

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

**Contributors:** Ministry of Human Capacities - Department of Child Protection and Guardianship Affairs; UNICEF Hungary; 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)?

- Act No. XXXI of 1997 on the protection of children and the administration of guardianship affairs amended. HU: <http://tegyesz.hu/storage/2020/05/gvyt-angolul.pdf>; ENG : <https://njt.hu/jogszabaly/1997-31-00-00>

Act XXXI of 1997 on the Protection of Children and the Administration of Public Guardianship (CPA) has been modified on several occasions. On January 1, 2014, a significant legal change went into force: children under the age of 12 could no longer be placed in children's home, but were placed instead with foster families — with the exception of chronically ill or disabled children, or multiple-sibling groups.

As of 1 January 2017, the regulations have been amended so that foster care can only be waived if the placement of a chronically ill or severely disabled child with a foster parent is not in the best interests of the child or is not possible due to their condition, or if the siblings cannot be placed together with the foster parent. In relation to the aforementioned reform, the status of foster parents also changed in January 2014; a special employment status was introduced for foster parents, along with a new, obligatory training program. Foster parents currently are employed on the basis of a labor contract, and are obliged to undergo 240 hours of training. In terms of the appointment of a guardian for children without parental care, as of January 1, 2014, the child protection guardian has taken over guardianship in order to better enforce the rights and interests of the child and to prevent eventual conflicts of interest between the child and the head of the child protection facility, who was previously appointed the child's guardian.

- Act LXXX of 2007 on Asylum- <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opensslpdf.pdf?reldoc=y&docid=55c9c7724>
- Minister's Decree No. 15. of 1998 (IV.30.) on the professional duties of child welfare and child protection institutions and persons providing personal care and the conditions of their operation (15/1998. (IV. 30.) NM rendelet a személyes gondoskodást nyújtó gyermekjóléti, gyermekvédelmi intézmények, valamint személyek szakmai feladatairól és működésük feltételeiről) - <https://njt.hu/jogszabaly/1998-15-20-3D>
- Government Decree No. 331 of 2006 (XII.23.) on Tasks of Child Protection and Guardianship and Organization of the Guardianship Authority and its Scope (331/2006. (XII. 23.) Korm. rendelet a

gyermekvédelmi és gyámügyi feladat- és hatáskörök ellátásáról, valamint a gyámhatóság szervezetéről és illetékességéről) – Guardianship: Art. 14 (1). In Hu:

<https://njt.hu/jogszabaly/2006-331-20-22>.

- Government Decree No. 149 of 1997 (IX. 10.) on Guardianship Authorities and the child protection and guardianship procedure (149/1997. (IX. 10.) Korm. Rendelet a gyámhatóságokról, valamint a gyermekvédelmi és gyámügyi eljárás)
- SUBMISSION BY THE HUNGARIAN HELSINKI COMMITTEE REGARDING THE SIXTH PERIODIC REPORT OF HUNGARY TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD (2019)  
<https://helsinki.hu/wp-content/uploads/HHC-submission-to-CRC-2019.pdf>  
Report on Monitoring the Situation of Unaccompanied Asylum Seeking Children in Hungary (2016): [https://helsinki.hu/wp-content/uploads/HHC\\_Situation-of-UAMs\\_Dec2016.pdf](https://helsinki.hu/wp-content/uploads/HHC_Situation-of-UAMs_Dec2016.pdf)
- Alternative report on the UNCRC-Hungary- August 2019 -  
[https://tbinternet.ohchr.org/Treaties/CRC/Shared\\_Documents/HUN/INT\\_CRC\\_NGO\\_HUN\\_40918\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared_Documents/HUN/INT_CRC_NGO_HUN_40918_E.pdf)

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)?

