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RESPONSE SYSTEM FOR THE PROTECTION OF CHILDREN DEPRIVED OF PARENTAL CARE IN EMERGENCIES

AS A COMPONENT OF
THE DEINSTITUTIONALIZATION
REFORM



RESEARCH

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Lives with Integrated
Multi-Sector Assistance
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INTRODUCTION

In 2022, the Council of Europe adopted an important decision prioritizing child protection in crisis and emergency situations, set out in Council of Europe Strategy for the Rights of the Child (2022–2027): “Children’s Rights in Action: from continuous implementation to joint innovation.”¹ This document takes an integral approach, raising such critical issues as the right to protection in conflict zones, migration, forced displacement, and the public health crisis impact on children’s rights. These challenges include, but are not limited to, the effects of the climate change, global COVID-19 pandemic, and Russia’s ongoing war of aggression against Ukraine.

The ever-growing number of emergencies highlights the urgent need for reliable child protection safeguards to be put in place. Such events as natural disasters, pandemics, and armed conflicts can lead to displacement of millions of people, and the most vulnerable group among those is children. UNICEF estimates that today, 460 million children are living in conflict zones or trying to flee them.² In such crises, deterioration of the social structures, education and public health systems, as well as family disruption can exacerbate children’s vulnerability, often causing long-term trauma and physical harm.

According to the Information and Computer Center of the Ministry of Social Policy of Ukraine, 968 497 people were registered as IDPs as of November 2024;³ almost 1.9 million Ukrainian children had to leave the country and stay in Europe.⁴ UNICEF reported that as of May 2024, almost 2 000 children were killed or injured in Ukraine since Russia’s invasion in February 2022, emphasizing that this year saw a 40% increase in children’s deaths compared to 2023.⁵

Implementation of an emergency response system gains a particular importance in terms of effective child protection in emergencies. Its purpose is to ensure children’s evacuation and safety in crisis situations, create a foster care system, train professionals to provide prompt support to children affected by armed conflicts and other emergencies, facilitate finding of such children, and ensure they have access to health, educational, psychosocial, and other services. In the absence of an effective and balanced response system, children’s fundamental rights, such as those to life, health, and growing up in a family environment, may face significant threats.

It is also worth noting that most of the key international child protection instruments were adopted in the post-war period, e.g., in the

¹ Council of Europe Strategy for the Rights of the Child (2022–2027): “Children’s Rights in Action: from continuous implementation to joint innovation”. Council of Europe. <https://search.coe.int/cm/#{%22CoEIdentifier%22:%220900001680a5a064%22,%22sort%22:%22CoEValidationDate%20Descending%22}>

² UNICEF Humanitarian Action for Children 2024 Overview. UNICEF. <https://www.unicef.org/media/149906/file/Humanitarian-Action-for-Children-2024-Overview.pdf>

³ Analytics by the Information and Computer Center of the Ministry of Social Policy of Ukraine. <https://www.ioc.gov.ua/analytics?dashboardName=idps>

⁴ USCRI Update: The Humanitarian Situation in Ukraine March 2024. U. S. Committee for Refugees and Immigrants. <https://refugees.org/uscri-update-the-humanitarian-situation-in-ukraine-march-2024/>

⁵ Statement by UNICEF Europe and Central Asia Regional Office and Special Coordinator for the Refugee and Migrant Response in Europe Regina De Dominicis. UNICEF. <https://www.unicef.org/press-releases/nearly-2000-children-killed-or-injured-escalation-war-ukraine>

decades following the end of the World War II. In addition to clearly indicating the need to revise the global security paradigm, Russia's full-scale invasion of Ukraine has also highlighted the absence of international documents laying down response measures to tackle modern-day challenges associated with child protection in emergencies (including the matters of mass evacuation) and establish standards for child protection in such situations.

This paper comprises three sections, with the first two composing its analytical part and the third presenting the monitoring findings.

Section 1 elaborates on the key aspects of emergency response, namely its meaning, significance, and purpose in the context of the deinstitutionalization reform aimed at replacing the current institutional childcare system with the new one, focused on providing foster care in family or family-like environments. Particular attention is given to the analysis of conditions triggering the implementation of certain types of measures (especially those associated with evacuation), as emergencies often pose a difficult question of whether, under given circumstances, a restriction of children's rights is justified and in line with applicable law as well as children's best interest.

Section 2 deals with safeguarding children's right to growing up in a family environment in times of emergency. This right holds crucial significance for the childcare system reform; in the abovementioned circumstances, its realization greatly relies on temporary foster care as an important component of the deinstitutionalization reform.

Section 3 describes the problems that childcare and social work professionals encounter during emergency response efforts related to child protection. It also includes the findings of the

survey of adults who committed to fostering children deprived of parental care.

The reliability of findings presented herein is ensured through the methodology comprising both general research methods and those specifically associated with legal studies, including:

- **Formal logic method**, used to process and analyze data and information retrieved from media, online, and other sources. The method was employed to ensure logical consistency of the concepts, reasoning, and conclusions.
- **Classification method**, used to systematize the concepts based on certain criteria, which included defining various types of emergency response and foster care in the context of the subject explored.
- **Comparative method**, used to compare legal phenomena and practices in Ukraine with those employed to address similar issues in other countries.
- **Statistical method**, which consisted in the retrieval and analysis of data from open sources, such as statements by public officers, scientific and media publications. Some of the data were then compared with the pre-war statistics to detect problematic areas.
- **Doctrinal method**, used to analyze the applicable law in order to detect legal gaps and develop proposals for its improvement based on international standards for the protection of children's rights.

The legal sources used in this study include the Constitution of Ukraine, regulations by the public authorities of Ukraine, and international regulations. The empirical sources include documents relating to the activities of public authorities, local governments, and children's rights NGOs.

Child protection emergency response in Ukraine must be a part of a bigger strategy to create profound changes in the protection of children's rights, rather than a temporary fix. This requires developing mechanisms to support adoptive parents and foster families, improving the existing foster care system, increasing institutional capacity of childcare services and other authorities concerned, facilitating proper international coordination and interagency cooperation, ensuring children's access to psychological support, social rehabilitation services, education, etc. It is also important to develop a long-term strategy providing for the creation of social and regulatory environment to better support families, prevent children

being separated from parents, and mitigate harm to children deprived of parental care.

The integration of emergency response mechanisms in the deinstitutionalization process underway in Ukraine is crucial for ensuring steady development of the childcare system and preventing institutionalization of children. This will allow to promptly response to the challenges of the current crisis, as well as develop a new childcare approach taking into account children's personal needs even in the most difficult and unpredictable situations.

ABBREVIATIONS AND ACRONYMS

DI	Deinstitutionalization
UN	United Nations
UN GA	United Nations General Assembly
PU	Parliament of Ukraine
FF	Foster family
FCCH	Family childcare home
LU	Law of Ukraine
Cr. C.	Criminal Code of Ukraine
CMU	Cabinet of Ministers of Ukraine
MoH	Ministry of Health of Ukraine
MSP	Ministry of Social Policy of Ukraine
MRTOT	Ministry of Reintegration of Temporarily Occupied Territories
NSSU	National Social Service of Ukraine
IIAS	Integrated Information and Analysis System
UISSS	Unified Information System of the Social Sphere
Fam. C.	Family Code of Ukraine
ECHR	European Court of Human Rights
Civ. C.	Civil Code of Ukraine
WHO	World Health Organization
IDP	Internally Displaced Person
SSC	Single contribution to obligatory state social insurance
SP	Sole proprietorship

Section 1

RESPONSE MEASURES FOR CHILD PROTECTION IN EMERGENCIES

1.1 MEANING AND SIGNIFICANCE OF EMERGENCY RESPONSE IN THE CONTEXT OF THE CHILDCARE SYSTEM REFORM

In today's world, characterized by a growing number of crises and emergencies, child protection is becoming one of the most important priorities. Wars, natural disasters, economic crises and other extreme circumstances pose a danger to children. Their lives, health, and development as one of the most vulnerable categories of the population are exposed to significant threat in such circumstances. Therefore, an effective emergency response system that can quickly and effectively protect children from threats and risks, as well as provide them with required assistance and support, is crucial.

This is especially true for Ukraine, which has been facing numerous challenges in recent years due to the armed aggression of the Russian Federation and its devastating consequences. The war in Ukraine, which has been going on since 2014, has caused a serious humanitarian crisis, particularly for children. Many of them have been victims or witnesses of violence, deported, abducted; lost parents, homes and access to medical, social and educational services. Economic instability and forced displacement have also added to the difficulties.

The current state of war and the focus on responding to military issues depletes the resources of the state and society which would

otherwise be used to develop an adequate child protection system. The problems that existed before the full-scale invasion have been compounded by the issues of returning Ukrainian children from deportation, supporting evacuated children and families with children abroad, and adapting the system of education and social services for children to security risks. All these challenges require additional funding in the context of resisting the aggressor and maintaining the country's defense capability.⁶

In the context of military challenges, emergency response measures in Ukraine are crucial. They include immediate interventions to ensure the fundamental needs of children, a safe family environment, medical and psychological assistance, legal protection, rehabilitation, etc. These measures require coordination between the authorities, international and non-governmental organizations, and local communities.

One of the most vulnerable categories among children is children placed in institutional care. According to the data provided by the MSP in the Shadow Report to Chapter 23 "Justice and Fundamental Rights" of the European Commission's Report on Ukraine in 2023, there are about 25,500 children living in institutions, and only 5.5% of them are children whose parents

⁶ Shadow report to Chapter 23 "Justice and Fundamental Rights" of the European Commission's Report on Ukraine in 2023 [Online]. Available at <https://zmina.ua/publication/tinovyj-zvit-do-rozdilu-23-pravosuddya-ta-fundamentalni-prava-zvitu-yevropejskoyi-komisiyi-shhodo-ukrayiny-u-2023-roczij/>.

are deprived of parental rights. 20, 000 children have parents, but they stay in institutions. Many children have disabilities and are forced to live in institutions due to the lack of appropriate social infrastructure in their communities. The pace of creation of local social services for children with intellectual and psychosocial disabilities is extremely slow.⁷

The process of deinstitutionalization (hereinafter — the DI) in Ukraine officially began in 2017 with the approval by the CMU of the National Strategy for Reforming the System of Institutional Care and Education of Children for 2017–2026 and the Action Plan for the Implementation of Its Stage I (August 9, 2017).⁸

On November 20, 2023, on World Children's Day, the Coordination Center for the Development of Family Education and Child Care presented a draft of a new strategy, the Strategy for Ensuring the Right of Every Child in Ukraine to Grow Up in a Family Environment, which takes into account the current challenges of full-scale invasion.

On November 26, 2024, the CMU Resolution № 1201-r adopted the Strategy for Ensuring the Right of Every Child in Ukraine to Grow Up in a Family Environment for 2024–2028 and the Operational Action Plan for Its Implementation for 2024–2026 (hereinafter also referred to as the Strategy),⁹ and before that, the CMU Resolution approving the previous strategy was declared invalid.¹⁰

The new Strategy is based on fundamental values and guidelines for shaping policies and practices aimed at ensuring the right of every child to grow up in a family environment. It will be implemented in two phases over 2024–2028: the first in 2024–2026 and the second in 2027–2028.

The Strategy sets out six strategic goals:

- 1) increase the capacity of families with children to care for and raise children, provide them with a safe and developmentally appropriate environment;
- 2) ensure the growth of orphans and children deprived of parental care, including children with disabilities, in a family environment;
- 3) ensuring the growth of temporarily displaced (evacuated), forcibly displaced, deported children, as well as children from temporarily occupied territories, territories where hostilities are or may be conducted, who have returned or evacuated to safe regions of Ukraine in a family environment, and their integration into the life of the territorial community;
- 4) observance of the rights and interests of children during the reform of institutions providing institutional care and education, preservation and allocation of resources of such institutions to support children and families with children in territorial communities;
- 5) ensuring that children and persons with experience of alternative care and education

⁷ Shadow report to Chapter 23 "Justice and Fundamental Rights" of the European Commission's Report on Ukraine in 2023 [Online]. Available at <https://zmina.ua/publication/tinovyj-zvit-do-rozdilu-23-pravosuddya-ta-fundamentalni-prava-zvitu-yevropejskoyi-komisiyi-shhodo-ukrayiny-u-2023-roczj/>.

⁸ Order of the Cabinet of Ministers of Ukraine on the National Strategy for Reforming the System of Institutional Care and Education of Children for 2017–2026 and the Action Plan for the Implementation of Its First Stage № 526-r dated August 9, 2017 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/526-2017-%D1%80#Text>.

⁹ Strategy for Ensuring the Right of Every Child in Ukraine to Grow Up in a Family Environment for 2024–2028, approved by the Order of the Cabinet of Ministers of Ukraine on Approval of the Strategy for Ensuring the Right of Every Child in Ukraine to Grow Up in a Family Environment for 2024–2028 and Approval of the Operational Action Plan for 2024–2026 for Its Implementation № 1201-r dated November 26, 2024 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/1201-2024-%D1%80#Text>.

¹⁰ Resolution of the Cabinet of Ministers of Ukraine on the Invalidation of Certain Acts of the Cabinet of Ministers of Ukraine № 1368 dated November 26, 2024 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/1368-2024-%D0%BF#n11>.

can establish social relations that contribute to their successful integration into the life of territorial communities;

- 6) creation of organizational and legal conditions for ensuring the implementation of the Strategy.

Provided that all tasks envisaged by the Strategy are implemented, the forecast for 2028 is as follows:

- Increase in the number of orphans and children deprived of parental care raised in family-based care by up to 95%;
- Reduction of the number of children receiving institutional care and education by 40%, and children under 3 years old by 80% vs 2023;
- Increase in the number of children with disabilities and/or special educational needs receiving social, medical and educational services in local communities by 30%.

As noted in the Strategy, its implementation will also allow, in particular, to:

- ensure temporary placement of children under 3 years old who have been left without parental care in families of friends, relatives, foster care families, and family-based care if required;
- increase the level of satisfaction of families with children with the support provided by the state and the availability of universal and social services;
- increase the number of parents who receive support from relatives, the local community and the state in caring for and raising children with disabilities;
- create conditions for the integration and full-fledged participation of children with disabilities and their families in the life of the local community;
- ensure the development of adoption and the creation of an adequate number of

family-based forms of care for the placement of orphans and children deprived of parental care.

Definitely, the DI reform is complex and multifaceted, because residential institutions are under the jurisdiction of three ministries. Each region should evaluate its network of residential institutions, find out which children are placed there and why, what social services are available now, and prepare its own strategic plan for implementing the DI reform. One general specific DI model cannot be 100% effective in all regions, as each region has its own features, ranging from economic potential and financial support to mentality.

Another important component of the DI reform should be a successful information policy, i.e. awareness of Ukrainian citizens about the reform and existing family-based forms of placement and care, as well as realistic coverage of the categories of children in need of family-based placement.

Overall, it can be concluded that the Strategy update is a timely and important step towards DI. However, its implementation requires further updating and improvement of the applicable regulatory framework.

It should also be noted that within the framework of the European integration process, Ukraine is not required to follow a specific model of childcare reform, as they differ from country to country; Ukraine can choose its own path based on its own needs, capabilities and realities, as long as it is effective and child-centered. On the other hand, the problems of evacuated children that we are currently witnessing in the EU countries indicate that it is advisable to align the regulation of placement forms with the European one as much as possible, especially in the context of making relevant decisions by family courts.



Speaking about emergency response measures, it is first required to define the **terminology** used both at the national and international level.

Under Ukrainian law, the definitions of crisis and emergency have different legal frameworks and meanings. A crisis situation is a broader concept and may include various types of problems that affect society, the economy or other areas of life. In the applicable laws, the term “crisis situation” is defined in the *MSP Order on Approval of the State Standard of Social Services for Crisis and Emergency Intervention № 716 dated July 1, 2006*,¹¹ which means a situation in which a set of traumatic events and circumstances appears, from which a person cannot get out without changing them. The available options for changing these circumstances are scarce, and any attempt to change the circumstances in traditional or conventional ways can lead to a worsening of the situation, a reduction of opportunities and even greater restriction of actions.

