, especially when moving across borders;

[...]

16. calls for unaccompanied and separated children and children from institutional care settings in Ukraine to be immediately included in the monitoring systems for the social and child protection services in the Member States of reception in order to facilitate family reunification when this is in their best interests in the future and to oversee the provision of their care in order to ensure their safety and protection (2022/2618(RSP))

The humanitarian crisis situation of war-induced mass movements of population is inextricably linked to the emergence of unaccompanied children, separated children and children in institutional care (hereafter referred to as *children in group care*) in host countries. These are groups considered to be extremely vulnerable to the risk of abuse due to the conjunction of two factors – the disconnection from existing social networks in which they found themselves when fleeing war, and the lack of the presence of a close adult who would take on the role of a so-called gatekeeper towards the child, blocking third parties' access to them (e.g. FRA, 2021; Schippers, 2021). This is not to say that the refugee situation itself is not associated with an increased risk of a child experiencing violence, as the tension, stress and often traumatic experiences suffered by close adults can result in lowering their parenting competences and engaging in violent behaviour towards children (Fegert et al., 2018). Although up to 65% of child refugees may become victimized by violence, it is unaccompanied children who are particularly vulnerable to abuse, including sexual (Jud et al. 2020).

For this reason, since the beginning of the Russian invasion of Ukraine, the situation of unaccompanied children, children separated from their relatives and children in group care has been the subject of particular European interest and concern, as reflected, inter alia, in the EP resolution cited above, but also in specific initiatives

taken by national and international humanitarian organisations. The first Blue Dots³ hub organised by UNICEF was opened in Warsaw in April 2022, and currently (as of June 2022) there are six such facilities in operation, including in Medyka, Przemyśl and Kraków⁴, while activities for Ukrainian children from groups particularly vulnerable to the risk of abuse are carried out by hundreds of Polish NGOs, including the Empowering Children Foundation, the SOS Children's Villages Association or the Polish Migration Forum.

Despite this, there is a lack of detailed data on children from these three groups who came to Poland after 24 February 2022.

General figures and definitions

The full number of unaccompanied and separated children who crossed the border of Poland between 24 February and 6 June 2022 is unknown, as is the number of children who stayed in Poland or had already left. At least one of these groups, children separated from relatives, may have been highly mobile and travelled between European countries due to the high percentage of Ukrainian nationals working outside Ukraine. According to Kids in Need of Defense Europe (KIND), approximately 230,000 Ukrainians work legally in Italy, a large proportion of whom are women employed in the care sector, so it is highly likely that the group of separated children included those travelling under the care of relatives to be reunited with a parent residing abroad (KIND, 2022). Such children thus had the status of being "separated from their parents" only during the period in which they travelled between Ukraine and the destination country where their parents or the other parent were waiting for them, but they were not necessarily unaccompanied during this period if they

travelled with the formal permission of their parents or state institutions, e.g. with a grandfather, grandmother, adult sibling or other family member, or even with an authorised third party (e.g. a neighbour to whom the child's parents had given formalised permission). Unaccompanied children, on the other hand, may include, but are not limited to, children separated from their parents. Indeed, according to the definition of the term *unaccompanied child* in the EU Directive (2011/95/EU), such a child is considered to be a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned. The term also includes a child who is left unaccompanied after arriving in the territory of the Member States, for example when crossing the border with a parent or relative who subsequently leaves the child. This means that the category of unaccompanied child is narrower than that of a child separated from his or her parents, as shown in Table 4 compiled to sort out, by way of example, the possible options for the situation of children in these three groups.

While at the beginning of the war, when there was still information chaos and many actions were taken spontaneously, among unaccompanied and separated children successfully crossing the Ukrainian-Polish border there could be children of different ages, on 12 March 2022 this was regulated on the Ukrainian side. Children over 16 years of age could leave the territory of Ukraine even without the relevant consents of their parents/guardians (which did not mean that, at the moment of crossing the border, the laws of the host country did not apply to such minors), while children under 16 years of age, whose parents/guardians had not given the relevant consents or authorisations to the relatives accompanying the children, could not leave the territory of Ukraine (Resolution of the Cabinet of Ministers of Ukraine no. 264). The same restriction was also imposed on children in Ukrainian group care if the departure was not agreed with the regional military administrations (Information Letter of the Notarial Chamber of Ukraine 2022). Table 4 sets out the potential measures that could be taken by the Polish side in the event that any such child managed

3 Blue Dots are safe spaces that offer basic support, provide key information to travelling families, help identify unaccompanied and separated children and ensure they are protected from exploitation.

