

**Проект ЄС Тасіс “Розвиток інтегрованих соціальних служб
для вразливих сімей і дітей”**

ANALYSIS OF THE EXISTING LEGISLATION IN THE FIELD OF SOCIAL PROTECTION RENDERED TO FAMILIES AND CHILDREN

INITIAL REPORT
November 2005

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A project funded by
the European Union



A Project implemented by
the EveryChild Consortium

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Introduction

The principle of Rule of Law declared in the 8th article of the Constitution of Ukraine is being gradually implemented in the development of legislation on children's and families' with children protection. Today it can be admitted that an approach based on the rights of a child is spreading both in regulations and in state policy despite inevitable political discussions.

Legislation of Ukraine on social protection of children and families with children is a comprehensive system that includes several types of regulations which can be applied directly or along with other acts for the purposes of the Project.

The subject matter of this report is the analysis of peculiarities of contents and application of legislation and regulations on child protection, including:

- 1) Current international treaties and international-legal commitments of Ukraine and their conformity with national legislation
- 2) Constitutional Norms of Direct Action
- 3) Laws of Ukraine including special laws on child protection and Decrees of President
- 4) Acts of Cabinet of Ministers
- 5) Acts of other central bodies of executive power
- 6) Acts of local self-government
- 7) Judicial practice and other means of legal protection

Analysis is based on the subject of regulation of the abovementioned legal acts in accordance with the purposes of the Project and the approach on the basis of the children's rights. In particular, these rights include requirements to national legislation stated in UN Convention on the Rights of the Child in regard to:

The status of children as subjects of the law and their fundamental rights

The right of a child to life, survival, protection and healthy development

The right to freedom, personal inviolability and honour protection

The right to protection from all kinds of exploitation (including sexual) and abuse

The right to non-discrimination

The right to private and family life

The right to acting in children's best interests

The right to participation (including participation in hearings of court and administrative cases)

The right to use services for health protection and recovery and their evaluation

The right to education, rest and leisure

The right to adequate level of life and social welfare

If necessary, analysis covers also legal control of the system of bodies responsible for child protection (including provision of social and other services), and also legislation on financing of these bodies.

Additional list of legal acts is enclosed (Annex 1).

Current International Legal Commitments of Ukraine Regarding Social Protection of Children and Their Conformity with National Legislation

Ukraine ratified the UN Convention on the Rights of the Child in September 1991 and committed to implement some measures to ensure protection of the rights of a child, the most fundamental of which being pointed out in introduction.

Ukrainian policy for the implementation of Convention's principles and progress achieved after the first periodic report of Ukraine in 1997 had been given positive assessment in the concluding remarks of UN Committee on Child Rights, which were approved after the second periodic report of Ukraine during the 31st Session in Geneva on the 22nd of September 2002.

Ukraine had also ratified Optional Protocol to this Convention on sale of children, child prostitution and child pornography (Law as of 03.04.2003, no. 716), on basis of which the special statements were added to or changed in Criminal Code and Criminal-Procedural Codes. From then any transfer of children to another person or to a group of people for a reward or compensation as well as an improper mediation in adoption of children are illegal. Each country-member has to submit a report to the Committee on Child Rights during 2 years upon the joining that contains complete information about measures taken for the implementation of principles of this Protocol, so Ukrainian Government should announce the report this year. Any further reports on the implementation of the Protocol are to be submitted every 5 years.

The draft laws on ratification of such international legal acts on child protection as Hague Convention on Child Protection and Cooperation in International Adoption and Hague Convention on Civil-Legal Aspects of Children Kidnapping are submitted.

In addition Ukraine is a member of the Council of Europe and ratified European Convention on Human Rights and Fundamental Freedoms in July 1997 and protocols to this Convention. In particular, Ukraine has committed to the right to personal inviolability (in regard to detention of minors), the right to family and private life and the prohibition of discrimination on the basis of the articles 5, 8 and 14 of the Convention. In 1996 Ukraine also joined European Convention on

the Implementation of Children's Rights and European Convention on the Legal Status of Children Born out of Wedlock.

