

**Approved by the Decision of the Committee on Freedom of Speech and Information Policy
(of the Verkhovna Rada of Ukraine)
Protocol No. 36 of 23 December 2015**

***METHODOLOGY GUIDELINES
on respecting the rights of the child by the media***

The fundamental document in the area of ensuring the rights of the child in Ukraine is the UN Convention on the Rights of the Child, ratified by Ukraine in February 1991 (entered into force in September 1991), and the elaborated and approved thereof Law of Ukraine “On Protection of Childhood”

The legislation on protection of childhood is based on the Constitution of Ukraine, the UN Convention on the Rights of the Child, international agreements binding nature of which is approved by the Verkhovna Rada of Ukraine, and consists of the Law of Ukraine “On Protection of Childhood”, as well as other legislative and regulatory acts that regulate social relations in this area. Convention documents ratified by Ukraine belong to the national legislation of Ukraine as well.

By ratifying Conventions the governments are committed to ensure a child with conditions of safety and well-being related to his/her growing, accessing to high-quality education and health protection, as well as of high level of living in general. By participating in the Convention, the governments agree to protect children against discrimination, sexual and commercial exploitation, violence, to pay particular attention to certain categories of children, notably: children deprived of parental care, children with special needs, etc.

Concerning the media legislation, at the EU level the issue on minors’ protection is defined by Articles 12 and 27 of Directive 2010/13/EU on Audiovisual Media Services of 10 March 2010. In particular, Article 27 thereof guarantees children’s protection within TV broadcasting.

The Law of Ukraine “On Television and Radio Broadcasting” also guarantees children’s protection and forbids broadcasting of audiovisual content that is likely to impair physical, psychological or moral development of children and teenagers (Articles 6, 28, 62 of the Law).

International and Ukrainian standards of journalistic ethics declare particular treating of children by journalists.

The Code of Ethics of the Ukrainian Journalist approved by the convocations of the largest journalists’ organizations of Ukraine – the National Union of Journalists of Ukraine and the Independent Media Labour Union – declares:

“Article 18. A journalist must be particularly careful when covering issues related to children. A journalist and an editor must have reasonable grounds to highlight the privacy of a minor(s) and authorization from his/her parents or guardians. It is unacceptable to disclose the names of children (or specify any features by which he/she could be recognized) who have dealt with illegal activities, have participated in the events of violent nature”.

According to the key provisions of the **Guidelines and principles recognized by the International Federation of Journalists(IFD) with respect to children-related issues and publications**, journalistic activities dealing with lives and well-being of children must be always carried out with due attention paid to vulnerable situation of children. Journalists and the media must adhere to the highest forms of ethical behaviour within covering problems dealing with children.

The Code of Ethics of the American Society of Professional Journalists shows that journalists must show compassion for those who may be affected by news coverage. Use heightened sensitivity when dealing with juveniles, victims of sex crimes, and sources or subjects who are inexperienced or unable to give consent. Consider cultural differences in approach and treatment.

The BBC Editorial Guidelines that are the measure for journalistic standards for the media of a number of world countries declare the following principles related to children:

“-We must ensure that the physical and emotional welfare and the dignity of people under the age of 18 years, and in particular children under the age of 15 years, is protected during the making and broadcast of our content, irrespective of any consent given by them or by a parent, guardian or other person acting in loco parentis. Their interests and safety must take priority over any editorial requirement.

- We must ensure that children and young people are not caused unnecessary anxiety or distress by their involvement in our output. Their involvement must be clearly editorially justified, consents should be obtained as appropriate to the circumstances of the child/young person and the nature of the contribution and output, and support should be given to them where necessary.

- We must balance our responsibility to protect children and young people from unsuitable content with their rights to freedom of expression and freedom to receive information.”

One of the principles of **the UK Regulator Ofcom Broadcasting Code** is ensuring protection of people under the age of 18 years. A particular chapter of this Broadcasting Code deals with this issue. The chapter regulates both restrictions for broadcast of materials that are likely to significantly impair psychological, mental and moral development of children (featuring violence, drug abuse, smoking, alcohol abuse, materials of sexual nature, offensive language, the occult and the paranormal) and requirements for broadcasters related to participation in audiovisual content. Among others they include the following:

- broadcasters should also be particularly careful not to provide clues which may lead to the identification of those who are not yet adult (the defining age may differ in different parts of the UK) and who are, or might be, involved as a victim, witness, defendant or other perpetrator in the case of sexual offences featured in criminal, civil or family court proceedings;

- due care must be taken by broadcasters over the physical and emotional welfare and the dignity of people under eighteen who take part or are otherwise involved in programmes. This is irrespective of any consent given by the participant or by a parent, guardian or other person over the age of eighteen in loco parentis.