4 Data presented by Milena Harizanova on 7 June 2022 at the conference of the Empowering Children Foundation entitled *Ostrożnie – dziecko!*, session Standards of child protection in the face of humanitarian crisis, title of speech *How to protect children during a humanitarian crisis*.

Table 4. Examples of situations faced by children at highest risk

Situation of a child crossing the Ukrainian-Polish border	Unaccompanied child	Child separated from parents	Child in group care (institutional care)	Age of the child	Actions that Poland will take or may take
A child is travelling with a neighbour and their parent(s) has(have) given written permission certified by the guardianship authority	no	yes	no	0–18	The neighbour caring for the child will need to apply for temporary guardianship status
A child is travelling with a neighbour, but the parent(s) has(have) not given written permission certified by the guardianship authority	yes	yes	no	0–16	The child may be returned from the border or transferred by the Polish Border Guard to an appropriate care facility (the decision is taken individually)
A child is travelling with a neighbour, but the parent(s) has(have) not given written permission certified by the	yes	yes	no	16–18	The child may cross the border because he/she is over 16 years of age and be referred to an intervention/care facility or remain in the care of the neighbour who applies for temporary guardianship status (the decision is taken individually)
A child is travelling alone	yes	yes	no	0–16	The child will be returned from the border or, if already crossed, will be transferred by the Polish Border Guard to an appropriate intervention/care facility.
A child is travelling alone	yes	yes	no	16–18	The child may cross the border because he/she is over 16 years of age and be referred by the Polish Border Guard to an intervention/care facility (the decision is taken individually)
A child is travelling with parent(s)	no	no	no	0–18	The family may cross the border
A child is travelling with relatives (grandfather, grandmother, older sibling) and the parents have given written permission certified by the guardianship authority	no	yes	no	0–18	The relative(s) caring for the child will need to apply for temporary guardianship status
A child is travelling with relatives (grandfather, grandmother, older sibling) but the parents have not given written permission certified by the guardianship authority	no	yes	no	0–16	The child may be transferred by the Polish Border Guard to an appropriate intervention/care facility or the child's relatives may apply for temporary guardianship status (the decision is taken individually)
A child is travelling with relatives (grandfather, grandmother, older sibling) but the parents have not given written permission certified by the guardianship authority	no	yes	no	16–18	The child may be transferred by the Polish Border Guard to an appropriate intervention/care facility or the child's relatives may apply for temporary guardianship status (the decision is taken individually)
A child is traveling in a group of children under institutional care with an educator/guardian, and the group has permission from the Ukrainian side to leave the country	no	yes/no*	yes	0–18	The group can cross the border and head to its final destination
A child is traveling in a group of children under institutional care with an educator/guardian, but the group does not have permission from the Ukrainian side to leave the country	no	yes/no*	yes	0–18	The group will be stopped at the border
A child or group of children is travelling under the care of (a) foster parent(s) who have (has) legal custody or guardianship of the child(ren)	no	no	no	0–18	The family may cross the border

* Whether a child is considered to be separated from his or her parents depends on whether the biological parents have been deprived of their authority or have died and the educator/guardian has legal custody or guardianship of the child.

Source: Own analysis based on the Ukrainian Civil Code, the PE Resolutions (97/C 221/03) and (2022/2618(RSP)), as well as Resolution of the Cabinet of Ministers of Ukraine of 12 March 2022 No. 264.

to enter the territory of Poland. It is also worth noting that until the end of May 2022, in Stalowa Wola functioned the so-called respite and coordination hub, established in March by the Ministry of Family and Social Policy and the authorities of this city, whose function was explained by Undersecretary of State Barbara Socha in the following words: "The hub in Stalowa Wola has been set up to coordinate assistance for organised groups of orphans from Ukrainian institutions and children who end up in Poland, who cross the border without actual adult supervision." (Kancelaria Sejmu, 2022).

