

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

Contributors: The Estonian Social Insurance Board - Child Welfare Department; Eurochild

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

- Family Law Act (Perekonnaseadus), RT I 2009, 60, 395 - Guardianship: Arts. 175, 175

et: <https://www.riigiteataja.ee/akt/13330603?leiaKehtiv>

en: <https://www.riigiteataja.ee/en/eli/513112020002/consolide>

- Social Welfare Act (Sotsiaalhoolekande seadus), RT I 1995, 21, 323

et: <https://www.riigiteataja.ee/akt/122032021014>

en: <https://www.riigiteataja.ee/en/eli/531032021007/consolide>

- Child Protection Act (Lastekaitse seadus) 19 November 2014

et: <https://www.riigiteataja.ee/akt/LasteKS>

en: <https://www.riigiteataja.ee/en/eli/ee/506052015001/consolide/current>

- Obligation to Leave and Prohibition on Entry Act, (Väljasõidukohustuse ja sissesõidukeelu seadus), 21 October 1998

et: <https://www.riigiteataja.ee/akt/108072021018>

en: <https://www.riigiteataja.ee/en/eli/517082021005/consolide>

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

- Family Law Act (Perekonnaseadus), RT I 2009, 60, 395 - Guardianship: Arts. 175, 175

et: <https://www.riigiteataja.ee/akt/13330603?leiaKehtiv>

en: <https://www.riigiteataja.ee/en/eli/513112020002/consolide>

- Social Welfare Act (Sotsiaalhoolekande seadus), RT I 1995, 21, 323

et: <https://www.riigiteataja.ee/akt/122032021014>

en: <https://www.riigiteataja.ee/en/eli/531032021007/consolide>

- Act on Granting International Protection to Aliens (Välismaalasele rahvusvahelise kaitse andmise seadus), RT I 2006, 2, 3 - Guardianship: Art. 6.1 (4)

et: <https://www.riigiteataja.ee/akt/102072013067?leiaKehtiv>

en: <https://www.riigiteataja.ee/en/eli/517082021001/consolide>

- Child Protection Act (Lastekaitse seadus) 19 November 2014

et: <https://www.riigiteataja.ee/akt/LasteKS>

en: <https://www.riigiteataja.ee/en/eli/ee/506052015001/consolide/current>

- Obligation to Leave and Prohibition on Entry Act, (Väljasõidukohustuse ja sissesõidukeelu seadus), 21 October 1998

et: <https://www.riigiteataja.ee/akt/108072021018>

en: <https://www.riigiteataja.ee/en/eli/517082021005/consolide>

- The contract between Ukraine and the Republic of Estonia on legal assistance and legal relations in civil and criminal cases

et: <https://www.riigiteataja.ee/akt/13119066>

en: n/a

3.

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

a.

The children are classified either as UAM or separated children.

Unaccompanied children's status is regulated by the Act on Granting International Protection to Aliens - <https://www.riigiteataja.ee/en/eli/518122017008/consolide> – which defines unaccompanied children as follows:

“§ 6. Unaccompanied minor alien”

(1) An unaccompanied minor alien is an alien less than 18 years of age who arrives or has arrived in Estonia without a parent, guardian or other responsible adult person or who loses a parent, guardian or other responsible person while staying in Estonia.

(2) A parent, guardian or another adult responsible person who is staying in Estonia together with a minor alien is presumed to have the right of custody. At the request of the Police and Border Guard Board or the Estonian Internal Security Service a parent, guardian or another responsible adult person is required to certify the existence of the right of custody.

(3) A minor specified in subsection (1) of this section, for whom a natural person has been appointed as a guardian by the court in Estonia, is not deemed to be an unaccompanied minor alien.

b.

There are no obstacles for the children to return to Ukraine or to be reunited with their family. The guardian of the child has to be sure that the return or reunification does not affect the child's interest in a negative way.

The temporary protection allows refugees to stay one year to be renewed.

c.

YES. UAMs receive alternative care service from the state and the role of guardian is fulfilled by the local government. For separated children, the common practice is that the adult accompanying them (e.g. grandmother, close relative) is appointed as guardian. The guardianship appointment process is fast – about 5 days from sending the application to the court decision that appoints the guardian.

d.

Response from Estonia's Social Insurance Board: No.

Ukraine has published a note saying that they are currently not allowing adoption of Ukrainian children in other countries. Under normal circumstances the adoption of Ukrainian children in Estonia would fall under “international adoption” and among other things a formal (and documented) agreement from Ukraine would be needed to adopt a child.