At the same time, the term “crisis” is used in different contexts, in particular, “economic crisis”, “social crisis”, “financial crisis”,¹² “international crisis”, “environmental crisis”,¹³ “humanitarian crisis”,¹⁴ etc., i.e. to describe different types of adverse conditions.¹⁵

Unlike a crisis situation, an emergency situation is specifically defined in the laws of Ukraine and includes clear criteria and procedures for response. According to paragraph 24 of Part 1 of Article 2 of the *Code of Civil Protection of Ukraine*,¹⁶ “an emergency is a situation on a particular territory or an economic entity thereof or a water body characterized by a violation of normal living conditions of the population caused by a disaster, accident, fire, natural disaster, epidemic, epizootic, epiphytotic, the use of weapons or another dangerous event that has created (may create) a threat to the life or health of the population, a large number of dead and injured, significant material damage, as well as the inability of the population to live in such a territory or entity, or to conduct economic activity there.” Depending on the nature of the origin of events that may cause emergencies in the territory of Ukraine, they can be classified into man-made, natural, social, and military emergencies.

Thus, a crisis situation may occur as a result of an emergency.

Along with the term “**emergency situation**”, national legislation also uses the terms “**state of emergency**”¹⁷ and “**martial law**”.¹⁸ Without going into an in-depth analysis of the

¹¹ Order of the Ministry of Social Policy of Ukraine on Approval of the State Standard of Social Services for Crisis and Emergency Intervention № 716 dated July 1, 2006 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/z0990-16#Text>.

¹² Law of Ukraine on Establishment of the Subsistence Minimum and Minimum Wage № 1646-VI dated October 20, 2009 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/1646-17#Text>.

¹³ Law of Ukraine on the National Program of Toxic Waste Management № 1947-III dated September 14, 2000 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/1947-14#Text>.

¹⁴ Order of the Cabinet of Ministers of Ukraine on Approval of the State Targeted Social Program for Combating Trafficking in Human Beings Until 2025 № 496-r dated June 02, 2023 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/496-2023-%D1%80#Text>.

¹⁵ Law of Ukraine on Preventing the Impact of the Global Financial Crisis on the Development of the Construction Industry and Housing Construction № 800-VI dated December 25, 2008 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/800-17#Text>.

¹⁶ Code of Civil Protection of Ukraine [Online]. Available at <https://zakon.rada.gov.ua/laws/show/5403-17#Text>.

¹⁷ Article 1 of the Law of Ukraine on the Legal Regime of the State of Emergency № 1550-III dated March 16, 2000 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/1550-14#Text>.

¹⁸ Article 1 of the Law of Ukraine on the Legal Regime of Martial Law № 389-VIII dated May 12, 2015 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/389-19#Text>.

correlation between these concepts, we will only note that the procedure for introducing and the legal consequences (primarily in terms of eventual restrictions of individuals' rights) of the emergency situation, state of emergency or martial law regime differ according to the national legislation.

Unlike the laws of Ukraine, international documents do not always distinguish between these concepts, and the general term "emergency situation" is the most common there.

For example, *the Guidelines for the Alternative Care of Children, approved by UN General Assembly Resolution A/RES/64/142 dated December 18, 2009*¹⁹ (hereinafter also referred to as the Guidelines for the Alternative Care of Children) contain a separate Section IX "Care in Emergencies", where paragraph 153 states that emergencies arise as a result of natural and man-made disasters, including international and local armed conflicts and foreign occupation. *The UN Guidelines on Deinstitutionalization, Including in Emergencies*, adopted in 2022²⁰ (hereinafter also referred to as the DI Guidelines) define emergency situations as pandemics, natural disasters or conflicts (paragraph 107).

For the sake of consistency of terminology and understanding, we will hereinafter use the term "**emergency situation**" based on the meaning in which it was used in both of the above international documents.

Further to that, the laws of Ukrainian use the term "**difficult life circumstances**", which is associated with the provision of additional social guarantees to children. Article 1 of the *Law of Ukraine on Protection of Childhood* defines

a "child in difficult life circumstances" as "**a child who found him/herself in the conditions adversely affecting his or her life, health and development due to** disability, serious illness, homelessness, conflict with the law, involvement in the worst forms of child labor, addition to psychotropic substances and other types of addiction, ill-treatment, including domestic violence, evasion of parents or persons in loco parentis from fulfilling their duties, **circumstances of natural disaster, man-made accidents, catastrophes, military operations or armed conflicts**, etc. as determined following the child's needs assessment." Similar provisions can also be found in paragraph 15 of Part 1 of Article 1 of the *Law of Ukraine on Social Services*. Thus, the emergency situation in which a child finds himself or herself may serve as a basis for recognizing a child as being in difficult life circumstances, which, in turn, warrants the provision of a range of required services and social assistance to the child and his or her parents.



In the absence of a clear regulatory definition of the term "*emergency response measures*" and based on the analysis of the existing rules and terminology used in the applicable laws of Ukraine, it can be assumed that **emergency response measures** should be generally understood as a set of legal, socio-economic, political, organizational, technical, sanitary, hygienic and other procedures, mechanisms and instruments aimed at regulating man-made, natural and other safety, assessing risk levels, and responding in advance to threats to the threat of an emergency and overcoming its consequences.

Emergency response measures used in the emergency situations can be conventionally

¹⁹ Resolution adopted by the General Assembly on December 18, 2009 [Online]. Available at <https://documents.un.org/doc/undoc/gen/n09/470/35/pdf/n0947035.pdf>.

²⁰ Committee on the Rights of Persons with Disabilities "Guidelines on deinstitutionalization, including in emergencies" [Online]. Available at <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd5-guidelines-deinstitutionalization-including>.

divided according to the criterion of the time of implementation into *operational and tactical measures* carried out in response to emergency calls (evacuation, emergency assistance), *preventive (prophylactic) measures* carried out on a permanent or regular basis before emergency situations and help reduce the negative impact of an emergency situation at the time of its occurrence, and *rehabilitation and restoration measures* that are aimed at mitigating the negative impact of an emergency situation as soon as possible (in particular, the placement of children in temporary forms of family care, ensuring a sustainable transition to a permanent family environment).



As noted above, emergency response measures in emergency situations are of particular importance in relation to children placed under institutional care or left without parental care due to emergency circumstances as the most vulnerable category. The system of emergency response measures should provide immediate support to such children, integrating into the overall context of deinstitutionalization, i.e. the transition from outdated institutional approaches to modern, family-oriented forms of care and raising.

Given that **the DI reform** in Ukraine has not been finished yet, on the one hand, the number of children in institutions may increase due to the loss of parental care, and on the other hand, statistics show that children in emergency situations are massively returned from institutions to their biological families, which can also put them at risk. For example, in Ukraine, more than 90% of children who were living in institutions at the onset of the full-scale invasion were returned to their parents without a prior assessment of their safety, living conditions, or

ability to fulfill their responsibilities properly. Dozens of children are known to have disappeared after such actions.²¹

Speaking of the DI in an emergency situation, the following key points should be noted.

First, *the emergency situation cannot serve as an excuse or reason to suspend or take a formalistic approach to the DI process in Ukraine.* On the contrary, in this case, the circumstances require closer attention to the relocation of children in these institutions, their return to biological families, and ensuring prompt temporary family placement of children left without parental care.

This approach is in line with the provisions of the fundamental international documents on DI and alternative care, which, although recommendatory, are a valuable guide in shaping the national regulatory framework and developing national strategies, policies, and standards for child protection in emergency situations.

For example, the Guidelines for Alternative Care contain a separate section IX “Care in Emergency Situations”, where paragraph 153 states that they continue to apply in emergency situations; individuals and organizations wishing to work on behalf of children without parental care are encouraged to act in accordance with these Guidelines. Paragraph 107 of Section VIII “Emergency DI in Risk and Humanitarian Emergency Situations, Including Conflict” of the DI Guidelines states that during emergency situations, Member States should continue and accelerate efforts to close institutions, and should make immediate efforts to identify unaccompanied and separated children with disabilities to prevent their placement in institutions. Plans to accelerate the DI should be

²¹ Roadmap for ensuring the rights and best interests of the child. P. 64. [Online]. Available at <https://childrights.org.ua/wp-content/uploads/2024/04/draft.pdf>.

included in national strategies and implemented immediately in emergency situations. Even in emergency situations, Member States should adhere to internationally agreed minimum core standards, avoiding isolation, ill-treatment, discrimination, etc. (paragraph 108).

Second, despite the importance of continuing and accelerating the *DI in emergency situations*, *it cannot be done at the expense of simplifying procedures if it provokes risks for children*.

From Ukraine's experience, this can be clearly demonstrated by the example of the adoption procedure, when in the first months of the full-scale invasion, fakes about simplifying and speeding up the adoption procedure under martial law were spread on the Internet, colored by the slogans "rush to take the children." Undoubtedly, "simplified" adoption does not meet the best interests of the child, especially under martial law, when these risks are exacerbated. At the same time, martial law has launched the digitalization of adoption procedures (the ability to get advice online, apply for registration of a prospective adopter, etc.), but this acceleration is justified because it does not involve risks to the interests of children.

That is, simplified procedures, if they do not pose risks to children, can be applied in emergency situations. Another example of this is the possibility to register the guardianship (custody) of a child by persons who are in family or kinship relations with such a child under a simplified procedure, without undergoing a training course, under Ukrainian law, in the context of martial law and a state of emergency (paragraph 79 of the *Procedure for the Conduct of Activities Related to the*

Protection of Rights of the Child by Guardianship and Custody Authorities, approved by Resolution of the Cabinet of Ministers of Ukraine "Issues of Activities of Guardianship and Custody Authorities Related to the Protection of Rights of the Child" № 866 dated September 24, 2008 (hereinafter also referred to as the CMU Resolution № 866)).²²

Third, the DI Guidelines (paragraph 113) state that Member States should ensure *that institutions are not rebuilt or reoccupied after emergency situations*; States should provide sufficient financial and human resources to ensure that persons with disabilities are not left behind in response and recovery processes; measures to achieve this may include withdrawal from funding institutions and may include directing funds to community-based supports and services.

In Ukraine, due to the war, the system of institutional care facilities "has only strengthened its position due to assistance from international and private donors, who, instead of preserving the family for the child, invest in the reconstruction of destroyed and new boarding schools, and this is a systemic problem. That is why one of the tasks during the war and in the post-war period should be to create a system of protection of children's rights, in which the *existing developed services for children and families with children, family-based forms of education, etc.* take a prominent place."²³

Thus, in emergency situations, emergency response measures should be structured in such a way that the above-mentioned key DI-related provisions can be implemented.

²² Resolution of the Cabinet of Ministers of Ukraine "Issues of Activities of Guardianship and Custody Authorities Related to the Protection of Rights of the Child" № 866 dated September 24, 2008 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/866-2008-%D0%BF#Text>.

²³ Roadmap for ensuring the rights and best interests of the child. C. 4. [Online]. Available at <https://childrights.org.ua/wp-content/uploads/2024/04/draft.pdf>.

1.2 TYPES OF EMERGENCY RESPONSE MEASURES

As the current situation in Ukraine demonstrates, in the context of a full-scale invasion and other associated crisis phenomena, it is clear that peacetime algorithms do not work in full and conventional approaches must be adapted to new realities.

The Council of Europe's Strategy for the Rights of the Child for 2022–2027 "Children's Rights in Practice: from Sustainable Implementation to Joint Innovation" (section 2.6. "Children's Rights in Crisis and Emergency Situations") emphasizes the need to build strong child protection systems that are able to adapt to emergency situations. The Strategy emphasizes the need to embed the possibility of rapid transformation into sustainable solutions to enable emergency response measures, if required.

It is important that section 2.6 of the Strategy contains not only recommendations from experts of the Council of Europe, but also from children themselves. For example, children suggest: "...to guarantee permanent free access to the health care system for children in crisis and emergency situations and to ensure timely access to treatment, respecting the right of children to be heard and to provide informed consent in a manner appropriate to their age."

An equally important strategic direction is the focus on developing capacities and tools to support Member States' efforts to protect children in the environment of armed conflicts, as well as reintegration and rehabilitation of children returning from conflict zones, as set out in paragraph 6.2.4 of the Strategy.

The success of child protection measures during emergency situations depends on several key points. *First*, promptness is critical: measures must be implemented without delay to reduce

risks to children. *Second*, coordination between government agencies, international organizations, national non-governmental organizations, civil society initiatives and local communities is essential to ensure a comprehensive and coherent response. *Third*, a custom approach that takes into account the age, health, social, educational and other needs of children is necessary. Finally, transparency and accountability in the implementation of measures is important for regular monitoring and evaluation of their effectiveness, allowing for timely adjustments to strategies if required.

Emergency response measures, regardless of their prompt implementation, should be applied ***with the best interests of the child in mind***. Definitely, ensuring that such interests are respected is a much more difficult task in a crisis situation, when there is a need for their prompt but still comprehensive assessment, taking into account all possible risks. In this regard, ***mechanisms, criteria, and algorithms for assessing and observing the best interests of the child in emergency situations, are of great importance. They should permeate all response measures in all areas and be developed on the basis of standards for the protection of children in emergency situations***. This will make it possible not just to formally use the term "best interests of the child" when making both short-term and long-term decisions regarding the child, but to add real, balanced meaning to this concept, which ensures the best results for a particular child in the prevailing circumstances.



Depending on the scope of application, the following groups of emergency response measures can be highlighted. They are often closely intertwined, as emergency situations require a comprehensive approach.

Physical security measures are primarily evacuations from high-risk areas and the construction of shelters in places where children will be staying thereafter. These are priority measures aimed at the immediate relocation of children from dangerous regions and the provision of safe spaces that meet the basic needs of children.

No less important than physical security measures are **medical and sanitary measures** that ensure the life and health of children and their accompanying persons both during evacuation and in places of temporary residence. These include both mobile teams and clinics available in transit centers and places of temporary residence, as well as preventive measures to prevent epidemiological diseases (immunization, medical examinations, emergency medical care and creating opportunities for evacuees to receive routine medical care).

Psychological support also plays a significant role in the emergency response system. In emergency situations, it is an integral element of ensuring the well-being of children and their integration into society. Psychological support includes emergency assistance aimed at stabilizing the emotional state of children immediately after traumatic events, as well as long-term therapeutic work to overcome the effects of stress. Methods such as art therapy, group and individual counseling help children express their emotions and reduce anxiety.

Measures to ensure a family environment and prevent children from being placed under institutional care are aimed at reuniting a child with his or her biological family in the event of separation or providing the child with care in a family environment. They include actions to find children deprived of parental care, identify them, search for their relatives (friends), place them under temporary family-based care, register the status of an orphan

or a child deprived of parental care, if appropriate, and ensure a sustainable transition to permanent family-based care or return to the biological family.

Educational measures in emergency situations are aimed at ensuring the continuity of education and creating a safe educational environment. These include the adaptation of educational programs, the introduction of distance learning and mobile learning centers for those who cannot attend educational institutions, the arrangement of a safe educational environment in educational institutions, and the creation of educational centers for internally displaced children, where they can receive not only education but also support for integration into new communities. An important element is psychological support in schools to help children overcome stress, adapt to the new learning environment, and prevent or counteract bullying. For older children, there should be vocational guidance and skills development programs allowing them to continue their education and prepare for the future in times of crisis. Educational measures not only ensure access to knowledge, but also contribute to stability and restore the normal rhythm of children's lives.