The hub was thus designed as a transit site that allowed organised groups of children under the so-called group care, but also children crossing the border without actual adult supervision, to rest. Both of these groups were to be directed by the border guards to Stalowa Wola, so that – in addition to allowing the children to take a rest during their journey – the Polish authorities could coordinate further assistance measures towards these groups, including finding destination accommodation for the children. According to information received from the authorities of the city of Stalowa Wola, "the respite and coordination centre in Stalowa Wola for children and adolescents from Ukraine was closed down at the end of May"⁵.

Temporary guardianship

Temporary guardianship is a solution regulating the relationship between a child and an adult who has custody of that child and his/her property, but is not a parent of that child. The "temporary guardianship" solution was introduced by the Act of 12 March 2022 on Assistance to Ukrainian Citizens in Connection with Armed Conflict on the Territory of Ukraine, in order to ensure that all Ukrainian children in the custody of persons other than their parents in Poland have the legal representation necessary to, inter alia, enrol the child in

an educational institution or receive medical services⁶. The Act indicates that, although applications for temporary guardianship may be submitted by both Ukrainian and Polish nationals, the preference is for persons who are the child's relatives and affinities, and only in the second place are those who give the guarantee of proper fulfilment of the duties of such a guardian. Temporary guardianship by definition concerns children from the highest risk groups described above, namely unaccompanied children, children separated from their parents and children in group care.

Although there is no data indicating how many Ukrainian unaccompanied and/or separated children are in Poland, it is known, however, that according to the Ministry of Justice, by 22 May 2022, the number of applications for the appointment of a temporary guardian amounted to 20,351 such cases and concerned 23,783 minors. This does not mean that on 22 May 2022 there were exactly that many unaccompanied and/or separated children. For it is possible – and this is confirmed by interviews with NGO activists working in the communities of refugees from Ukraine – that a certain proportion of relatives and affinities having custody of grandchildren, younger siblings or stepchildren do not wish to file such an application or are not aware of the legal obligation to regulate this custodial relationship in Poland. It is not known how numerous such cases are, nor how homogeneous this group is. Among the justifications for such attitudes provided by activists are arguments relating to the law (e.g. the child's guardian fears that applying for temporary guardianship status may affect the scope of parental authority of the child's parent – limiting or depriving it), finances (e.g. child's guardian fears that applying for the status of a temporary guardian and thus obtaining due

5 Internal correspondence of the Empowering Children Foundation with Marcin Uszyński, Secretary of the City of Stalowa Wola, dated 13 July 2022.

6 When applying for a PESEL number for a minor, the status of a temporary guardian is not necessary. According to Article 4(3) of the Law on Assistance to Citizens of Ukraine in Connection with Armed Conflict on the Territory of Ukraine, the application "shall be submitted by one of the parents, guardian, custodian, temporary guardian referred to in Article 25, or the person having actual custody of the child, and in the absence of such persons, a PESEL number may be assigned ex officio".

benefits will result in the necessity to return these benefits upon return to Ukraine) and fears of surveillance by the Polish state (e.g. the child's guardian fears that obtaining the status of a temporary guardian will result in the social services taking the child away). I cite these arguments not to argue with them – obviously none of them is substantiated – but only to point out the possible problem or ineffectiveness of the information activities directed by Polish authorities, NGOs or individuals to Ukrainian communities.

The second group of unaccompanied and/or separated children, which could not be evidenced at the level of the number of initiated cases reported by the Ministry of Justice, are children between the ages of sixteen and eighteen who have managed to come to Poland – especially children of this age who crossed the border before 12 March 2022, the date of the announcement of the resolution by the Cabinet of Ministers of Ukraine – and who are leading independent lives, e.g. have taken up employment here, rent a flat with a group of other Ukrainians or are in a situation of homelessness. Some of these children do not know that under Polish law a 16-year-old person is not considered an adult and therefore must have a temporary guardian representing them in legal actions. Some, however, are aware of this and that is why they avoid contacting the authorities and those who could inform the family court of their situation, which for such an unaccompanied child would mean placement in one of the forms of institutional care in Poland.