General adoption procedures in Estonia are as follows:

Generally, adoption is regulated under the Child Protection Act - Article 34

<https://www.riigiteataja.ee/en/eli/506052015001/consolide> & international adoption is governed by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The principles of the Convention are reflected in the Estonian Family Law Act. In the case of adoption, the child's interests take priority over the interests of the person seeking to adopt the child. Domestic adoption concerns adoptive parents and a child of the same nationality and the same country of residence. From 1 January 2017, specialists in the Child Protection Department organise domestic adoption. Regional teams of the Child Protection Department are located in four cities across Estonia - Tallinn, Jõhvi, Tartu and Pärnu. For more information, see here: <https://sotsiaalkindlustusamet.ee/en/family-and-child-protection/adoption>.

Adoption is regulated under the Child Protection Act - Article 34

<https://www.riigiteataja.ee/en/eli/506052015001/consolide>; which mentions the protection of children separated from their families:

- (1) Upon choosing a guardian for a child separated from family, granting consent for adoption, evaluating the suitability of foster family and placement of a child in substitute care, the local government shall proceed from the continuity of raising the child, taking into account the ethnic, religious, cultural and linguistic origin of the child.
- (2) The child protection official of a local government shall, in cooperation with the person raising the child or with the child care institution in which the child separated from family is staying, be required to provide information to the child concerning his or her origin, the reasons for separation from family and subsequent care issues regarding him or her and to maintain and support the relations between the child separated from family and his or her family, if possible.
- (3) Siblings may be separated from each other after their separation from family only as an extreme measure in a situation where their staying together would considerably endanger their rights or well-being.
- (4) The child protection official of a local government shall prepare a case plan specified in this Act for a child separated from family and shall ensure the periodic overview and amendment thereof, if necessary, in cooperation with the child and the person raising the child.

4.

- a. What is the legal status (especially the length of the status, benefits and restrictions) of the Ukrainian guardian accompanying a Ukrainian separated child arriving in this country (for example a member of staff from the evacuated institutions which has been appointed by

the Ukrainian authorities as a guardian for a group of children during evacuation of an institution)?

- b. What safeguarding measures are in place to check and protect the best interests of the child if the child has a guardian from Ukraine (i.e., verifying who the guardian is, approve the guardian status in relation to the child, provide support and monitoring, etc.)?

a.

If a child arrives with their legal guardian from Ukraine, the guardian is recognised as a legal guardian in Estonia and the child is not registered as unaccompanied or separated. The guardians receive the same benefits that all guardians of children in Estonia do, including financial support from the state.

Appointment for guardians is detailed in Part 3, Chapter 12: Guardianship over minor in the Family Law Act. In the Law (summary here: <https://sotsiaalkindlustusamet.ee/en/ukraine>), the requirements for a guardian come from the *Family Law Act, § 174: Requirements for guardians*:

(1) A guardian shall be an adult natural person with full active legal capacity.

(2) A person who has been fully or partially deprived of the parent's right of custody or who has previously violated the obligations of a guardian shall not be a guardian. An employee of the health care or social welfare institution where a child is staying shall not be appointed guardian of the child.

(3) Upon the selection of a guardian, his or her personal characteristics, financial situation and ability to perform the obligations of a guardian, the presumed will of the parents and relationship with the child who is placed under guardianship, the need for consistency of raising of the child and the child's national, religious, cultural and linguistic origin shall be taken into account. Upon the selection of a guardian, a court and rural municipality or city government has the right to require from the person appointed guardian documents and information for the assessment of his or her suitability.

(4) A person may be appointed guardian with his or her consent.

b.

The guardians' documents are checked, but the guardianship is automatically recognised.

Safeguarding is referred to, without specifying Ukraine, in Article 174 of the Family Law Act (see here: <https://sotsiaalkindlustusamet.ee/en/ukraine>): "Upon the selection of a guardian, a court and rural municipality or city government has the right to require from the person appointed guardian documents and information for the assessment of his or her suitability."

Subsection 6 (2) of the Act on Granting International Protection to Aliens states that a parent, guardian or another adult responsible person who is staying in Estonia together with a minor alien

is presumed to have the right of custody. This is always checked, in practice. If the adult who is accompanying the child cannot present documents that prove this, the child would be classified as a separated child until proven otherwise. In these cases, the Local Government fulfills the role of guardian (Family Law Act § 176).

At the request of the Police and Border Guard Board or the Estonian Internal Security Service, the parent, guardian or other responsible adult is obligated to prove the existence of the right of custody.

5.

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

a.

The child is classified as UAM and will receive foster care from the state. Local government fulfils the role of guardian. See: <https://my.visme.co/view/1j9nzwz8-18r27vywepmy26qz>. If a child arrives to Estonia with an adult accompanying them, usually a close relative, then that person is likely to be appointed as guardian.

Unaccompanied children are regulated by the Act on Granting International Protection to Alien - <https://www.riigiteataja.ee/en/eli/517082021001/consolide>

When an unaccompanied minor arrives in the country, the Police and Border Guard Board (PPA) will pass the information on to the Social Insurance Board on 116111 and, when arriving with a trusted adult, to the contact person at the accommodation centre.