Legal and juridical measures to protect children in emergency situations include the development of relevant regulations, compliance with international conventions such as the UN Convention on the Rights of the Child, implementation of the Guidelines for Alternative Care and the DI Guidelines, ensuring access to justice, legalizing temporary placement of children without parental care, granting children various legal statuses (orphaned or deprived of parental care, granting the status of a child affected by hostilities and armed conflicts, etc.), registering a child as an internally displaced person, restoring documents, documenting crimes against children, etc.

Measures to prevent violence and exploitation of children in emergency situations include awareness-raising campaigns to raise awareness of the risks, the establishment of protective mechanisms and support services such as hotlines and crisis centers, as well as continuous monitoring of children's locations to identify potential threats. Along with this, it is important to apply the other measures mentioned above, such as providing psychological and legal support to children-victims and cooperating with law enforcement agencies to protect them.

Measures to ensure the reintegration and social rehabilitation of children are aimed at developing opportunities and tools to support children who have returned from war zones, after deportation, evacuation abroad, or internal displacement. All reintegration activities must be monitored carefully, ensuring the confidentiality and security of the information collected, in order to avoid any risks to children or their families. Social rehabilitation includes returning children to school, promoting their social integration, as well as organizing cultural and recreational programs that help restore their emotional well-being. These activities help children regain a sense of stability, find new social connections and prepare for the future.



According to the national legislation, the priority child protection measures in emergency situations shall be arranged in accordance with the *Procedure for Ensuring Social Protection of Children in Difficult Life Circumstances, Including Children-Victims of Abuse*, approved by Resolution of the Cabinet of Ministers of Ukraine on Ensuring Social Protection of Children in Difficult Life Circumstances № 585 dated June 1, 2020.²⁴ The Procedure defines the mechanism

of interaction between public authorities, local self-administration bodies, educational, health-care, social protection institutions, as well as other institutions and agencies in order to ensure social protection of children in difficult life circumstances.

Thus, a child's **right to additional social guarantees is primarily related to the fact that he or she is in difficult life circumstances**. The factors causing such circumstances include, but not limited to, hostilities, terrorist acts, armed conflicts, and temporary occupation.

In order to arrange social protection of children in difficult life circumstances, the guardianship and custody authority shall decide to establish an interdisciplinary team (commission) within the relevant administrative-territorial unit from among the authorized entities, subject to determination of the powers of the children's service to organize the activities of the interdisciplinary team by determining its personal composition based on the proposals of the entities to provide assistance to each specific child in difficult life circumstances, as well as interdisciplinary team meetings.

In accordance with the conclusion on the level of the child's security based on the results of the assessment, the further actions to ensure social protection and the expediency of taking immediate measures for the safety and protection of the child, in particular, the provision of emergency (crisis) intervention social services, are determined in view of the following status: safe — no further actions needed; no signs of danger — the assessment of the needs of the child and his/her family is needed; dangerous — immediate action within the family, in particular, assessment of the needs of the child and his/her family is needed; very

²⁴ Resolution of the Cabinet of Ministers of Ukraine Procedure for Ensuring Social Protection of Children in Difficult Life Circumstances, Including Children-Victims of Abuse № 585 dated June 01, 2020 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/585-2020-%D0%BF#Text>.

dangerous — immediate removal of the child from parents, other custodians, and caregivers of the child.

When difficult life circumstances require urgent intervention in a crisis situation in order to immediately eliminate or minimize the consequences of such a situation, provide assistance and support aimed at overcoming the same, **an emergency (crisis) intervention service** is provided in accordance with the state standard approved by *Order of the Ministry of Social Policy of Ukraine on Approval of the State Standard of Social Service of Crisis and Emergency Intervention № 716 dated July 1, 2006*.²⁵ The core activities determining the content of this social service include assessment of the crisis situation; detailed analysis and discussion; informing about the crisis situation, its consequences; ensuring human rights in a crisis situation; ways and procedures for receiving assistance; meeting urgent basic needs (safety, nutrition, medical care, clothing, etc.); organization and provision of psychological support in a crisis situation and assistance in overcoming its consequences (mental diagnostics, psychological counseling, psychological support); assistance in obtaining documents.

In view of the introduced martial law, *the Law of Ukraine on Social Services*²⁶ was substantially amended in the matters of the terms of service provision, ensuring the prompt provision of social services (emergency (crisis) interventions — immediately (within a day) due to circumstances that threaten the life and/or health of the recipient of social services) to children affected by the introduction of a state of emergency or martial law in Ukraine in order to preserve their lives and health (Articles 21,

23). Social services shall be provided through emergency (crisis) interventions (counseling, shelter, care, supported accommodation, short-term accommodation, in-kind assistance, transportation services, etc.) in the event of a threat to a person's life or health and in the event of a state of emergency or martial law in Ukraine or some of its localities.

In emergencies, the mechanisms for identifying children deprived of parental care, especially high-quality **systems for registering, identifying and searching for children**, are of particular importance.

In Ukraine, such a system is currently the IIAS "Children", which is designed to accumulate, store, record, search and use data on children left without parental care, orphans, children deprived of parental care and persons referred to the same category, children who are candidates for adoption, children in difficult life circumstances, including children affected by military operations and armed conflicts, temporarily displaced (evacuated) in the territory of Ukraine where military (combat) operations are not taking place or abroad, prospective adopters, prospective guardians, custodians, caregivers, foster parents, foster caregivers, and institutions in the Unified Data Bank.

As of the beginning of the full-scale invasion, not all regional office of the children's commissioners were connected to the said system and information on a certain number of children was not entered or entered late, and with the beginning of the armed aggression, the office of the children's commissioners of the eastern and southern regions of Ukraine bordering Russia were disconnected from the system for

²⁵ Order of the Ministry of Social Policy of Ukraine on Approval of the State Standard of Social Services for Crisis and Emergency Intervention № 716 dated July 1, 2006 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/z0990-16#Text>.

²⁶ Law of Ukraine on Social Services № 2671-VIII dated January 17, 2019 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/2671-19#Text>.

security reasons, which became a significant obstacle to monitoring and updating the system. The authority to enter and update information about evacuated and displaced children was delegated to the office of the children's commissioners of the other (safer) regions, and with the launch of the web version at the end of 2022, IIAS "Children" resumed its work all over the country. However, despite the above, there is a risk of losing data on children, especially those who were evacuated abroad in the early days of the war without a proper package of documents and those whose information was contained in the lists and relevant logs in a non-digitized form.

Thus, it is required to update the outdated information system to meet the current challenges and the state-of-the-art information technology.

It is also important to ensure continuous automatic updating of IIAS "Children" using the other registries, in particular the State Civil Status Registry and the Unified State Demographic Registry, in order to make timely decisions regarding children and minimize the risks of violating their rights. Currently, IIAS "Children" is updated manually with information from the other registries.

With regard to the systems for identifying children left without parental care since the full-scale invasion, the Ministry of Reintegration, together with the National Information Bureau, on instruction of the Office of the President of Ukraine created a nationwide platform — the [Children of War](#) state portal to searching for children. The purpose of the information portal was to provide up-to-date and consolidated information about children who, first

of all, suffered physically as a result of armed aggression against Ukraine: the location of the wanted child; the crime committed against the child; disappearance, deportation, forced displacement; and cases of forced loss of citizenship. Quantitative indicators are updated by law enforcement agencies. At the same time, the comprehensiveness of the data on this website is currently questionable.



Paragraph 112 of the DI Guidelines states that DI should be reflected in national emergency protocols, including, in particular, **evacuation scenarios**.

The CMU responded quickly enough to the wartime challenges and issued Resolution № 385 dated March 27, 2022, approving *the Procedure for Temporary Relocation (Evacuation) and Ensuring Conditions of Stay in the Territory of Ukraine, Where No Hostilities Are Waged, or Abroad for Children and Persons Residing or Enrolled in Institutions of Various Types, Forms of Ownership and Subordination for Round-the-Clock Stay*. This Resolution expired on June 1, 2023, but became the basis for the updated CMU Resolution № 546 dated June 1, 2023, and the new *Procedure for the Temporary Relocation (Evacuation) of Children and Persons Residing or Enrolled in Institutions of Various Types, Forms of Ownership and Subordination for Round-the-Clock Stay and Their Return to the Place of Permanent Residence (Stay), and in the Case of Leaving Ukraine — to Ukraine*.²⁷ Prior to the military invasion, the relevant issues were not regulated and during the first weeks of the war, children were simply evacuated according to the lists without any documents, without documented information about who was accompanying them, etc.

²⁷ Resolution of the Cabinet of Ministers of Ukraine on Temporary Displacement (Evacuation) of Children and Persons Residing or Enrolled in Institutions of Different Types, Forms of Ownership and Subordination for Round-the-Clock Stay and Their Return № 546 dated June 01, 2023 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/546-2023-%D0%BF#Text>.

Significant amendments in national legislation in this area also were made in August 2022, when the *Resolution of the Cabinet of Ministers of Ukraine on Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on Improving the Evacuation Mechanism № 940 dated August 23, 2022*²⁸ was adopted, which approved the legal consequences of the refusal of guardians (custodians), foster parents, parents-caregivers, heads of relevant institutional institutions, foster caregivers from evacuation under martial law by amending a number of bylaws regulating the functioning of the FFs, FCCs, the establishment of custody (guardianship) over a child, etc. This resolution also supplemented the *CMU Resolution on Approval of the Procedure for Evacuation in the Event of a Threat or Occurrence of Emergency Situations № 841 dated October 30, 2013*²⁹ with a form of waiver from evacuation in writing (the form of waiver was amended in 2023³⁰).

For example, if guardians (custodians), foster parents, parents-caregivers, foster caregivers waive from compulsory evacuation of orphans or children deprived of parental care (the refusal shall be declared in writing), the guardianship or custody of such children shall be terminated. This means that in this case, the guardianship and custody authorities decide to terminate the guardianship (custody) over the child or unilaterally terminate the agreements on the placement of children for raising and residing in a foster family, on the organization of the activities of a relevant family-type children's home, on foster care over the child and implement measures to evacuate such children.

However, as for parents, national legislation did not provide for effective mechanisms to influence them in case of waiver from compulsory evacuation from dangerous regions until March 2023. Until then, the compulsory evacuation of the population from areas of potential hostilities to safe regions was envisaged, and a person (including parents with children) could waive from the mandatory evacuation by signing a waiver in the form prescribed by law. This resulted in parents' waiver from evacuation, which exposed them and their children, who remained living with them in the areas where hostilities were taking place, to severe danger. The reasons for this refusal varied: uncertainty about further resettlement in safer areas, attempts to ensure the safety of at least movable property, etc.

The legal mechanisms that existed until March 2023 and intended to influence parents who did not want to evacuate their children could not be called effective: taking a child away from his or her parents without deprivation of parental rights (Article 170 of the Family Code); bringing to administrative responsibility (Article 184 of the Code of Administrative Offenses) or criminal liability (Article 166 of the Criminal Code) for parents' failure to fulfill their obligations. This is because the relevant procedures often require considerable time and the participation of authorized persons, which is difficult to ensure in a war zone when the situation requires a prompt response.

This forced the Government to adopt new regulations, i.e. to introduce the forced evacuation

²⁸ Resolution of the Cabinet of Ministers of Ukraine on Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on Improving the Evacuation Mechanism № 940 dated August 23, 2022 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/940-2022-%D0%BF#Text>.

²⁹ Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Evacuation in Case of Threat or Occurrence of Emergency Situations" of October 30, 2013, № 841 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/841-2013-%D0%BF#Text>.

³⁰ Resolution of the Cabinet of Ministers of Ukraine "On Amendments to the Resolutions of the Cabinet of Ministers of Ukraine of October 30, 2013 № 841 and July 29, 2022 № 854" of March 07, 2023 № 209 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/209-2023-%D0%BF#Text>.

of parents (other legal representatives) together with children in areas where hostilities are taking place (*Resolution № 209 dated March 07, 2023 on Amendments to the Resolutions of the Cabinet of Ministers of Ukraine № 841 dated October 30, 2013 and № 854 dated July 29, 2022*).³¹ According to the said resolution, the waiver of parents, persons in loco parentis, or other custodians from compulsory evacuation of children shall be prohibited.

However, the current national legislation still does not provide a direct answer to the question of how to act in cases where parents still waive from compulsory evacuation. This is not mentioned in international legal documents, and there is no relevant ECHR case law either. Notably, the Standards of the Office of the United Nations High Commissioner for Refugees and UNICEF (developed for Yugoslavia in 1992) provide for the possibility of evacuating unaccompanied children if there is *a high risk of loss of life (with a balance of needs, risks and eventual adverse consequences of evacuation being assessed)*.³²

In 2024, the Protection Cluster, jointly with the Child Protection Cluster in Ukraine, issued *Guidance on Humanitarian Evacuations of Civilians in Ukraine with Special Considerations for Children*,³³ which include the following important provisions on evacuation measures: "Children may be separated from their custodians only as a last resort, for the shortest possible period, and only when it is in the best interests of the child. Separated children should never be placed in group homes. If a family separation

occurs during an evacuation due to the urgency of the emergency situation, it should be investigated whether the evacuation was carried out with the best interests of the child in mind, the priority of family care and family reunification after separation."

Definitely, in addition to legal mechanisms, it is important to have properly structured communication with parents or other guardians (conversations, persuasion, informing about accommodation opportunities and services for evacuees in the areas to which they are being evacuated).

It should also be noted that if a child is 14+ years old, pursuant to Part 2 of Article 313 of the Civil Code, he or she has the right to move freely, unaccompanied, within Ukraine, to choose his or her place of residence (for children under 14 years old, this is possible only subject to the consent of the parents and with their accompaniment), and pursuant to Part 2 of Article 29 of the Civil Code, he or she may freely choose his or her place of residence, with restrictions established by law.

Thus, the issue of possible actions during forced evacuation needs to be resolved on a case-by-case basis, taking into account the best interests of the child. The European Court of Human Rights has repeatedly emphasized that when determining the best interests of the child in each case, two conditions must be taken into account: first, it is in the best interests of the child to maintain his or her ties with the family, unless the family is particularly

³¹ CMU Resolution № 209 dated March 07, 2023 on Amendments to the Resolutions of the Cabinet of Ministers of Ukraine № 841 dated October 30, 2013 and № 854 dated July 29, 2022 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/209-2023-%D0%BF#Text>.

³² A Comprehensive Response to the Humanitarian Crisis in the Former Yugoslavia [Online]. Available at https://www.refworld.org/policy/strategy/unhcr/1992/en/15355?prevDestination=search&prevPath=/search?keywords=Standards+%28developed+for+Yugoslavia+in+1992%29&order=desc&sm_document_source_name%5B%5D=UN+High+Commissioner+for+Refugees+%28UNHCR%29&sort=score&result=result-15355-en

³³ Guidance on humanitarian evacuations of civilians in Ukraine with special considerations for children [Online]. Available at <https://reliefweb.int/report/ukraine/guidance-humanitarian-evacuations-civilians-ukraine-special-considerations-children-enuk>.

unsuitable or manifestly dysfunctional; second, it is in the best interests of the child to ensure his or her development in a safe, secure and stable environment that is not dysfunctional (MAMCHUR v. UKRAINE, № 10383/09, § 100, ECHR, July 16, 2015).³⁴

When children are separated from their parents during forced evacuation, the best interests of the child can be considered taken into account *if there is a real threat that the trauma sustained in the combat zone (physical, psychological, etc.) will be significantly greater than the trauma of separation from the child's parents.*

However, in this case, *additional safeguards overcoming the potential risks of children's separation from their guardians* should be provided at the legislative level, such as reporting such separation during forced evacuation to the Ukrainian Parliament Commissioner for Human Rights, the relevant territorial office of the children's commissioner; a transparent procedure for parents to track the child's whereabouts (including electronically, consider developing additional means of identifying the child subject to mandatory compliance with the requirements for personal data protection); proper social support for the evacuated child; ensuring that parents maintain contact (by telephone) with the child if the child has reached the appropriate age; the possibility for parents to resume their parental responsibilities in respect of such a child at any time (without returning to the territory where compulsory evacuation has been introduced); ensuring conditions for family reunification, etc.