Children in group care

I use the term *children in group care* instead of the term *children from institutional care settings* applied in the documents of the European Parliament, because in the Polish reality institutional care settings are unambiguously associated with institutional alternative care in the form of residential care facilities (commonly called *children's homes*). This path of association was particularly evident at the beginning of the war, when the Polish media reported on successive groups of “children from Ukrainian orphanages”, whose evacuation was planned and collections of food, clothes, diapers etc. were organised for that purpose. In reality, however, the institutional care system in Ukraine differs significantly from the Polish one, which means that some of the children “from Ukrainian orphanages” arriving in Poland were neither orphans, nor were they in children's homes or even in alternative care as it is understood under Polish law. The variety of Ukrainian forms of institutional residential care is shown in Table 5.

According to a report prepared by *Hope and Homes for Children* (2015), there were almost 100,000 children in the Ukrainian residential institutional care system, of whom only less than 10% were actual biological orphans. Although the report dates from 2015, the situation did not change significantly until 2022, when the number of Ukrainian children in institutions is still estimated at 100,000, with 81.7% of children having been placed in institutions at the request of their parents or guardians (Hope and Homes for Children, 2015; Save the Children, 2022). This situation is totally incompatible with the Polish reality and also demonstrates an important difference in the understanding of the term alternative care between the two countries. While in Poland *alternative care* (both of the institutional and family type) automatically implies the restriction, suspension or deprivation of parental authority of parents, the opposite is true for children in Ukrainian forms of institutional care.

According to the data provided by the Ministry of Family and Social Policy (MRiPS), on 30 April 2022, there were 2,084 children from Ukrainian alternative care in Poland who were placed in group placements, such as holiday centres, hotels, hostels, pilgrim houses, sanatoriums, etc. These are children

Table 5. Group and institutional residential facilities in Ukraine in 2015

Type of residential facility	For whom?	Number of facilities	Number of children in care
Childcare home	– *	50	4,095
Early childhood home	For healthy infants and those requiring specialised care – all groups	38	2,790
Boarding school	For children in need of social assistance, for orphans and for children deprived of parental care	96	16,671
Sanatorium-type boarding schools	For children with health problems: diabetes, scoliosis, tuberculosis, malnutrition, respiratory or circulatory diseases	56	13,165
Special boarding schools	For children who are deaf, hard of hearing, visually impaired, with cerebral palsy, with speech disorders, with intellectual disabilities, with special educational needs	218	27,142
Specialised boarding schools	General secondary schools and general lower secondary schools, secondary schools and lower secondary schools for talented young people from rural areas, military secondary schools and lower secondary schools, specialist secondary schools and lower secondary schools and specialised schools for lower grades	75	20,339
Educational complexes	– *	28	7,140
Education and rehabilitation centres	– *	57	1,081
Children's homes	– *	45	1,491

* The source report published by *Hope and Homes for Children* (2015) and used in compiling the table gives no description of who the institution is for.

Source: Own analysis based on *Hope and Homes for Children*, 2015.

who have not been included in the Polish alternative care system, but are staying outside it, which also results from the provisions of the so-called “Special Act”. It can only be presumed that these children are formally in the Ukrainian care system, despite their physical presence in Poland. In this sense, they are simultaneously children “out of the system” (Polish) and “in the system” (Ukrainian).

At the same time, it should be noted that the figure given by the MRiPS raises some consternation. This is because, according to statements by representatives of the two Polish NGOs that evacuated the largest number of children from Ukrainian group care, the Happy Kids Foundation and Caritas Polska, the total number of children evacuated to Poland was higher than 2,084. Maciej Dubicki of Caritas Polska, in a statement to *Radio Szczecin* in March, confirmed the evacuation of 2,000 “orphans from eastern Ukraine” (Dubicki, 2022), and Aleksander Kartasiński of the Happy Kids Foundation, in a statement to *Dzień Dobry TVN* in May, cited a figure of 1,500 “children together with their carers” evacuated from Ukrainian orphanages (Oleksik, 2022). Even if we include in the official figures another group of 172 Ukrainian children in Polish institutional and family-based alternative care, which number was given by the MRiPS in relation to children who arrived from Ukraine with their foster parents (or were secured from their biological families to Polish institutional facilities or foster families only in Poland), the figures do not add up. Additionally, although Caritas Poland and the Happy Kids Foundation evacuated the most numerous groups of children from group care in Ukraine, they were not the only entities organising such evacuations. In addition to them, at least two other initiatives are known about – the evacuation of 120 children with disabilities from an institution

in Bila Tserkva, organised by the Warsaw Club of Catholic Intelligentsia, and the evacuation of 63 children from an orphanage in Mariupol, organised by the US organisation *Loving Homes and Families for Orphans* and by people gathered around the New Covenant Church in Lublin (Buczek, 2022; Kozłowski, 2022).