The Draft Broadcasting Code elaborated by the National Council of Television and Radio Broadcasting of Ukraine and suggested for its further signing by Ukrainian broadcasters contains the provisions borrowed from the UK Broadcasting Code. In particular, they include the following:

- forbidding disclosure of the names and information that can reveal/determine the identity of a child who has been engaged into a criminal proceeding in any kind of such participation;

- obliging broadcasters to take due care of private life protection of children and young people and to obtain consents of parents, guardians or other relevant persons for participation of children/young people in programmes;

- obliging broadcasters to take due care of physical and emotional health and dignity of children and young people who are involved into programmes, regardless any content provided by their parents, guardians or other relevant persons;

- obliging broadcasters to pay due attention to protection of children and young people involved into sexual crimes, to disclose information about a person only after a pre-obtained approval of the authorized state authorities.

However, the draft Broadcasting Code of the National Council of Television and Radio Broadcasting of Ukraine has not been signed by any of broadcasters yet.

Within its remit the Committee of the Verkhovna Rada of Ukraine on Freedom of Speech and Information Policy has carried out the analysis of respecting the rights of the child by the media.

Analysis of media content in recent years has indicated a significant increase in the number of Ukrainian media products produced with the participation of children and about children. Particular increase is seen in the number of talent shows, reality shows and talk shows with the direct participation of children. According to experts, this trend is reasoned for its further development.

However, in recent years in programs of social talk shows there have been signs of violation of the rights of children participating in these shows. Typically, social talk shows discuss the lack of parental responsibility, the lack of facts of registration of parenthood, parents refusal to take their child out of medical institutions, disputes between parents concerning the child's origin, family violence and abuses (including sexual violence against minors or their sexual abuse) and others.

In many cases, the consideration of specific situations in the lives of families and their children is held on the verge or in violation of family and civil legislation, especially of Article 3 of the UN Convention on the Rights of the Child and of Article 24 of the Constitution of Ukraine concerning preventing discrimination based on the colour of the skin, sex, language, religion, national, ethnic or social origin, property, health and birth of a child, of his/her parents or guardians, etc., of the provisions of the Law "On Television and Radio Broadcasting", of journalism standards and standards of journalistic ethics.

The Committee of the Verkhovna Rada of Ukraine on Freedom of Speech and Information Policy recommends the following:

General recommendations:

- It is prohibited to involve children into programmes that are prohibited for their view;
- Programmes with participation of minors must be carried out with obligatory participation of a psychologist and a lawyer who possesses experience of work with children and present child's interest;
- Journalistic materials dealing with children's social problems (e.g., adoption, child abuse, juvenile crime, sexual offences) must include professional comments and opinions of experts - lawyers, teachers, lecturers, psychologists;
- Journalists must respect children's right to privacy and not to interfere in private lives of minors if information about them is not of public interest;

- Journalists must take due care about the privacy of children. In a case of coverage of negative events in the life of a child or of his/her family and those events that are likely to expose a child to a danger or cause a negative attitude to a child by the closest social environment or community, the face of a child, his/her name, place of residence and learning are concealed.

Concerning a consent of parents or guardians

- Disclosure or publication of any information about a child is possible only with a consent of a legal representative of a child. The authorities of parents or legal representatives of a child must be properly verified and checked. *Please note that in accordance with the legislation of Ukraine persons deprived of their parental rights, having not taken parental rights, guardians over the property of a child, family of second and third lines of kinship are not legal representatives of a child.*

- If parents or one of them is a person who violates the rights of a child or has committed a criminal offence, a consent to disseminate information about a child must be provided by the guardianship authority at the residence of a child;

- *It is important to consider that god-parents, spouses of guardians, child's siblings are not authorized to legal representation of a child and if a child is adopted, the biological siblings lose their family relations with the adopted ones.*

- Regardless of any consent given by legal representatives, journalists must take due care of physical and emotional health and dignity of a child referred to in journalistic material. If information that may impair physical and emotional health and dignity of a child is published, his/her face and personal data must be concealed.

Concerning children who have become victims or witnesses of crimes

- When inviting a child who has witnessed or has been victimized by traumatic events or a crime, it is required to take into consideration that a child is already traumatized by these events. Remembering and retelling these events will always be an additional harm for a child. Therefore, it is necessary to minimize negative consequences - to avoid additional interviewing related to such events.

- It is advised that a child must be interviewed only when the circumstances of an accident cannot be fully and reliably reset by other persons and materials, since an interview can stress a child. Moreover, due to personal features of perceiving of surrounding events, as well of memory and of language of a child, the information presented by this child may not always objectively replay an event.

- It is important to consider exactly who the offender of a child is. If the offender is a direct family member, parents or a person with whom a child lives, there must be taken measures not only to punish the offender, but also to inform a child about a person with whom he/she will remain to live after removal or separation from the family or the offender. The arrest of the offender during the live broadcast is not sufficient to protect a child. There has to happen child's transmission to the guardianship authority, its social services to ensure child's safety.