Also, the cases when a child remains in the uncontrolled territory for a certain reason, while the parents (other legal representatives) stay in the territory controlled by Ukraine or the

whereabouts of the parents (other guardians) being unknown are quite challenging in the context of evacuation measures and ensuring the reunification of children with their families. In other words, the children actually find themselves without parental care in the occupied territory.

In this regard, the question arises — who in this case can authorize volunteers to evacuate the children concerned to the territory controlled by Ukraine?

In practice, volunteer organizations try to find at least some of the child's relatives who are with him or her in the occupied territory and obtain their authorization to evacuate the child. However, according to civil law, grandparents, aunts, uncles, adult sisters and brothers (even if they live with minors or infants) are not legal representatives of such children. That is, they cannot provide any such authorization.

The possible solution to this problem is as follows:

- 7) the organizations involved in the evacuation of children may obtain prior authorization from parents who are staying in the territory controlled by Ukraine (if there are parents);
- 8) if the whereabouts of the parents are unknown, the following actions may be taken to evacuate the children:
 - declaring parents wanted as missing under special circumstances; assigning the status of being deprived of parental care to a child staying in the occupied territory (subparagraph 12 of paragraph 24 of CMU Resolution № 866); establishing guardianship (custody) over such a child by a person who is in family or kinship relations with the child (paragraph 79–3

³⁴ Judgment of the European Court of Human Rights (Fifth Section) in the case of Mamchur v. Ukraine (Request № 10383/09) [Online]. Available at https://zakon.rada.gov.ua/laws/show/974_a93#Text.

of the said Resolution); adoption of a decision on evacuation by the appointed guardians (custodians);

or

- adoption of a decision on evacuation by guardianship and custody authorities based on Article 65 of the Civil Code: prior to the establishment of guardianship or custody and appointment of a guardian or custodian, the function of guardianship or custody of an individual shall be exercised by the relevant guardianship and custody authority; adoption of a decision on evacuation of the child concerned by such guardianship and custody authority.

As regards reforming the applicable laws in the relevant context, there is a need to empower the State Service of Ukraine for Children to authorize organizations that carry out evacuations to evacuate specific children. This should be a special unit of the Service for work in emergency and crisis situations (martial law and state of emergency), which cooperates with “pre-accredited” NGOs that are involved in evacuation and at the same time are part of the public advisory and monitoring structure of this body.

Therefore, the wording of Article 65 of the Civil Code “Guardianship or custody of an individual in respect of whom no guardian or custodian has been appointed” needs to be clarified. It states that prior to the establishment of guardianship and custody and the appointment of a guardian (custodian), the function of guardianship or custody over an individual shall be exercised by the relevant guardianship and custody authority. At the same time, the legislation should clearly state that this body automatically becomes

a guardian in certain cases (primarily in crisis and emergency situations) when children are actually left without parental care. The legal confirmation of this actual situation is the registration of relevant children as children left without parental care.

In the future, it is important to improve the applicable laws to regulate key evacuation issues exclusively by law.

Currently, the Verkhovna Rada has registered a *Draft Law on Amendments to the Law of Ukraine on the Legal Regime of Martial Law on the Principles of Mandatory Evacuation of Children (№ . 9207, filed on April 14, 2023)*,³⁵ but it does not contain answers to the questions raised. It seems that the application of evacuation measures should be regulated in a separate law, the provisions of which will be devoted, including, but not limited to, the peculiarities of the evacuation of children and which will provide answers to the questions under what conditions the children may be separated from their parents (other guardians) during forced evacuation, as well as additional safeguards for such cases and measures to ensure that children do not return to the territory of forced evacuation until the situation in the relevant territory improves.



The issue of **educational emergency response measures** is an urgent one for government agencies. This is evidenced, in particular, by the series of regulatory and explanatory acts adopted after the full-scale invasion.

In emergency situations, the educational process should be organized in a safe educational environment and implemented in compliance with the principle of continuity, in view of the

³⁵ Draft Law on Amendments to the Law of Ukraine on the Legal Regime of Martial Law on the Principles of Mandatory Evacuation of Children [Online]. Available at <https://itd.rada.gov.ua/billInfo/Bills/Card/41769>.

age, physical, psychological and intellectual development of children, as well as their special educational needs. Under such conditions, it is crucial to have shelters in educational institutions that meet safety requirements and are properly equipped to ensure the educational process therein.

On April 7, 2023, the CMU approved the *Concept of Security of Educational Institutions* by its Order № 301-r.³⁶ This is a policy document aimed at creating equal, appropriate and safe conditions for education, organizing a safe educational environment, in particular in the context of the military aggression of the Russian Federation against Ukraine, which should be implemented during 2023–2025.

The concept focuses on the key challenges in the field of education security, referring, in particular, to the following problems: insufficient number of civil protection structures in educational institutions; low level of compliance of the civil protection structures of educational institutions with the requirements for the possibility of organizing the educational process therein; outdated regulatory framework for civil protection in terms of creating safe conditions of stay in educational institutions for students, teachers, researchers, administrators and other employees.

In order to improve the applicable laws, it is required to enshrine *the right to a safe educational environment*, including in conditions of emergency and martial law, at the legislative level (*the Law of Ukraine on Education*); to clearly define the concept of a safe educational environment in the legislation (*the Law of Ukraine on Education*) with a list of security dimensions

in conditions of emergency and martial law; to enshrine *the principle of continuity of education*, including measures aimed at its maintenance in conditions of emergency and martial law. at the legislative level (*the Law of Ukraine on Education*); to enshrine *the classification of shelters depending on the possibility of meeting the special needs* of the population, including the special educational needs of children, at the regulatory level; to establish *requirements for the arrangement of shelters* depending on the types of disorders and developmental features of children, which would allow, *inter alia*, to ensure the continuity of the educational process; to establish *requirements for the zoning of shelters* in order to ensure the possibility of simultaneous stay of children with different types of disorders and developmental features, as well as for the purpose of separation of personnel not involved in the evacuation and unauthorized persons.³⁷

In emergency situations, digital solutions in the educational sector are also becoming increasingly important, in particular, **an information notification system** that allows providing information about the emergency situation and instructions for children and their legal representatives, including informing them about the children's stay in a shelter. By the way, the Ministry of Digital Transformation of Ukraine is already working on similar functionality as part of the Mriya educational app.



In emergency situations, **psychological support measures for children** are extremely important.

One of the legislative problems is that children can seek hospital care on their own from the

³⁶ CMU Order on Approval of the Concept of Security of Educational Institutions № 301-r dated April 7, 2023 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/301-2023-%D1%80#Text>.

³⁷ Civil protection in the context of reforming the system of institutional care and in the perspective of post-war recovery. P. 51–55. Available at https://r2p.org.ua/storage/documents/5663a9862cddd67bd5ea2927b2bf0283d58db7af_original.pdf.

age of 14. According to Article 38 of the *Law of Ukraine Fundamentals of the Legislation of Ukraine on Health Care* dated November 14, 1992,³⁸ every patient who has reached the age of 14 and has sought medical care has the right to choose a doctor on his/her own and treatment methods based on his or her recommendations. The situation becomes more complicated during emergency situations, when a child is separated from his or her guardians and it is required to perform legally significant actions that go beyond the limits of his or her legal capacity. Fortunately, this issue does not apply to health-critical cases, as the above law contains a direct provision that “the consent of the patient or his/her guardian to medical intervention is not required only if there are signs of a direct threat to the patient’s life, provided that it is impossible to obtain consent to such intervention from the patient or his/her guardian for objective reasons.” However, the ongoing treatment, prevention, and especially psychological support may be associated with difficulties.

Also, if legal representatives are not attentive to the issue of a child’s mental health, this can lead to significant problems in the future. The solution may be mandatory monitoring of mental health, including periodic monitoring, of children left without parental care due to military operations, children evacuated from dangerous regions, etc.

In a state of emergency, it is important to introduce nationwide programs aimed at relieving children from stress, including latent, unrecognized stress, and preventing them from further

sinking into a negative mental state, as well as increasing their mental resilience. Ukraine has now implemented the National Program of Mental Health and Psychosocial Support, coordinated by the Office of the First Lady Olena Zelenska and the Ministry of Health of Ukraine with the support of WHO.³⁹ The program aims to help victims, including children, overcome the extreme stress and consequences of the traumatic events of the war, as well as to create in Ukraine a specific model of a system of skilled and accessible mental health services so that everyone who needs such services can use them.

At the same time, Ukraine currently needs to update its legislative framework in this area, as it does not fully meet modern international standards in the field of mental health and does not keep abreast of the growing demands and needs of society. To this end, the *Draft Law on the Mental Health Care System in Ukraine (registration № 12030 dated September 13, 2024)* was registered in the Parliament of Ukraine.⁴⁰



Among the **legal means** of protecting children’s interests, a systemic approach rather than fragmentary changes plays an important role.

Despite eight years of experience in protecting children in the times of war, since 2014 (annexation of Crimea and parts of Donetsk and Luhansk regions), the state child protection system was not ready to guarantee children’s rights in the circumstances of a full-scale war. Therefore, the Government and the Parliament

³⁸ The Law of Ukraine on Fundamentals of the Legislation of Ukraine on Health Care № 2801-XII dated November 19, 1992 [Online]. Available at <https://zakon.rada.gov.ua/laws/show/2801-12#Text>.

³⁹ National Program of Mental Health and Psychosocial Support, coordinated by the Office of the First Lady Olena Zelenska and the Ministry of Health of Ukraine with the support of WHO [Online]. Available at <https://www.kmu.gov.ua/news/ofis-pershoyi-ledi-moz-ta-partneri-zapuskayut-nacionalnu-programu-psihichnogo-zdorovya-ta-psihosocialnoyi-pidtrimki>

⁴⁰ Draft Law on the System of Mental Health Care in Ukraine (№ 12030 dated September 13, 2024) [Online]. Available at <https://itd.rada.gov.ua/billInfo/Bills/Card/44876>.

of Ukraine urgently developed new legal norms and algorithms that would minimize risks to children's lives and health and meet the current situation. This process is still ongoing and, as a rule, regulates relations with a certain delay, creating additional risks for children.⁴¹

In order to update the applicable laws systematically, rather than fragmentarily, it is required to develop a codified regulation (*the Code on the Rights of the Child*), the provisions of which should regulate relations related to the care after and raising of children who, as a result of the death of their parents, deprivation of parental rights, illness of their parents or other reasons, have been left without parental care,

as well as the protection of children's personal non-property rights. A separate section of this law should be devoted to the protection of children's rights in emergency situations.

Experts from various fields should be involved in the development of this fundamental act regulating the protection of children's rights, namely scientists, representatives of administrative structures, the public sector, international organizations, law enforcement agencies, lawyers and judges, etc.

The adoption of such a codified law should be preceded by the development of a Concept for reforming child protection legislation.

1.3 INTERNATIONAL BEST PRACTICES IN CHILD PROTECTION IN EMERGENCIES

Studying and adapting foreign experience provides a unique opportunity to adopt best practices that have already proven effective in other countries. Such an approach not only helps to avoid many mistakes, but also allows to find the best solutions faster, taking into account national realities and peculiarities.

A particularly valuable source of knowledge and inspiration for Ukraine in emergency situations is the experience of foreign countries in the field of temporary (short-term) placement of children without parental care. Many countries have been developing and improving their support systems for children in need of temporary care for decades. Review of their approaches gives an insight of which models work best, which strategies can be adapted to

our conditions, and what potential challenges may arise along the way.

Thus, studying and implementing foreign experience is not only an indispensable but also a strategically important step for Ukraine. This enables building a more effective, fair and humane system of child support at a time when children are extremely vulnerable.

Japan

The fundamental law in the field of child protection in Japan is the *Law on the Welfare of Children* (児童福祉法, Jidō Fukushi Hō) of 1947,⁴² as amended. It defines various forms of child care, including orphanages, foster families, and family homes. It separately identifies temporary forms of placement. The law also contains

⁴¹ Report № 1 "Children and War in Ukraine: on the Situation of Children in Family-Based Care and Institutionalized Care" (based on the results of monitoring from February to June 2022), compiled by the UNICEF Representative Office of the UN Children's Fund "To Every Child" Partnership". P. 47 [Online]. Available at <https://www.unicef.org/ukraine/documents/02-06-2022-CiAC-monitoring-report>.

⁴² The Law on the Welfare of Children (児童福祉法, Jidō Fukushi Hō) of 1947 [Online]. Available at <https://www.japaneselawtranslation.go.jp/ja/laws/view/4035>.

provisions on procedures and criteria for selecting foster families and other institutions ensuring care for children.

The Law on the Protection of Children from Violence (児童虐待防止法, Jidō Gyakutai Bōshi Hō) of 2000,⁴³ while establishing procedures for protection from domestic violence, also regulates the most emergency response measures, namely emergency placement procedures (緊急避難, Kinkyū Hinan) and temporary placement in care centers.

The *Law on Foster Parents and Foster Families* (里親制度法, Satooya Seido Hō) of 1987⁴⁴ is also important in the child protection system, as it contains a regulatory framework for the system of raising children in foster families. It is this regulation that establishes such a form of temporary placement as *short-term foster families* (短期里親, Tanki Satooya), which provide temporary care for children in need of immediate protection due to various circumstances in Japan.

In Japan, the system of temporary placement of children is part of the overall system of care for children without parental care. It includes several forms of placement, such as foster families, family homes, and specialized institutions (for children with special needs or in difficult life situations), such as rehabilitation centers, psychological assistance, etc.

The process of placing children in Japan involves assessing the child's needs, finding a suitable foster family or institution, as well as continuous monitoring and support for the child.

Foster families (養育家庭, よういくかてい, "yoiku katei") are one of the most popular forms of

child placement in Japan. These families ensure temporary care for children until a permanent solution is found (return to biological parents, adoption, etc.). There are also specialized institutions for children with special needs or in difficult life situations. These may include rehabilitation centers, psychological assistance, etc.

Foster families receive financial and other support from the government. This may include monthly payments for child support, health insurance, and access to various social services.

Despite the existing system and a rather long period of regulatory enforcement of children's rights, Japan faces certain challenges, such as an inadequate number of foster families.

In 2016, Japan adopted important changes in the legislation on DI of child care, which provide for a transition from institutional care (orphanages) to family-based forms of care, such as foster care and family homes. The core provisions of this reform are reflected in the amendments to *the Law on the Welfare of Children* (児童福祉法, Jidō Fukushi Hō).

The requirements for professional training of foster parents are an interesting component of Japanese practice. Foster parents must complete training courses covering the psychological aspects of working with children who have experienced stress or trauma. This includes understanding the child's mental and emotional state, methods of support and integration into the family. Besides, they receive ongoing counseling support from social workers and psychologists.

Japan's experience can be useful to Ukraine in the context of the child-centered nature of its regulations (the main law on child protection

⁴³ The Law on the Protection of Children from Violence (児童虐待防止法, Jidō Gyakutai Bōshi Hō) of 2000 [Online]. Available at <https://hourei.net/law/412AC1000000082.html>

⁴⁴ The Law on Foster Parents and Foster Families (里親制度法, Satooya Seido Hō) of 1987 [Online]. Available at <https://foster-family.jp/satooya-low/04tsuchi-seido-unei.pdf>.

contains a reference to child welfare in its title) and the priority of a custom approach to each case.

South Korea

The first law on childhood protection in South Korea was *the Law on the Welfare of Children*, adopted on December 30, 1961.⁴⁵

This law was applicable to “children in need of protection (요보호아동)” in the face of social unrest and financial hardship caused by the Korean War. The name of the law was changed to the *Law on Childhood Protection* (아동복지법) and the provisions were revised.

Many child welfare-related organizations promoted the revision of the *Law on Childhood Protection*, which was passed by the Congress on December 7, 1999, and was proclaimed and enacted on July 13, 2000. The main changes include provisions aimed at protecting children from abuse and improving legal standards for safety and educational principles for child welfare facilities.