This raises important questions on the total number of children from Ukrainian group care who came to Poland and on what happened to them next: are they still in Poland (and if so, which institution collects data on them?) or have they left the territory of Poland? And if they have left, in which country are they currently located, who took the decision on their departure, are their whereabouts monitored in any way, and why is such data not publicly available, given that it concerns a group of children defined as one of the three groups most at risk? In the case of the children from Mariupol who were staying in Kazimierz Dolny, it is already known that, despite a decision by the Polish family court prohibiting them from leaving Poland, the whole group – with the consent of Artem Walach, acting Consul General of Ukraine, and after consultation with the director of the Mariupol orphanage Natalia Lashchevska, who was in charge of the children – left for Switzerland (Press, 2022). This event, and above all its finale, may indirectly confirm the accuracy of the above interpretation regarding the actual formal-legal situation of the Ukrainian children in group care who came to Poland – since the children were allowed to leave Poland in defiance of the Polish court's decision, this may have meant that the Polish jurisdiction and its decisions had no formal force, and that the issuance of the order by the Polish family court may have had only a symbolic function and served to reassure public opinion. The children were allowed to leave the territory of Poland because it was decided by the persons actually authorised to do so by Ukrainian legislation (i.e. the director of the orphanage and the consul general of Ukraine), to which the children were still subject. Indeed, they had never been included in the Polish alternative care system, and so the Polish authorities could not enforce any decision related to the mobility or further whereabouts of children from Ukrainian group care.

The monitoring of the number of children at risk crossing the Ukrainian-Polish border was to be handled by the MRiPS, in accordance with the provisions introduced by the Special Act. It imposed an obligation on the Minister of Family and Social Policy to keep a registry of all Ukrainian minors who arrived unaccompanied on the territory of Poland after 24 February 2022, or who were in Ukrainian alternative care before coming to Poland (Article 25a (1)). Despite the fact that the Act on Assistance to Ukrainian Citizens in Connection with Armed Conflict on the Territory of Ukraine has been in force since 24 February, as late as in May, the registry of minors had not yet started to function⁷. However, it should be noted that the registry is, by definition, unfit for collecting complete data on Ukrainian children who fall into the groups of unaccompanied children, separated children and children in group care, i.e. high-risk groups. This is evident from the very provisions of the Special Act, which in Article 25a(1) indicates that the registry of minors shall include data of children unaccompanied by the person having actual custody of them and data of children who were placed in alternative care in Ukraine prior to their arrival in the territory of the Republic of Poland. What does this mean in practice? According to this provision, the registry of minors is designed as a data set that does not include information on:

- Children who meet the European definition of unaccompanied or separated children, because although they are in the care of a person with actual custody (e.g. a neighbour, cousin, acquaintance of the parents, etc.), the adult with actual custody does not have a formal title in the form of written parental consent certified by the guardianship authority (cf. Table 4). In fact, these children are therefore in a high-risk group, since it is suspected that they may have been removed from Ukraine without the knowledge or consent of their legal guardians or parents.
- Children who arrived in Poland after 24 February 2022 from the territory of Ukraine, but are not Ukrainian

⁷ According to the response to the request for public information from the MRiPS to the Empowering Children Foundation on 16 May 2022, response no. DSR-III.0130.6.2022.EI.

citizens, although they may be unaccompanied or separated from their parents.

This paradoxical situation and confusion of definition arose in connection with the use of the phrase “under the care of a person exercising actual custody”, whereas in Polish law there are two definitions of an *actual guardian*⁸ (and neither of them refers to the situation of unaccompanied children or children separated from their parents), but nowhere is *actual custody* defined. The legislator probably had in mind the colloquial understanding of actual custody as *de facto* guardianship – a situation in which a child arrives in the territory under the care of an adult. However, as I noted earlier, having actual custody of a child does not at all imply that the child is not an unaccompanied child or a child separated from his or her parents and therefore at risk of being in the custody of an unauthorised person or one with bad intentions towards the child. In essence, therefore, Article 25a(1) of the Special Act imposes an obligation on the MRiPS to include in the registry of minors only those children who arrived on the territory of Poland completely alone (were not accompanied by any adult) or who came to Poland from Ukrainian group care. As a result, the two aforementioned groups of children, i.e. children with Ukrainian citizenship arriving in Poland under the care of unauthorised adults and children without Ukrainian citizenship arriving in Poland from Ukraine in any circumstances, even the most risky ones, will by definition not be registered by the Polish state, as the legal formula for the registry of minors did not provide for that.

