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## Fråga-svar

### Vitryssland. Psykiatri, vårdnad av barn och myndighetsskydd

#### Fråga

- Finns det medicinsk hjälp att få i Vitryssland för ungdomar som mår psykiskt dåligt?
- Vad säger lagstiftning om vårdnad av barn när en förälder dött?
- Erbjuder myndigheterna fungerande hjälp och skydd till ett barn vars enda förälder inte vill ta hand om hen?

#### Svar

**Finns det medicinsk hjälp att få i Vitryssland för ungdomar som mår psykiskt dåligt?**

World Health Organization (WHO) och European Observatory on Health Systems and Policies har publicerat en överblick över det vitryska sjukvårdssystemet. WHO, European Observatory on Health Systems and Policies (2013):

In Belarus, mental health care is coordinated by the Republican Scientific and Practical Centre for Mental Health which has a total of 1782 beds, of which 1460 are psychiatric, 310 are narcological and 12 are for resuscitation. There are 13 psychiatric hospitals (with 4010 beds between them), one of which is the republican hospital (which has 300 beds). There are 12 psychoneurological specialist clinics (dispansery), of which 5 have beds (340 beds between them); 2 psychiatry-narcology regional centres (one of which has 210 beds); 5 psychoneurological departments (290 beds, including 160 for children) and 5 psychiatric departments (190 beds, including 40 for children); there are also 1257 places in day centres and small clinics for providing psychiatric, psychological and psychotherapeutic assistance in all central district and general hospitals. The overall number of psychiatric hospital beds per 100 000 population has fallen from 99.3 in 2001 to 68.7 in 2011. This

has occurred despite an increasing number of psychiatric patients because there have been strong moves away from the traditional model of psychiatric care involving long-term hospital treatment in favour of outpatient care – this is why there is now double the capacity in community settings than there is in inpatient facilities. (s. 92-93)

Republican Research and Practice Centre for Mental Health är det ledande sjukhuset inom psykisk ohälsa i Vitryssland. På deras [hemsida](#) går att läsa mer om sjukhuset och vilka behandlingar som erbjuds.

Barnsjukhuset Minsk City Children's Mental Health Center har även de en [hemsida](#) med information om behandlingar.

### **Vad säger lagstiftning om vårdnad av barn när en förälder dött?**

Inofficiell engelsk översättning av *Code of the Republic of Belarus on Marriage and the Family* (1999):

#### **Article 63. Incomplete family**

Incomplete is a family in which the children are dependent on education and one parent.

Incomplete families are:

women who gave birth out of wedlock and unmarried;  
widow (er) not remarried, to the education of whom are minors;  
parents, accepted the termination of the marriage and minor children;

Parents, do not enter into a new marriage if the second one declared missing;

single people adopting children.

Incomplete families raising minor children, the state provides additional social guarantees.

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#### **Article 76. Equality of rights and responsibilities of both parents**

Father and mother have equal rights and duties towards their children.

Parents have equal rights and equal responsibilities towards their children in case of divorce between them, unless otherwise provided in the Agreement on the children.

In the case of establishing paternity in court the father of the rights and obligations from the moment the court decision comes into force, except for the obligation to maintain, which can be charged from the date of submission of the claim of paternity.

If the child's parents are not married to each other, the court may entrust the custody of a child to one of them, limiting the rights and duties of the other in respect of the child.

Innehållet i den inofficiella översättningen bekräftas i ett dokument publicerat av det vitryska justitiedepartementet. Ministry of Justice of the Republic of Belarus (odaterad):

According to Article 76 of the Code of the Republic of Belarus about marriage and family, father and mother have the equal rights and duties with respect to their children. Thus, the parents enjoy the equal rights and bear equal duties with respect to their children even in case of divorcement between them, if diverse is not provided for in the Agreement about children. Moreover, the principle of general and identical responsibility of both parents to upbringing and development of the child is fixed in Article 18 of the Convention of the United Nations Organization on the rights of the child adopted on November 20, 1989. (s. 4)

Även grundlagstiftningen betonar barnets rätt att känna bägge föräldrarna.  
*Law of the Republic of Belarus. No. 2570-XII of November 19, 1993*  
*[Amended as of December 12, 2013]* (2013):

#### **Article 15. Right to Live in a Family**

Every child has the right to live in the family, know both of his parents, right to their care, joint living except for the cases, when separation with one or both parents is necessary for the interests of the child.

