



(IN)ACCESSIBLE CARE: WHAT PREVENTS CHILDREN FROM RECEIVING SUPPORT WHEN THEY NEED IT?

CHILDREN'S ACCESS TO PSYCHOLOGICAL
AND PSYCHIATRIC CARE IN UKRAINE

Introduction

Access to psychological and psychiatric care for children is a key focus of the Voices of Children Charitable Foundation. Since the onset of the full-scale invasion, numerous studies have shown a significant deterioration in children's psychological well-being in the context of war. In particular, 80% of Ukrainian children exhibit symptoms of post-traumatic stress disorder (Beyond Conflict, September 2024). In the course of its day-to-day work, the Voices of Children Charitable Foundation encounters a practical problem: children under the age of 14 who seek support and have a genuine need for it are unable to autonomously consult a psychologist or psychiatrist without the consent of a parent or another legal representative. Obtaining such consent is not always possible due to parents' lack of awareness, prejudiced attitudes, or the difficult life circumstances in which a family may find itself.

The purpose of this study is to analyze the regulation, under international law and Ukrainian legislation, of children's access to psychological and psychiatric care, as well as to examine the advantages and disadvantages, feasibility, and legislative possibilities of lowering the age at which children may autonomously seek psychological assistance without the consent of their parents or another legal representative.

The primary research methods employed are desk research and a comparative analysis of Ukrainian legislation and international standards governing access to medical care in general, and to psychological and psychiatric care in particular. Within the analysis of international standards, the focus is placed on the experience of EU countries in order to identify pathways for harmonizing Ukrainian legislation with EU standards, as well as on the practices of states where access to psychological care for children and adolescents is more readily available.



Overview of Ukrainian Legislation

In Ukraine, children's access to psychological and psychiatric care is regulated by the following key legislative and regulatory acts:

- Civil Code of Ukraine No. 435-IV of January 16, 2003 (Civil Code of Ukraine).
- Law of Ukraine "Fundamentals of the Legislation of Ukraine on Health Care" No. 2801-XII dated November 19, 1992 (Fundamentals of the Legislation).
- Law of Ukraine "On the Public Health System" No. 2573-IX dated September 6, 2022.
- Law of Ukraine "On Rehabilitation in the Field of Health Care" No. 1053-IX dated December 3, 2020.
- Law of Ukraine "On Psychiatric Care" No. 1489-III dated February 22, 2000.
- Law of Ukraine "On the Mental Health Care System in Ukraine" No. 4223-IX dated January 15, 2025
- Order of the Cabinet of Ministers of Ukraine No. 1018-r dated December 27, 2017 "The Concept of the Development of Mental Health Care in Ukraine Until 2030."
- Order of the Cabinet of Ministers of Ukraine No. 572-r dated June 21, 2024, "On Approval of the Action Plan for 2024–2026 for the Implementation of the Concept of the Development of Mental Health Care in Ukraine Until 2030."
- Resolution of the Cabinet of Ministers of Ukraine No. 1338 dated November 29, 2022, "On Some Issues of Providing Psychological Assistance to War Veterans, Members of Their Families, and Some Other Categories of Persons."
- Order of the Ministry of Health of Ukraine No. 549 dated August 8, 2014 "On Amendments to Certain Orders of the Ministry of Health of Ukraine" (approval of the instruction for filling in the form of primary accounting documentation No. 003-6/o, "Informed Voluntary Consent of the Patient to Diagnosis, Treatment, and Surgery, and Anesthesia").
- Order of the Ministry of Health of Ukraine No. 970 dated September 15, 2016 "Instructions for Filling in the Form of Primary Accounting Documentation No. 003-11/o 'Informed Consent of Parents or Other Legal Representative on Conducting a Psychiatric Examination of a Person Under the Age of 14 (Minor)'"
- Order of the Ministry of Health of Ukraine No. 2118 dated December 13, 2023 "On the Organization of Providing Psychosocial Assistance to the Population," registered with the Ministry of Justice of Ukraine on January 25, 2024, under No. 126/41471.

The legislative acts listed above are arranged in a clear hierarchy. The Civil Code of Ukraine (CCU) has the highest legal force. The Fundamentals of the Legislation of Ukraine on Health Care, laws of Ukraine “On the Public Health System,” “On Rehabilitation in the Field of Health Care,” “On Psychiatric Care,” and “On the Mental Health Care System in Ukraine” have equal legal status; however, the latter two constitute special legislation within the relevant field. In legal practice, the principle governing the relationship between general and special legal norms applies: the Civil Code of Ukraine establishes the general rules for the provision of medical care, while the Fundamentals of the Legislation further elaborate these rules, and the Laws “On Psychiatric Care” and “On the Mental Health Care System in Ukraine” regulate distinct, specific aspects within their respective domains. In the event of a conflict of laws or the existence of regulatory gaps, special norms that specify the relevant field prevail over general norms.

Psychological assistance is not only a component of the health care system but also has an interdisciplinary nature, encompassing medical, educational, social, and legal dimensions.

In the context of ensuring proper protection of the rights and interests of children who find themselves in difficult life circumstances, it is appropriate to emphasize their access to psychological assistance as a mandatory element of the system of social services. In accordance with the Law of Ukraine “On Social Services” No. 2671-VIII dated January 17, 2019, the Procedure for Organizing the Provision of Social Services (Resolution of the Cabinet of Ministers of Ukraine No. 587 dated June 1, 2020), as well as the Classifier of Social Services (Order of the Ministry of Social Policy No. 429 dated June 23, 2020), the provision to children of psychological counseling, crisis intervention, social and psychological rehabilitation, and psychological and pedagogical correction must be integrated and accessible at the community level. Such an approach facilitates the timely identification of psychological problems, stabilization of the child’s emotional state, development of skills for coping with stressful situations, as well as improvement of family relationships.

A child’s right to access psychological assistance during the educational process is ensured in accordance with the Regulations on the Psychological Service in the Education System of Ukraine (Order of the Ministry of Education and Science of Ukraine No. 509 dated May 22, 2018), which constitute the regulatory framework for the implementation of this right within the educational environment. The psychological service of an educational institution becomes a primary layer of support for children’s mental health, providing systematic and targeted responses to their emotional, behavioral, or adaptation-related needs and contributing to the creation of conditions necessary for the fulfillment of educational and developmental objectives.

Under conditions of martial law in Ukraine, the content and procedure for the provision of psychological assistance were, for the first time at the regulatory level, defined as part of the state system of social protection. The Resolution of the Cabinet of Ministers of Ukraine No. 1338 dated November 29, 2022, "On Some Issues of Providing Psychological Assistance to War Veterans, Members of Their Families, and Some Other Categories of Persons," enshrined the concept of psychological assistance as a set of professional measures aimed at overcoming the consequences of traumatic events, restoring psycho-emotional well-being, and facilitating adaptation to peaceful life. This approach was further developed in the Order of the Ministry of Health of Ukraine No. 2118 dated December 13, 2023, "On the Organization of Providing Psychosocial Assistance to the Population," which standardized the procedure for organizing psychosocial assistance for various categories of citizens. Thus, in response to the challenges posed by martial law, a legal framework was established for the systematic provision of psychological assistance not only to servicemembers and their families but also to broad segments of the population, reflecting the state's increased attention to the protection of citizens' mental health.

In the legal dimension, psychological assistance for children who have suffered from domestic violence, bullying, and other forms of violence is guaranteed by Ukrainian legislation. In particular, such guarantees are provided by the Laws of Ukraine "On Protection of Childhood," "On Prevention and Combating Domestic Violence" No. 2229-VIII dated December 7, 2017, the Procedure for Ensuring Social Protection of Children in Difficult Life Circumstances, Including Children Who Have Suffered from Abuse, approved by the Resolution of Cabinet of Ministers of Ukraine No. 585 dated June 1, 2020, the Procedure for Conducting and Documenting the Results of Medical Examination of Victims of Domestic Violence or Persons Allegedly Affected by Domestic Violence and Providing Medical Care to Them, approved by Order of the Ministry of Health of Ukraine No. 278 dated February 1, 2019, as well as the Order of the Ministry of Education and Science of Ukraine No. 1646 dated December 28, 2019 "Some Issues of Responding to Cases of Bullying (Harassment) and Application of Educational Measures in Educational Institutions."