Some Recommendations of the Council of Europe such as R (87) 6 "On Foster Families" are being also gradually incorporated into national legislation. A number of legislative acts will be amended or passed in course of the implementation of the State Programme of Ukrainian Legislation Adaptation to Legislation of European Union that was approved by the law as of 18.03.2004, no. 1629.

As a rule the ratification of these international legal acts requires direct changes in national legislation. Although almost no legal act contains direct reference rules as to application of these conventions, they are often referred as basis for adaptation of national acts for the execution of some international treaties of Ukraine

Methodological and terminological base remains contradictory as well that leads to problems of uniform application of legislation.

ILO Convention no. 182: Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ratified in October 2000) and Convention on Maternity Protection (revised in October 2002) are worth noticing for the purpose of the Project among International Labour Organisation Conventions on Child Protection.

In the area of juvenile court procedures for protection of the rights of a child, the Peking Rules (United Nations Standard Minimum Rules for the Administration of Juvenile Justice), the Tokyo Rules (United Nations Standard Minimum Rules for Non-custodial Measures) and the Riyadh Guidelines (United Nations Guidelines for the Prevention of Juvenile Delinquency) are of the highest importance.

However, the mentioned standards are only partially applied in the national legislation, and the necessity of their further inclusion is referred to in Presidential Decree as of 11.07.2005, no. 1086.

Bilateral agreements on technical assistance with foreign states and international organisations (including the groups of the World Bank) are also important international legal instruments, which envisage special measures for child protection, development and amendment of application of national legislation in the area.

Some control functions regarding implementation of international treaties on children's rights protection are fulfilled by the representatives of special UN agencies (UNICEF Representative, National Correspondent of ILO, etc.).

Due to significant increase of migration flows special importance is also given to international treaties regarding migration, status of refugees and legal support in family and civil cases, which relate to increasing number of children.

Constitutional Norms of Direct Action

The norms of Constitution of Ukraine (1996) have direct action as stated in its article 10, so theoretically there is no necessity to enact special laws or other normative acts for their implementation or defence in courts.

Moreover during adopting new laws or amending the existing ones Constitution forbids narrowing the meaning or volume of available rights and freedoms (article 22).

Therefore, according to the Constitution Ukraine assumed such responsibilities not only regarding the rights of all people but also special protection of children and families:

Equal rights of children irrespective of origin and birth in or outside wedlock (article 55);

Legal protection of maternity and childhood (article 24 and 51);

Prohibition of child abuse and exploitation (article 52);

The right to refute information about oneself or one's members of family (article 32);

Prohibition to use child labour on unsafe for health works (article 43);

The right to social protection, including subsistence level not lower than minimum subsistence level foreseen by law, if social benefits are the only means for living (article 46);

Responsibility of parents to support their children until full age (article 51);

Responsibility of the State to support and care orphans and children deprived of parental care (article 52);

Responsibility of the State to provide secondary education and access to free of charge pre-school and out-of-school education (article 53)

The rights guaranteed by the articles 24 and 52 cannot be limited temporarily or under the belligerency or state of emergency (article 64).

However, in article 92 it is stated that guarantees of the rights and freedoms and principles of regulation of family, wedlock and childhood protection are regulated exclusively by the laws of

Ukraine. So to exercise the appropriate rights of a child it's necessary to adopt special laws or to amend the current legislation.

Moreover the Constitution empowers President to enact decrees on issues which are not regulated by the Constitution or laws. This statement can be changed if expected constitutional reform takes place but now the President still enjoys the power to enact decrees that have the force of the law and he used them more than once as we see in the example of the Decree as of 11.07.2005, no. 1086.

Laws of Ukraine including Special Laws and Decrees of President

For the purposes of the Project implementation it should be noted that obsolete legislation technologies and weak traditions of the parliamentary and civic control over the executive branch of power cause the problem that laws of Ukraine are usually declarations of intentions and instructions to Government, which depend on political situation in the Parliament (Verkhovna Rada) and – to a lesser extent – in the society in general.

The negative consequences thereof are:

- 1) direct or indirect delegation of the rights to the normative regulation of some issues of central and local bodies of executive power;
- 2) absence or non-clarity of specific measure and procedures of direct action;
- 3) absence of possibility to finance specific measures directly for the implementation of laws from the budget;
- 4) references in texts of laws to other laws or 'relevant legislation', which do not concern directly the subject of the regulation of the laws or contradict earlier laws.