- Act No. XXXI of 1997 on the protection of children and the administration of guardianship affairs (Guardianship: Art. 85 (4))
  - o ENG: <http://tegyesz.hu/storage/2020/05/gyvt-angolul.pdf>
  - o HU: <https://njt.hu/jogszabaly/1997-31-00-00>
  - o Amended by Act VI of 2015 on the modification of certain acts related to administration (2015. Évi VI. törvény egyes közigazgatási tárgyú törvények módosításáról) – Guardianship: Art. 11 (1):  
HU: <https://njt.hu/jogszabaly/2015-6-00-00>
- Act LXXX of 2007 on Asylum (2007. évi LXXX. törvény a menedékjogról); Hu:  
[http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=110729.252828](http://njt.hu/cgi_bin/njt_doc.cgi?docid=110729.252828); Eng: <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=55c9c7724>
- Government Decree No. 331 of 2006 (XII.23.) on Tasks of Child Protection and Guardianship and Organization of the Guardianship Authority and its Scope (331/2006. (XII. 23.) Korm. rendelet a gyermekvédelmi és gyámügyi feladat- és hatáskörök ellátásáról, valamint a gyámhatóság szervezetéről és illetékességéről) – Guardianship: Art. 14 (1). Hu:  
<https://njt.hu/jogszabaly/2006-331-20-22>
- Government Decree No. 149 of 1997 (IX. 10.) on Guardianship Authorities and the child protection and guardianship procedure (149/1997. (IX. 10.) Korm. rendelet a gyámhatóságokról,

valamint a gyermekvédelmi és gyámügyi eljárásról). Hu: <https://njt.hu/jogszabaly/1997-149-20-22>

- Government Decree No. 114 of 2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of third-country nationals (114/2007. (V. 24.) Korm. rendelet a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény végrehajtásáról): Hu: <https://njt.hu/jogszabaly/2007-114-20-22>
- Minister's Decree No. 15. of 1998 (IV.30.) on the professional duties of child welfare and child protection institutions and persons providing personal care and the conditions of their operation (15/1998. (IV. 30.) NM rendelet a személyes gondoskodást nyújtó gyermekjóléti, gyermekvédelmi intézmények, valamint személyek szakmai feladatairól és működésük feltételeiről). Hu: <https://njt.hu/jogszabaly/1998-15-20-3D>
- Act LVIII of 2020 on the transitional rules related to the termination of the state of danger and on the epidemiological preparedness (2020. Évi LVIII. törvény a veszélyhelyzet megszűnésével összefüggő átmeneti szabályokról és a járványügyi készületségről)  
Hu: <https://njt.hu/jogszabaly/2020-58-00-00.8>
- Government Decree No. 41 of 2016 (III. 9.) on ordering the state of crisis due to mass migration on the entire territory of Hungary as well as on the rules related to the ordering, existence and cessation of the state of emergency (41/2016. (III. 9.) Korm. rendelet a tömeges bevándorlás okozta válsághelyzet Magyarország egész területére történő elrendeléséről, valamint a válsághelyzet elrendelésével, fennállásával és megszüntetésével összefüggő szabályokról), <https://njt.hu/jogszabaly/2016-41-20-22>
- Act 140 of 2005 on the promulgation of the Convention on Parental Responsibility and Measures for the Protection of Children and on the Jurisdiction, Applicable Law, Recognition and Enforcement of Such Matters, done at The Hague on 19 October 1996
- Government Decree 86/2022 (<https://magyarkozlony.hu/dokumentumok/d98058216e0e225e56baf304d5470bc38736c590/megttekintes>). On 8 March, Hungary adopted the Government Decree 86/2022 (III. 7.) that implements the Temporary Protection Directive and establishes a regime of temporary protection for Ukrainian nationals, those provided with refugee status in Ukraine and their close family members (meaning spouse, underage unmarried children, or other dependent relatives). Non-Ukrainian nationals from non-EU member States, who were legally residing in Ukraine are not covered by this scheme. They can still apply for a 30-day temporary residency with limited rights.

#### **Additional commentary on HU system for UASC:**

- Report on Monitoring the Situation of Unaccompanied Asylum Seeking Children in Hungary (2016): [https://helsinki.hu/wp-content/uploads/HHC\\_Situation-of-UAMs\\_Dec2016.pdf](https://helsinki.hu/wp-content/uploads/HHC_Situation-of-UAMs_Dec2016.pdf)

- SUBMISSION BY THE HUNGARIAN HELSINKI COMMITTEE REGARDING THE SIXTH PERIODIC REPORT OF HUNGARY TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD (2019)  
<https://helsinki.hu/wp-content/uploads/HHC-submission-to-CRC-2019.pdf>

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.