The child-friendly justice approaches being implemented in Ukraine (Resolution of the Cabinet of Ministers of Ukraine No. 708-r dated July 14, 2025 "On Approval of the National Strategy for the Protection of Children's Rights in the Field of Justice Until 2028 and the Operational Action Plan for 2025–2028") require the involvement of a psychologist in proceedings conducted with the participation of a child who is in conflict or in contact with the law, in order to ensure the child's best interests and to prevent re-traumatization.

The presence of a psychologist during the interviewing of a child, as well as the assessment of the child's needs for medical, psychological, and rehabilitation services, is provided by the Procedure for Identification, Return, Support, and Reintegration of Children Deported or Forcibly Displaced as a Result of Armed Aggression of the Russian Federation

Against Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 551 dated May 14, 2024 (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 66 dated January 21, 2025).

Thus, ensuring children's access to psychological and psychiatric care should be regarded as a key indicator of a comprehensive approach to the realization of children's rights, their well-being, and the safeguarding of their best interests across all spheres of life.

The concept of "psychological assistance" encompasses a range of related terms, such as "psychosocial assistance," "psychological counseling," "psychological first aid," "psychological assessment," "crisis psychological counseling," and "emergency psychological counseling," which are regulated at the level of ministerial and departmental regulatory acts. Each of these approaches serves a specific function—from supporting social adaptation and assessing mental status to providing immediate assistance in crisis situations—demonstrating the multi-layered and interdisciplinary nature of psychological assistance.

Until January 2025, Ukrainian legislation did not contain a clear definition of "psychological assistance." The Law of Ukraine "On the Mental Health Care System," adopted in January 2025 (to enter into force on February 7, 2026), for the first time introduced such a definition and detailed the content and forms of psychological assistance.

First and foremost, the Law differentiates between the following terminological concepts:

mental health care — any actions aimed at the prevention or treatment of mental disorders, overcoming difficult life circumstances, or addressing other issues related to mental health; preserving and restoring mental functions, work capacity, and social activity; and achieving psychological well-being, the types of which are defined by this Law;

other mental health-related problems — psychosocial, emotional, and behavioral difficulties that do not meet the diagnostic criteria for mental disorders but may accompany mental disorders, or may be caused by difficult life circumstances, stress, or other factors.

Article 24 of this Law introduces a classification of types of assistance in the field of mental health, namely:

1. psychosocial assistance;
2. psychological assistance;
3. psychotherapy;
4. psychological rehabilitation;
5. psychiatric care.

Before turning to the question of the age from which a child may autonomously seek psychological or psychiatric assistance, it is necessary to determine whether such assistance constitutes a type of medical service.

In Ukraine, psychological assistance is regulated through different legal approaches depending on who provides it and in what context. In practice, there is a significant distinction between assistance provided by psychologists working in educational institutions, social services, emergency services, non-governmental organizations, or charitable foundations, and assistance provided by medical professionals—psychiatrists, psychologists, and psychotherapists (both with medical and non-medical higher education) who work in health care institutions. These differences directly affect the requirements for obtaining informed consent, particularly when assistance is provided to children.

The Law of Ukraine “On the Mental Health Care System” defines specialists in this field as individuals who provide assistance in the field of mental health, possess the relevant education, necessary professional knowledge and skills, and have fulfilled the statutory requirements for attestation and/or certification. Article 39 of the Law regulates the continuous professional development of mental health specialists and provides for attestation of persons who are medical professionals, as well as specialists with higher non-medical education in psychological assistance who are employed in health care institutions. Mental health specialists working in different professional domains (education, social services, security and defense, and other sectors) are subject to certification requirements. The Transitional Provisions of the Law establish the voluntary nature of certification for “non-medical” psychologists during the first six years following the publication of the Law (starting from February 7, 2025), after which certification and possession of a certificate become mandatory. The Law does not establish specific time limits for attestation of medical professionals and specialists with higher non-medical education who provide psychological assistance in health care institutions.

The regulatory framework of Ukraine provides that a psychologist’s professional activity within a particular sector determines the specific competencies, tasks, powers, and qualification requirements applicable to that specialist.

- **In the field of social services and social protection**, qualification requirements are regulated by the Handbook of Qualification Characteristics of Workers’ Occupations (Issue 80 “Social Services,” Order of the Ministry of Social Policy of Ukraine No. 518 dated March 29, 2017) and by professional standards.

The professional standard “Practical Psychologist (Social Sphere)” (Order of the Ministry of Economy of Ukraine No. 211 dated February 3, 2021) is aimed at preventing negative social phenomena and providing assistance to socially vulnerable groups and individuals who find themselves in difficult life circumstances, while the standard “Psychologist of a Social Protection

Institution” (Order of the Research Institute of Social Policy and the National Academy of Sciences of Ukraine No. 28 dated September 27, 2022) focuses on organizing and delivering social and psychological work with recipients of social services.

- **In the field of education**, in accordance with the professional standard “Practical Psychologist of an Educational Institution” (Order of the Ministry of Economy of Ukraine No. 2425 dated November 24, 2020) and the Regulations on the Psychological Service in the Education System of Ukraine (Order of the Ministry of Education and Science of Ukraine No. 509 dated May 22, 2018), the psychologist’s tasks include diagnosis, correction, counseling, prevention, and psychological assistance for participants in the educational process. The Letter of the Ministry of Education and Science of Ukraine No. 1/9-477 dated July 24, 2019 “On Standard Documentation for Employees of the Psychological Service in the Education System of Ukraine” establishes standardized forms and procedures for record-keeping by psychological service staff, ensuring unified approaches to documentation, planning, and reporting in educational institutions and facilitating proper documentary support of psychological activities.

- **In the field of health care**, requirements for physician-psychologists, psychiatrists, and related specialists are regulated by the Handbook of Qualification Characteristics of Worker’s Occupations, Issue 78 “Health Care” (Order of the Ministry of Health of Ukraine No. 117 dated March 29, 2002, as amended by Order No. 138 on January 25, 2023). This handbook covers medical professions (“physician-psychologist,” “physician-psychotherapist,” “physician-psychiatrist,” etc.), as well as the professions of “clinical psychologist” and “psychotherapist” for specialists with higher non-medical education, which were introduced as new categories in 2023.

The main tasks and responsibilities of a psychologist in a health care institution include providing medical and psychological assistance to individuals of various ages who require such support. This specialist carries out psychoprophylaxis among risk groups for the development of mental, psychosomatic, and behavioral disorders; conducts psychodiagnostics, treatment, and medical and psychological rehabilitation of patients with various somatic conditions in cooperation with relevant medical specialists; and works with patients experiencing different types of mental, psychosomatic, and behavioral disorders.

A psychiatrist applies modern methods of prevention, diagnosis, treatment, rehabilitation, and long-term clinical follow-up of patients with psychiatric conditions and provides them with emergency and urgent medical care.

The Nomenclature of Medical Specialties (Order of the Ministry of Health of Ukraine No. 1753 dated August 18, 2021) distinguishes specific types of medical care for children (“child psychiatrist,” “adolescent psychiatrist”), which underscores the need for specialized knowledge and competencies.

In particular, the functional duties of a district child psychiatrist include providing consultations upon referral from pediatric physicians of other specialties, including at the patient's place of residence. The psychiatrist conducts medical examinations of a child's neuropsychiatric health prior to school enrollment; contributes to the legal and social protection of children; provides patronage care to children with illnesses; and maintains ongoing coordination with the district pediatrician, child neurologist, and physicians of children's educational institutions.

A clinical psychologist and a psychotherapist, as professionals with higher non-medical education in psychological assistance within the health care sector, focus on non-pharmacological approaches, including psychodiagnostics, prevention, psychological correction, and rehabilitation, as well as work with patients' families. Requirements regarding knowledge of developmental and social psychology ensure their preparedness to work not only with adults but also with children and adolescents.

Thus, in each professional domain of psychologists' practice, clear regulatory requirements and professional standards are established that define the boundaries of competence. This enables a systematic approach and ensures a high quality of psychological assistance, including for children and adolescents.

Regardless of psychologists' professional field, the issue of informed consent of the client (patient), the recipient of mental health assistance, remains highly relevant and practically significant.