All these issues are to be taken into account when planning the implementation of Project's measures for child protection since enacting new special laws under these conditions can both solve present problems and complicate them or create new legal collisions.

As of October 2005 the most important legal norms for child protection are contained in the Family Code that was enacted in 2004 and the laws of Ukraine, e.g. Law "On Providing Organisational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care" as of 13.01.2005, no. 2342-IV; "On Childhood Protection" as of 26.04.2001, no. 2402; "On State Support for Families with Children" (revised on 01.04.2005, no. 2811) and "On Social Work with Children and Youth" (revised on 28.01.2005, no. 2558.)

In particular the Family Code states legal definition of a child, a family, the rights and responsibilities in a family, forms and procedures of child protection including adoption, assignment of care and guardianship. During 2005 some important amendments were also adopted to this law as to care and guardianship, and the work on some draft laws, which directly concern protection of child's the rights, including property, both in Family and Civil Codes goes on.

Some important issues of the child protection are regulated by other Codes of Ukraine (particularly Civil, Criminal, Criminal-Procedural and Housing) and laws including "On State Social Standards and State Social Guarantees" as of 05.10.2000, no. 2017; "On Prevention of Abuse in Family" as of 15.11.2001, no. 2789; "On Provision of Equal Opportunities of Men and Women" as of 08.09.2005, no. 2866; "On Social Services" as of 19.06.2003, no. 966; "On Leaves" as of 15.11.1996, no. 504.

For example, in September 2005 new Civil-Procedural Code and Administrative Judicial Procedure Code were enacted; they regulate children protection in judicial contest of private persons with each other or with state bodies, officials and other persons that carry out the functions of the state.

Because of the widespread of information relationships in the area of child protection (establishment of registers, threat for personification of personal data, adoptive parents appeals, etc.) application of the laws "On Information" and "On Fight against Corruption" becomes important.

Actually legislature pays much attention to the issues of child protection recently that was reflected in the adoption of such laws as abovementioned Law "On Providing Organisational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care". This Law sets up the priority for exercise the right of every child to being brought up in family; care and support of children according to the principle of affinity; support child adoption; provide the system of encouraging and support for adoptive parents. It also sets up rather high minimal social standards for the protection of orphans and children deprived of parental care (aged up to 23) regardless the type of their placement and care. The Law assigns the right to the guardianship boards to undertake comprehensive measures for placement of children in the families of the citizens of Ukraine and foresees providing single State Services for Minors. It is also important that the Law defines the rights and responsibilities for carers in family type children's homes.

Not confining to laws' adoption, the Parliament also passes resolutions on some issues on child protection, for example "On Child Homelessness and Ways of Overcoming this Phenomenon" as of 06.09.2005. Therein the work of the bodies of executive power in children's homelessness prevention was recognised unsatisfactory that causes the threat to demographic and national security of Ukraine.

The Parliament proclaimed 2006 the Year of Child Protection in Ukraine.

Special legislative and budgetary measures were mapped out to support organisation and finance conditions for adoption and providing care and guardianship to homeless and neglected children, to ensure the access to social accommodation, setting up local services of social workers and developing the system of specially authorized courts for minors. Report of the Cabinet of Ministers of Ukraine about the fulfilment of this Resolution is scheduled on February 2006.

Periodically Parliamentary Hearings are being organised in order to prepare recommendations on specific issues. For example the Parliamentary Hearings "On Provision of Children's Rights, Maternity and Childhood Protection" were conducted in September 2005, recommendations of which have created the basis for further draft laws and regulatory acts.

It is recommended to pay special attention to the protection of disabled children (at the beginning of 2005 there were 141 thousand of them, including 20% children in residential care), and children living in families where care over them is not sufficient (104 thousand children registered).

Participation of community and NGOs representatives in the parliamentary hearings, public councils in the Verkhovna Rada committees as well reports of the Verkhovna Rada Authorised Human Rights Representative (Ombudsman) also inspire the development of the legislation for children's rights protection. It is planned to establish a position of Authorised Children's Rights Ombudsman in the Department of Children's Rights of the Verkhovna Rada Institute of the Verkhovna Rada Authorised Human Rights Representative that will be occupied by the Head of the Department.

