



This project is financed by  
the European Union

# “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 (April 2006)

Prepared by Legal Expert  
Oleksandr Vinnikov

Kyiv, April 2006

### I. General Provisions

In April 2006, several important regulations for the exposed families and children care – and, correspondingly, the Project objectives – became effective. In particular, these developments include design and approval of the far reaching national programs related to child care.

### II. Expected Impacts on the Project Objectives

1. The most important developments in Ukrainian legislation in question concern the improvement of placement procedures for orphans and children removed from parental care.

1.1. The most important legal development for the Project objectives is CMU Order N 177-p of April 03, 2006. It approved the Actions Plan for arrangements of carrying out Year of Child’s Rights Protection in Ukraine 2006. Thus, this year the government agencies are to:

1) draft and review the bill „On the national program „National action plan for implementing the UN Convention on the rights of the child in 2006-2016” (the concept of this program was approved by CMU Order N 229-p of April 22, 2006);

2) draft the national program for reforming the system of facilities for orphans and children removed from parental care (quarter IV, 2006);

3) implement the procedures of funding allowances for orphans and children removed from parental care, under the principle „money follows child” and drafting regulations related to these allowances for all types of children placement;

4) complete checking the law observance concerning rights protection of orphans and children removed from parental care by local government agencies until June 1, 2006;

5) set up providing consultations in maternity hospitals for orphanage early prevention, as well as take a number of other important activities.

1.2. The amendments to the Civil Procedure Code (Law N 3551 of March 16, 2006) now oblige courts to appoint legal representatives for the minors (if none) as guardians for proceedings in cases brought by guardianship boards. This amendment will improve essentially guarantees of procedural for orphans and children removed from parental care.

1.3. Legal recommendations related to the Project objectives shall include CMU Resolution N 449 of April 05, 2006: it has not entitled pastoral carers of FTCH to hold apartments for administrative uses (in public property) yet, and it may prevent pastoral carers of FTCH from getting the necessary premises. However, Council of Ministers Resolution N 37 of February 04, 1988, „On apartments for administrative uses” concerns residential managers of public facilities for children.

1.4. MHC Order N 69 of February 15 (registered by Ministry of Justice on April 10, 2006) amended the Model regulations on baby homes (MHC Order N 123 of August 28, 2003). These amendments make more children eligible for baby homes, though the list of documents for children placement has increased (e.g., medical certificates and examinations).

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

2.1. Ministry of Justice has registered the joint Order by ministries of labor and social policy, treasury, economy, health care, MFFYS, as well as National committee for statistics N 68/90/275/78/760 of April 14, 2006. This order amended the Procedures for estimation of aggregated income of families eligible for all types of public allowances. Hereinafter, the aggregated income of the family shall not include the amount of the public allowance in question (e.g., public allowance for child care up to 3 years), as well as estimated income from land plots unused by the disabled people, families with infants or having more than three children. Though these amendments make entitlements for public allowances easier, declaring income amount required from potential foster parents participating in land shareholding is more complicated.

2.2. CMU Resolution N 472 of April 10, 2006, approved Procedures for uses of the funds assigned in the national budget 2006 for centralized measures for leisure and sanitation of children by government agencies. MFFYS is in charge for public procurement tenders of leisure and sanitation facilities and shall allocate group tours to its regional agencies proportionally to the number of children, including orphans and children removed from parental care.

2.3. MFFYC Order N 838 of March 17, 2006, approved Procedures for disclosure of entitlements to public allowances to children at FTCH and foster children in foster families, allowances to pastoral carers and foster parents and giving up these allowances in 2006 under CMU Resolution N 106 of February 06, 2006 (under the principle „money follows child”). It is departments of labor and social welfare and their branches that are in charge for monthly reporting to Minors Services. In turn, Minors Services shall inform oblast state administrations monthly on the actual number of FTCH and foster families to be set up next month.