Informed voluntary consent for diagnostics and treatment is mandatory when a patient seeks assistance from a psychologist in a health care institution. To receive psychiatric care, the patient (the parents of a minor or a legal representative) must sign an informed consent for a psychiatric examination (outpatient psychiatric care, hospitalization, treatment, etc.) in accordance with statutory requirements. Written consent of parents (legal representatives) is required for conducting individual diagnostics and corrective interventions upon request of participants in the educational process. In the practice of psychologists working in non-governmental organizations and charitable foundations, it has become customary to formalize informed consent for psychological counseling, signed by the person at the time such assistance is provided; this document explains the nature of the services, their scope, confidentiality conditions, and possible risks.

Accordingly, both the type and content of informed consent are influenced by the professional status of the person providing psychological assistance and the setting in which such assistance is delivered. Despite its civil-law nature, informed consent for providing medical care is more strictly regulated, as it is governed by specific provisions of the Civil Code of Ukraine and the Fundamentals of the Legislation. At the same time, consent for psychological counseling is more flexible, as it is based on applying the general rules governing transactions under the Civil Code of Ukraine.

Informed consent in the medical field has an approved form (Orders of

the Ministry of Health of Ukraine No. 549 dated August 8, 2014, and No. 970 dated September 15, 2016), is always executed in writing, and entails a high level of responsibility for both parties. By contrast, informed consent for psychological counseling outside a health care institution may be given either orally or in writing, as no standard form or approved instructions for its execution are prescribed.

Let us now consider the age from which a child may autonomously seek psychological or psychiatric assistance in Ukraine. As two separate regulatory regimes operate in this area, the analysis below first addresses a child's ability to seek assistance from a psychologist outside the health care institution, and subsequently—within the system of medical care and services.

Under the Law of Ukraine “On Protection of Childhood,” a child is a person under the age of 18 (the age of majority), unless, under the law applicable to them, they acquire the rights of an adult earlier. It is important to begin by noting that, under Ukrainian law (Articles 31 and 32 of the Civil Code of Ukraine), children have different levels of legal capacity, that is, different scopes of rights, obligations, and liability, namely:

- **0–14 років — partial civil capacity (a minor);**
- **14–18 років — limited civil capacity (a minor aged 14–18).**

It is precisely the scope of a child's civil capacity that determines their ability to autonomously enter into agreements, including providing informed consent for psychological assistance or medical intervention.

Pursuant to Article 31 of the Civil Code of Ukraine, minors under the age of 14, who have partial civil capacity, may enter into only minor everyday transactions that satisfy their daily needs, are of low value, and correspond to their physical, spiritual, or social development. However, psychological assistance, even if provided free of charge, does not fall within the definition of a minor day-to-day transaction. It is a service that requires a high level of specialization, has a significant impact on a child's psycho-emotional state, and cannot be equated with ordinary everyday needs such as purchasing food, clothing, or toys. Therefore, children under the age of 14 cannot autonomously sign informed consent for psychological assistance. Such consent must be provided by parents or legal representatives.

Minors aged 14 to 18, under Article 32 of the Civil Code, have a broader scope of civil capacity than younger minors, but it remains incomplete. They may autonomously enter into certain transactions (e.g., banking agreements, disposal of their income, participation in legal entities). However, other transactions not expressly provided for in Article 32 of the Civil Code of Ukraine require the consent of parents or legal representatives.

In this context, a child's signing of consent for psychological assistance remains a debatable issue, as such assistance does not fall within the clearly defined transactions that minors aged 14–18 may conclude autonomously; accordingly, parental consent serves as an additional safeguard. A potential consequence for non-governmental or

charitable organizations that provide free psychological assistance to adolescents may be the recognition of the transaction as invalid (i.e., where the child lacked sufficient legal capacity to conclude it) or the imposition of non-contractual liability if the services provided resulted in harm to the child's health and a causal link is established in court.

The modernization of legislation regulating access to psychological assistance for certain categories of persons does not resolve the problematic aspects related to obtaining consent from child recipients. By way of example, the Procedure and Conditions for the Provision of Psychological Assistance to War Veterans, Their Family Members, and Some Other Categories of Persons, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1338 dated November 29, 2022 (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 1270 dated December 4, 2023), defines "psychological assistance" as an activity carried out at three levels specified by these Procedure and Conditions, aimed at providing professional support to individuals at risk of developing mental and behavioral disorders; facilitating psychosocial adaptation to changed life circumstances; assisting in the comprehension of personal experience; expanding self-awareness and opportunities for self-realization; and addressing psychological problems caused by difficult life circumstances, crisis situations, emergencies and/or disasters, and military action. The same Procedure defines a child as a service recipient in the status of a family member of a veteran/combatant or a child under guardianship or custodianship (paragraph 42, subparagraphs 6, 8).

Paragraph 6 of the Procedure stipulates that psychological assistance services may be provided in individual, family, or group formats. One of the principles of providing psychological assistance, enshrined in paragraph 7 of the Procedure, is voluntariness, which precludes the provision of psychological assistance services without the voluntary consent of the service recipient.

Under paragraph 44 of the Procedure, informed consent of the service recipient, in accordance with legal requirements, is required prior to the commencement of psychological assistance. The service provider informs the recipient about the purpose and content of the psychological assistance process, as well as the confidentiality of information related to such assistance and the legal liability for its unlawful disclosure. If consent is given, the service provider enters into an agreement on the provision of psychological assistance with the recipient. Despite the Procedure identifying a child as a recipient of psychological assistance services, it does not specify the age at which consent is given autonomously by the child or by their legal representative.

As noted above, psychological assistance may be provided to a child in the educational institution they attend, in accordance with the Regulation, approved by Order of the Ministry of Education and Science of Ukraine No. 509 dated May 22, 2018. The psychological service ensures timely and systematic assessment of learners' psychophysical development, motives of behavior and activity, taking into account age-related, intellectual, physical, gender, and other individual characteristics, and contributes to creating

conditions for the fulfillment of educational and developmental objectives of educational institutions. Psychological assistance during the educational process is provided by practical psychologists.

Paragraph 7 of this Regulation defines the duties of psychological service staff; among them is the conduct of individual diagnostics and corrective interventions upon request of participants in the educational process, subject to obtaining written consent of parents (legal representatives). Such consent may be withdrawn at any time.

Let us now turn to the situation in which psychological and psychiatric care is provided within a health care institution, where informed consent is mandatory. Article 285 of the Civil Code of Ukraine and Article 39 of the Fundamentals of the Legislation are mirror provisions and enshrine the right to information / the obligation to provide information about one's state of health. Pursuant to these provisions, only an adult individual has the right to truthful and complete information about their state of health, including the right to access relevant medical records pertaining to their health. Parents (adoptive parents), guardians, and custodians have the right to information about the state of health of a child or a person under their care.

In scholarly literature on this issue, researchers and practitioners conclude that such rules governing access to information and the ability to provide consent constitute a legislative gap. Accordingly, they state that “until legislative provisions on consent and medical information are properly regulated, it is advisable to obtain consent both from a minor aged 14–18 and from their legal representatives.”

Pursuant to Part 3 of Article 284 of the Civil Code of Ukraine, medical care provided to an individual who has reached the age of fourteen is rendered with their consent. It is this provision that establishes that a child's independent consent to treatment is possible only from the age of 14. Until that age is reached, any medical care (including psychological or psychiatric care) requires the consent of a legal representative (a parent or a guardian).

A similar provision is contained in Article 43 of the Fundamentals of the Legislation, which regulates the procedure for obtaining consent to medical intervention. In particular, it provides that “the consent of a patient who has been informed in accordance with Article 39 of these Fundamentals is required for the application of diagnostic, preventive, and treatment measures. With regard to a patient under the age of 14 (a minor patient), as well as a patient recognized as legally incapacitated in the manner prescribed by law, medical intervention shall be carried out with the consent of their legal representatives.”

However, Article 43 of the Fundamentals is a blanket provision, as it refers to Article 39, which regulates the obligation to provide information about a person's state of health to an adult individual. This necessitates a combined interpretation of these norms, thereby creating additional difficulties.

Unlike the Fundamentals of the Legislation, the Civil Code of Ukraine contains a clear provision establishing the age of 14 years as the threshold from which an individual's consent is required.

By contrast, Article 43 of the Fundamentals focuses solely on the mandatory consent of legal representatives for minor patients (under 14), while failing to clearly regulate the issue of consent given by minors aged 14–18, which may lead to multiple interpretations.