From February 2005 a number of draft laws on child protection were submitted to the Parliament, e.g. "On Single State Register of Orphans and Children Deprived of Parental Care", "On Children Adoption Centres", "On Nutrition of Children", "On Increase of the State Support of Families with Children and Disabled Children", "On Improvement of Terms of Mortgaging for

Families with Many Children and Young Families”, “On Bonuses to State Pensions for Child Care” etc.

Decrees of the President who reserves the right to sign decrees and instructions in accordance with Constitution and Laws of Ukraine are devoted to the issues on child protection as well.

National program “Children of Ukraine” was adopted by the Presidential Decree as of 16.01.1996, no. 63/96 and its implementation is finished in 2005.

The Parliament recommended President to prolong its action to the end of 2006 and adopt the new National program “Ukrainian Child in Ukrainian Family” for a time period to 2010.

Presidential Decree “On Primary Measures for Child Rights Protection” as of 11.07.2005, no. 1086 aimed at protection of the right of children to family care and healthy development defined the following important goals for the central executive authorities:

- 1) establishment of government body for children’s rights protection (in the structure of the Ministry of Family, Youth and Sports (MFYS));
- 2) development of financial mechanism of expenditures for the maintenance of orphans and children deprived of parental care irrespective of the types of placement according to principle “money follows child”;
- 3) implementation by the carers of family type children homes of functions of the legal representatives of children without special authorities;
- 4) inclusion in the draft State Budget for 2006 of expenditures for the maintenance of orphans and children deprived of parental care in amount not less than 2 minimal subsistence levels for such children;
- 5) development of the National Programme on overcoming child homelessness and neglect for 2006-2010 and the National Action Plan on the implementation of UN Convention on the Rights of Children for 2006-2010.

Moreover, President also has a right both to submit draft laws to the Parliament (and the right of veto on adopted laws) and to give individual tasks to the Cabinet of Ministers to develop, to change and to cancel acts adopted by the Cabinet of Ministers or other executive authorities. For Project implementation, President’s right to appoint and dismiss Heads of the Oblast and Rayon State Administrations and to control the fulfilment of laws and decrees by them is also important.

State Programmes and Acts of the Cabinet of Ministers

The Cabinet of Ministers constantly adopts the regulations concerning child rights protection. As a rule, these are the regulations and instructions to fulfil the laws of Ukraine and Presidential decrees and instructions. In addition the Cabinet of Ministers has its considerable power for its own, which consists in preparation of the budgets, state programmes and coordination of activities of ministries and other central executive authorities.

For the last 2 months the Cabinet of Ministers has approved, for example, Standard Rules for social accommodation, for social centre of maternity and childhood, for centre of social rehabilitation, for centre of social services for children, family and youth.

The Cabinet of Ministers has the key power not only in preparation but also in implementation of the State Budget, particularly in relation to child rights protection.

In particular, regulation of the Cabinet of Ministers as of 25.08.2005, no. 823 determined the procedure of payment of non-permanent benefit to orphans reaching full age.

Regulation of the Cabinet of Ministers as of 21.04.2005, no. 315 "On Some Issues of Assignment and Payment of Monetary Support to Families with Children" multiplied the amount of monetary support paid when a child is born by 22.6 minimum living wages.

In June 2005 the draft law on approval of the State Targeted Programme of Development of National Adoption in Ukraine "Own Family – to Every Child" was submitted.

The State Programme for the rest and health recovery of children till 2008 has been approved (Resolution of the Cabinet of Ministers #33 as of 16.01.2003) that provides for a number of measures on financing different health institutions for children whose rights require special protection, development of the state standards and assessment and certification of the children rest and recovery institutions and other measures of child rights protection.

Regulation of the Cabinet of Ministers as of 28.07.2004, no. 976 "On Establishment of a Preferential Railway Rate for Children" envisages important guarantees for children from risk groups during health recovery.

A special attention should be paid to reforms of care rules in accordance with the latest laws and international treaties of Ukraine. They have not changed since 1969 but the changes in 1997 were objected. The new Regulations on care and guardianship institutions should be developed on the basis of the Parliamentary Resolution as of 22.09.2005, no. 2894.