Law on Special Cases Related to Childhood Protection and a new version of the *Law on Childhood Protection*, including definitions of child abuse and child abuse-related crime, emergency measures for victims, victim protection team, urgent/interim measures for perpetrators, handling of protective incidents, expansion of the circle of persons reporting child abuse and strengthening of the obligation to report such cases, were announced and enacted on September 29, 2014.

Important in the child protection system, especially in the context of emergency response,

is the *Foster Care Act* (위탁가정지원법) of 2004, which sets out the rules and procedures for placing children under foster care, including requirements for foster parents, the process of selecting families, and the support provided by the state.

The most recent innovation in South Korean child protection legislation is *the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes* (아동학대범죄의 처벌 등에 관한 특례법)⁴⁶ of 2023. This act includes provisions for the protection of children from violence and abuse, including emergency measures for the removal of children from dangerous environments and their temporary placement.

In South Korea, there are several forms of temporary family placement for children in need of alternative care for various reasons, such as violence, neglect, or loss of parents. The main forms are as follows:

1. **Foster Care.** Foster families ensure temporary care for children who cannot stay with their biological parents. This can be short-term care (for a few days or months) or long-term care (for several years).
2. **Orphanages.** These are institutions where children live under the supervision of staff. While orphanages can provide for the basic needs of children, they cannot replace a family environment.
3. **Emergency Centers.** These centers provide temporary shelter for children who have been suddenly removed from dangerous environments. Children stay here until a more stable place for them to live is found.
4. **Institutional Care.** Other forms of institutional care include various types of public or

⁴⁵ Law on the Welfare of Children, adopted on December 30, 1961 [Online]. Available at <https://law.go.kr/LSW/lsInfoP.do?lsiSeq=198257&viewCls=engLsInfoR&urlMode=engLsInfoR#EJ2:0>.

⁴⁶ Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes (아동학대범죄의 처벌 등에 관한 특례법) [Online]. Available at <https://law.go.kr/%EB%B2%95%EB%A0%B9/%EC%95%84%EB%8F%99%ED%95%99%EB%8C%80%EB%B2%94%EC%A3%84%EC%9D%98%EC%B2%98%EB%B2%8C%EB%93%B1%EC%97%90%EA%B4%80%ED%95%9C%ED%8A%B9%EB%A1%80%EB%B2%95>

private institutions that provide temporary shelter and care for children.

5. **Family Reunification Programs** are aimed at helping biological parents overcome the problems that led to the separation of their children and return the children to the family whenever possible and safe.

An interesting aspect of South Korea's experience is the existence of the Agency (Center) for the Protection of Children's Rights.⁴⁷ Its functions include development of data and analysis of public policy for the formation of children's policy; support for the creation of a basic plan for children's policy and evaluation of its implementation; support for the work of the Coordinating Committee on Children's Policy; support in evaluating the impact of children's policy; technical support for child protection systems; intensification of projects to prevent child abuse; revitalization of the family foster care business; support for the smooth operation of local child protection projects and children's institutions; performance of tasks to promote the domestic adoption and further management of adoption in accordance with the Special Adoption Law; preparation of research and statistics on children; research of foreign policy related to children and case studies, etc.

Thus, South Korea has a body that plays a strategic and guidance role both in the overall child protection system and in the course of reforming the child welfare system. For Ukraine, this is especially important in the context of frequent changes in the staff of specialized state institutions, which leads to inconsistent

policies and attempts to start from scratch without analyzing the achievements of predecessors.

Another interesting example of South Korea's positive practice is the most clear and formalized definition and explanation of child abuse, which contains specific signs and types of abuse, an algorithm for detection and guidelines for authorities.⁴⁸ Such a definition would be useful for Ukraine in the context of reducing the incidence of this phenomenon in society.

Croatia

In Croatia, the system for temporary placement of children without parental supervision includes several key aspects aimed at ensuring their well-being and protecting their rights. This is primarily facilitated by the legal framework regulating this domain. Article 65 of the *Constitution of Croatia* dated 1990 indicates that the state shall particularly focus on minors without parents and those who are not cared for by their parents.⁴⁹

The Law on Social Protection (Zakon o socijalnoj skrbi) of 2022⁵⁰ is the key legal act regulating social assistance, including temporary placement of children without parental supervision. It defines the rules and procedures for the provision of social services.

The Law on Family Relations (Obiteljski zakon) of 1992⁵¹ regulates the issues of guardianship, custody and adoption. It defines the rights and obligations of parents, foster parents and state institutions to protect children.

⁴⁷ Law on Adoption [Online]. Available at <https://ncrc.or.kr/ncrc/cm/cntnts/cntntsView.do?mi=1129&cntntsId=1105>.

⁴⁸ <https://ncrc.or.kr/ncrc/cm/cntnts/cntntsView.do?mi=1030&cntntsId=1283>

⁴⁹ Constitution of Croatia [Online]. Available at <https://www.zakon.hr/z/94/Ustav-Republike-Hrvatske>.

⁵⁰ Law on Social Protection (Zakon o socijalnoj skrbi) of 2022 [Online]. Available at https://narodne-novine.nn.hr/clanci/sluzbeni/2022_02_18_181.html.

⁵¹ Law on Family Relations (Obiteljski zakon) of 1992 [Online]. Available at https://narodne-novine.nn.hr/clanci/sluzbeni/2015_09_103_1992.html.

The Law on Foster Care (Zakon o udomiteljstvu) of 2018⁵² covers the activities of foster families, establishes requirements for them, as well as procedures for selecting, training and supporting foster parents.

In Croatia, there are *short-term placements* (intended for temporary care of a child while issues of permanent placement are being resolved) and *long-term placements* (used when a child cannot return to his or her biological family in the near future).

Forms of temporary placement include *foster care (Udomiteljstvo)*; *institutional care* (when it is not possible to place a child in a foster family); *temporary care by relatives (Privremeno skrbništvo)*, whereby a child is temporarily placed under the care of relatives or close friends who can provide him or her with proper care and support (if any); *other forms of care* providing for temporary placement of children in family centers or other institutions that provide specialized support.

Temporary placement in crisis situations (Hitni smještaj) is used in cases where a child is exposed to extreme danger or the situation requires immediate intervention.

The procedure for temporary placement of children in Croatia is regulated by the above-mentioned regulations and provides for clear steps to ensure that the best interests of the child are met. These steps are:

1. **Initiation of the process.** The process of temporary placement can be initiated by various actors, including social services, police, medical institutions or parents/guardians themselves if they are unable to care for the child. The *Law on Social Protection (Zakon o socijalnoj skrbi)* defines the powers and responsibilities of social services in cases of temporary placement of children.
2. **Assessment of the situation.** Social workers conduct a situation assessment, including an examination of the child's living conditions, health, emotional state and social environment. The assessment involves interviews with the child, his or her parents or guardians and other persons involved with the child.
3. **Decision-making.** Based on the assessment, social services make a decision on the need for temporary placement of a child. Such a decision shall include the selection of an appropriate form of temporary care (foster family, relatives, institutional care, etc.). The *Law on Social Protection (Zakon o socijalnoj skrbi)* defines the criteria that are used by the authorized bodies when making a decision on temporary placement.
4. **Placement of the child.** Social services organize the placement of a child in the chosen form of care. This includes preparing the foster family or institution to accept the child and creating all the conditions required for his or her adaptation.
5. **Monitoring and support.** After placement, social workers regularly visit the child and the foster family or institution to assess living conditions, provide the required support, and identify any problems in time.
6. **Planning for return or permanent placement.** One of the key aspects of the temporary placement procedure is planning for the child's return to the biological family, if possible, or determining a permanent placement if return is not possible. This includes working with the biological parents to improve family conditions or prepare for adoption. The *Law on Family Relations*

⁵² Law on Foster Care (Zakon o udomiteljstvu) of 2018 [Online]. Available at https://narodne-novine.nn.hr/clanci/sluzbeni/2018_12_115_2240.html.

(Obiteljski zakon) defines the procedures for permanent placement of children.

7. **Rights of the child.** Throughout the process of temporary placement, the rights and interests of the child are a priority. The child has the right to be heard, to participate in decision-making concerning his or her life, to receive all required information about the placement, education, medical care and psychological support.

Thus, the procedure for temporary placement of children in Croatia is well-regulated at the legislative level and aims to ensure the best interests of the child. It includes situation assessment, decision-making, placement, monitoring and support, as well as planning for return or permanent placement.

Croatia's experience in specialized forms of family placement designed for children with special needs (children with disabilities, special educational needs, prone to self-destruction, etc.) may also be useful for Ukraine. The legislator in Article 16 of *the Law on Foster Care* clearly states that in addition to the general requirements for a candidate for hosting family-based placements, a person who has expressed an intention to host a specialized placement must also have completed at least a bachelor's or master's degree at a university or professional training in social work, psychology, educational rehabilitation, social pedagogy, speech therapy, occupational therapy, physiotherapy and nursing, have at least three years of experience in working with children and youth placed in specialized family placements, and possess special knowledge and skills in accordance with specific needs of the child being placed.

Such experience can be valuable for Ukraine when developing specialized forms of family placement.

Another important provision of the above law (Article 21) is that "subject to the prior consent of the foster family, more than three children may be placed in a foster family if they are ... a mother with a child under one year old."

Finland

In Finland, the temporary placement of children without parental supervision is regulated by several key legislative and regulatory acts.

Article 37 of *the Law on Child Protection (Lastensuojelulaki, 417/2007)*⁵³ defines the procedure for the appointment of temporary guardians. Social services have the right to decide on the appointment of a temporary guardian in the best interests of the child. Temporary guardians must ensure the proper care and safety of the child by making decisions about the child's daily life, but are not entitled to make important decisions without the consent of the biological parents or legal guardian. The decision of social services to appoint a temporary guardian can be challenged in court.

*The Law on Guardianship and Trusteeship (Holhoustoimilaki, 442/1999)*⁵⁴ defines the legal status of guardians, their rights and obligations in relation to child guardianship. It provides for mechanisms for supervision of guardians by social welfare authorities and courts.

*The Law on Social Services (Sosiaalihuoltolaki, 1301/2014)*⁵⁵ defines the procedure for the provision of social services to children without

⁵³ The Law on the Protection of Children (Lastensuojelulaki, 417/2007) [Online]. Available at <https://finlex.fi/fi/laki/ajantasa/2007/20070417>.

⁵⁴ The Law on Guardianship and Trusteeship (Holhoustoimilaki, 442/1999) [Online]. Available at <https://finlex.fi/fi/laki/ajantasa/1999/19990442>.

⁵⁵ The Law on Social Services (Sosiaalihuoltolaki, 1301/2014) [Online]. Available at <https://finlex.fi/fi/laki/ajantasa/2014/20141301>.

parental care. It envisages support measures for families to ensure that children can be returned to their biological families whenever possible.

The procedure for temporary placement of a child in Finland is as follows.

Social services conduct an immediate assessment of the child's situation, including his or her physical and emotional state, as well as the risks associated with his or her environment. The needs of the child, his/her opinion (if he/she is able to express it), and the opinion of the biological parents or legal guardian (if possible) are taken into account.

Temporary guardians are appointed based on an assessment conducted by social services. Guardians must have the appropriate experience and training to work with children in crisis situations. Temporary guardians provide the child with safe living conditions, proper care and support.

Temporary guardians are obliged to provide the child with safe and comfortable living conditions, including access to required medical services. Shelters and temporary housing facilities must meet established safety and comfort standards.

Social services regularly check the child's living conditions and provide support to temporary guardians. Psychological and social support is provided to both the child and the guardians to ensure stability and proper care.

Short-term placement usually lasts until a long-term solution is found for the child (e.g., return to biological parents, appointment of a permanent guardian, or other measures).

The peculiarity of emergency placement of children in Finland is the principle of priority of placement with the child's parents, guardian or another person responsible for the child's

care and upbringing, enshrined in Article 37 of *the Law on Child Protection*. Only in case of contradiction to the best interests of the child can the child be placed and separated from his or her parents, in which case the child's opinion is sought (after the child reaches the age of 12, it is decisive). Article 38 of the above law provides for temporary placement and emergency measures that can last for up to three months. This includes emergency intervention when a child is exposed to serious danger.

The experience of emergency placement of a child, which is regulated by *the Law on Child Protection (Lastensuojelulaki, 417/2007)*, may be interesting for Ukraine. Social services can temporarily place a child in a safe place (foster family or institution) without the need to obtain a prior court order if there is an immediate threat to the child's life or health. Within 30 days of the emergency temporary placement, social services must request the court to consider the case and make a decision on the child's future. The court may decide to return the child to the family if the situation stabilizes, or to extend the temporary placement until the underlying custody issue is resolved. Finnish law also protects the rights of parents, but they are limited if there is a threat to the child's life or health. Parents have the right to challenge the decision of social services in court, but in cases of emergency temporary placement, this does not stop the execution of the decision until a final court verdict is issued.

Thus, the Finnish child protection legislation enshrines a child-centered and risk-assessed approach to children, including a strong emphasis on preserving the biological family.

USA

In the United States, there are different types of temporary family placements for children in need of assistance due to various circumstances. The regulation of these types of temporary

family placements is primarily determined by state laws. However, federal laws also set general standards and requirements for the temporary care system.

The types of temporary family placement of children in the United States are as follows:

1. **Foster Care.** State laws define the rules and procedures for placing children in foster care. *The Social Security Act* also contains provisions for children's services, including foster care. Thus, foster care is defined by US law as a social service.
2. **Kinship Foster Care.** State laws establish procedures and standards for the placement of children with relatives or close friends who have a kinship with the child.
3. **Foster-to-Adopt.** *The Child and Family Services Improvement and Innovation Act* sets standards for programs for the placement of children for adoption from foster care. In the United States, there is an intermediate stage between adoption and temporary placement, which aims to adapt the child to the future adoptive parents as quickly as possible.
4. **Special Needs Foster Care.** State laws define special programs and standards for the placement of children with special needs in foster care.
5. **Teen Foster Care.** State laws contain special provisions and programs for adolescent foster care.
6. **Family Group Homes.** This type of temporary placement can be regulated by state legislation that defines standards and requirements for the operation of family group homes.

As shown, US legislation is particularly focused on the variability of temporary forms depending on the circumstances and needs of the child.

Particular attention should be paid to some methodological aspects when studying and

borrowing foreign experience in the temporary (short-term) placement of children and reforming the institutional care system.

As social and cultural contexts can vary significantly between countries, it is important to take into account differences in cultural values and traditions. In Ukraine, depending on the region, there are also different cultural perspectives on temporary placement of children, which affects the perception and implementation of borrowed practices.

Due to differences in social norms and expectations of family roles, family structure and dynamics may not be the same in different countries. What works in one country may not be effective or acceptable in another.

The financial capacity of the country also has a significant impact on the implementation of effective programs. In Ukraine, there are budgetary constraints on the implementation of social, psychological, medical, and educational programs for children and their families, preventing the full-fledged launch of some foreign practices. Besides, in the context of economic instability, it is difficult to ensure long-term funding for short-term placement programs, which can lead to instability and low efficiency of these programs.

Regulatory approaches may differ significantly between countries. The introduction of new practices may require legislative changes, which is often a lengthy and complex process. Also, heavy bureaucracy can slow down the process of launching new practices and programs, including lengthy approval procedures and a lack of coordination between different agencies and organizations. Innovations often face resistance from system employees who are used to working in the old ways. This situation slows down the implementation process and reduces the effectiveness of new programs.

Practices that work well in one country may require significant adaptation for effective implementation in another. A detailed analysis and custom approach is needed.

Political permutations affect the stability and consistency of new social programs. Frequent changes in the government can lead to changes in priorities and interruptions of initiatives already launched. Furthermore, the implementation of comprehensive programs requires close cooperation between different government agencies and organizations. Lack of coordination and cooperation affects the effective launch of new practices.