The child must not be separated from a person who is safe to them, and the child will go to the accommodation centre with the accompanying person. The Social Insurance Board - <https://sotsiaalkindlustusamet.ee/en/ukraine> - issued recommendations for the Police and Border Guard Board that they should:

- provide advance information so that the contact person at the accommodation centre knows of this in advance and pays special attention.
- ask the person accompanying the child for the information and contact details of the parent (e.g., whether there is consent or another document provided by the parent that entrusts the child to the care of that person).

- notice possible signs of victimisation and to act accordingly.

If a child needs to be separated from the accompanying person, the child will be sent to a shelter.

Accommodation is provided for UA nationals and beneficiaries of international protection in Ukraine, displaced as of 24 February 2022. Reception centres were established in Tallinn (now ceased reception facilities and acts as an information point for UA refugees), Tartu and Pärnu, and healthcare, meals, work permits and education are being provided. Additional information can be found here: <https://kriis.ee/en/security-situation-europe/ukrainian-war-refugees/staying-estonia>.

b.

No, both guardianship and foster care can be cancelled if the situation is changed and the reason for the guardianship or need for foster care is void. For example we have had cases where the child is classified as UAM and referred to foster care, but within a week the parent comes to Estonia as well and then the child is reunited with their parent and foster care ended.

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

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

a. Falls under the responsibility of Ministry of Social Affairs, <https://www.sm.ee/en>. Direct help is provided by the Local Municipalities in Estonia, all 79 of them depending on where the child is.

b. Estonian Social Insurance Board, Child Welfare Department, Kadi Lauri, kadi.lauri@sotsiaalkindlustusamet.ee. Phone: Child helpline (maintained by Social Insurance Board) - 116 111; general inquiries: (+372) 612 1360.

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

Yes, bilateral agreement with Ukraine in civil and criminal cases that came into effect in 1995. <https://www.riigiteataja.ee/akt/13119066> (only in Estonian).

“The state of Estonia accepts all children who have had to escape the war taking place in Ukraine. If the child does not have an identity document, then at some point the adult companion and the minor have to turn to the Ukrainian Embassy in Estonia, where the child will be issued a certificate with his personal data.” For more information, see: <https://kriis.ee/en/security-situation-europe/ukrainian-war-refugees/coming-estonia>

8.

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

a.

YES. All children are registered, UAM cases tracked by Estonian Social Insurance Board.

In order to provide Ukrainian war refugees with a personal identification code and a temporary residence permit immediately upon arrival in Estonia, reception centres for war refugees were opened in the city Pärnu on 21 March and in the city of Tartu on 28 March - <https://www.politsei.ee/en/instructions/information-on-the-war-in-ukraine>.

b.

Border Guard and Police (identification at the border), Estonian Social Insurance Board (registration, accommodation, care).

The police (ppa@politsei.ee), the Social Insurance Board and other authorities (according to article 17 (13) of the Act on Granting International Protection: “The Police and Border Guard Board shall commence family tracing of an unaccompanied minor as soon as possible after the submission of an application for international protection.”). See here:

<https://www.politsei.ee/en/instructions/information-on-the-war-in-ukraine/government-decides-to-open-estonian-latvian-border-checkpoints-to-help-ukrainian-refugees>

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

- UAMs - Estonian Social Insurance Board, Child Welfare Department, Kadi Lauri, kadi.lauri@sotsiaalkindlustusamet.ee

Additional authorities identified, according to the Government's website - kriis.ee

- The search service of the Estonian Red Cross is the organisation dealing with **reuniting family members** that lost contact in the course of the war - <https://redcross.ee/>.
- Refugees staying in Estonia can call 24/7 to the hotline of SA Kadunud (<https://www.facebook.com/SAKadunud/>): +372 6616 776, to report missing, and can also contact MCE Ukraine - <https://missingchildreneurope.eu/ukraine/>
- According to the **§ 65. Reunification of families of the Act on Granting International Protection to Aliens** (<https://www.riigiteataja.ee/en/eli/518122017008/consolide>) "**The Police and Border Guard Board** shall decide on the reunification of families who were separated due to circumstances surrounding mass influx on the basis of the following circumstances (...)".

Additional relevant information & resources:

- General website: <https://www.siseministeerium.ee/en>;
- Dedicated website: <https://www.kriis.ee/en/security-situation-europe/ukrainian-war-refugees/coming-estonia>;
- Helpline: 1247
- For information on school enrolment, see the Estonian Education Information System (EHIS): <https://ec.europa.eu/digital-building-blocks/wikis/pages/viewpage.action?pageId=120717480#:~:text=The%20Estonian%20Education%20Information%20System,the%20performance%20indicators%20education%20institutions>.
- Since the outbreak of the war, nearly 30,000 Ukrainian war refugees have arrived in Estonia, more than 35% (10,500) of whom are children. Nearly 5,500 of them need accommodation in the country, of whom nearly 2,000 are children.