In Hungary children fleeing hostilities in Ukraine are entitled to temporary protection. Please see link on the relevant Government Decree No. 86/2022. (III.7.) translated by the Helsinki Committee - [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree\\_implementing\\_councildecision\\_tempprotEN.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/HUgovdecree_implementing_councildecision_tempprotEN.pdf)

Based on the Hungarian regulation in the Child Protection Act and its practice, if an UAC (from Ukraine) is identified in Hungary then they are treated as children and are placed in immediate child protection care from the government, as per national law. Law No. XXXI of 1997. The law provides for the appointment of a guardian (who is the legal representative) upon identification of an unaccompanied child. The legal guardians are employed by the Department of Child Protection Services (TEGYESZ).

The system put in place is temporary in nature, which means that upon the dates' expiration, the protection offered, expires as well. However, this does not mean necessarily that the children will be returned back to Ukraine. A case per case decision should be taken by the Guardianship office regarding the termination of the placement of the child under protection as per criteria of the law XXXI of 1997.

**Important to note concerning children with statelessness status:** Temporary protection under the EU Council Directive is available to UA citizens and beneficiaries of international protection residing in Ukraine displaced on or after 24 February 2022 as well as family members of the above groups. Third country nationals and stateless people who do not fit into these groups are excluded from the protection and can apply through the usual asylum procedure which involves registering in the Hungarian embassy in Belgrade to submit a statement of intent to apply for asylum. More

information about this can be accessed here: <https://helsinki.hu/en/information-for-people-fleeing-from-ukraine/>

### **The role of the child protection guardian in Hungarian law**

Consists of supervising the care for the child, following and monitoring his or her physical, mental and emotional development. In order to fulfil his or her duties the child protection guardian has a mandate to generally substitute the absent parents. He or she:

- Is obliged to keep regular personal contact with the child;
- Provides the child with his or her contact details so the child can reach him or her;
- If necessary, supervises and facilitates the relationship and contact with the parents;
- Participates in drafting the child care plan with other child protection officials around the child;
- Participates in various crime prevention measures if the child is a juvenile offender;
- Assists the child in choosing a life-path, schooling and profession;
- Represents the interests of the child in any official proceedings;
- Gives consent when required in medical interventions;
- Takes care of the schooling of the child (enrolment, contact with the school and teachers etc.);
- Handles/manages the properties of the child and reports on it to the guardianship services;
- Reports on his or her activities every 6 months.

b.

Regardless of their immigration and asylum status, if children subject to the Child Protection Act cease to be at risk and so can be brought up in their own family, or if they become an adult, their care must be terminated by the guardianship authority.

In all cases, a minor coming out from child protection care has to be placed under parental (guardian) supervision, so he or she may return to Ukraine or another country accompanied by an adult responsible for his or her supervision.

c. NO.

According to the Child Protection Act, all endangered minors who cannot be brought up in their own family are placed in child protection care according to the decision of the guardianship authority, where they are entitled to the same content and quality of care regardless of their citizenship, immigration or asylum status.

d. NO.

Legal system in country: <https://www.hcch.net/en/states/authorities/details3/?aid=668> and Hungary are a contracting party of this legal instrument: Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption - <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>

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.

Hungarian law regarding guardianship appointment for children placed in child protection care: "Act XXXI of 1997 on the Protection of Children and the Administration of Public Guardianship (CPA) has been modified on several occasions... In terms of the appointment of a guardian for children without parental care, as of January 1, 2014, the child protection guardian has taken over guardianship in order to better enforce the rights and interests of the child and to prevent eventual conflicts of interest between the child and the head of the child protection facility, who was previously appointed the child's guardian".

Pursuant to Article 23-26. of Act 140 of 2005 on the promulgation of the Convention on Parental Responsibility and Measures for the Protection of Children and on the Jurisdiction, Applicable Law, Recognition and Enforcement of Such Matters, done at The Hague on 19 October 1996, a decision made abroad on a guardianship order must be individually recognized by the Hungarian guardianship authority or court in order to be applicable in Hungary.

However, the Child Protection Act provides other possibilities, so that instead of deciding on the recognition of a decision, the guardianship authority may appoint a foreign adult for a foreign minor with or without such a decision as a guardian as a temporary measure.

The 1997 law provides for the opportunity that the Hungarian guardianship office does not necessarily recognize the guardianship decision given in Ukraine, but gives of its own decision the guardianship to the same person. In all cases, that person's rights and obligations are equal to the Hungarian legal guardian and as stipulated in the 1997 law.

b.