At the same time, the Civil Code of Ukraine should have higher legal force, yet even it contains certain parallel norms—most notably, the rule that only an adult person is entitled to receive information about their state of health. This further complicates the situation and points to a lack of systemic coherence in the regulation of this issue.

Since 1992, when the Fundamentals of the Legislation entered into force, and 2004, when the Civil Code of Ukraine came into effect, the conflict regarding consent to medical intervention has remained unresolved. The existence of this conflict is acknowledged both by international organizations, referring to it as a “regulatory inconsistency,” and by Ukrainian scholars and practitioners. The reasons for this may vary, ranging from the perceived lack of urgency of the issue to an absence of political will. Understanding why this legislative gap has not yet been addressed makes it possible to formulate appropriate recommendations.

In practice, legislators and medical professionals, seeking additional legal protection, require consent both from the child aged 14 or older and from both legal representatives. This approach is justified in light of the potential liability faced by physicians. However, as of 2023, recommendations “to obtain consent from all parties until the provision is regulated” appear rather illogical and unsystematic. This practice has existed for more than 20 years, is generally accepted, and has effectively become customary, which raises the question of why the issue was not addressed at the legislative level earlier.

It is noteworthy that the Ministry of Health of Ukraine has approved a single standard form of informed voluntary consent of the patient, which applies both to adults with full civil capacity and to children (as nothing in the form indicates otherwise). The form provides for completion of the phrase “about the nature of my (my child’s) illness”, with a requirement to underline the applicable option. The legally established instructions for completing the form state that the patient who applies to a health care institution completes and signs such consent in the presence of a physician, without regulating separate provisions to clarify that, in cases of limited civil capacity, such consent must be signed both by legal representatives and by the child. At the same time, only in the field of psychiatric care does a separate consent form exist that is signed by parents on behalf of a minor.

For situations in which the patient is a minor between 14 and 18 years of age, there is no separate, clearly regulated consent form that would take into account the joint signing by the child and their legal representatives (it should be recalled that there is no specific legal provision that directly requires the joint signing of consent by legal representatives and a minor). In most cases, such consents are often signed separately: one by the child and another by the parents. The absence of clear regulation not only complicates the work of medical professionals but also potentially affects the protection of the rights of minor patients.

Both the Civil Code of Ukraine and the Fundamentals of the Legislation provide for an exception to the requirement of mandatory consent of a legal representative with respect to a minor patient. According to the Fundamentals, the consent of the patient or their legal representative to medical intervention is not required only where there are indications of a direct threat to the patient's life, provided that it is objectively impossible to obtain consent for such intervention from the patient themselves or their legal representatives. It should be noted that the Fundamentals establish specific conditions for access to medical care without the consent of a legal representative, namely:

- **the presence of indications of a direct threat to life;**
- **the objective impossibility of obtaining the consent of the legal representative.**

The Civil Code of Ukraine does not include the condition of objective impossibility of obtaining the consent of a legal representative; rather, the presence of a real threat to the life of an individual is a sufficient ground for providing medical care without the consent of legal representatives or the patient themselves. However, this provision is applicable only in critical, life-threatening cases and does not extend to mild or moderate situations in which a child autonomously seeks psychological or psychiatric assistance without the consent of a legal representative.

Pursuant to Part 5 of Article 43 of the Fundamentals of the Legislation, if a refusal to consent to medical intervention is given by the patient's legal representative and such refusal may have severe consequences for the patient, the physician is obliged to notify the guardianship and custody authorities. This mechanism may be used to address cases of inaction on the part of legal representatives.

It should be emphasized that all of the above provisions concerning access to medical care fully and unconditionally apply to access to psychological or psychiatric care as well, including with regard to the presence of indications of a direct threat to life. For a long period, Ukrainian society has experienced, and to some extent continues to experience, stigmatization related to psychological or psychiatric care. At the same time, Ukrainian legislation defines that "health is a state of complete physical, mental, and social well-being, and not merely the absence of disease or physical defects," and that "a medical emergency is a sudden deterioration of physical or mental health that poses a direct and imminent threat to the life and health of a person or others and arises as a result of illness, injury, poisoning, or other internal or external causes."

Part 6 of Article 284 of the Civil Code of Ukraine contains a blanket provision on the provision of psychiatric care to an individual in accordance with the law. Thus, the Civil Code allows for other special regulation of access to psychiatric care. According to the Law of Ukraine "On Psychiatric Care," psychiatric care is defined as "a set of special measures aimed at examining the state of mental health of persons on the grounds and in the manner prescribed by this Law and other laws of Ukraine, prevention, diagnosis of mental disorders, treatment, supervision, care, medical and psychological

rehabilitation of persons suffering from mental disorders, including those resulting from the use of psychoactive substances.” This Law does not apply to access to psychological care; however, it is a special law governing access to psychiatric care for individuals, including children.

The Law provides for several types of psychiatric care, including:

- **psychiatric examination;**
- **outpatient psychiatric care;**
- **hospitalization of a person in a psychiatric care institution;**
- **examination of persons hospitalized in a psychiatric care institution on a compulsory basis;**
- **compulsory medical measures, etc.**

A psychiatric examination is conducted by a psychiatrist: of a person who has reached the age of 14—at their request or with their conscious written consent; of a person under the age of 14 (a minor)—at the request or with the written consent of their parents or another legal representative. In the event of disagreement between the parents or in the absence of parents, a psychiatric examination of a person under the age of 14 (a minor) is conducted on the basis of a decision (consent) of the guardianship and custody authority, which must be adopted no later than 24 hours from the moment the other legal representative applies to that authority and may be appealed in accordance with the law, including in court.

Thus, access to psychiatric care is, in certain respects, similar to access to psychological care (*de jure*—regarding the threshold age from which consent is not required); however, there are differences in cases where one parent or legal representative disagrees, in which case the guardianship and custody authority is involved. At the same time, this Law provides for cases in which consent is not mandatory, but such cases are clearly defined and exhaustive, given the more serious and specific nature of psychiatric care compared to psychological care.

A psychiatric examination of a person may be conducted without the consent of the child or their legal representative in cases where the information obtained provides sufficient grounds for a reasoned assumption that the person has a severe mental disorder, as a result of which the person:

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- commits or demonstrates real intentions to commit actions that pose an immediate danger to themselves or others; or
- is unable to autonomously satisfy their basic needs at a level that ensures their vital functioning; or may cause significant harm to their health due to a deterioration of their mental state if psychiatric care is not provided.

The decision to conduct a psychiatric examination in such cases is made by a psychiatrist on the basis of an application containing information that provides sufficient grounds for such an examination. Such an application may be submitted by relatives of the person subject to the psychiatric examination, a physician of any medical specialty, as well as other persons.

Overview of International Law and Other Jurisdictions

This section analyzes the key recommendations of the World Health Organization (WHO), EU legislation, and the laws of other countries. Neither international organizations working in the fields of child protection and health, nor international law or EU law, establish a clear age threshold from which a child may autonomously access psychological or psychiatric care on the basis of their own consent, without the involvement of legal representatives. Most often, only evaluative recommendations exist, which states implement at their own discretion at the legislative and practical levels.

Before turning to specific international standards and the experience of other countries, it is necessary to determine whether a similar situation exists globally with regard to the regulation of psychologists' work, given that psychologists may be medical professionals or may provide counseling services without medical education. The situation with psychiatrists is undisputed: in all EU countries and in the United States, a psychiatrist is a physician. By contrast, the status of psychologists is ambiguous, and within the EU there is no unified regulation that clearly defines the requirements for this profession or its role within the health care system.

Psychologists operate within the health care and social services sector. This field covers a wide range of activities—from medical care provided by qualified health professionals in hospitals, to care in long-term residential institutions that also involves a certain level of medical services, and to social work carried out without the involvement of medical professionals.

According to data from the European Federation of Psychologists' Associations, two main approaches to the integration of psychologists into the health care system can be identified. These approaches affect the scope of counseling services, the age from which a child may autonomously consult a psychologist without consent of their parents, and the requirements for informed consent of the patient.