2.4. The amendments to art. 181 of Family Code have come into effect; they set out procedures for alimony recovery, if parent(s) emigrate to any country having no treaties on legal assistance with Ukraine. These regulations will allow to protect the children's interests better and to use the funds assigned for public allowances in more effective way.

3. Besides, several legal developments in April, 2006, are of some importance for the Project objectives and noteworthy.

3.1. CMU Order N 188-p of April 05, 2006, approved the concept of the national program for trafficking prevention in 2006-2010. MFFYC shall work out and submit a draft of this national program, providing for specific activities for children trafficking prevention, especially orphans and children removed from parental care, within next three months.

3.2. CMU Order N 244-p of April 27, 2006, approved the concept of the national program „Reproductive Health of Nation in 2006-2015”, that defines medical and social support of young families as top priority activities to decrease orphans and families with one parent. The provider of this national program is the Ministry of Health Care.

3.3. On April 23, 2006, regulations on Registration of live birth infants and still-born children came into effect (MHC Order N 279 of March 29, 2006). These regulations will improve registration of children and simplify recovery of the child's papers, if necessary.

3.4. CMU Resolution N 514 of April 17, 2006, approved Procedures for uses of the funds assigned in the national budget 2006 for public support of NGOs implementing national programs and activities for children, youth, females, and families. In particular, these are funds for implementation of the program „Public support of NGOs implementing national programs and activities for children, youth, females, and families” and „Public support of children's NGOs implementing national programs and activities for children”.

Given the results of the NGOs projects contest in lines with the CMU Resolution № 1062 of July 26, 2002, MFFYS shall wire these funds to the NGOs' accounts held by the Treasury divisions. However, NGOs may not get more than 75% of allocations until the projects completed, or cover expenses for their own maintenance and any events unrelated to the projects implementation. These funds are also subject to the regulations on public procurement.

3.5. CMU Resolution N 471 of April 10, 2006, approved Procedures for uses of the funds assigned in the national budget 2006 for implementing centralized measures for children, youth, females and families by government agencies. Under the national program of the same title, MFYS shall allocate the funds for implementing family policy, in particular, for prevention of family violence, studying international experience, exchange of specialists in family, demographic and gender policies, as well as launching joint projects.

3.6. CMU Resolution N 492 of April 13, 2006 could be of some importance for the Project objectives and partners. It approved Procedures for cutting budget assignments and their repayments, if any non-end uses in current and previous fiscal years. However, this is not applicable to the funds paid as subventions (e.g., for public allowances under the principle „money follows child”). Ministry of labor and social policy Order N 104 of April 05, 2006, „On salaries to the staff of social services for families, children and youth” sets salaries patterns and rates for managers, specialists and staff of such services that could be helpful for end uses of budget assignments, too.

3.7. CMU Resolution N 504 of April 12, 2006, provides for compulsory gender law expertise of legislation in effect and draft regulations concerning human rights and fundamental freedoms by Ministry of Justice in compliance with the law „On equal rights and opportunities for females and males” N 2866 of September 08, 2005.

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

After the national parliament elections on March 26, 2006, law making activities by Verkhovna Rada became more active.

President of Ukraine has submitted his proposals to the second hearings of the draft law „On amending the laws of Ukraine concerning social protection of orphans and children removed from parental care” (№ 7380, submitted by MP G. Bondarenko, B. Gubsky, I. Sharov, Y. Sukhy, K. Samoylyk). This bill aims at more social guarantees for graduates of the facilities for orphans and children removed from parental care.

The draft laws related to the Project objectives have been registered as follows:

- 1) „On Personal Data Protection” (№ 2618, submitted by MP S. Nikolaenko, I. Yukhnovsky, P. Tolochko, and K. Sytnyk);
- 2) „On Paperwork in Public Administration” (№ 9286, submitted by MP B. Bespaly and V. Oluyko), this draft law concerns procedures for official paperwork, including ones for orphans and children removed from parental care;
- 3) „On Amending Some Laws of Ukraine Concerning the Juvenile Services and Special Facilities for Minors” (№ 9263, submitted by CMU).