Raising international grants and financial support is often time-limited. Securing sustainable national funding to support innovation can be challenging. It is important to ensure the sustainability of implemented programs so that they continue to function after the initial phase of implementation or the end of funding from international donors.

Taking the above aspects into account, Ukraine will enable to learn from and adapt foreign experience in the field of temporary placement of children and DI reform more successfully.

Section 2

SAFEGUARDING OF CHILDREN'S RIGHT TO GROW UP IN A FAMILY ENVIRONMENT

2.1 FAMILY FOSTER CARE SYSTEM

Family Foster Care System is critical component of the child protection system in Ukraine, particularly under martial law. This system supports children who cannot be raised by their biological parents or other legal guardians due to various reasons, both objective and subjective. Such circumstances may include the death of parents, their disappearance, imprisonment, or residence in occupied territories. Temporary family-based care provides a protective environment for children during the interim period, from the moment of abandonment to the adoption of long-term solutions regarding their care. During this time, children are especially vulnerable, making it vital that they are placed in a family environment rather than in institutional care facilities.

According to the Ministry of Social Policy, since the onset of the full-scale invasion, approximately 4,000 children annually have been left without parental care.⁵⁶

As of 2024, tens of thousands of children live in institutional care facilities, with about 20% of them having the status of orphans or children deprived of parental care.⁵⁷

Awareness of family-based forms of care among Ukrainians remains limited. Adoption is the most widely recognized form of child placement, with 42% of people familiar with this option. Between 14% and 27% of Ukrainians are aware of guardianship and custody, foster families (FF), and family child care homes (FCCH). However, only 5% of Ukrainians are familiar with patronage care — a temporary form of placement where children in difficult life circumstances are placed in the homes of foster carers rather than institutional facilities. Currently, there are approximately 300 foster families — referred to internationally as «emergency response families» — in Ukraine, while thousands of children require temporary placement.⁵⁸

The above exhibits that the development of temporary family-based care and education is directly linked to deinstitutionalization (DI), and the ongoing hostilities in Ukraine have further emphasized the urgency of this process.

At the international level, the primary document addressing temporary care for children in emergencies is the *Guidelines for the Alternative Care of Children*, adopted by UN General Assembly Resolution A/RES/64/142 on

⁵⁶ "The Child is Not Alone": How Families Who Temporarily Place a Child with Them Can Receive State Assistance" [Electronic resource]. Access mode: https://ombudsman.gov.ua/news_details/ditina-ne-odna-yak-rodinam-yaki-timchasovo-vlashtovuyut-do-sebe-ditinu-otrimati-dopomogu-vid-derzhavi

⁵⁷ Tuliakova I. "Will You Find Us a Family?" Why children Have no Place in Institutions and How Each of Us Can Help // Access mode: <https://life.nv.ua/ukr/blogs/yak-dopomogti-dityam-v-internatah-usinovlennya-opika-simeyniy-patronat-50428202.html>

⁵⁸ The same.

February 24, 2010.⁵⁹ This document includes a dedicated section (Section IX) on “Care in Emergency Situations.” While the *Guidelines* are recommendatory in nature, their purpose is to enhance policy and practice in the field of alternative care by integrating their principles into national legislation.



When analyzing forms of temporary alternative care, it is essential first to define the **terminology** used. Ukrainian national legislation employs the term **“forms of placement”** (paragraph 6 of Article 1 of the Law of Ukraine *On Ensuring Organizational and Legal Conditions for the Social Protection of Orphans and Children Deprived of Parental Care*). However, the content of this term is not explicitly defined; instead, the article provides only a list of forms, despite the title suggesting the presence of a definition.

A review of the relevant statutory provisions indicates that “forms of placement” should be understood as a legally regulated procedure that ensures permanent or temporary care for a child left without parental care. This care is provided by legal entities and/or individuals authorized by law, based on decisions issued by relevant state authorities or local self-governance bodies.⁶⁰

Alongside the term “forms of placement”, Ukrainian legislation also references other related terms, such as **“family forms of education”** (part 5 of Article 5 of the Law of Ukraine *On Protection of Childhood*), **“forms of education and care,”** and **“forms of alternative care”**.

The latter term aligns with the concept addressed in the *Guidelines*, which describe alternative

care as any form of care or placement of a child outside their biological family.⁶¹ Although the document does not explicitly define this term, a systematic analysis suggests that “alternative care” corresponds closely to the “forms of placement” outlined in domestic legislation. Additionally, the *Guidelines* use the term “forms of placement” synonymously (clause 29(c)(iii)).

In Ukrainian legislation, the term “form” is generally used to refer to permanent placements, particularly when discussing the placement of orphans and children deprived of parental care. Conversely, the *Guidelines* do not restrict the concept of “forms of care” to permanent placements alone. Clause 2(b) of the *Guidelines* emphasizes that measures should be taken to ensure that, while appropriate and durable solutions for the care of children are being sought or when such solutions are not possible or are not in the best interests of the child the most suitable forms of alternative care *are identified and provided in environments conducive to the child’s full and harmonious development*.

Currently, the harmonization of national statutes with international legal provisions is underway. As such, in reforming child protection legislation, it is crucial to integrate the terminology used in the *Guidelines* into domestic legislation. Specifically, the term **“family forms of temporary care” or “family forms of temporary care and education”** should be adopted, replacing the term “forms of placement”.



In Ukraine, the primary **legislative** framework regulating the placement of children left without parental care is the Family Code (Fam. C.),

⁵⁹ Resolution adopted by the General Assembly on 18 December 2009 [Electronic resource]. Access mode: <https://documents.un.org/doc/undoc/gen/n09/470/35/pdf/n0947035.pdf>

⁶⁰ Tokarchuk L. M. Placement of Children-Orphans and Children Deprived of Parental Care as the Implementation of the Principle of State Protection of the Family: academic dissertation ... PhD in Law: Odesa, 2021. P. 11. [Electronic resource]. Access mode: <https://dspace.onua.edu.ua/items/2705bd87-16f2-476e-8ef3-f6fc7ee4f22e/full>

⁶¹ Roadmap for Ensuring the Rights and Best Interests of the Child. P. 12 [Electronic resource]. Access mode: <https://childrights.org.ua/wp-content/uploads/2024/04/draft.pdf>

a codified legal act. However, the Fam. C. addresses only permanent family forms of placement. Notably, Section IV, *Placement of Orphans and Children Deprived of Parental Care*, does not include general provisions; instead, it enumerates specific forms of placement as distinct chapters: Adoption (Chapter 18); Guardianship and custody of children (Chapter 19); Foster care (Chapter 20); Foster family (Chapter 20–1); Family-type children’s home (Chapter 20–2).

Other specialized laws, such as the Law of Ukraine *On Protection of Childhood*, the Law of Ukraine *On the Fundamentals of Social Protection of Homeless Citizens and Street Children*, the Law of Ukraine *On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care*, and the Law of Ukraine *On Social Work with Families, Children and Youth*, similarly do not address forms of temporary placement.

Temporary placement is mentioned explicitly only in the Resolution of the CMU “*Procedure for the Conduct of Activities Related to the Protection of Children’s Rights by Guardianship and Trusteeship Authorities*” No. 866, dated September 24, 2008. However, the relevant terminology (“temporary placement of a child left without parental care”) is also utilized in the Diia single portal of public services.⁶²

An analysis of legislative provisions on forms of child care reveals the following key issues:

- there is no overarching framework for the placement of children left without parental care. Current laws lack general provisions or principles related to family forms of child care, including temporary care;
- a clear and structured system of placement forms is not codified in legislation. The law

provides only a list of permanent family forms of care, with provisions for each of them, but no systemic or unified approach is established;

- the foundational regulations on the temporary placement of children are currently contained in a subordinate legal act — the Resolution of the CMU № 866. However, a document addressing such critical matters as the care and upbringing of children during periods without parental care should not be developed or adopted by an executive body alone. Temporary placement forms must be enshrined in primary legislation, not relegated to bylaws. Furthermore, the Family Code (Fam. C.) includes procedural provisions for registering orphans and children deprived of parental care for adoption, guardianship, or foster placement, as well as for registering prospective adoptive parents (Articles 214–215 of the Fam. C.). However, these provisions are procedural in nature and should not be included in the Fam. C., as they do not align with the Code’s broader substantive legal framework.

In other words, there is no systematic approach to the regulation of placement within the domestic legislation. As a result of its reform, a legislative act should be formed that would contain general principles of placement, developed in accordance with the *Guidelines*, **as well as systematically define and regulate the forms of such placement, including temporary ones. This issue should be addressed at the level of primary legislation, not through subordinate legal acts or bylaws.**

The issues outlined above represent just one aspect of the current state of legislation, which is characterized by a general lack of consistency. This inconsistency is particularly dangerous in

⁶² Services of the DIIA portal “Temporary Placement of a Child Left Without Parental Care” // Access mode: <https://guide.diia.gov.ua/view/vydacha-rishennia-pro-tymchasove-vlashtuvannia-dytyny-iaka-zalyshylasia-bez-batkovskoho-pikluvannia-u-simiu-rodychiv-znaiomykh-d5126571-cb3a-4725-b6a9-7985d49c2d87>

emergency situations, where millions of children are left unprotected. The government's response to such crises often involves introducing selective changes to legislation. However, these changes are frequently delayed by several months, leading to, among other consequences, tragic incidents.⁶³



According to Clause 31 of the Resolution of the CMU № 866, a child left without parental care may be temporarily placed in the following:

- a family of relatives or friends;
- a foster family;
- a family child care home;
- a family of a foster carer.

institutional-type facilities: a reception center for children operated by the Children Welfare Service, a center for social and psychological rehabilitation of children, a center for social support of children and families, a social rehabilitation center (children's village), an infant orphanage, a children's home-boarding school within the social protection system, an inpatient service (department) at a social services center offering social and psychological rehabilitation for children, a permanent-type service (department) within a social services center providing long-term social and psychological rehabilitation for children in difficult life circumstances.

Clause 78 of the same Resolution specifies that, during a state of emergency or martial law in Ukraine, children deprived of parental care are temporarily placed in accordance with Clause 31. Such placements are made within functioning foster families (FF) and family-type children's homes (FCCH), provided the number of children placed does not exceed the maximum limit prescribed for these forms of care.

The above provisions indicate that three family-based forms of temporary care are recognized under the current framework:

- 1) family of relatives (friends);
- 2) foster care;
- 3) functioning FF and FCCH under temporary placement conditions.



The classification of temporary family placements can be based on several criteria.

Firstly, depending on the availability of professional knowledge and skills of the person providing upbringing and care for a child, **professional and non-professional forms** can be distinguished. The former refers to placements provided by individuals who have appropriate professional training, offer childcare services on a professional and paid basis, are not related to the child, and can care for an indefinite number of children (e.g., foster care, temporary placement in a FF or FCCH). The latter refers to placements provided on a non-professional basis by individuals who have certain social, emotional, or other ties with the child (e.g., placement in the family of relatives or friends).

Secondly, at the level of the *Guidelines for the Alternative Care of Children*, two forms are distinguished: **formal and informal care** (Clause 29(b)). Formal care is provided based on a decision by a competent administrative or judicial authority. In contrast, informal care refers to any private care taking place in a family environment, where the child is cared for by relatives, friends, or other individuals voluntarily — at the initiative of the child, their parents, or other parties — without a decision by an authorized body.

Thirdly, the placement environment can serve as a criterion. Accordingly, there are specific

⁶³ Roadmap for Ensuring the Rights and Best Interests of the Child. P. 117 [Electronic resource]. Access mode: <https://childrights.org.ua/wp-content/uploads/2024/04/draft.pdf>

forms of care utilized only **in emergency situations**, such as placement in functioning FFs and FCCHs on a temporary basis.

The emergency placement of children during emergency situations — through the **“A Child is Not Alone” chatbot program** — deserves particular attention. In the spring of 2022, this initiative was launched by the Advisor to the Presidential Commissioner for Children’s Rights and Child Rehabilitation, D. M. Herasymchuk, and implemented by the Presidential Office in collaboration with the United Nations Children’s Fund (UNICEF) and the MSP. This unique type of temporary placement emerged in response to the challenges posed by full-scale hostilities, the need for wartime child protection, and the absence of professional temporary placements, such as foster care, during peacetime. The nationwide program “A Child is Not Alone” enables children to be placed with families of non-relatives (individuals who were previously unknown to them). Under the terms of this program, a child can remain with a selected family — who has passed all required screening stages — until the end of martial law or until their parents or relatives are located. Each child temporarily placed in a family under this program is assigned a social worker. The social worker’s role is to ensure that the child’s best interests are upheld and to provide necessary support and guidance to the host family.⁶⁴

As one can see, a child can be temporarily placed not only with families of relatives or friends as a non-professional form of care. However, this type of placement is not explicitly defined or specified either in the Resolution of the CMU No. 866 or in the laws. There have been attempts to equate it with the placement with a family of friends, but this is not accurate. The distinguishing feature of placement with

a family of friends is that the individual(s) were known to the child before the need for care arose (for example, the family of a godmother or godfather)

Fourthly, considering the need for specialization (professionalization), certain **forms of care can be distinguished that focus on the upbringing and care of specific groups of children, such as children with disabilities or children with deviant behavior**. While the current legislation does not yet enshrine such specialization, its introduction is being actively discussed. The main issue to be resolved is determining the appropriate basis for such specialization.

Fifthly, temporary family-based care can be categorized into **emergency, short-term, and long-term** care. These categories are referred to in Clause 54 of the Guidelines for Alternative Care. In emergency situations, emergency care is particularly significant. Specialized foster care can be designed to address this specific type of care.



The next issue that requires clarification is determining **which children can be placed in temporary family placements**.

The Resolution of the CMU № 866 refers to temporary placement specifically in relation to children “left without parental care, including those separated from their families” (Clause 31). However, the term “children left without parental care” is not explicitly defined in the Resolution or in other domestic legislative acts. The Resolution merely stipulates that individuals who become aware of a child being left without parental care must immediately notify the Children Welfare Service at the location

⁶⁴ Program “A Child is Not Alone”: more than 1,000 Ukrainians have been trained and are ready to take in a child during the war [Electronic resource]. Access mode: <https://www.unicef.org/ukraine/press-releases/dytyna-ne-sama-trained-1000-ukrainians>

where the child was found, and such children are registered by the relevant service.

At the same time, a systematic interpretation of the Resolution of the CMU № 866 suggests that this is a general concept encompassing orphans, children deprived of parental care; and children who do not have such legal statuses but who, in practice, are without parental care. In other words, the term “children left without parental care” does not denote a separate legal status of a child but rather describes the actual situation of the child — namely, the absence of parental care (or custody). Moreover, the reason for the lack of parental care is not specified in the laws and is irrelevant when determining the factual situation of abandonment.

The “children separated from their families”, who are included in the category of “left without parental care” under Clause 31 of the Resolution of the CMU № 866, also encompass children who are foreigners or stateless persons. These children may have expressed, either personally or through third parties, a desire to acquire the status of a refugee or a person in need of additional protection in accordance with the LU “On Refugees and Persons in Need of Additional or Temporary Protection”⁶⁵ (Clause 4–1 of the Resolution). Pursuant to Sub-clause 2 of Clause 1 of Article 1 of the aforementioned law, a “child separated from his or her family” refers to a person under the age of eighteen who has arrived or is present in Ukraine unaccompanied by parents or one of them, grandparents, an adult sibling, a guardian, or a custodian appointed in accordance with the laws of their country of origin. This also includes other adults who, prior to arrival in Ukraine, voluntarily or by virtue of local customs assumed responsibility for the child’s upbringing.