I en analys av lagstiftningen, publicerad av Law Library of Congress, konstateras att föräldrars förmyndarskap kan tas ifrån dem. Law Library of Congress (2004):

Usually, in the case of the dissolution of a marriage the courts decide which of the parents should get custody of the child. If parents are absent, the issue of custody for minors will be resolved by the guardianship agencies of local public education departments. These agencies decide disputes about the exercise of family rights; have the power to deprive access to parents living at a distance depending on the interests of the child; are party to custody suits; and may commence actions that would deprive a parent or parents of their parental rights. (s. 52)

#### **Erbjuder myndigheterna fungerande hjälp och skydd till ett barn vars enda förälder inte vill ta hand om hen?**

Se även Lifos 30676, [\*Vitryssland. Barnhem.\*](#)

US Department of State (US DOS) skriver i sin årsrapport att det saknas mekanismer för att övervaka om övergrepp sker på barnhem och andra institutioner för barn. US DOS (2015):

Institutionalized Children: There was no system for monitoring child abuse in orphanages or other specialized institutions. Authorities did not publicly report on any child abuse incidents. During the year there were reports of alleged abuse in foster families. The government opened investigations into some of these cases. (s. 46)

International Federation for Human Rights (FIDH) skriver i ett utlåtande att en reform från 2006 har på papperet förbättrat det skydd och den hjälp myndigheterna kan erbjuda barn vars föräldrar bedöms olämpliga, men att det i praktiken inte fungerar med barnets bästa i åtanke. FIDH (2013):

Presidential Decree No. 18 of November 24, 2006 allows authorities to remove children from the families of alcoholics and drug addicts initially without a court decree for "government support." "Children are entitled to government protection and placement in state child care facilities if it has been established that their parents (parent) are leading an immoral way of life which has a harmful influence on said children, or are chronic alcoholics or drug addicts, or are in some other way unable to properly perform their obligations to raise and maintain children, in connection with which these children find themselves in a socially dangerous situation." In accordance with this decree, such parents are obliged by a district court decision (as part of civil proceedings) to compensate the state for expenses related to the maintenance of their children in state child care facilities and are also subject to compulsory job placement. These parents are given the status of "obligated persons," to which effect a stamp is placed in their passport. If "obligated persons" commit systematic violations of labor discipline, they may be sent to an MLC. These individuals are subject to administrative arrest for avoiding such work, and they may even be held criminally responsible, have restrictions placed on their freedom, and be sent to an open-type institution with compulsory participation in labor. President Lukashenko has himself spoken favorably of the need to create labor camps for individuals who have been deprived of their parental rights.

Every year, the parents of over 4,000 Belarusian children are deprived of their parental rights. /.../

In no way do these measures fit with the task of providing the greatest possible protection to the interests of the child, but instead they have the goal of forcing "negligent" parents to be financially responsible for the upbringing of their children under threat of punishment. In addition to being deprived of their parental rights through a relatively simple procedure that is mostly handled by patrolmen, parents who have been deprived of their parental rights are obligated to pay a certain amount of compensation to the government every month. This money, meanwhile, does not go directly to serve the needs of a specific child and does not in any way foster connections between the parent and the child, but instead has the sole purpose of compensating the government for its expenses. (s. 48-49)

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It seems that the measures taken by the authorities in relation to parents from socially disadvantaged groups have not in any way improved the situation for children themselves. (s. 51)

I ett utlåtande från 2011 uttryckte även FN:s Committee on the Rights of the Child oro över att inte barnets bästa styrde implementeringen av Presidential Decree No. 18. Committee on the Rights of the Child (2011):

Moreover, the Committee is concerned that the separation of a child from his or her parents against their will pursuant to Presidential Decree No. 18 may not always be done in the child's best interests. (s. 8)

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While noting efforts of the State party to protect children from abuse and neglect and the availability of shelters and centres providing services for recovery and rehabilitation, the Committee is concerned at the low level of prevention and the high number of child victims of abuse and neglect in the State party. (s. 9)

United Nations Development Assistance Framework (UNDAF) skriver i en rapport att antalet barn som placeras på institution har minskat de senaste åren och att fler placeras i familjehemslösningar istället. UNDAF (2015):

The strong commitment of the Government to de-institutionalization has resulted in a reduction in the number of orphans and children deprived of parental care who are raised in residential care institutions by 53% between 2005 and 2014. This proves that the country took into account UPR recommendation 97.35. The diversity of family-type arrangements (adoption, custody, foster family, family-type children's home) significantly enlarges the ways of fulfilling the right of the child to a family environment. Special efforts will be dedicated to strengthening the national child protection system by further refining the national de-institutionalization policy, developing the capacity of professionals and enhancing the practices employed by local agencies, with a special focus on children under the age of three and children with psychophysical disabilities. (s. 24-25)

I en rapport publicerad i år går de vitryska myndigheterna igenom åtgärder som gjorts inom områdena barn vars föräldrar frångått sitt föräldraskap samt våld i hemmet. UN Human Rights Council (2015):

Priority has been given, under the national law and in practice, to providing foster care to children who could not be kept with their biological families while preventive work was under way.