8 The Act of 6 November 2008 on Patients’ Rights and Patients’ Ombudsman in Article 3(1)(1) defines an actual guardian as a person who, without a statutory obligation, provides permanent care for a patient who, due to age, health or mental state, requires such care. In turn, according to the Act on Family Benefits of 28 November 2003 and its Article 3(14), the notion of actual guardian means a person who actually cares for a child and has applied to the family court for their adoption.

Memorandum or Political Declaration?

Finally, it is also worth mentioning a document prepared by the Ministry of Social Policy of Ukraine in early March 2022, entitled *Memorandum of Understanding*, the purpose of which was to agree between Ukraine and the signatory state on rules for the treatment of Ukrainian children located on the territory of another country, including regulating arrangements for unaccompanied children, children separated from their parents and children in group care. On 30 June 2022 Poland signed the Political Declaration, which – during a press conference organised on the same day by the MRiPS – Minister Marlena Maląg called a *memorandum*. The Declaration states that:

1. Poland and Ukraine declare mutual cooperation to facilitate the voluntary return of Ukrainian children to their homeland after the end of hostilities and stabilisation of the situation.
2. Poland and Ukraine declare to exchange experience and information on national legislation and procedures.
3. Poland and Ukraine aim to have unaccompanied children and children in group care located on the territory of Poland registered in the ICT system operated by the MRiPS.
4. Both countries declare that no adoptions of Ukrainian minors will be carried out during the ongoing armed conflict.
5. Poland undertakes to provide free legal assistance to all Ukrainian children enjoying temporary protection.
6. In the case of unaccompanied and separated children, Poland undertakes to provide them with information on their rights, available services and other information in a language they understand, including access to an interpreter.
7. Poland pledges to provide quality care to children in Ukrainian group care, including, if an organised group of children is not in direct contact, the possibility for them to maintain close contact.

In fact, the text of the original Memorandum and the text of the Political Declaration have many similarities, primarily in their references to agreements and

instruments of international law and in their coverage of each of the seven points mentioned, while there are two important differences between them. The Memorandum, in Articles 1(1) and 2(4), stipulates that the return of Ukrainian children to their homeland after the end of armed conflict falls within the scope of unconditional guarantees given to Ukraine by the host state (in the case of the Political Declaration, this unconditionality is absent, instead the return is qualified as “voluntary” on the part of the child, which is in line with the Convention on the Rights of the Child); moreover, in Article 3(3), the Memorandum requires the host state to “take all possible measures” to prevent the separation of groups of children from Ukrainian group care (in the Political Declaration, this expectation on the Ukrainian side is softened to an obligation to ensure that children from one facility are able to have close contact if a large group is separated into smaller ones)⁹.

Psychological wellbeing of refugee children and adolescents

This subsection contains general findings from the research and observations of refugee children from areas of armed conflict, while it does not refer to data specifically on Ukrainian children residing in Poland, as such data is not available at the moment. However, it seems reasonable to include this section in the chapter on children and adolescents from Ukraine in order to highlight risk factors as well as opportunities related to their mental wellbeing, which may facilitate the design of better programmes, projects and activities aimed at this group of children. While there is no unified “refugee trajectory” (Ventevogel and Song, 2020), some data and models are available to facilitate capturing risk factors related to the mental health of refugee children and adolescents. We know about them from the experiences of other countries

hosting minor refugees. In the following section, I will discuss some of them.