Thus, when proposing a legislative definition of “children without parental care,” it is advisable to adopt the definition provided in Clause 29(a) of the Guidelines for the Alternative Care of Children: *these are all children who, for whatever reason and under whatever circumstances, are not under the full-time care of at least one parent.*

It is crucial to distinguish the state of abandonment from situations where parents, in accordance with Part 2 of Article 151 of the Fam. C., exercise their right to transfer the child to individuals or legal entities for upbringing. This situation refers to the actual upbringing of the child by relatives or other persons at the parents’ will. Such individuals may include: relatives of the child (e.g., grandparents, brothers, sisters) and third parties. Third parties may include different qualification: neighbors, friends, or other individuals taking care of the child at the parents’ request; professionals providing care on a paid basis (e.g., nannies, governesses); specialists with specific training in a given field (e.g., tutors, sports instructors).

Using the terminology of Clause 29(b) of the Guidelines, this placement falls under informal alternative care. In such cases, the placement of the child terminates cohabitation with their parents. In accordance with the principles outlined in the *Declaration on Social and Legal Principles relating to the Protection and Welfare of Children (UN, December 13, 1986)* — with specific reference to foster placement and adoption, both nationally and internationally — foster care refers to the upbringing of a child in another family. This placement is temporary in nature but may continue, if necessary, until the child reaches the age of majority. However, foster care should not preclude the child’s return to their own parents.

⁶⁵ LU “On Refugees and Persons in Need of Additional or Temporary Protection” № 3671-VI, dated July 08, 2011, [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/3671-17#Text>

Such a transfer may be either forced or without a good reason.⁶⁶

The provisions of Article 151 of the Fam. C. are elaborated in other sections of the Fam. C. Under Part 1 of Article 257, grandparents have the right to communicate with their grandchildren and great-grandchildren and participate in their upbringing. Similarly, Article 259 grants adult brothers and sisters the right to participate in the upbringing of their underage siblings.

The issue, however, is how such upbringing can be legally confirmed. The Fam. C. does not contain provisions governing the procedure for such foster care or its formal legalization. At the same time, an important reference in this context is the *Rules for Crossing the State Border by Citizens of Ukraine, approved by the Resolution of the CMU № 57, dated January 27, 1995*.⁶⁷ These rules allow a child to leave the country accompanied by a person who is not their legal representative, provided they present the required documents (Clause 2–3). If a child is accompanied by a family member or relative (e.g., grandparents, siblings, stepmother, or stepfather), documents confirming kinship or family ties must be presented. These documents may include a birth certificate, marriage certificate, or other relevant proof. If the child is accompanied by a person who is not a relative or family member, the legality of the child's stay with such a person is confirmed by a written statement of consent for the child's travel abroad, issued by one of the parents and certified by the guardianship and custody authority.

Based on legislative and regulatory compliance practices, the powers of a person to whom

a child is placed for upbringing may be confirmed by: a notarized agreement between the child's parents (or one parent) and the relevant person on the placement of the child for upbringing or a notarized statement from the parents (or one parent) designating the individual to whom the child is being entrusted for upbringing.

Additionally, under martial law, the question has arisen regarding the ability of a legal representative (such as parents, adoptive parents, or guardians) to delegate their powers via power of attorney to a third party, namely: can they transfer their representative powers to make legal transactions or other legally significant actions on behalf of minors (such as consent to medical treatment, filing documents, determining the place of residence, etc.)? However, Clause 3.4 of Chapter 1, Section II of the *Procedure for Performing Notarial Acts by Notaries of Ukraine*, approved by Order № 296/5 of the Ministry of Justice of Ukraine, dated February 22, 2012⁶⁸ clearly states that a notary shall not accept for certification a legal transaction concluded on behalf of a minor child by a representative of the parents (adoptive parents) or one of them. This legislative approach reflects the principle that the representative powers of legal guardians are strictly personal in nature and therefore cannot be delegated to a third party under any circumstances.

However, this approach does not appear to be fully justified. Part 3 of Article 67 of the Civ. C. stipulates that a guardian may make legal transactions on behalf of a ward. Parents perform similar functions, and such transactions can include any legal action (except those specified

⁶⁶ Family Code of Ukraine: Scientific Practical Commentary / Edited by I. V. Zhylinkova. Kh.: Ksylon, 2008. P. 443.

⁶⁷ Resolution of the CMU "On Approval of the Rules for Crossing the State Border by Citizens of Ukraine" № 57 dated January 27, 1995, [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/57-95-%D0%BF#Text>

⁶⁸ Order of the Ministry of Justice of Ukraine "On Approval of the Procedure for Performing Notarial Acts by Notaries of Ukraine" № 296/5, dated February 22, 2012 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/z0282-12#Text>

in Article 68 of the Civ. C. "Legal Transactions that Cannot be Performed by a Guardian"), including the issuance of a power of attorney. Furthermore, executing a legal transaction is not inherently a personal action that must be performed solely by a legal representative. In such cases, the legal representative expresses their will to enable another person to act on behalf of the minor in performing legal actions. Ultimately, the legal consequences of these actions are borne by the child, regardless of who represented them.⁶⁹

Certainly, when issuing a power of attorney, statutory restrictions on the management of the child's property must be strictly observed, particularly those outlined in Article 177 of the Fam. C.

As previously mentioned, children eligible for temporary placement include both those with the legal status of an orphan or a child deprived of parental care, and those without such a status. The second group of children can be further divided into two categories:

- 1) children with legal grounds to acquire the status of an orphan or a child deprived of parental care (grounds specified in Clauses 23–24 of the Resolution of the CMU No. 866). Upon confirming these grounds, such children are granted the appropriate status;
- 2) children without legal grounds for this status but who find themselves in difficult life circumstances.

Regarding the first category of children, the following should be noted. Under Part 1 of Article 5 of the LU "On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental

Care", if a child loses parental care, the relevant Children Welfare Service is obligated to prepare a set of documents confirming that the child has acquired the status of an orphan or a child deprived of parental care within two months.

However, the grounds for granting such status vary across different legislative acts. In addition to the Resolution of the CMU № 866, the issue is currently regulated by five other special laws: the LU "On the Fundamentals of Social Protection of Homeless Citizens and Street Children" (Article 1); the LU "On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care" (Article 1); the LU "On Protection of Childhood" (Article 1); the LU "On Social Work with Families, Children and Youth" (Article 1); the LU "On Social Services" (Article 1). This fragmentation is a result of the need to quickly expand the grounds for granting status under martial law. However, instead of amending the laws, changes were made primarily to the Resolution of the CMU № 866. Such multiplicity of definitions for a single concept violates the principle of unity of legal terminology. Consequently, the non-identical duplication of provisions across almost six legislative acts should be eliminated to ensure consistency.

Regarding the second category of children, Article 1 of the LU "On Protection of Childhood" defines a "child in difficult life circumstances" as: "a child who is in conditions that negatively affect his/her life, health, and development due to disability, serious illness, homelessness, conflict with the law, involvement in the worst forms of child labor, dependence on psychotropic substances and other types of addiction, abuse (including domestic violence), evasion by parents or persons in loco parentis of their

⁶⁹ Civil Code of Ukraine: Scientific and Practical Commentary (explanations, interpretations, recommendations based on the positions of the highest courts, the Ministry of Justice, scholars, and specialists). Vol. 4: Objects. Legal Transactions. Representation. Terms / Edited by Prof. I. V. Spasibo-Fatieieva. Series "Comments and Analytics". Kh.: PE Kolisnyk A. A., 2010. P. 536.

duties, natural disasters, man-made accidents, catastrophes, military operations, or armed conflicts, etc., as determined by the results of the child's needs assessment." A similar definition is provided in Clause 15, Part 1, Article 1 of the LU "On Social Services".



Another equally important issue is the **priority of forms of temporary placement**.

Unfortunately, the current laws do not provide any clear guidelines to address this question. Article 6 of the LU "On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care" refers only to the priority of placement forms for orphans and children deprived of parental care. At the same time, Article 5 of the Fam. C. states that the state ensures the priority of family upbringing of a child; this provision can reasonably be extended to include temporary placement as well.

The Guidelines for Alternative Care emphasize that while appropriate and permanent solutions for the care of children are being sought, measures must be taken to ensure that the most suitable forms of alternative care are *identified and provided. These solutions must be in the child's best interests and under conditions that promote their full and harmonious development* (Clause 2(b)).

It appears that the following rules should apply to temporary placement:

- 1) It is not permissible to apply different forms of placement to a child simultaneously.
- 2) When determining the form of placement in the child's best interests, the following factors must be taken into account: the

circumstances under which the child lost parental care; the child's life path, family ties, and siblings; contacts with the social environment; health, education, and other specific needs.⁷⁰

- 3) Preference should be given to placement with a family of relatives (or friends) when choosing between temporary forms. However, if no such persons are available, it is necessary to choose among foster care, FF, or FCCH on a temporary basis. In any case, the grounds for leaving a child without parental care are of key importance. For example, in cases of child abuse (e.g., physical beating) where the child was removed from their parents, placement with relatives or friends may involve significant risks.
- 4) When choosing among professional forms of temporary placement, preference should be given to foster care, as it is the professional form specifically designed for temporary placement. The other two professional forms (FF and FCCH) should be used as supplementary options, particularly in emergency situations.
- 5) When choosing among professional forms, if appropriate grounds exist, preference should be given to specialized forms. For instance, under martial law, a specialized FF may have priority in the absence of specialized foster care.



The **issue of funding** is of great importance for the development of the system of family temporary placements.

The issue of financial support for children left without parental care — specifically those who do not yet have the status of orphans or children deprived of parental care — and who are temporarily placed with families of

⁷⁰ Social Work with Vulnerable Families and Children: manual in 2 parts; Part I. Modern Guidelines and Key Technologies / Z. P. Kyianytsia, Zh. K. Petrochko: OBNOVA COMPANY, 2017. P. 35.

relatives, friends, as well as in FFs and FCCHs, has been a long-standing concern. On March 22, 2024, the CMU adopted the *Resolution № 331 "Certain Issues of Adoption and Placement of Orphans, Children Deprived of Parental Care, and Social Protection of Children Left Without Parental Care"*,⁷¹ introducing a new type of financial assistance titled "Child is Not Alone". The amount of assistance is equivalent to that provided by the state for children with the status of orphans or children deprived of parental care (2.5 subsistence minimums for children of the corresponding age per month; 3.5 subsistence minimums for children with disabilities of the corresponding age per month). However, the issue remains relevant, as the implementation of these legislative innovations is not yet fully operational, primarily due to technical reasons.

According to Letter № 7978/0/2–24/58 from the MSP of Ukraine, dated April 8, 2024, the setting of temporary assistance "Child is Not Alone" will be carried out in the Unified Information System of the Social Sphere (hereinafter — UISSS). Nevertheless, the necessary software updates for processing temporary assistance are currently available only in the test environment of the UISSS and have not yet been implemented for full operation.

In the interim, social protection authorities have assured that during the period of technical work aimed at finalizing the UISSS, structural units of district state administrations and executive bodies of city administrations will continue to accept applications from persons with whom children are temporarily placed. The actual appointment and payment of temporary assistance will occur immediately after the UISSS is finalized. Importantly, the temporary assistance will be granted retroactively, starting from the

first day of the month in which the application was submitted, covering the designated period. However, the assistance is granted for no more than six months and cannot exceed the duration specified in the order of the Children Welfare Service on the child's temporary placement. The payment of temporary assistance may be extended if the temporary placement is prolonged. In such cases, the recipient of the assistance must submit a request along with a copy of the order of the Children Welfare Service regarding the extension of the temporary placement (Clause 8 of the Resolution of the CMU № 331, dated March 22, 2024).

The lack of funding for temporary care forms has also emerged in the context of financial assistance for internally displaced persons (IDPs). In March 2024, the list of IDPs eligible for extended accommodation assistance for a six-month period was expanded to include: children placed in the family of a foster carer for the duration of their stay; foster carers and children for whom the absence of parental care has been established, and who are temporarily placed with families of relatives, friends, FFs, or FCCHs, from among internally displaced persons (*Procedure for Providing Accommodation Assistance to Internally Displaced Persons, approved by the Resolution of the CMU № 332, dated March 20, 2022*).

As for the financing of foster care activities, the *Resolution of the CMU № 633, dated May 30, 2024, "On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on the Provision of Child Foster Care Services"*, introduced an increase in funding for foster families: foster care providers will now receive financial support equivalent to 3 minimum wages per month (individual entrepreneurs who act as foster care providers will receive 3.5 minimum

⁷¹ Resolution of the CMU "Certain Issues of Adoption and Placement of Orphans, Children Deprived of Parental Care, Social Protection of Children Left Without Parental Care" № 331, dated March 22, 2024, [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/331-2024-%D0%BF#Text>

wages per month, taking into account that they independently pay the unified social tax and single tax).



Under martial law, the **shortage** of not only permanent family forms of care but also **professional temporary** care, particularly foster families, has become especially acute. According to the MSP, as of October 1, 2024, there are only 379 foster families throughout Ukraine.⁷²

In order to improve the situation, as noted above, at the beginning of the full-scale invasion, legislation allowed the placement of children in functioning FFs and FCCHs under martial law conditions, the “Child is Not Alone” chatbot was introduced to ensure the emergency placement of children, and in summer 2024, legislation on foster care was significantly updated to address

the growing need for professional temporary placements. Compared to the period before February 24, 2022, information campaigns on foster care have been significantly increased to raise public awareness and encourage participation.

Despite these efforts, the problem remains critical, particularly concerning the temporary placement of children without parental care who remain in hospitals for extended periods after undergoing mandatory medical examinations. Health care providers emphasize that these children often remain unplaced, further exacerbating the issue.⁷³ This situation requires a comprehensive solution. In particular, it is currently planned to utilize the capacities of state employment services as a tool for recruiting and conducting initial selection of candidates for foster caregivers and their assistants.

2.2 TYPES OF FAMILY FOSTER CARE

Placement with a Family of Relatives (Friends)

A child who has relatives or other individuals with whom they had close relationships at the time of deprivation of parental care (e.g., neighbors, friends), and who wish to care for the child in their family, may remain with such individuals until a permanent decision is made regarding the child’s care. The basis for this placement includes: an application from the relevant individuals; an act of inspection of their living conditions; the child’s consent (if they are capable of expressing their opinion); the written consent of all adult family members living with the person who agrees to the temporary placement; and the decision of the Children Welfare Service on the temporary placement

of the child (Clause 31 of the Resolution of the CMU № 866).

The individuals with whom the child is placed may include one person or several persons, such as spouses.

According to the National Social Service of Ukraine (NSSU), as of August 1, 2024, 9,130 children left without parental care were temporarily placed with relatives and friends.

This form of placement is often informally referred to as “temporary guardianship”, although the legislator does not use this term. The term likely arises because individuals who are related to the ward are typically appointed

⁷² Since the beginning of the year, 101 new foster families have been created in communities [Electronic resource]. Access mode: https://www.facebook.com/MLSP.gov.ua/?locale=uk_UA

⁷³ Roadmap for Ensuring the Rights and Best Interests of the Child. P. 103 [Electronic resource]. Access mode: <https://childrights.org.ua/wp-content/uploads/2024/04/draft.pdf>

as guardians (custodians). In fact, there have even been suggestions that only relatives of the child should be eligible for appointment as guardians or custodians.

However, individuals in whose family a child is temporarily placed do not have the legal status of legal representatives. Nevertheless, during the placement period, the child may require representation to compensate for their lack of civil capacity. Such representation may become necessary for tasks such as: obtaining documents, medical intervention and other legally significant actions.

Article 65 of the Civ. C. stipulates that, prior to the establishment of guardianship or custody and the appointment of a guardian or custodian, guardianship (custody) of an individual is exercised by the relevant guardianship and custody authority. In other words, the law imposes a duty on the guardianship and custody authority to take measures for the protection and care of the child before formal guardianship is established. As noted, it seems appropriate to codify a legal provision explicitly stating that, in such situations, the legal representatives of the child are the guardianship and custody authorities. This approach aligns with Part 3 of Article 242 of the Civ. C., which allows for individuals other than parents (adoptive parents) or a guardian to act as legal representatives when established by law. To ensure clarity and consistency, legal representatives in such cases should be determined at the level of primary law. For example, a similar provision exists in Paragraph 6, Part 1, Article 1 of the LU "On Refugees and Persons in Need of Additional or Temporary Protection," which directly designates the guardianship and custody authority as a possible legal representative for a child separated from their family.