The guardianship office selects the guardian. According to article 86 the guardian should be able to promote the physical, intellectual, emotional, and moral development of the child, his or her fostering, and take care of full provision of the child. The guardianship office monitors the guardian's role and can order a replacement of the child, if issues appear.

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.

Based on the Hungarian regulation in the Child Protection Act and its practice, if an UAC (from Ukraine) is identified in Hungary then they are treated as children and are placed in immediate child protection care from the government.

Any child is entitled to temporary protection and are assigned a guardian from the government's office of Child protection and Guardianship affairs at local (municipal or district) level. So far, the government is undertaking any case management of potentially identified UASC and we are informed that only 4 UAC from Ukraine arrived in the country and are placed in children's homes (as of 20 Apr 2022). According to article 86 the guardian should be able to promote the physical, intellectual, emotional, and moral development of the child, his or her fostering, and take care of full provision of the child. The view of the child should be taken into consideration.

The guardianship authority may appoint a foreign adult (who looks after the child e.g. adult sibling, family friend etc.) for a foreign minor as a guardian as a temporary measure.

b.

Regardless of their immigration and asylum status, if children subject to the Child Protection Act cease to be at risk and so can be brought up in their own family, or if they become an adult, their care must be terminated by the guardianship authority.

In all cases, a minor coming out from child protection care has to be placed under parental (guardian) supervision, so he or she may return to Ukraine or another country accompanied by an adult responsible for his or her supervision.

A case per case decision should be taken by the Guardianship office regarding the termination of the placement of the child under protection as per criteria of the law XXXI of 1997.

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.

Government Office of the Capital City Budapest (BFKH) – Department of Guardianship and Justice:  
<https://www.kormanyhivatal.hu/hu/budapest/szervezeti-egyseg/gyamugyi-es-igazsagugyi-foosztaly2017>

Ministry of Human Capacities - Department of Child Protection and Guardianship Affairs, DR. Huszar Dorottya – [dorottya.huszar@emmi.gov.hu](mailto:dorottya.huszar@emmi.gov.hu)

b.

Government Office of the Capital City Budapest (BFKH) - Department of Guardianship and Justice:  
<https://www.kormanyhivatal.hu/hu/budapest/szervezeti-egyseg/gyamugyi-es-igazsagugyi-foosztaly2017>

Ministry of Human Capacities - Department. of Child Protection and Guardianship Affairs, DR. Huszar Dorottya – Depart. Of Child Protection and Guardianship Affairs – [dorottya.huszar@emmi.gov.hu](mailto:dorottya.huszar@emmi.gov.hu)



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?

On 8 March, Hungary adopted the Government Decree 86/2022 (III. 7.) that establishes a regime of temporary protection for Ukrainian nationals, those provided with refugee status in Ukraine and their close family members (meaning spouse, underage unmarried children, or other dependent relatives).

Non-Ukrainian nationals from non- EU member States, who were legally residing in Ukraine are not covered by this scheme. They can still apply for a 30-day temporary residency with limited rights.

There are no specific laws/policies on UASC from Ukraine.

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. The border police is responsible to register and identify any UASC entering from Ukraine and neighbouring countries. In case an UASC is identified then the police is contacting the local government office of CP and Guardianship to assign a legal guardian and/or transfer parental authority to the accompanying adult in case of a separated minor, as set out under the 1997 law.

- b. Ministry of Interior (Police) and Ministry of Human Capacities

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

Government Office of the Capital City Budapest (BFKH) - Department of Guardianship and Justice.

See more info here: <https://www.kormanyhivatal.hu/hu/budapest/szervezeti-egyseg/gyamugyi-es-igazsagugyi-foosztaly2017>

**Additional relevant information & resources:**



**Eurochild**  
Putting children at  
the heart of Europe

**unicef**   
for every child

- Dedicated website:  
[http://www.bmbah.hu/index.php?option=com\\_k2&view=item&id=1735:national-directorate-general-for-aliens-policing-information-for-people-fleeing-ukraine&Itemid=2108&lang=en](http://www.bmbah.hu/index.php?option=com_k2&view=item&id=1735:national-directorate-general-for-aliens-policing-information-for-people-fleeing-ukraine&Itemid=2108&lang=en)