



EMPOWERING
CHILDREN
FOUNDATION

**Safe
Family**

**Safe
children**

Information for people coming with children from Ukraine to Poland

If you are a parent or guardian of a person under the age of 18, you will find some information on Polish regulations related to children below which may differ from Ukrainian law. For your safety and that of the children entrusted to your care, we provide the most important ones.



Rights and responsibilities of parents and guardians

The relationship that governs the relations between parents and children in Poland is "parental authority". It lasts until the age of majority (until the child's 18th birthday) and means that, in many matters, the child will not be able to make decisions independently. In the case of a child whose parents have been deprived of parental rights, decisions concerning the child are taken by a court-appointed legal guardian. The scope of the legal guardian's authority is similar to that of the parental authority. In the case of Ukrainian citizens who are not parents of a child in their custody, Polish law has provided a separate regulation called "temporary guardian".



01

Parents of a child under the age of 18 have the right and obligation to care for that child, which means that a person under the age of 18 cannot live independently in an independent apartment without the supervision of an authorised adult (parent or legal guardian). This does not apply to children staying in school dormitories, youth socio-therapeutic facilities, youth educational centres and institutions, other establishments or hospitals where children stay with the consent of their parents, legal guardians and/or the family court, where they are cared for by qualified personnel.

02

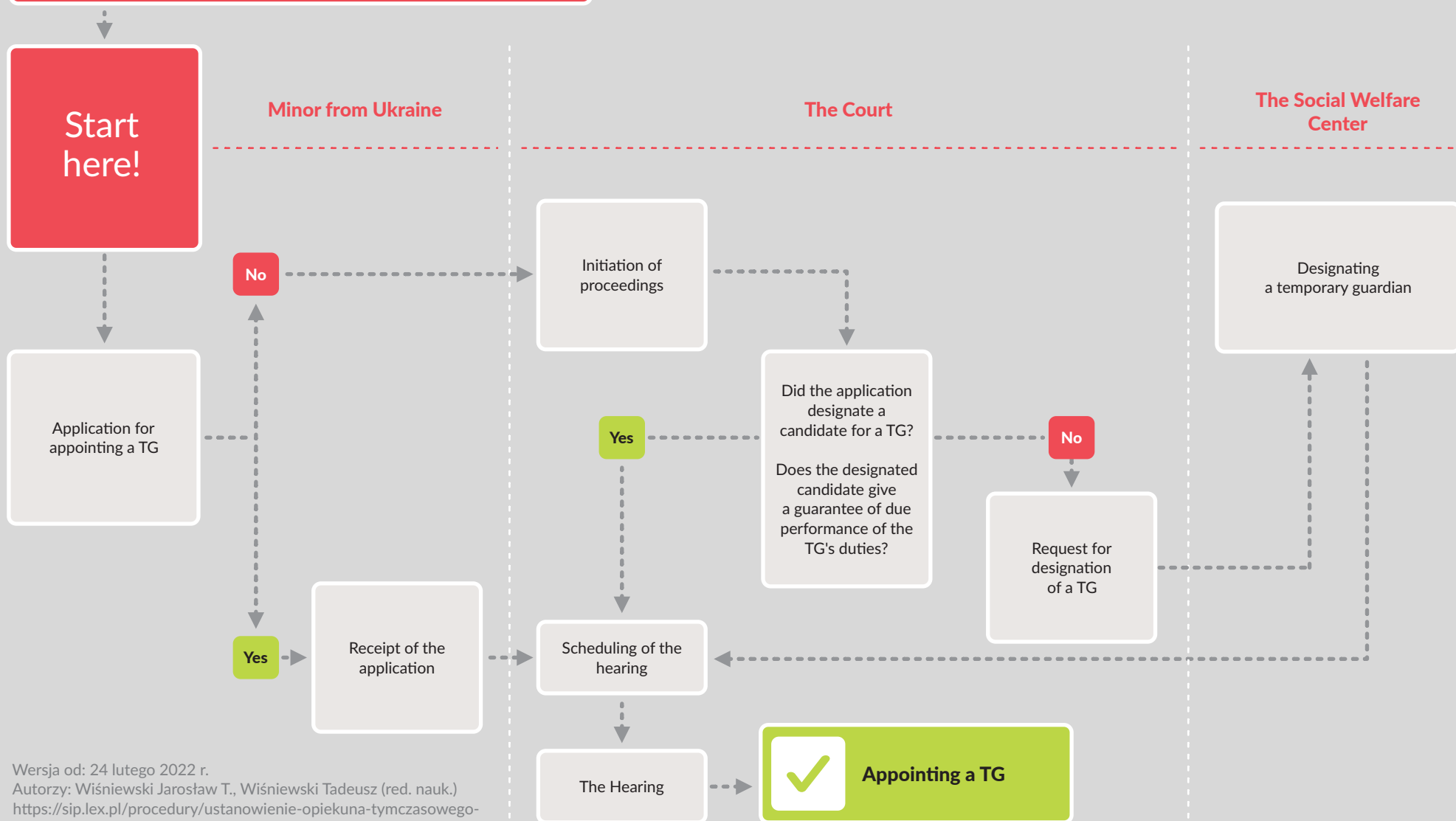
Parents' child support obligation lasts until the child is able to support themselves, and therefore also after the age of 18, when the child continues their education.