1. Full integration of psychologists into the health care system

Under this model, the professional title “psychologist” is legally recognized and protected, and psychologists' activities are regulated by ministries of health or authorized professional bodies. Psychological services are considered part of medical care. Accordingly, informed medical consent is a mandatory requirement for psychologists' activities, and the age threshold for a child's independent access to services is set at the same level as for any other medical intervention. Countries with full integration include: Austria, Croatia, Cyprus, the Czech Republic, Finland, France, Greece, Italy, Norway, Portugal, and Sweden.

2. Partial integration of psychologists into the health care system

In this group of countries, the professional title “psychologist” is partially recognized or protected, but regulation applies only to certain areas of psychological practice (for example, clinical, school, or organizational psychology). The requirements for informed consent depend on the specific context and field of activity: in medical settings (health care institutions), consent requirements and age thresholds are aligned with those applicable to medical interventions, while in educational settings more flexible civil-law relationships may apply. Countries with partial integration include: Estonia, Lithuania, Poland, the Netherlands, Turkey, Slovenia, and Spain. For example, in the Netherlands, requirements for psychologists working in health care institutions are established by the Dutch government through the Individual Healthcare Professions Act (Wet Beroepen in de Gezondheidszorg, or BIG), which is administered via the BIG register on behalf of the Ministry of Health, Welfare and Sport. At the same time, the national professional association for psychologists (NIP) defines requirements for child and adolescent psychologists, as well as for occupational and organizational psychologists, through its Register Psycholoog programs and administers the NIP register.

In 2023, the European Commission published a Communication to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions on a comprehensive approach to mental health, which places particular emphasis on strengthening the role of the health care system in the field of mental health. The document underscores the importance of diversifying access to care and highlights the role of different settings in promoting mental health, prevention, early identification, and intervention.

In particular, it notes that “a variety of settings, such as schools, workplaces, elderly homes and prisons, are key places for mental health promotion, prevention and early identification and intervention. Prevention and early interventions by professionals in contact with children, such as teachers, can promote the mental health resilience of children and young people and mitigate potential harms, in particular by giving them a voice. Nurseries and schools represent an ideal setting to equip young children with the skills to regulate their emotions and develop their understanding of mental health, developing skills, like empathy and building self-awareness and self-confidence.”

This approach demonstrates an emphasis not so much on the individual provision of psychological assistance, but rather on creating environments that foster resilience, emotional intelligence, and social skills in children.

To determine the conditions for concluding contracts for psychological services outside health care institutions, it is necessary to refer to the civil legislation of each individual jurisdiction. This makes it possible to identify the age at which a child may be a party to such a contract and the legal requirements for informed consent. However, before doing so, it is advisable to examine international standards for the provision of psychological assistance to children and young people, which establish the general framework for such legal relationships.

The UN Convention on the Rights of the Child, which sets out the fundamental rights of children, enshrines the right to the highest attainable standard of health (Article 24) and the right to express views freely in all matters affecting the child, with due weight given to the child's age and maturity (Article 12). Unfortunately, Article 12 is often interpreted narrowly through its second paragraph, with the focus placed primarily on participation in administrative or judicial proceedings. However, such an approach is incorrect.

In 2009, the Committee on the Rights of the Child adopted General Comment No. 12 (2009): The right of the child to be heard, which includes a dedicated section explaining how the "right to be heard" is to be implemented in the field of health care.

First, "the Committee emphasizes that the right of the child to be heard applies to individual health-care decisions, as well as to children's involvement in the development of health policy and services. States parties need to introduce legislation or regulations to ensure that children have access to confidential medical counselling and advice without parental consent where this is needed for the child's safety or well-being. Furthermore, the Committee notes that the right to counselling and advice is distinct from the right to give medical consent and should not be subject to any age limit.

Second, the Committee welcomes the introduction of a fixed age at which the right to consent transfers to the child. At the same time, younger children who demonstrate the capacity for informed decision-making should likewise be given the opportunity to be heard."

Thus, the emphasis is once again placed not so much on age as on the child's ability to express their own views, demonstrate maturity, and, in all cases, be involved in decision-making concerning their health. In addition, Article 3 of the UN Convention on the Rights of the Child establishes a cross-cutting principle for the interpretation and application of the Convention's provisions—namely, the principle of the "best interests of the child". This principle means, *inter alia*, that in ambiguous or disputed situations, practices should be applied that will best serve the child's condition, health, and development.

In 2013, the UN Committee on the Rights of the Child issued General Comment No. 15 (2013) on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Article 24). It states that "the Committee recognizes that children's evolving capacities have a bearing on their independent decision-making on their health issues. In accordance with their evolving capacities, children should have access to confidential counselling and advice without parental or legal guardian consent, where this is assessed by the professionals working with the child to be in the child's best interests. States should clarify the legislative procedures for the designation of appropriate caregivers for children without parents or legal guardians, who can consent on the child's behalf or assist the child in consenting, depending on the child's age and maturity."

A literal interpretation of the Committee's comments on the Convention on the Rights of the Child, together with a detailed analysis of Articles 12 and 24, repeatedly emphasizes confidential counselling or advice without parental consent, consideration of the child's age and maturity, and the best interests of the child in the health-care context, rather than a purely literal application of existing national legislation. In drawing this conclusion, we do not in any way call for, or suggest, a violation of national law. Rather, we demonstrate that there are numerous international standards and practices which, within reasonable limits, may depart from a strictly literal interpretation of the law where such interpretation fails to fulfill its core function in this area—namely, the protection of the rights and interests of the child.

Recommendations of Other UN Agencies, in particular WHO and UNICEF

In 2024, the WHO and UNICEF published a joint Report on the Mental Health of Children and Young People: Service Guidance. According to this report, “Mental health legislation refers to legal provisions related to mental health. Such provisions typically focus on issues such as civil and human rights protection for people with mental health conditions, along with treatment facilities, personnel, professional training and service structure. For children and young people, attention is needed to ensure that legislation overcomes rather than exacerbates barriers to access. For example, requiring primary caregivers for under 18-year-olds to consent to mental health care may impede help-seeking. A mental health policy is an organized set of values, principles and objectives for improving mental health and reducing the burden of mental health conditions in a population, defining a vision for future action. A well-articulated policy, when matched with a clear implementation plan and budget, is a proven powerful driver for change. Yet, fewer than half of WHO Member States, mostly HICs (High-Income Countries), have a mental health plan or policy for children and young people.”

Another WHO framework remains in force today: The Comprehensive Mental Health Action Plan 2013–2030, which sets out four main objectives:

- 1. strengthening effective leadership and governance in mental health;**
- 2. providing comprehensive, integrated, and responsive mental health and social care services at the community level;**
- 3. implementing strategies for mental health promotion and the prevention of mental disorders;**
- 4. strengthening information systems, evidence, and research in mental health.**

Within the first objective, the proposed actions for Member States include the development, strengthening, updating, and implementation of national policies, strategies, programs, laws, and regulations on mental health across all relevant sectors. In particular, this concerns codes of practice and monitoring mechanisms for the protection of human rights and the implementation of legislation in line with evidence and best practices, as well as the provisions of the Convention on the Rights of Persons with Disabilities and other international and regional human rights instruments.

Under the second objective, Member States are encouraged to proactively identify groups at increased risk of developing mental health conditions who have limited access to services and to provide them with appropriate support (examples of such groups include children in general, and particularly children who live permanently in conditions of armed conflict, experience ongoing displacement, and so forth). After identifying such groups, the WHO recommends developing access strategies for psychological assistance that are responsive to the needs of these vulnerable populations.

Within the scope of this study, the third objective is the most relevant. According to WHO, “The early stages of life present a particularly important opportunity to promote mental health and prevent mental disorders, as up to 50% of mental disorders in adults begin before the age of 14 years. Children and adolescents with mental disorders should be provided with early intervention through evidence-based psychosocial and other non-pharmacological interventions based in the community, avoiding institutionalization and medicalization. Furthermore, interventions should respect the rights of children in line with the United Nations Convention on the Rights of the Child and other international and regional human rights instruments.

Mental health needs of children and adolescents who are exposed to natural disasters or civil conflict and unrest, including those who have been associated with armed forces or armed groups, are very high and require special attention.” The main measure proposed to address this objective for Member States is the development and coordination of a multisectoral strategy. This strategy should combine universal and targeted interventions to promote mental health and prevent mental disorders, with a particular focus on the needs of specific vulnerable population groups at all stages of life. Children, especially those living in conditions of armed conflict, are identified as among the most vulnerable population groups.