Regulations of Central Bodies of Executive Power

It's necessary to mention the long "conflict of competence" regarding the functions of child rights protection executed by central executive authorities of Ukraine.

According to the Presidential Decree as of 18.08.2005. no. 1176, the Ministry of Family, Youth and Sports implements these functions and, therefore, adopts documents within its competence on the respective issues:

To undertake measures in regard to social and legal child protection, to prevent child homelessness and abuse, to carry out the social and psychological rehabilitation of the most exposed categories of children, in particular orphans and children deprived of parental care, to maintain the database about children at risk, to control and to coordinate activities of the Services for Minors;

To observe the laws on care (guardianship) of orphans and children deprived of parental care, as well as adoption;

To facilitate the development of different forms of family care of orphans and children deprived of parental care, to establish family type children homes, to place children to the foster families, to control the development of the special institutions for minors according to the determined competence;

To undertake measures in regard children accommodation and property rights, to check conditions of children maintenance and care in specialised institutions for minors, to organise out-of-school education and education at the places of residence.

However the Ministry is far not the only body authorised to adopt regulations, including state standards and norms as well to provide finance for certain social services.

In order to implement UN Convention on the Rights of the Child, National Programme "Children of Ukraine" and other measures as regards child rights protection that require coordination of different states authorities, the Interagency Commission on Childhood Protection was established chaired by the Minister of Health (regulation of the Cabinet of Ministers as of 03.08.2000, no. 1200). This Commission not only coordinates methodological and legal activities but also develops the annual state report to the President of Ukraine on the status of children in Ukraine and on the implementation of state policy in the area of childhood protection.

Some functions of child rights protection and mainly prevention of their violations are executed by both the Interagency Commission on Family Policy (regulation of the Cabinet of Ministers as

of 06.05.2001, no. 478) and the Interagency Coordination Council on Trafficking Prevention (regulation of the Cabinet of Ministers as of 25.12.2001, no. 1961).

In addition, as of October 2005 the Ministry of Family, Youth and Sports (MFYS), the Ministry of Education and Science (MES), the Ministry of Labour and Social Policy (MLSP), the Ministry of Health (MH), the Ministry of Internal Affairs (MIA) and the Ministry of Justice (MJ) exercise considerable powers regarding child rights protection and development of relevant state standards and norms.

Among the major regulations adopted last time or changed essentially by these agencies the following ones are to be mentioned:

"Order of Consideration of Appeals and Messages about Child Abuse or Real Threat of Abuse" (Order of MIA, MH, MES, State Commission no. 5/34/24/11 from 16.01.2004)

"Order of Maintenance of Database of Child Orphans and Children Deprived of Parental Care" (Order of MFYS no. 1466 as of 28.07.2005)

According to the powers assigned by laws and Presidential decrees, these ministries are not limited only by regulations that act inside of Ukraine. Thus, on 19th of September 2005 the Ministry of Education and Science declared, in fact, moratorium on adoption of the Ukrainian children by citizens of six countries, four of which are those of the European Union, which did not provide enough information about adopted children. This can be considered as a form of protection of the right of a great number of children since according to the data of this Ministry the foreign citizens have adopted more than 10 thousand Ukrainian children.

Because of the budget system of Ukraine it is the central executive authorities and their local subdivisions that implement overwhelming part of the state programmes and finance other measures for child rights protection. It turns the issues of interagency coordination and budget financing reforms into crucial ones both for development of child rights protection in general and for the Project's objectives in particular.

It is of even greater importance taking into account that narrow branch approach to financing, licensing and other types of regulation of social services provided by NGOs and individual citizens had shown its inefficacy during 2004-2005 and needs to be changed significantly.

Regulations of Local Self-Government

According to articles 32 and 34 of the Law "On the Local Government" no. 280 as of 21.05.1997 the local authorities have wide powers concerning child rights protection.

In particular, the local State Administrations and executive bodies of city councils execute the functions of care and guardianship boards; solve issues of the state care and social welfare for some categories of children.

These functions become of great importance because of the Law "On Basic Measures..." which oblige the city, rayon and oblast budgets to provide for the relevant measures, although the rayons and oblasts do not belong to the system of self-governing communities.