03

Under Polish law, the use of physical punishments against children (spanking, slapping, poking, pushing, etc.) is prohibited. Their use puts the parent/guardian at risk of intervention by social services and/or the police, and as a further consequence, may involve limitation or termination of parental authority or guardianship rights. The prohibition of corporal punishment applies to all persons and all spaces: family, kindergarten and school, childcare facilities, hospitals, etc. In Poland, social acceptance of any physical punishment against children has been decreasing for years.

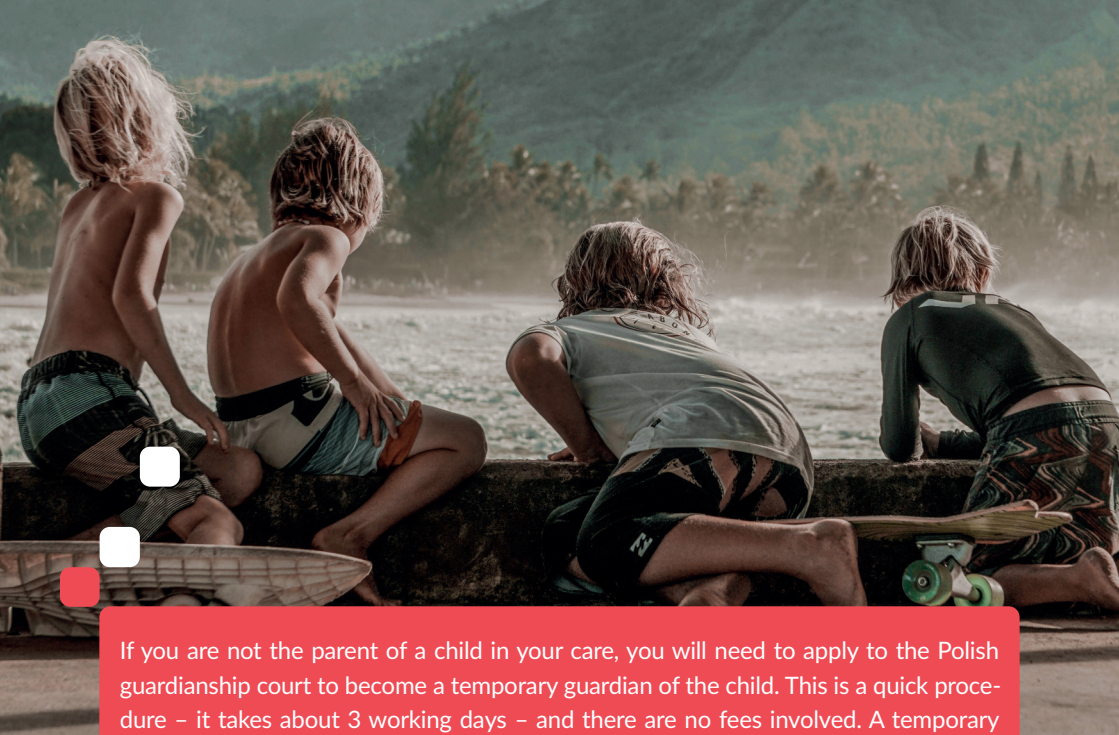
The need to appoint a Temporary Guardian (TG) for a minor from Ukraine

Ustanowienie opiekuna tymczasowego dla małoletniego obywatela Ukrainy z urzędu
 Ustawa z 12.03.2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa (Dz.U. poz. 583) – dalej ustawa, wprowadza instytucję opiekuna tymczasowego dla małoletnich obywateli Ukrainy, którzy przebywają na terytorium Polski bez opieki osób odpowiedzialnych za nie zgodnie z polskim prawem.



