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# **“DEVELOPMENT OF INTEGRATED SOCIAL SERVICES FOR EXPOSED FAMILIES AND CHILDREN”**



This project implemented by  
the Consortium “EveryChild”

## **MONTHLY SURVEY OF THE NEW REGULATIONS AND DRAFT REGULATIONS RELATED TO CHILD CARE AND THE PROJECT IMPLEMENTATION (March 2006)**

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### **I. General Provisions**

In March 2006, several important regulations for the exposed families and children care – and, correspondingly, the Project objectives – became effective. In particular, these are amendments to Family code.

Given the national parliament elections on March 26, 2006, the most active actors in legislation development related to the Project objectives were Cabinet of Ministers and other national executive agencies.

### **II. Expected impacts on the Project objectives**

1. The most important changes concern the legal status of family type care forms.

1.1. Since March 25 the amendments to Family code of Ukraine. Thus, articles 256-1 – 256-4 define the legal status of foster parents, families and children, as well as procedures for setting foster families. While foster parents are not adoptive parents and may only place from one to four foster children for upbringing and care, they have rights of legal representatives of these children and may act as their guardians without further formalities. Decisions on recognition of foster families and model contract on placement of children in foster families shall be made by local state administrations or executive bodies of local councils.

Articles 256-5 – 256-8 define the status of family type children home (FTCH), where five or more orphans or children deprived of parental care can live. Major responsibilities of the pastoral carers are similar to ones of foster parents, but model contracts are on management of FTCH; besides, pastoral carers shall have right to get titles to a cottage or larger apartments in lines with legal quotas immediately.

1.2. CMU Resolution # 107 of February 6 has amended the regulations on family type children home and on foster families, which had been approved with CMU resolutions # 564 and 565 of April 26, 2002, correspondingly. This resolution stipulates a number of necessary amendments concerning family social support, training of parental carers and foster parents, as well as training social workers etc. However, these amendments are not in fairly compliance with the rest of these regulations; at one hand, it restricts the rights of foster parents (some papers are required notwithstanding Family code and other laws, like marriage certificates or income declarations), at the other hand, these amendments grant the status of legal representatives to foster parents without any adaptation period for the child. For instance, this violates Principle 5 of the Recommendation of the Committee of Ministers of the Council of Europe # R 87 (6) concerning granting powers of legal care to foster parents.

1.3. The forms of implementing the right to care for orphans and children deprived of parental care in the family type facilities will include also the special care institutions – SOS-Children villages for placement of children younger than 10 years old. These villages shall have 10-14 family houses, where up to 10 children and their pastoral carer live, as well as auxiliary facilities. The villages shall have the status of non-profit organizations and could use, except budget subsidies, contributions by the founder, donations and assigned funds from private persons, and income from subsidiary farms (CMU Resolution # 310 of March 15, 2006, „On Model regulations for SOS-Children Village” on the basis of agreement between CMU and SOS-Kinderdorf International).

1.4. One more legal development of great importance for the Project objectives was adoption of the CMU Resolution # 367 of March 25 subject to the law of Ukraine # 3335 of January 12, 2006. Herewith CMU set up State Department on adoption and protection of the children rights. This agency shall coordinate the state policy in adoption issues and activities for the protection of rights, freedoms and interests of children within the Ministry of family, youth and sports, but no in Ministry of education and science as Center for adoption of children previously.

2. Some changes in procedures and amounts of specific social allowances for families with children occurred in March 2006.

2.1. CMU Resolution # 402 of March 30 approved the procedures for using budget funds in 2006, as the budget law provided for struggling children neglect and homelessness. In particular, budget funds shall be used for social advertising of advanced forms of family care for orphans and children deprived of parental care, for methodic and other related publications, training of specialists in social and legal protection of children, as well as filing of orphans and children deprived of parental care by the services for minors. The allocation of these budget funds and preparing the year plan of procurement are responsibilities of the Ministry of family, youth and sports. The similar regulations on using the funds assigned for social work with families, children and youth are provided in lines with the program „Implementing the programs and activities of the State social services for children, families and youth” (CMU Resolution # 312 of March 15).