Accordingly, these recommendations apply to Ukraine as a WHO Member State. Although they are not and cannot be legally binding, adherence to them is crucial for safeguarding children’s lives and ensuring their development. This underscores the need to adapt legislation to the actual needs of children living in conditions of war who lack access to psychological or psychiatric care before the age of 14 due to the inability to obtain parental consent. It is important to emphasize that preventive mental health promotion or treatment before the age of 14 is significantly more effective at early stages than in adulthood.

As early as 2005, the WHO adopted the Mental Health Policy and Service Guidance Package, which remains relevant today. In this document, the WHO notes that the guidance package addresses mental health in the perinatal period (from conception to birth), childhood (from birth to 9 years), and adolescence (10–19 years). It is worth noting that adolescence was already defined in 2005 as beginning at age 10. This highlights the onset of a period of significant physical, psychological, emotional, and other changes during which access to psychological assistance can be critical.

Law of the Council of Europe

Let us turn to regional international law applicable to the member states of the Council of Europe, including Ukraine. The Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ECHR), does not guarantee a right to health care or a right to health as such. However, the European Court of Human Rights (ECtHR), as the living instrument of the ECHR, has considered a number of cases related to health, including cases concerning children. First, the ECtHR has examined issues related to threats to a child's life arising from health conditions. However, these cases do not concern access to psychological assistance for minors or the issue of absence of parental consent, but rather more serious situations involving direct medical intervention, such as blood transfusions or the taking of medical samples without the consent of legal representatives (e.g. *Glass v. the United Kingdom*). In the majority of cases, in the absence of a critical, life-threatening situation posing a risk to a child's health, the ECtHR has found that medical intervention without parental consent constitutes a violation of Article 8 of the European Convention on Human Rights (e.g. *Jehovah's Witnesses of Moscow and Others v. Russia*).

At the same time, the ECtHR has not considered cases in which the absence of parental consent itself caused serious injury or the death of a child as the core subject of the dispute, since only a state may be a respondent before the ECtHR, while the applicant must be an individual. In practice, therefore, the case law reflects situations in which parental consent was disregarded by medical professionals, and it was this fact that was assessed by the Court in terms of potential interference with private and family life. Drawing a direct analogy between the legal aspects of providing medical care, such as taking medical samples or performing blood transfusions, and the provision of psychological assistance is therefore not possible. Accordingly, this case law should be taken into account, but not directly applied to the present study. It merely illustrates the risks that medical professionals, and subsequently the state, may face in cases where an explicit refusal by a legal representative to allow medical services for a child is overridden. Unfortunately, this case law does not operate in the opposite direction, nor does it address situations where parents, for example on religious grounds (such as refusal of blood transfusions), place a child's life at risk.

In addition to the ECHR and the Court's case law, other instruments of Council of Europe law exist, including acts adopted by the Committee of Ministers. In 2011, the Committee of Ministers of the Council of Europe adopted the Guidelines on Child-Friendly Health Care, which elaborate in greater detail on the child's right to participation in matters concerning their health. Overall, these Guidelines closely mirror the recommendations issued by the relevant UN bodies. In particular, they establish that "when, according to law, the child does not have the capacity to consent to an intervention, the opinion of the child shall be taken into account as an increasingly determining factor in proportion to his or her age and degree of maturity. Children should be given appropriate information beforehand. Children should also be considered as active members of society, and not as mere passive subjects of decisions taken by adults. This implies, taking into consideration their age and degree of maturity, their being informed and consulted, and given the opportunity to take part in social decision-making

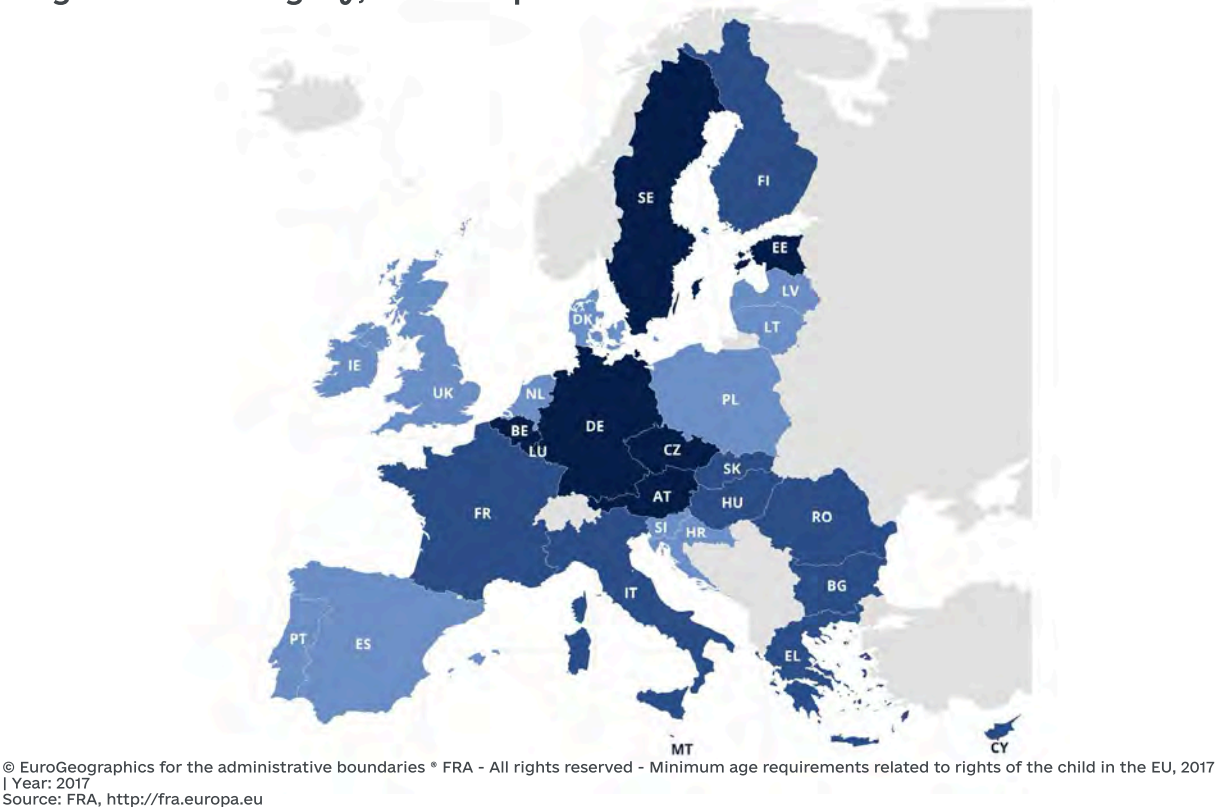
processes on health care issues, including the assessment, planning and improvement of health care services.”

Finally, in 1997 the Council of Europe adopted the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine. Article 6 of this Convention regulates the protection of persons who are not able to give consent. Where, according to law, a minor does not have the capacity to consent to an intervention, such intervention may only be carried out with the authorization of his or her representative, a competent authority, or a person or body provided for by law. The opinion of the minor shall be taken into consideration as an increasingly determining factor in proportion to his or her age and level of maturity.

Examples from Other Jurisdictions

The European Union Agency for Fundamental Rights has published on its official website a table and a brief overview concerning consent to medical treatment/intervention without parental consent.

Age at which children can consent to medical treatments, including diagnosis and surgery, without parental consent



Age at which children can consent to medical treatments, including diagnosis and surgery, without parental consent



Pursuant to Article 35 of the Charter of Fundamental Rights, the European Union recognizes the right of everyone to access preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices.

According to the information published on the Agency's website, "the minimum age of consent for medical treatments differs across the 28 EU Member States, depending on the nature of the treatment, the obligations imposed on medical staff regarding the information given to parents, and the need for consent. In ten Member States (Bulgaria, Cyprus, Finland, France, Greece, Hungary, Italy, Malta, Romania and Slovakia), children do not have the right to make autonomous decisions about their medical treatments until they reach the age of majority, meaning parents must always give their consent. In some cases – for example, in France – the parents' final decision must take into account the opinion of the child, if the child is able to express his/her will.