- When finding out, inside the studio or outside it, major traumatic circumstances of an event or of a crime whereof a minor was victimized or witnessed, the general legislative provisions related to questioning minor witnesses must be considered (under Article 142 of the Code of Administrative Legal Proceedings, other procedural laws, as provided for by the requirements of paragraph 2 of Article 12 of the UN Convention on the Rights of the Child).

- A child must be cleared that he/she can withdraw his/her participation in a programme, about those people who can see his/her story, no application of illegal overpersuasions (squeezing, intimidation) must be made related to child's participation in a programme.

- Please note that even judicial proceedings are carried out in a closed hearing manner if cases of crimes against sexual freedom and sexual integrity of a person are considered; or if there is a need to prevent the disclosure of information on personal and family life or circumstances which humiliate human dignity;

- When interviewing children who have become victims of sexual abuse it is important to consider a number factors: the level of child's development, the severity of sexual abuse and information obtained from parents or other sources. It is necessary to adhere to ethical and moral aspects of this procedure, applying individual approach to a victimized child in order to avoid further traumatic effect on him/her by reminding of what had happened.

- Not to stress or greatly worry a child by his/her participation in the programme it is necessary to ensure calm friendly atmosphere during the shooting. It is important to ensure the close presence of an adult possessing the child's trust and making a child feel calm and safe (it can not be provide by any high official or a person who is unknown to a child regardless professional qualifications of such person).

- The presence of a person possessing the child's trusts, not only provides peaceful atmosphere for a child. Such persons can help to find an individual approach to a child, because they know the features of his/her development, can help to reformulate certain questions in a way that would be understandable to a child. In addition, they can draw attention to certain features of his/her outlook, memory, language, etc. Such information can be of importance for impartial presentation of events.

- To prevent psychological impact on a child it is important to remove from the studio persons who have been suspected or committed abuse or crime against a child, who cause negative impact on a child (e.g., if a child is afraid of this person).

- Names and other information that could disclose/ determine the identity of a minor engaged into criminal proceedings as a victim or witness shall not be disclosed at any stage of the process.

- Binding judicial decisions related to minors (including victims and witnesses) can be disclosed, but without telling any personal or other information that can give a clue to their personal data.

- Due care should be taken so that publicized information, in case of its combination with information published/demonstrated elsewhere, does not create possibilities for disclosing the identity of a child.

- Television in its broadcasts must not serve for violence as an ordinary event; must not describe in detail the manner in which this violence has been committed; must not determine situation which has led to violence as hopeless one and the reasons for it as such that justify this act. There must be provided a comment of a psychologist and a lawyer who condemn violence and explain that any situation can be solved in a non-violent manner; and there must be provided subtitles with information concerning hotlines and social services.

It is of great importance: *For maximum consideration of the interests and rights of the child we suggest to consider the recommendations set out in the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (e-access: http://zakon0.rada.gov.ua/laws/show/995_e54)*

Concerning children who have committed crimes or offences

- Information related to the course of criminal proceedings against a child or a sentence in such cases must not be disclosed. It is also prohibited to make audio and video recordings of such processes.
- Coverage of problems of children who are in conflict with the law tend to focus on the age-related causes of crimes, the natural predisposition of children to committing crimes. The above is absolutely unjustified;

- The very fact of committing by a child of an act, which is regarded as a criminal offence by the criminal code, cannot be the justifying reason for a child to be accused. Only the court can decide if a person accused of a crime is guilty or not guilty.
- Despite of the fact that a child has committed an act regarded as a criminal offence, it is prohibited to restrict the rights of the child. That is why the Criminal and Criminal Procedural Codes provide for special procedures of interrogation, pre-trial and trial investigations for under-aged, when minors are non-triable at all. Even court proceedings are carried out in a closed trial hearings if the accused is a minor.
- The legislation of Ukraine, including the latest wording of the Criminal Procedural Code of Ukraine, introduces a number of procedures for the detailed studying of the educational capacity of the family of a suspected minor both as a cause for the committed act, and as a part of the process of the child's rehabilitation.

Concerning prevention of participation of children in an armed conflicts

The national legislation of Ukraine, namely, the Law of Ukraine “On Protection of Childhood” (Article 30) prohibits participation of children in hostilities and armed conflicts, creation of children's paramilitary organizations and groups, propaganda of war and violence among children. The Law “On Military Duty and Military Service” (Article 15) stipulates that military service is called up for with the citizens of Ukraine who are over the age of 18 years. The state must take all possible measures to protect the rights of children in the area of war and armed conflicts, and care for them.

The coverage in the media of cases of the involvement of children into armed groups and their participation in military actions as examples of heroism are regarded as those that contradict the legislation of Ukraine and the UN Convention on the Rights of the Child, the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children in armed conflicts.

The proposed Guidelines will help to fulfil the requirements of the legislation on childhood protection, such as prohibition of promotion of violence and cruelty in the media, dissemination of information that tramples human dignity and impair moral well-being of a child.