

Adopting a child in Ukraine: order and procedure

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1. Adopting a child during the war

The war in Ukraine has already taken many lives; unfortunately, the casualties will keep growing. Consequently, many children will become orphans. At the same time, many Ukrainians and foreigners will be ready to receive such children into their houses and adopt them.

At present, the adoption procedure in Ukraine does not work, in other words, it is virtually impossible to adopt a child during the war. Among other things, this is due to the inability to collect the full package of documents, as a large number of courts and children's services are not functioning, access to the registers is closed and it is impossible to obtain the relevant certificates. However, those wishing to proceed with the issue can now check out the adoption practice and procedure according to Ukrainian legislation.

2. What is the adoption of a child?

According to Ukrainian legislation, adoption is defined as the acceptance by an adoptive parent of a person as a daughter or a son into the family, under a court decision. The adoption of a child who is a citizen of Ukraine but lives abroad is an exception since in such a case the adoption takes place in a consular office or a diplomatic mission of Ukraine.

3. Who is subject to adoption?

Only those children who have been formally granted the status of an orphan or a child being deprived of parental care are eligible for adoption. Orphan status is granted to children whose parents have died or lost their lives, which is confirmed by the death certificate of both parents.

The status of a child deprived of parental care is granted to children whose parents:

- have been deprived of parental rights, declared missing or legally incapable (under a court decision);
- have been declared dead (based on a death certificate issued by the vital records authorities pursuant to a court decision);
- are serving a custodial sentence as confirmed by a court sentence;
- remain in custody during the investigation, as confirmed by a court order;
- are wanted by the internal affairs authorities regarding avoidance of alimony payments, as confirmed by a court ruling or a certificate of the internal affairs authorities regarding the parents' wanted status and absence of the information on their whereabouts;
- have a long-period illness that prevents them from fulfilling their parental responsibilities, as confirmed by the conclusion of the medical and social expert commission.

Note: that you can adopt a child aged from 2 months to 18 years but for the exceptional instances when a court decides that you can adopt an adult who is an orphan or has been deprived of parental care before reaching the age of 18.

4. Who can adopt a child?

Ukrainian legislation determines the scope of persons who can be adoptive parents, and they are:

- a legally capable person over 21 years old, except that an adoptive parent is a relative of the child;
- a person who must be at least 15 years older than a child. In the case of the adoption of an adult, the age difference cannot be less than 18 years;
- spouses;
- persons who reside as one family;
- if a child has only a mother or a father who loses legal bond with the child due to the adoption, the child's adoptive parent may be one man or one woman.

Note: that the priority right in adoption is given to: a Ukrainian citizen in whose family a child is being raised; a Ukrainian citizen who is a relative of a child; a husband of a child's mother or a wife of a child's father; a person wishing to adopt several siblings at the same time.

5. Who cannot be an adoptive parent?

- persons who have a limited capacity or have been declared as legally incapable;
- persons who have been deprived of parental rights, unless these rights have been restored;
- persons who have been adoptive parents (guardians, protectors, adoptive parents, house parents) of another child, but the adoption was canceled or declared invalid through their fault;
- persons who have been registered with or have been receiving treatment at a psychoneurological or a narcological dispensary;
- persons who are alcohol or drug addicts;
- persons who do not have a full-time residence and a permanent job (a fixed income);
- persons who suffer from the illnesses which are included in the list of diseases approved by the Order of the Ministry of Healthcare of Ukraine;
- single foreigners, unless a foreigner is a relative of a child;
- persons who have an outstanding conviction or an unexpunged

conviction as prescribed by the law for committing other crimes.

6. What do you have to do to adopt a child?

To become a candidate for adoption, a person wishing to adopt a Ukrainian child shall submit a written application to register him/her as a candidate for adoption to the office (department) of children's services. If one of the spouses cannot come to the children's services office to apply in person, his/her spouse may submit a notarized application on his/her behalf.