In Ireland, Lithuania, the Netherlands, Poland, Portugal, Spain and the United Kingdom, the minimum age at which children can consent to medical treatments without parental approval is 16 years. In Croatia, the minimum age for this is also 16 years. However, where a medical intervention carries a high risk of adverse consequences on the physical or psychological health, the parents' written consent is required. In Denmark and Slovenia, the minimum age is set at 15 years. In Denmark, whether or not patients aged 15–17 years can consent to medical treatments, depends on their maturity, assessed on a case-by-case basis.

Latvia has set the lowest minimum age in the EU for children's autonomous consent to medical treatment at 14 years. In the United Kingdom, the age can be younger than 16 years in cases where the individual patient can appreciate the nature and implications of the treatment. In Austria, Belgium, the Czech Republic, Estonia, Germany, Luxembourg and Sweden, there is no fixed minimum age requirement for consent to medical treatments. Instead, each situation is treated individually depending on the maturity of the child."

The Netherlands

Under Dutch national legislation, in particular the Medical Treatment Contracts Act, children aged 16 and over have the right to give independent consent to medical treatment. At the same time, the European Union Agency for Fundamental Rights specifies on its website that "for patients aged 12 to 15 years, you need consent from both the patient and the parent or guardian. Unless non-treatment poses a serious harm to the patient (for example, in case of a sexually transmitted disease) or if it is the patient's wish and it has been well considered (for example, abortion or vaccination). In these cases, you [physician] may decide to not inform the parent or guardian. For a minor patient under 12 years old, you [physician] need consent from the parent or guardian."

This approach enables children from the age of 12 to play an active role in decisions concerning their own health, rather than remaining passive subjects within this process.

The United Kingdom

Children under the age of 16 may give consent to medical treatment on their own if they are considered to be sufficiently intellectually developed, competent, and capable of fully understanding what their treatment entails. This approach is known as the Gillick competence test, which emerged from the landmark case *Gillick v. West Norfolk* and allows healthcare professionals to assess whether a child can fully comprehend the nature, benefits, and risks of the proposed treatment. Similar rules apply to mental health counseling.

The distinction between the United Kingdom's competence-based approach and systems that rely on a fixed age threshold has been extensively examined in the academic literature (for example, in studies comparing consent to medical treatment by minors in the United Kingdom and Poland). One of the key conclusions of this research is that the UK system offers a more flexible and progressive approach to minors' consent to medical decisions than rigid age-based restrictions, such as those in Poland. Rather than setting a fixed age limit, the British model focuses on the child's actual maturity and understanding, recognizing that children develop at different rates and deserve autonomy when they are capable of making informed decisions about their own health. By emphasizing children's growing capacity for independent choice, the UK system promotes their participation in medical decision-making while ensuring appropriate safeguards. This makes it possible to strike a balance between autonomy, welfare, and parental oversight.

Estonia and the Czech Republic

Estonia and the Czech Republic are examples of countries where, unlike in the United Kingdom, no minimum age is set at which a competence test ceases to apply; instead, each individual case is assessed on its own merits. Under the Estonian Law of Obligations Act, the capacity of child patients (as persons with limited legal capacity) must be assessed in each specific case, while the law provides a single criterion for evaluating capacity: the ability to responsibly weigh advantages and disadvantages:

"§ 766 (4). In the case of a patient with restricted active legal capacity, the legal representative of the patient has the rights specified in subsections (1) and (3) of this section in so far as the patient is unable to consider the pros and cons responsibly. If the decision of the legal representative appears to damage the interests of the patient, the provider of health care services shall not comply with the decision. The patient shall be informed of the circumstances and information specified in subsection (1) of this section to a reasonable extent." However, there are studies indicating that physicians often do not have to apply this competence test, as in practice most minor patients attend medical appointments together with a legal representative.

In the Czech Republic, not only the maturity of the minor is taken into account, but also the seriousness of the medical intervention.

Belgium

The Belgian Patients' Rights Act of 2002 grants minors the right to give consent provided they are capable of reasonably assessing their own interests, without imposing any restrictions as to the type of interventions to which they may consent. The assessment of a minor's autonomy is considered a complex and, at times, ambiguous process. At the same time, such an assessment must take into account the significance of the medical intervention and the seriousness of its potential consequences.

Norway

Norway was not covered by the analysis of the European Union Agency for Fundamental Rights; however, it is a country that sets one of the lowest thresholds for involving children in decisions concerning their health.

A child who is capable of forming their own views has the right to receive information and express their opinion from the age of 7. From the age of 12, a child has the right to refuse the disclosure of information about their health to their parents, and from the age of 16 may consent to medical treatment, unless special provisions apply or the nature of the intervention indicates otherwise. Pursuant to section 31 of the Act relating to Children and Parents, once a child reaches the age of 12, their opinion must be given significant weight.

Germany

According to data from the European Union Agency for Fundamental Rights, Germany belongs to the group of countries where a child's ability to consent is determined by a physician on the basis of the child's maturity. In academic literature and in practice, opinions on this issue differ. Some studies note that a minor's capacity to make such decisions is assessed individually, taking into account their maturity and ability to understand the information provided by the physician. It is generally assumed that this applies to adolescents aged between 14 and 17. These two age groups—minors under 14 and above 14—are not arbitrary and are regulated not by health-care legislation, but by the Civil Code (Bürgerliches Gesetzbuch, BGB), which served as a model for Ukrainian civil law. Up to the age of 14, a child in Germany has limited legal capacity; from 14 onward, they have partial civil legal capacity. Accordingly, the literature notes that although no specific age for consent is defined, physicians should generally obtain parental consent for children under 14 (or the consent of another person, institution, or authority vested with custody rights), whereas for those aged 14 to 17 a maturity test applies, and the ability to consent must be determined on a case-by-case basis, as described above.

Therefore, even if specific health-care legislation does not establish a fixed age threshold for consent, the assertion that there is no minimum age for consenting to medical treatment in Germany is inaccurate, since civil legislation regulates this issue and provides clearer parameters for when a maturity test must be applied in each individual case.

Austria

Austria, like Germany, is a country where a maturity test is applied and no minimum age for consent to medical treatment is established.

“A child who is capable of understanding the situation and making decisions autonomously may decide for themselves whether to consent to medical treatment. If the child has reached the age of 14, it is presumed that they understand the situation and are capable of forming their own judgment (Article 146c(1) of the Austrian Civil Code, ABGB).

Medical treatment that is typically associated with serious physical or psychological consequences may be carried out only with the consent of both the child, provided they are capable of understanding the situation and making independent decisions, and the person entitled to legal representation in matters of custody and upbringing (Article 146c(2) of the Austrian Civil Code, ABGB). Such serious interventions may include the use of psychotropic medications, cosmetic surgery, or tattooing.”

Canada

In Canada, the regulation of psychological services for minors depends on the province, and different jurisdictions apply their own rules regarding consent to counselling, confidentiality protections, and the role of legal representatives.

First, consent to the provision of psychological services is mandatory and must be regularly renewed. As a rule, consent for counselling a minor requires the involvement of parents or other legal representatives. However, the mature minor doctrine applies, under which children who demonstrate a sufficient level of intellectual and emotional development may autonomously consent to psychological counselling without parental involvement. If a mature minor seeks counselling without the knowledge of their parents and the counsellor recognizes the child as mature, the child may receive services without the consent of guardians.

United States

Psychological counselling is an important component of the mental health system; however, its regulation with respect to minors in the United States varies significantly from state to state. In some states, minors may autonomously consent to psychological counselling as early as the age of 12 (California, Arkansas) or 13 (Florida, Washington). These states allow adolescents to receive outpatient counselling without parental involvement. However, this permission is limited to counselling and does not extend to pharmacological treatment or inpatient care.

In a number of states, minors may autonomously seek counselling services from the age of 14 (Idaho, Kansas, Michigan (outpatient counselling only), New Mexico, Oregon, Pennsylvania, Vermont). Colorado is the only state that applies a minimum age of 15. These jurisdictions allow adolescents to receive counselling support in situations where parental involvement is impossible or undesirable.

In most states, adolescents aged 16 and older may autonomously consent to mental health counselling, including Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Montana, New York, Oklahoma, Tennessee, and Texas.

In many states, only reaching the age of majority (18 years) grants the right to autonomous consent to counselling: Alaska, Arizona, Georgia, Indiana, Iowa, Mississippi, Missouri, Nebraska, Nevada, North Carolina, North Dakota, Texas, Utah, West Virginia, and Wyoming. In these states, access to psychological counselling without parental consent is effectively impossible.