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A child protection system that has lowered the incidence of "social orphans" has taken shape with the adoption of Presidential Decree No. 18 of 24 November 2006 on additional measures for the State protection of children in problem families.

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Regulations on post-care-home assistance to orphaned children and young persons and children and young persons deprived of parental care have been developed to help such persons to adjust socially and be fully integrated into society. (s. 17)

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A definition of “domestic violence” and “family members” was introduced under the Principles of Crime Prevention Act of 4 January 2014, which provides for specific action to protect victims of domestic violence, such as restraining orders that prohibit offenders from searching for, following, visiting or contacting their victims, and sets out the principles for crime prevention through outreach work on the issue of domestic violence and further training of professionals.

131. There is a social service centre in every part of the country (146 in total) and two municipal social service centres for families and children with 135 social rehabilitation and recovery units. The network of “crisis rooms,” or emergency shelters, has been expanded significantly. There are now 100 crisis rooms in operation (up from 31 as of 1 January 2011) and such rooms have been opened in every district of Minsk, Vitsyebsk and Mahilyow. The crisis rooms offer free psychological support, legal assistance, first aid and temporary shelter to victims of domestic violence (in the period 2012–2013, 106 victims benefited from the services of the shelters and 97 in the first 9 months of 2014). Domestic violence victims are also provided with food if necessary. Moreover, the restrictions on the length of stay in crisis rooms (previously up to 10 days) have been lifted since 2013 and the procedures for staying in them have been simplified. (s. 19)

I en äldre rapport presenterar Vitryssland andra åtgärder som gjorts för att förbättra situationen för barn utan föräldrar. UN Committee on the Rights of the Child (2010):

150. Presidential Decree No. 18 on supplementary measures for affording State protection to children in dysfunctional families” contributed decisively to the effectiveness of efforts to protect the rights of children left without parental care and the prevention of social orphanhood.

151. Through Council of Ministers and joint ministerial decrees, procedures have been established for:

- Identifying and registering children at risk;
- Identifying children in need of State protection;
- Formulating and approving plans for the protection of children’s rights and legitimate interests, and individual schemes for such protection;
- Granting orphan status to children removed from their parents;
- Assessing a family’s preparedness to recover a child;
- Collecting from parents compensation for the costs of maintenance of children under State care.

152. A national mechanism for targeted work with families has been set up to provide them with assistance while preventing parents from shirking the responsibility to bring up and support their children. A system for early prevention of social orphanhood has been created

for timely and comprehensive inter-agency action in order to identify problems faced by specific families and to preserve those families for the children through appropriate financial, social and psychological assistance and guidance. The areas of action of the various public bodies engaged in family support have been delineated so as to increase the individual bodies' accountability and effectiveness in preserving families and the efficiency with which regional or municipal resources are employed to pull families back from the brink of social disintegration. (s. 21)

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171. In recent years, the mechanism for rearing children categorized as orphans in a family setting was further developed through placement in foster or adoptive families or family-type foster homes. In some of the country's regions, 100 per cent of minors left without parental care are brought up in a family. As a result, a number of orphanages have been shut down and the buildings and land thereby released have been transferred to social welfare bodies and social education establishments. (s. 23)

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The Act on social support guarantees for orphans, children without parental care, and persons from those groups" and Presidential Decree No. 565 of 29 November 2005 on certain measures for the regulation of housing issues entered into force in that year.

175. Under the above legislation, State guarantees for the full development of orphans and children left without parental care were established, and comprehensive measures were taken for their effective social integration. (s. 24)

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The system set up in the country in order to protect the rights of child victims of violence and assist such children includes child protection bodies, social education centres and social shelters for children, and the social education and psychology units of education establishments. (s. 27)

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Under article 154 (2) of the Criminal Code, knowingly subjecting a minor to torture is punishable with judicial supervision for 1-3 years or with imprisonment for 1-5 years. (s. 28)

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Children subjected to violence or cruel treatment may request protection of their rights and interests from the tutelage and guardianship authorities, the public procurator's office or the National Commission on the Rights of the Child. They may also seek such protection through their legal representatives.

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219. The 156 social education establishments active in the country provide psychological, medical, social and other types of professional assistance to children subjected to violence or at risk. (s. 29)

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Deprivation of parental rights, one of the steps taken by the authorities in the case of inappropriate child-rearing, is an extreme measure, used when it is impossible to protect a child's rights and

interests otherwise. Article 80 of the Marriage and Family Code provides a full list of acts, whose commission by the representatives of a child justify that measure. The list includes failure in child-rearing duties; abuse of parental rights; cruel treatment of children; immoral way of living, with a prejudicial effect on the children; alcoholism or addiction; and a written child-relinquishment application by the parents (s. 30)

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(alla källor hämtade 2015-10-27)

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