However, since the local self-government, as a rule, has insufficient financial and other recourses for the implementation of own programmes, these bodies limit themselves with implementation of delegated powers and, accordingly, to the administration of state or oblast budget, that results in many cases of "conflict of powers" with the ministerial subdivisions in the structure of Oblast and Rayon State Administrations.

Judicial Practice and Other Means of Legal Protection

Actually in the democratic society child rights protection should not be a monopoly of state bodies of executive power. Especially violation of these rights, including by executive authorities themselves, are subject to independent and multi-stage control.

The abovementioned constitutional and other legislative guarantees of judicial defence of the rights and fundamental freedoms concern both children and their legal advocates. In the cases defined by the law the functions of the legal advocates can be executed by residential care institutions, guardianship boards and offices of Prosecutor of Ukraine.

In addition to the courts of general jurisdiction, the system of administrative courts, which will examine individual arguments of citizens and state authorities or their officials, is being developed in Ukraine. Both court systems have the appeal and cassation agencies that provide the best support for guarantees of property and procedural right, including child rights protection as well.

The citizens of Ukraine have the right to constitutional appeal to the Constitutional Court in case of violation or restriction of constitutional guarantees for their rights caused by interpretations of courts or state institutions of other legislative acts. One of the most important cases resulted in

considerable changes to legislation on advocacy and rights' protection (juridical aid and free choice of a lawyer) was the Decision of the Constitutional Court no.13-pn as of 16.11.2000.

The possibility to protect one's rights in the international courts and similar institutions gives a serious guarantee of right protection. Up to October 2005 the European Court on Human Rights approved 49 judgments against Ukraine, however, it did not decide any case that entirely or partially concerned child protection similar to a case against Ireland in 1984 regarding to the protection of the right to family life and adoption of a child born out of wedlock.

Judicial practice in cases concerning the minors' protection or violations of the law is generalized in the judgments of the Supreme Court of Ukraine.

In particular, in the Decree of Judicial Chamber in Crime of the Supreme Court "Judicial Practice in Criminal Cases of Minors and Involving Them in Crime" as of 29.08.2003, Decrees of the Supreme Court's Plenary Sessions no. 5 as of 16.04.2004 "On Practice of Application of Legislation in Cases on Juvenile Offenders"; no. 6 as of 22.12.1995 "On Practice of Application of Legislation by Courts of Forced Measures of Educational Type"; and no. 2 as of 27.02.2004 "On Practice of Application by Courts of Ukraine of Legislation on Responsibility for Involvement of Minors in Crimes or Other Offensive Activities in Ukraine".

The Supreme Court did not produce any decrees regarding Family Code similar to Decree no.16 as of 12.06.1998 "On Application by Courts of Certain Norms of Family and Matrimony Code in Ukraine".

The Administrative Courts are still on the stage of establishment, therefore it will be possible to assess their practice of child rights protection later on.

Recommendation on Amendments to Legislation

The changes to legislation regarding child rights protection which are proposed in Conclusion of preliminary analysis either had been carried out in July-October 2005 or included in the list of the draft laws and instructions to the Cabinet of Ministers and central executive authorities.

However, it is necessary to provide for the examination of relevant draft laws and other regulations considering their conformity to international commitments of Ukraine, in particular with regard to child rights protection, described in Introduction.

In addition, from the point of view of the goals of the Project the following legal issues are of a great importance:

In spite of the requirements of the laws "On Social Services" and "On Licensing Certain Types of Economic Activities" no. 1775 as of 01.06.2000, the licensed conditions of professional activity in providing social services (including for children) have not been adopted and the licensing authority has not been defined. But the provision of relevant services without license by private institutions and physical persons (social workers, volunteers, etc.), which are not the workers of municipal or state institutions, can be problematic in terms of state financing and compensation of their expenditures.

In the draft laws and other regulations the legislation on information and, in particular, private data protection (including children, adoptive parents and other participants of family type care) are almost not been referred to. This relates also personal data protection in the computer systems regarding which Ukraine has ratified the appropriate European Convention (95/46/EC).