In the state of Connecticut, there is no age restriction: a licensed professional may provide up to six mental health counselling sessions to a minor without parental consent, after which a reassessment is required.

Overall, international standards and the practice of many countries demonstrate a clear trend toward recognizing the child not as a passive object of medical decision-making, but as an active rights-holder entitled to participate in decisions concerning their health. Depending on the jurisdiction, psychological assistance is treated either as part of medical care or as falling outside its scope. In many jurisdictions, the approach is based not only on fixed age thresholds—both formally and in practice—but also on the principle of evolving capacities or growing maturity, which allows for consideration of a child's individual developmental characteristics and their ability to understand the consequences of medical intervention.

Conclusions

Regulation of access to psychological and psychiatric care in Ukraine depends on the provider of such services, which in turn determines the rules and form for obtaining informed consent. Where such care is provided within the healthcare system, there is a legislative gap in Ukrainian law regarding the age at which a child may seek assistance autonomously. Where psychological support is provided in schools and social institutions by civil society organizations, general civil law provisions apply concerning the capacity of minors to enter into certain legal transactions.

Ukrainian legislation provides for a change in a child's legal capacity at the age of 14, when the child transitions from limited capacity to partial capacity. This affects the ability to seek medical care autonomously, including psychological and psychiatric services. Until the age of 14, a child may not seek such assistance from medical institutions without the consent of their legal representatives, except in cases where there is a threat to the child's life and obtaining parental consent is impossible due to objective circumstances. With regard to access to psychiatric care without parental consent for children under 14, the law permits this only in cases of severe mental disorder or where the child is unable to meet basic life needs and poses a danger to themselves or others. In less critical situations, the consent of legal representatives remains mandatory.

At the same time, there is a legislative gap concerning the regulation of the rights of children aged 14 to 18 in relation to access to medical services. On the one hand, from the age of 14 a child has the right to consent to medical intervention (including psychological care), while on the other hand information about a person's health status is provided only to an adult, i.e. from the age of 18. This inconsistency creates legal uncertainty, as a result of which the provision allowing consent to treatment from the age of 14 does not operate autonomously in practice and instead leads to fragmented interpretations regarding the need for joint consent signed by both the child and their legal representatives. A similar problem arises in cases of emancipation of a minor, that is, where full civil capacity is acquired before the age of 18.

Thus, the issue lies not only in the gap between Articles 284 and 285 of the Civil Code of Ukraine and Articles 39 and 41 of the Fundamentals of the Legislation, but more broadly in the fact that the legislator establishes attainment of adulthood as the basis for access to information about one's health, rather than the acquisition of full civil capacity.

With regard to obtaining psychological assistance outside medical institutions, such a legal transaction cannot be carried out autonomously by a child from the age of 14 and must be undertaken only with the consent of one of the parents. Amendments to civil legislation concerning legal capacity are unlikely, as they affect a broader range of a child's rights and obligations. Sector-specific regulation and a reduction of the age for independent access to psychological assistance (counselling), which is not a medical service, would be possible only through the adoption of dedicated legislation in the field of psychological care, by analogy with psychiatric care, pursuant to part six of Article 284 of the Civil Code of Ukraine.

International experience, in turn, demonstrates that approaches to granting children access to psychological and psychiatric care without the consent of legal representatives vary significantly from country to country, and also depending on whether psychological support and counselling are provided within the healthcare system or outside it. However, a common feature across most countries is recognition of the child as an independent subject capable of making decisions regarding their own health, provided they demonstrate a sufficient level of maturity and understanding.

In some countries, such as Latvia, Denmark, the Netherlands, and Spain, clear age thresholds are established after which children may autonomously consent to treatment (with regard to psychological care provided in medical settings). The age ranges from 14 to 16; however, children are involved in the joint signing of informed consent significantly earlier, with ages varying from 7 to 12.

In other countries, including the United Kingdom, Germany, Austria, and the Czech Republic, there are no rigid age limits—decisions are made based on an individual assessment of the child’s maturity. Nevertheless, experience in Germany and Austria shows that a minimum age of 14 is generally established for a child to autonomously consent to medical intervention (with exceptions such as major surgical procedures or termination of pregnancy, which may require consent of their legal representatives). As can be seen, this age is significantly lower than the effective age at which children in Ukraine are able to provide consent in practice.

In the United Kingdom, the Gillick competence test is used, allowing physicians to assess whether a child is sufficiently mature to understand the nature and consequences of treatment. In Canada, the “mature minor doctrine” is applied, which allows children to receive psychological counselling (including from licensed psychologists) without consent of their legal representatives if, in each individual case, the child demonstrates the ability to understand the reasons, process, and consequences of such counselling.

Legislation in the United States is highly fragmented in the context of psychological counselling (which in most cases is also provided exclusively by licensed psychologists), and the age for independent access by a child rarely falls within the 12–14 range, with attainment of 16 years of age being the predominant threshold.

The principle of the “best interests of the child,” enshrined in international instruments such as the UN Convention on the Rights of the Child, is also of key importance. This principle requires that any decision concerning a child’s health primarily take the child’s interests into account. Confidential access to psychological assistance without the need for parental consent is likewise recognised as an important element of child rights protection in documents of the WHO and the UN, and international agencies call for the removal of all barriers, including age-based barriers, to access psychological care and counselling.

Overall, international experience indicates that effective legal systems are based on a combination of age thresholds and the possibility of individual assessments of a child's maturity. It is important not only to consider formal requirements but also to ensure confidentiality, accessibility of services, and respect for the child's voice as an independent rights-holder.

In Ukraine, where psychological counselling often falls outside the medical sphere, legislation demonstrates a more restrictive approach to a child's ability to seek assistance autonomously without parental consent, compared to regulation in EU countries, Canada, or the United States with respect to comparable services provided within the healthcare system. Given the number of children experiencing war-related trauma, the adoption of dedicated legislation on psychological assistance and counselling is an urgent need. This would allow for more effective protection of children's rights in the field of healthcare and ensure real access to necessary support.

With regard to psychological and psychiatric care within the healthcare system, Ukrainian legislation is relatively progressive. However, the effectiveness of its application is limited by legislative gaps, in particular concerning a child's ability to consent to medical intervention and to receive information about their health status. Addressing these inconsistencies would contribute to improving the accessibility and quality of medical services (including psychiatric and psychological care) for children.

Recommendations

1. For the Cabinet of Ministers of Ukraine (CMU) and the Verkhovna Rada of Ukraine (as bodies entitled to legislative initiative)

1.1. Adopt, with the involvement of the public, the subordinate regulatory legal acts necessary for the implementation and enforcement of the provisions of the Law of Ukraine “On the Mental Health Care System in Ukraine”.

1.2. In implementation of Article 6 of the Law of Ukraine “On the Mental Health Care System in Ukraine” concerning specific areas of mental health care for children and youth, as well as persons affected by the armed aggression of the Russian Federation, including internally displaced persons, develop separate regulatory framework providing access to psychological and psychosocial assistance without rigid age restrictions, with an emphasis on individual assessments of maturity and the child’s capacity to make informed decisions.

1.3. Develop and adopt draft legislation to address the legal inconsistency regarding children’s access to psychological and psychiatric care provided within the healthcare system by:

- a.** amending Article 285 of the Civil Code of Ukraine to grant children aged 14 and over the right to access information concerning their health status, and introducing corresponding amendments to Article 39 of the Fundamentals of the Legislation of Ukraine on Health Care;
- b.** regulating the provision on civil emancipation in the context of consent to medical intervention through amendments to the Civil Code of Ukraine;
- c.** considering the possibility of lowering the age threshold for access to psychological assistance by implementing a maturity assessment test or by establishing in legislation the age of 12 as the point at which a child has the right to express their views on medical intervention and such views must be taken into account;
- d.** resolving the issue of joint consent by the child and the legal representative;
- e.** introducing specific regulation of access to psychological and psychiatric care.

2. For civil society

1.1. Joint advocacy efforts

- a.** Coordination of efforts and capacities among international and civil society organizations in advocating for children’s access to psychological and psychiatric care.
- b.** Monitoring the implementation of changes through regular reporting or communication, with adequate coverage of the issues and of the stages of reform.