Wersja od: 24 lutego 2022 r.
 Autorzy: Wiśniewski Jarosław T., Wiśniewski Tadeusz (red. nauk.)
<https://sip.lex.pl/procedury/ustanowienie-opiekuna-tymczasowego-dla-maloletniego-obywatela-ukrainy-z-urzedu-1610619631>

Opracowanie graficzne: Fundacja Dajemy Dzieciom Się



If you are not the parent of a child in your care, you will need to apply to the Polish guardianship court to become a temporary guardian of the child. This is a quick procedure – it takes about 3 working days – and there are no fees involved. A temporary guardian has custody over the minor's person and property, and has the right to represent the minor.

What rights result from becoming a temporary guardian?

- You will get access to social benefits for parents and guardians of children (parental benefit 500+, “Dobry Start” [Good Start] benefit, material benefits of a social nature).
- You will be able to represent the child in dealing with institutions (school, health clinic, court, etc.) as their legal guardian.
- You will be able to receive free legal assistance, civic advice, psychological assistance and organisational assistance (e.g. volunteer help, interpreter's assistance, assistance with official matters) provided by powiat [county] family assistance centres.
- If you have more than 15 children in your care as a temporary caregiver, you will be assigned a person to help you at least 40 hours a week.



Important: the establishment of a temporary guardian is a solution adopted by Poland in order to provide security of care on our territory for children fleeing the war in Ukraine and does NOT interfere with the rights of biological or adoptive parents remaining in Ukraine. There are no legal or financial consequences for Ukrainian citizens appointed as temporary guardians upon return to Ukraine. You will not have to repay any financial benefits received by Polish authorities on Polish territory. Upon your return to Ukraine, your legal relationship to the child will be the same as it was before you left the territory of Ukraine.

What responsibilities and constraints result from becoming a temporary guardian?

- You will be supervised by a social welfare facility (or other designated institution). This means that employees of this institution will be able to periodically check whether the child in your care has all their needs met.
- In important matters related to the assets of the child in your care (e.g. inheritance matters) and to the child's health (e.g. major surgeries), you will need to obtain permission from the guardianship court.

Legislation on children's autonomy

Children under the age of 7 may not be left home alone without adult supervision. Leaving a child home alone will result in the legal liability of the parent or guardian.

A child over the age of 16 may independently consent to the processing of his or her personal data, as long as the processing relates to information social services aimed directly at children of that age (e.g. a youth online portal).

A child between the ages of 13 and 18 has limited legal capacity, i.e. they can independently conclude contracts on minor day-to-day matters (e.g. buy headphones, but not a car or real estate), and can independently dispose of their earnings. Matters of greater importance require the consent of the legal representative (e.g. a minor can run a sole proprietorship, but consent must be given by a parent/legal guardian)

Driving eligibility depends on the age of the child:

10 years – a bicycle, electric scooter or personal transportation device. A bicycle card for an elementary school student is issued by the school principal free of charge, with the consent of the parent or guardian;

14 years – moped and light four-wheeler;

16 years – four-wheeler, motorcycle with an engine capacity not exceeding 125 cm³;

18 years and over – other vehicle.

Employment of persons under the age of 15 is prohibited, unless such persons are employed for the purpose of apprenticeship. A person between the ages of 15 and 18 may work as a juvenile worker, provided they have completed an eighth term of elementary school and present a medical certificate that the particular type of work does not endanger their life. A person over the age of 15 may independently conclude an employment contract.

A person under 18 years of age may not buy alcohol or cigarettes (including electronic cigarettes). Such a person is not allowed to serve alcohol. In case of doubt about the age of a person, the seller of alcohol or cigarettes or those serving beverages may demand to be shown an identity document.

Marriage can be concluded over the age of 18. In exceptional cases, the guardianship court may consent to a marriage of a woman who has reached the age of 16.