Although children in a war-induced refugee situation are often referred to using the terms *trauma* and *post-traumatic stress disorder* (PTSD), this subsection focuses on a different approach, i.e. the resilience paradigm. It does not imply a negation of PTSD, which is defined as a disorder that occurs under the influence of experiencing or witnessing a traumatic event, such as a natural disaster, abuse (murder, rape, serious injury, torture, etc.), armed conflict, terrorist attack, combat, etc., which can contribute to the emergence of psychological disorders, often occurring after a so-called latency period, i.e. not immediately after experiencing the trauma, but after several weeks or months (Ghumman et al. 2016). It is known from research that PTSD in child refugees is characterised by a prevalence rate of 25–45%, also deeply affects somatic symptoms such as experiencing pain, often occurs many years after leaving the war zones and is associated with a number of disorders such as depression, chronic anxiety disorders or emotional disturbances, hindering daily functioning (Soykoek et al., 2017; Şirin and Rogers-Şirin, 2015). The paradigm of resilience, however, implies thinking about forms of interventions aimed at children in a refugee situation that may have the potential to be supportive and protective, thus partly constituting a prevention of PTSD and partly, if post-traumatic stress occurs, easing its effects and thus making it easier for the child to cope with the situation.

Real actions and symbolic gestures at central and societal level

In the early days of the war in Ukraine, many Polish cities and towns became full of blue and yellow flags, stickers with Ukrainian emblems, signs in Ukrainian expressing solidarity with the Ukrainian people, collections of essential goods and other expressions of spontaneous support by Poles. These actions – questioned by many as insignificant in the face of such a great tragedy as war – nevertheless have a measurable impact on refugees arriving in a country, in this case Poland. Research suggests that the way young people and their communities, as well as

9 I am using here references to the text *Memorandum of Cooperation Between The Ministry of Social Policy of Ukraine and... on Ensuring the Social Protection of Children Affected by Hostilities and Armed Conflicts*, which was made available to the Empowering Children Foundation by courtesy of a local Ukrainian organisation *Right to Protection*.

their host communities, understand armed conflict plays a significant role in their subsequent psychological wellbeing (Betancourt et al, 2010; Betancourt and Khan, 2008; Stark, 2006). The more the host society shows symbolic solidarity, also linked to patriotic support, the more strongly refugees feel empowered as newcomers facing new challenges in a new country. A study by Correa-Veleza et al. (2010) found that the level of reception and acceptance by the local community towards refugee families and children was an accurate predictor of children's subsequent psychological wellbeing: the more acceptance, friendliness and inclusiveness the local communities showed, the better the children coped emotionally and psychologically and the more successfully they integrated the traumatic events preceding their refugeehood. Thus, the research suggests that although the systemic measures adopted in the face of a humanitarian crisis, such as the Special Act and the mechanisms it introduced to open up the labour market, the health sector or education system to people from Ukraine, are not generally thought of as measures that support resilience mechanisms in children, they in fact also play such a role and can be seen as an important element supporting mental health in this group. However, it is important that these activities are present simultaneously at the central level (i.e. specific legal solutions and facilities designed by the host country), at the local level (i.e. initiatives of local authorities and NGOs) as well as at the individual or relational level (i.e. the reactions of the immediate environment and peers). In this sense, an example of a coherent activity fostering resilience would be a situation in which the host country, through the implementation of a legal act, opens schools for children from Ukraine and guarantees them Polish language education in a specific number of hours (central level), the headmaster of a local school takes care to organise integration classes with Polish and Ukrainian pupils during school time, a local NGO organises leisure activities for children from Ukraine and Poland (local level: local authorities and NGOs), and volunteers or staff employed for these activities and integration classes will take care of positive relations between children, include cultural elements (e.g. Ukrainian-Polish cooking workshops) and

involve Polish and Ukrainian parents (individual and relational level). What is important, and what the pro-resilient approach allows to consider at the level of central and local government policy-making, is that these activities must not be one-off or incidental, but should be permanent and integrated into, for example, the organisation of the school year and summer breaks.

Individual and relational level

In addition to the social factors that support resilience in refugee children, individual and relational factors also play an important role. This level includes the child's family and the relationships he or she will form with peers. According to a study by Barthold (2000) in a group of Khmer refugees, the strength and quality of children's and their mothers' relationships was an important protective factor for children, as was the level of acceptance and quality of children's relationships with peers at school. These findings have also been corroborated in other studies of refugee children focusing on identifying the resilience factors (e.g. Montgomery, 2010). What relevance can this have for the design of Polish actions and social policy in relation to Ukrainian refugee children? First and foremost, it confirms the relevance of investing in family strengthening projects, including psycho-educational projects aimed at increasing resilience and deepening emotional bonds between refugee family members. It also points to the importance of projects addressing local and peer integration, including school and preschool programmes aimed at strengthening bonds and relationships between children from the host country and children from the country of armed conflict. However, it also confirms the validity of placing children from group care in foster families, with a strong preference for Ukrainian foster families or Polish foster families after additional cultural training. In this latter context, the research of Geltman et al. (2005) on a group of several hundred child refugees from Sudan, 20% of whom were diagnosed with PTSD, offers valuable insights. After a year in the new country, it was found that children placed in an environment from the same cultural background – including Sudanese foster families living in the United States – coped better