The following documents shall be attached to an application:

- a copy of the person's passport or another identity document;
- a copy of a marriage certificate;
- a copy of the salary statement for the last 6 months or a copy of the income declaration of the previous calendar year, certified by the tax authorities;
- a health record of each applicant;
- notarized written consent of a second spouse for the adoption of a child (in case of the adoption of a child by one of the spouses);
- a criminal record certificate for each applicant issued by the internal affairs department at the place of residence;
- a copy of the document certifying an applicant's ownership or the right to use the dwelling premises;
- a certificate of attendance of the training on the issues of adoption of orphans and children deprived of parental care with recommendations on the number, age, and health condition of the children, which are subject to the applicant's adoption, under the form approved by the Ministry of Social Policy of Ukraine. No such certificate shall be required for Ukrainian citizens wishing to adopt a child and being the relatives, guardians, protectors, adoptive parents, or house parents of the child.

Each spouse shall submit a health certificate and a criminal record certificate even if one spouse adopts a child.

After submitting the documents by an applicant, the office of children's services within 10 days:

- considers the documents for their compliance with legal requirements;
- interviews the applicants, explains their rights and obligations as candidates for adoption, the legal consequences of adoption, and a procedure for monitoring the living conditions of the adopted children;
- visits the applicants at their place of residence and prepares a housing inspection report;
- considers the applicants' capacity to become adoptive parents and prepares a corresponding conclusion;
- registers the applicants as candidates for adoption and issues an opinion on their capacity to become an adoptive parent in case of a positive decision.

After being acquainted and establishing contact with a child, the candidates for adoption file an application to the Children's Affairs Service for their wish to adopt a child. The service prepares a conclusion on whether the adoption is appropriate and corresponds to the child's interests.

After getting the conclusion, the applicants shall apply to the local court in the place of the child's residence (location) with the adoption declaration and the documents attached thereto:

- copies of a passport;
- copies of a marriage certificate;
- copies of a child's birth certificate;
- a reference letter from an applicant's place of work;
- a certificate of income;
- a reference letter from a child's educational institution;
- a conclusion by the office of children's services regarding the capacity of being an adoptive parent;
- a police clearance certificate;
- a health record;
- a residence certificate;
- a receipt for payment of court fees.

After getting a favorable court decision and its entry into force, a child is considered adopted, and an adoptive parent must take a child in person from the place of residence upon presenting a copy of a court decision on adoption in the presence of a representative of the office of children's services.

7. Adoption of a child by foreign nationals

The procedure for the adoption of Ukrainian children by foreign nationals is effected according to the standard procedure as mentioned above, though it has certain differences and aspects.

A foreigner may adopt a child who is a Ukrainian citizen if the child has been registered with the relevant authority for at least one year and has reached the age of five.

Adoption may take place before the one year mentioned above has elapsed and before a child has reached the age of five, if:

- an adoptive parent is a relative of a child;
- a child suffers from a disease that is included in the special list of diseases approved by the central executive body that is responsible for establishing state healthcare policy;
- all siblings are subject to adoption into the same family whereby at least one of them has reached the age of five and has been registered with the relevant executive authority for at least one year;
- foreigners have expressed a desire to adopt a child who is a brother or a sister of a previously adopted child.

The priority right to adopt a child, who is a Ukrainian citizen, is given to foreigners who are:

- relatives of a child;
- nationals of the states that Ukraine has concluded a legal assistance treaty with (such countries include, among others, Poland, Lithuania, Latvia, Romania, Moldova, and Georgia).

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Note: that for the adoption of a child by a foreigner the consent of the relevant executive authority implementing the state policy in the field of adoption and protection of the rights of children is required.

This executive body shall submit a request to the Ministry of Internal Affairs of Ukraine on the verification of the adopting foreigners for availability or lack of derogatory information at the law enforcement agencies of other states and the General Secretariat of Interpol, and only after a positive conclusion, a foreigner is entitled to adopt.

Besides, an adopted child retains Ukrainian citizenship until the age of 18.

8. Foster care/guardianship

Foster care/guardianship over a child is an alternative to adoption. Foster care and guardianship are granted to orphans and children deprived of parental care. Foster care is established for a child under the age of fourteen, whereas guardianship is established for a child from the age of fourteen to the age of eighteen. If a child has reached the age of fourteen, a person acting as a foster parent becomes a guardian.

A foster parent or a guardian is predominantly a person who is in a family relationship with a ward, taking into account the personal relationship between them and a person's ability to perform the duties of a foster parent or a guardian.