Persons under the age of 18 are subject to compulsory education.

Health and sexual activity

- According to Polish legislation, a child who has reached the age of 16 has the right to co-decide about their own health, methods of treatment and receive full information in this regard. If they decide against the will of their parents/legal guardians, the matter is resolved by the court.
- Teenagers under the age of 16 must have the consent of a parent or legal/temporary guardian for any medical visit, including a gynaecological visit. A doctor has the right to prescribe birth control pills or the “morning-after pill” only with the consent of a parent or guardian. For teenage girls between the ages of 16 and 18, the prescription of medication, examination and gynaecological diagnosis requires two consents: the consent of the child and the consent of the parent/legal guardian.
- In Poland, the age of consent, i.e. the age after which a person is considered capable of giving informed consent to engage in any sexual activity, is 15 years of age; sexual intercourse and engaging in other sexual activities with a person who is under 15 years of age are punishable, even if they take place at that person’s will. Polish law deems persons under the age of 15 incapable of giving informed consent.
- In the case of a pregnancy termination procedure for a person over 13 years of age, a written consent of the person is required (in addition to the consent of the parent/legal guardian). In the case of a person under 13 years of age, the consent of the guardianship court is required, and the minor has the right to express her own opinion.

In Poland, abortion is legal in two cases

1.

when there is a reasonable suspicion that the pregnancy resulted from a criminal act,

2.

when pregnancy is a threat to life or health.



Children's responsibility before the law

- The age of criminal responsibility is, as a general rule, at least 17 years of age. In the case of perpetration of particularly serious crimes (such as murder, rape with particular cruelty, causing grievous bodily harm), the age of criminal responsibility is 15 years old.
- As a rule, children under the age of 13 are not held accountable for the damage they cause. This fact does not exclude the parent / guardian's liability for damage caused by the child if they failed in their duty to supervise the child.
- A person under the age of 18 may be a party to a court case, but until the age of majority such person's interests are represented in court by a parent, legal guardian, temporary sent a child in a case involving that child's guardian or custodian. A guardian is appointed by the court when parents are unable to re-relationship with other children or the child's relationship with one of the parents. In this way, any conflict of interest, even potential conflict, is ruled out.

For other topics outside the scope of our brochure, we recommend the following sources of information:

Information on child support and safe parenting principles during a humanitarian crisis can be found here:

<https://safeguardingsupporthub.org/documents/parents-and-caregivers-are-heroes-protecting-our-children-crisis>

<https://standardy.fdds.pl/zasady>

<https://edukacja.fdds.pl/course/view.php?id=431>

Information on temporary guardianship and necessary formalities can be found here:

<https://ukraina.interwencjaprawna.pl/jak-zostac-opiekunem-tymczasowym-dziecka-z-ukrainy-bez-rodzicow/>

<https://www.gov.pl/web/sprawiedliwosc/formularze-dotyczace-opiekuna-tymczasowego--w-wersjach-jezykowych-polskiej-i-ukrainskiej>

Information for parents and caregivers on raising, educating and assisting children affected by the humanitarian crisis (in Ukrainian) can be found here:

<https://edukacja.fdds.pl/course/index.php?categoryid=59>

Legal basis

Articles 9, 16-19 and 26(1) of the Law on Patients' Rights and Patients' Ombudsman

Articles 10, art.200, art.217 of the Criminal Code

Articles 10, 95, 96 § 1, 98-99, 133 of the Family and Guardianship Code

Articles 15, 426-427 of the Civil Code

Article 106 of the Code of Offenses

Article 35 of the Education Law

Article 190 - 191 of the Labor Code

Article 8 of the Regulation of the European Parliament and of the Council (EU) 2016/679 of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free flow of such data and repealing Directive 95/46/EC (General Data Protection Regulation)

Article 8 of the Law on Vehicle Drivers

Article 15 of the Law on Upbringing in Sobriety and Counteracting Alcoholism

Article 6 of the Law on Health Protection from the Consequences of Tobacco and Tobacco Products Use

Article 4a of the Law on Family Planning, Protection of the Human Fetus and the Conditions for Permissibility of Termination of Pregnancy

Articles 4(3) and 25 of the Law on Assistance to Citizens of Ukraine



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