with facilitating the emotional effects of refugeehood and adaptation in the new country than children placed in families without Sudanese roots (Geltman et al. 2005). In this case, the relational factor (support within the family) and the individual factor (understanding of the cultural context from which the child was arriving) overlapped, in effect raising the child's overall rate of resilience and protecting them from worsening their mental health condition. These findings are also supported by other research conducted with refugee children placed in foster families from the same and different cultural backgrounds (Rip et al., 2020; Wade, 2019).

All the pro-resilience measures and strategies described do not mean to exempt central and local authorities, NGOs and local communities from providing psychological and psychiatric support to refugee families and children, nor from designing national and local programmes that will be directed towards this goal. I include this brief and simplified summary of findings from research in other countries only to indicate that the support of the psychological wellbeing of child refugees (or rather the fostering of their resilience mechanisms, which do not in themselves erase the traumatic experience, but only, and as much as, help to better integrate it) can and should be an important element to be included in policy planning. It is complemented by the simultaneous provision of access to specialised public services addressing mental health crisis.

Summary

It is impossible to predict when the armed conflict in Ukraine will finish and, consequently, for how long the temporary solutions provided by Poland for children from Ukraine will fulfil the definition of temporariness understood as "being intended for a limited time". We are also unable to estimate whether the dynamics of arrivals in Poland of families with children, adults with children and the children alone will slowly enter a phase of weakening with an increase in the proportion of returns to Ukraine (which would be indirectly indicated by the MEiN data), will have a wave-like dynamics or will perhaps increase abruptly under the influence of an as yet

unknown external factor. However, it is possible and desirable to make active use of the information, knowledge and data already collected on children and adolescents from Ukraine in order to – through the implementation of specific solutions – make their stay in Poland an easier experience.

Of the solutions which seem particularly important to adopt, the following deserve to be mentioned:

1. Extending the entitlements given to children being Ukrainian citizens to all children fleeing Ukraine after 24 February 2022, regardless of their citizenship.
2. Launching the MRiPS registry and making it public (in the part containing non-confidential data, i.e. the number of children, their age and gender, the date of entry and exit from Poland, the type of place of stay and the number of other children staying in the same place), which will allow to plan targeted solutions adapted to the needs of this group.
3. Collection of data on children currently outside the Polish education system and providing them with activating initiatives, integrating them with their Polish peers and local community, e.g. through the offer of extracurricular classes, leisure activities and day care.
4. Facilitating the inclusion of Ukrainian children with disabilities in the Polish education system by simplifying the evaluation pathway (e.g. giving priority to specialist appointments) or recognition of Ukrainian disability certificates by the Polish evaluation system. This is a group of children in a particularly difficult situation and their continued exclusion from the Polish special education system seems highly risky for a number of reasons, including social and child safety ones.
5. Making available and updating information from the Ministry of Health on the number and type of medical services provided to Ukrainian minors, which will allow to get an idea of the scale and type of needs, and thus better design the support provided to Ukrainian refugee children by central and local authorities and NGOs.

6. Ensuring that children from group care from Ukraine are supported under the terms of the Polish Act on Family Support and the Alternative Care System of 2011, i.e. that they are included in the alternative care system and placed in alternative care facilities designed for groups of no more than fourteen, while maintaining relationships between children and guaranteeing individual support. It is equally important to maintain the statutory limit of 10 years of age as the age below which children should be placed in family-based care, optimally created by Ukrainian foster families, possibly Polish foster families after cultural training and with the support of Ukrainian communities (maintaining contact with the language, culture and supporting Ukrainian identity).
7. Inclusion of elements fostering resilience in the planning of central and local policies as a programmatic measure with the definition of desired indicators.

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