2.2. On April 8, 2006, the joint Order by ministries of labor and social policy, of economy, treasury, MFYC and State Committee on statistics of March 14, 2006, amending the method of calculation of aggregated family income for all types of social allowances.

2.3. In March CMU Resolution # 189 of February 22 on entitlement and payment of provisional state allowances to the children, which parents evade from alimony payments алиментів, unable to maintain a child or of unknown residence, was promulgated. One of legal grounds for entitlement for this provisional state allowance can be non-executing the court decisions on alimony payments (par. 2). This allowance shall not be paid for children under guardianship (e.g., foster care), but can be paid to children on full state maintenance, who live at their homes for one month or longer (e.g., in summer vacations). This allowance shall be paid by divisions or departments of labor and social protection in the jurisdiction of the parent who maintains the child.

2.4. Under CMU Resolution # 186 of February 22, from January 2006 the orphans, who are entitled for the pension due to loss of maintainance, shall get extra allowance of 30 UAH monthly, if after this extra payment and other benefits the pension amount does not exceed two minimums of subsistence for disabled persons. If an orphan receives both pension and allowance under the law on state allowances for the childhood disability and disabled children, this extra allowance shall be paid within the total amount of the latter allowance.

3. The other important developments in regulations related to the Project objectives are as follows.

3.1. In order to secure protection of confidential information stored in the databases of orphans and children deprived of parental care CMU issued the benchmarking Resolution # 373 of March 29, 2006, on securing protection in information, telecommunication and info-telecommunication systems.

3.2. Coming into effect of the law “On enforcement and application of practices of the European Court on human rights” # 3477 of February 23, 2006, is very important for implementation of European standards of human rights in Ukrainian judiciary and administrative practices. This law is not limited to regulations on enforcement of the ECHR decisions and remedies for individual claims; it sets up the procedures for legal expertise and control over following the ECHR decisions in laws and by-laws of all executive agencies in Ukraine. This control covers guarantees for children rights and right to family life, too.

Some important activities for children rights protection shall be implemented by Ukraine as participating country of the UN Convention on the Rights of the Child, in lines with the UN General Assembly resolutions „Child Rights” # 60/231 of December 23, 2005, and „Girls” # 60/141 of December 16, 2005.

3.3. The Concept of the Complex Program for Crime Prevention in 2006-2008 (Order by CMU # 116-p of March 1, 2006) stipulates a number of activities related to the Project objectives. They include more active crime prevention for orphans and children deprived of parental care. In particular, activities related to minors’ rights protection are recognized be top priorities, especially protection from exploitation, child abuse and violence, including trafficking and sexual exploitation of children. Also the top priorities shall include development of the institutional network for waifs and rehabilitation and re-socialization of sentenced minors.

### **III. Legislative proposals in Verkhovna Rada**

Given the national parliament elections on March 26, 2006, Verkhovna Rada reviewed far less legislative proposals; moreover, a few draft laws related to children and parents rights protection were abandoned.

The important event was the veto that President imposed on the bill on volunteering adopted by Verkhovna Rada in February. The reasons were restrictions of volunteers and operating NGOs' rights; President proposed to promote drafting a new bill on development of volunteering with effective involvement of associations and charities.

Cabinet of Ministers submitted a draft law on amending some regulations for agencies and services for minors and special institutions for minors (# 9263 of March 29). This draft law could specify the competence of the services for minors, shelters, children villages and other special institutions for children. However, any draft laws that were not adopted in first reading before the current session of Verkhovna Rada expires in April, shall be abolished and can be only resubmitted later.

Besides, Verkhovna Rada approved Resolution # 3525 of March 14, 2006, that recommends CMU to submit the National Program for Leisure and Sanitation of Children in 2007-2012 as late as in November 2006.