The mechanism of enhancing effectiveness of budget financing for child protection programmes and measures remains the most difficult issue. A great number of experts showed their anxiety so far that excessive "targeted" social payments can cause the influence that is opposite to objectives indicated by legislature, which results in transfer of children to those persons or institutions which have the most financing instead of care in family.

The local and to lesser extent state programmes of social services and financing other measures are extremely difficult to fund on the basis of separate budget decisions, especially for long-term projects. It is recommended also to determine specialised interagency (or inter-territorial) body within the institutions of local government that could fund the long-term social projects on the basis of summarised programme or financial regulations.

In order to implement the principle "money follows child" it is expedient to provide for special state funds for social standards' guarantee in child protection area, taking into account the number of children in groups that need protection can be greatly changed even during one budget year and they can migrate to other territorial and administrative communities.

The Law "On measures..." allows the transfers between the oblast and state budgets in case of change of orphans' type of placements according to the principle "money follows child" (see article 9) though these statements can be properly regulated in the budget legislation. Now local authorities are not interested in the implementation of these regulations because they lose considerable budget share.

The norm in the Resolution of the Parliament as of 22.09.2005, no. 2894 on further targeted allocation of money for construction of residential care institutions raises doubts in the light of legislation-stated priority of family type care.

The duty of each person to inform guardianship boards and internal affairs bodies about the location of an orphan may be a subject for active campaign of social advertisement (see article 30) since no administrative or criminal responsibility for ignoring this duty is assigned.

Concluding Remarks

The Annex to the analysis is enclosed:

Annex 1 Additional List of Normative Documents of Ukraine Concerning Families with Children, Orphans and Children Deprived of Parental Care

Additional List of Legislation and Regulations of Ukraine Regarding Families with Children, Orphans and Children Deprived of Parental Care

International Agreements of Ukraine

№	Title	Date	Registration no.
1	Optional Protocol to Convention on the Rights of the Child on sale of children, child prostitution and child pornography	03.04.2003	716
2	European Convention on Human Rights and Fundamental Freedoms	07.07.1997	-
3	European Convention on the Exercise of Children's Rights	25.01.1996	-
4	ILO Convention on Maternity Protection (revised from 02.07.2002)	15.06.2000	183

Codes of Ukraine

1	Administrative Judicial Procedure Code	06.07.2005	2747
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Laws of Ukraine

1	On Information	02.10.1992	2657
2	On Leaves	15.11.1996	504
3	On Fight against Corruption	05.10.1995	356
4	On Local Self-Governance	21.05.1997	280
5	State Programme on Adaptation of Ukrainian Legislation to Legislation of European Union	18.03.2004	1629
6	On Provision of Equal Opportunities of Men and Women	08.09.2005	2866

Resolutions of Verkhovna Rada of Ukraine (Parliament)

1	On Child Homelessness and Ways of Overcoming this Phenomenon	06.09.2005	2796
2	Parliamentary Hearings Recommendations "On Provision of Children's Rights, Maternity and Childhood Protection"	22.09.2005	2894

Decrees of the President of Ukraine

1	On Primary Measures for Child Rights Protection	11.07.2005	1086
2	On Ministry of Family, Youth and Sport	18.08.2005	1176

Regulations of the Cabinet of Ministers of Ukraine

1	State Programme on Rest and Health Recovery of Children for the Period up to 2008	16.01.2003	33
2	On Some Issues of Assignment and Payment of Monetary Support to Families with Children	21.04.2005	315

3	Order of Provision of Non-permanent Monetary Support to Orphans upon reaching 18 years old age	25.08.2005	823
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Ministry of Family, Youth and Sport

1	Order of Consideration of Appeals and Messages about Child Abuse or Real Threat of Abuse	16.01.2004	5/34/24/11
2	Order of Maintenance of the Database of Orphans and Children Deprived of Parental Care	28.07.2005	1466

Resolutions of Plenary Sessions of the Supreme Court

1	On Practice of Application of Legislation regarding Crimes of Minors	22.12.1995	6
2	On Practice of Application in Courts of Ukraine of Legislation on Responsibility for Involvement of Minors in Crimes or Other Offensive Activities	27.02.2004	2
3	On Practice of Application of Legislation regarding Crimes of Minors	16.04.2004	5