An alternative to the proposed legislative changes could be the introduction of a family council and a special guardian as a legal representative in emergency situations.

A similar legal institution is enshrined in Article 113 of the Civil Code of the Republic of Moldova.⁷⁴ Thus, the child's family council consists of at least three voting members. Members of the family council may include the child's relatives, or, in their absence, other individuals who have a vested interest in the child's well-being. The guardianship and custody authority ensures that both paternal and maternal lines of kinship are represented in the council.

If the guardian (custodian) is unable to exercise their powers, they must request the family council or, if no family council exists, the guardianship and custody authority to appoint a special guardian (custodian). Additionally, the family council or the guardianship authority may make such an appointment at the request of any interested party or on its own initiative.

Another issue arises when there are disputes among relatives (or friends) regarding who the child will be placed with, whether permanently or temporarily, or who will care for the child until a competent authority makes such a decision. This is particularly relevant in cases where the child cannot express their opinion due to young age (e.g., after the death of the parents). To resolve this problem, it is possible to propose the legislative consolidation of a testator's testamentary disposition. This would allow the testator to designate in their will the individuals whom they wish to entrust with permanent or temporary care of the child in the event that the child becomes eligible for the status of an orphan or child deprived of parental care after the testator's death. Under

⁷⁴ Civil Code of the Republic of Moldova [Electronic resource]. Access mode: https://www.legis.md/cautare/getResults?doc_id=119550&lang=ro

the general permissive nature of the Civ. C., the testator has the right to include in their will any instructions that comply with the general requirements for the validity of legal transactions (Article 203 of the Civ. C.). Furthermore, Paragraph 2.7 of Chapter 3, Section II of the *Procedure for Performing Notarial Acts by Notaries of Ukraine, approved by the Order of the Ministry of Justice of Ukraine № 296/5, dated February 22, 2012*, explicitly states that a will may include non-property dispositions. Examples of such dispositions include: a request to appoint guardianship over a minor child; instructions to carry out actions aimed at achieving a specific socially useful purpose, etc.⁷⁵

As a result, the question arises whether it is possible to provide for such a testamentary disposition within the framework of Article 1238 (*testamentary refusal*) and Parts 1 and 2 of Article 1240 (*testamentary trust*) of the Civ. C. of Ukraine, or whether the legal nature of such a disposition cannot be adequately addressed under the current provisions of the Civ. C. of Ukraine and therefore requires additional legislative regulation. The second option appears to be correct. Both testamentary dispositions represent the testator's order for the heir to perform certain actions, obligating heirs to act in a specific manner (testamentary refusal concerns actions of a property nature; the imposition of other duties pertains to actions of a non-property nature). These provisions do not reflect the testator's will (desire) to place the child with a specific person. However, if the testator, guided by the provisions of Article 1240 of the Civ. C., includes a clause in their will leaving part of their property to a designated heir and establishes the obligation to raise and care for the child, this does not automatically obligate the guardianship and

custody authority to make a decision regarding the placement of the child. In the event that the Children Welfare Service service does not make a decision for whatever reason, the heir who has taken all actions in his or her power to make the decision should simply be released from the obligation imposed on him or her.

Particular attention must be paid to Paragraph 1, Part 1 of Article 1219 of the Civ. C., which explicitly states that the transfer of the right to raise a child as part of the hereditary estate is impossible. This is because inheritance does not include rights and obligations that are inextricably linked to the personality of the testator. Such rights include personal non-property rights, as provided under Article 151 of the Fam. C., which identifies the right to raise a child as a personal non-property right. At the same time, this provision does not concern the transfer of personal non-property rights but rather the emergence of rights for specific individuals under certain conditions. It is proposed to term these rights as postmortem rights (derived from the Latin "*post*" — after and "*thanatos*" — death). In essence, these are personal non-property rights of individuals that arise upon and as a result of the death of another person, as specifically defined by law or established by the deceased, and are generally aimed at protecting the good name or interests of the deceased.⁷⁶ An example of such a right is enshrined in Article 439 of the Civ. C., which provides heirs and other interested parties the right to counteract any distortion, alteration, or other interference with a work that could harm the honor and reputation of the deceased author. It is important to emphasize, once again, that the right to raise and care for a child — whether in a temporary or permanent form of placement — does not

⁷⁵ Order of the Ministry of Justice of Ukraine "On Approval of the Procedure for Performing Notarial Acts by Notaries of Ukraine" № 296/5, dated February 22, 2012, // Access mode: <https://zakon.rada.gov.ua/laws/show/z0282-12#Text>

⁷⁶ Stefanchuk R. "Postmortem" Personal Non-Property Rights of Individuals // Journal of the Academy of Legal Sciences of Ukraine. 2005. № 1 (40). P. 107.

automatically arise for the individual designated in the testamentary disposition. Such a right arises only after the relevant decision is made by the authorized body, which must act in accordance with the best interests of the child. Before such a decision is made, the testator's designation of a specific person for the child's upbringing can only be viewed as the exercise of their testamentary right to express their will regarding the child's placement.

In addition to the above, further issues that require clarification include the time limits for a child's stay with relatives or friends and the consequences of improper performance of their duties by such persons.

The timeframe for such placement is not defined in the current legislation, unlike, for instance, foster care, which is a professional form of temporary family placement. The duration of a child's stay with relatives or friends often depends on the following: when the child acquires the status of an orphan or a child deprived of parental care; the time required to prepare documents for the child's permanent placement by the responsible individuals (e.g., completion of necessary training); and how quickly the child's biological parents and the child themselves overcome the difficult life circumstances that led to the placement.

The issue of sanctions against persons with whom a child is temporarily placed is not directly regulated under the current legislation. If a child is removed from persons substituting for parents (e.g., guardians or custodians), the guardian (custodian) is suspended from performing their duties, the foster care agreement is terminated, the adoption may be canceled. Furthermore, if the reasons preventing the proper upbringing

of the child by their parents cease to exist, the court may, at the request of the parents, issue a decision to return the child to them (Part 3 of Article 170 of the Fam. C. of Ukraine).⁷⁷

With regard to liability for the failure to fulfill or improper fulfillment of the obligation to raise and develop a child, Part 4 of Article 155 of the Fam. C. states that evasion of parental responsibilities by parents constitutes grounds for liability as established by law. However, this provision does not specify the type of liability parents will face for evasion of their parental responsibilities. The concept assumes the existence of both moral and legal liability, which are reflected in various branches of law, including family, civil, administrative, and criminal law. Moral liability entails moral condemnation of the parents for failing to fulfill their responsibilities. Legal liability involves additional burdens or punishment in accordance with the procedure established by law. Here, additional burdens refer to legal consequences unfavorable for the offender that go beyond the forced fulfillment of the obligation.⁷⁸

Taking into account the above, the following sanctions may be applied to persons who have temporarily placed a child in their care:

- 1) termination of their duties to temporarily care for the child;
- 2) criminal liability, if the actions of such persons contain elements of a crime as provided for in the Criminal Code of Ukraine (for example, in cases involving physical abuse, such as beating the child);
- 3) civil liability in the form of compensation for damages caused. A side effect of such violations may be a subsequent refusal to appoint such individuals as a guardian (custodian) in the future.

⁷⁷ Razhon O. V. Removal of a Child without Deprivation of Parental Rights Due to Failure to Perform One's Duties by Neglecting to Create Necessary Housing and Living Conditions // Access Mode: https://univd.edu.ua/general/publishing/konf/19-20_05_2017/pdf/64.pdf

⁷⁸ Family Code of Ukraine: Scientific and Practical Commentary/ed. I. V. Zhilinkova. Kharkiv: Ksylon, 2008. 855 p.

It is necessary to highlight that in emergency situations, it is quite common for relatives or friends who shelter a child to fail to notify the authorized bodies and persons that the child has been left without parental care. This often occurs out of fear that the child will be removed from their care. By failing to notify the authorities, such individuals violate their obligation as stipulated in Part 4 of Article 24 of the *LU "On the Protection of Childhood"* and Clause 2.5 of the *Rules of Guardianship and Custody*.⁷⁹

According to Paragraph 79 of the Guidelines for Alternative Care, states should develop special and appropriate measures aimed at protecting children in informal care from abuse, neglect, child labor and all other forms of exploitation, paying particular attention to informal care provided by persons who are not the child's relatives or relatives previously unknown to the child, or those relatives who are geographically distant from the child's habitual residence.

Therefore, it is the duty of the state to promptly identify children left without parental care, conduct appropriate information campaigns and encourage such unofficial guardians to make themselves known to the fullest extent possible, in particular to gain access to social and financial support.

Placement in the Family of a Foster Carer

Among temporary forms of care, the institution of foster care holds significant importance, as it is a professional family-based form of raising and caring for a child.

The greatest expansion of foster care occurred in the years following the Second World War, when a new wave of children left without parental care emerged. At that time, the state, relying on the existing children's institutions, was unable to adequately address the challenges caused by the war. However, over time, the institution of foster care began to decline. After the adoption of the Fundamentals of Legislation on Marriage and Family in the USSR in 1968, foster care remained formally recognized only in the Family Codes of the Uzbek SSR and Lithuanian SSR. In independent Ukraine, the foster care service was introduced as a counterpoint to the institutional care and upbringing of children, offering a professional and family-oriented alternative to institutionalized settings.⁸⁰

As already noted, according to the MSP, as of October 1, 2024, there were 379 foster families operating in Ukraine.

For comparison, the Resolution of the Verkhovna Rada of July 17, 2020, *"On the Formation and Liquidation of Districts,"* established a total of 1,469 territorial communities across the regions of Ukraine.⁸¹ This means that foster families are not available in every community.

Such statistical data clearly highlight the issue: there is a critical shortage of foster families in Ukraine.

Unlike placement with relatives or friends, the institution of foster care is governed not only by the Resolution of the CMU № 866 but also by a number of other legislative acts. In particular,

⁷⁹ Order of the State Committee of Ukraine for Family and Youth of the Ministry of Education, Ministry of Public Health, Ministry of Labor and Social Policy "On Approval of the Rules for Guardianship and Trusteeship" № 34/166/131/88, dated June 25, 1999 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/z0387-99#Text>

⁸⁰ Tokarchuk L. M. Placement of Orphans and Children Deprived of Parental Care as an Implementation of the Principle of State Protection of the Family: academic dissertation ... candidate of legal sciences: Odesa, 2021 [Electronic resource]. Access mode: <https://dspace.onua.edu.ua/items/2705bd87-16f2-476e-8ef3-f6fc7ee4f22e/full>

⁸¹ Resolution of the Verkhovna Rada "On the Formation and Liquidation of Districts", № 807-IX, dated July 17, 2020 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/807-IX#Text>

it is regulated by the *Resolution of the CMU № 893 "Some Issues of Protection of the Rights of the Child and Provision of Child Foster Care Services," dated August 20, 2021* (hereinafter — Resolution № 893).⁸²

Recently, the institution of foster care has undergone significant changes. The *Resolution of the CMU № 633, dated May 30, 2024, "On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on the Provision of Child Foster Care Services,"*⁸³ introduced substantial updates to the legislative regulation of foster care.

The key novelties are as follows:

- 1) a foster carer can now work either as an individual or as a sole proprietor;
- 2) funding for foster families has been increased: foster carers receive financial support equivalent to three minimum salaries per month (sole proprietors receive three and a half minimum salaries, as they independently pay a single contribution to compulsory social insurance (ESI) and a single tax);
- 3) the waiting period for a child to be placed (the time between the departure of one child and the placement of the next) will now be paid at the rate of one minimum wage;
- 4) it is now possible to place children from other communities in the foster carer's family;
- 5) a child may remain in the foster carer's family for more than six months in cases where the court is considering either deprivation of parental rights, or removal of a child from parents without deprivation of parental rights;

- 6) the services of a foster carer's assistant will now be paid at the rate of one minimum wage per month;
- 7) the assistant may work as a sole proprietor; be a person not necessarily from among the family members living with the foster carer. The Children Welfare Service, in cooperation with social services, is responsible for assisting individuals who decide to become foster carers in finding an assistant. Additionally, foster carers will now be entitled to seven days of paid leave for every three months of caring for a child.

At the same time, several issues regarding the functioning of foster care in Ukraine require further legislative resolution.

Firstly, the legislator lacks clarity in defining foster care as either a profession or a social service. This ambiguity creates inconsistencies in its practical implementation. However, it is the local self-government bodies that play a critical role in providing substance to the foster care system. They actively post relevant information on official websites to inform the public about the foster care service and to facilitate the search for candidates to become foster carers.⁸⁴

Therefore, the issue of the legal nature of foster care remains unresolved at the legislative level. Specifically, it is unclear whether foster care is to be regarded as a profession (it is not included in the "Dictionary of Occupational Titles") or as a social service (current legislation does not require registration in the Register of Providers and Recipients of Social Services). Legislative clarity

⁸² Resolution of the CMU "Some Issues on Protection of Rights of Children and Provision of Child Foster Care Services" № 893, dated August 20, 2021 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/893-2021-%D0%BF#Text>

⁸³ Resolution of the Cabinet of Ministers of Ukraine "On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on the Provision of Child Patronage Services" № 633, dated May 30, 2024 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/633-2024-%D0%BF#Text>

⁸⁴ Tokarchuk L. M. Placement of Orphans and Children Deprived of Parental Care as an Implementation of the Principle of State Protection of the Family: academic dissertation ... candidate of legal sciences: Odesa, 2021 [Electronic resource]. Access mode: <https://dspace.onua.edu.ua/items/2705bd87-16f2-476e-8ef3-f6fc7ee4f22e/full>

on this matter is essential for: social (pension) security for foster carers and their assistants; taxation of income received by foster carers and their assistants; provision of annual paid leave; accrual of employment periods, etc.

Additionally, on the Diia website, the service titled “Payment for foster care services and payment of social assistance for the maintenance of a child in the foster carer’s family” is listed as a social service with the identifier 01405.⁸⁵ This results in the combination of two payments of different legal nature under a single “social service” category. Consequently, this creates potential problems when determining the appropriate amount of the single social contribution.

Secondly, the concept of “foster care” in Article 252 of the Civ. C. of Ukraine does not specify which category of children it applies to — whether it is established for orphans and/or children deprived of parental care or for children who do not have this specific legal status. However, it is noteworthy that Chapter 20, titled “Foster Care,” is located in Section IV of the Civ. C., which is entitled “Placement of Orphans and Children Deprived of Parental Care.” Based on a systemic interpretation of the legislation, it can be reasonably assumed that the legislator intended foster care to apply specifically to children who have been granted the legal status of orphans or children deprived of parental care.

At the same time, according to the above-mentioned Resolution № 893, foster care services are provided to a child who is in difficult life circumstances. This indicates that foster care can apply to both children who have the above-mentioned legal status and to those

who do not have it. The term “difficult life circumstances” is used in legislation to refer to children in general, without limiting its application to those with a specific legal status. As such, the provisions of Chapter 20 of Section IV of the Civ. C. require improvement to ensure consistency with the broader application of foster care services.

Thirdly, the provision in Part 3 of Article 252 of the Civ. C. stating that a foster carer is a person who “with the participation of family members” provides services for the care, upbringing, and rehabilitation of a child in their family significantly limits the range of potential foster carers. This restriction appears unnecessary because, under Part 4 of Article 3 of the Civ. C., even a single person has the legal rights of a family member. Furthermore, as previously noted, an assistant to a foster carer is not required to be a family member.

Fourthly, in order to place a child in a foster carer’s family, Part 1 of Article 254 of the Civ. C. requires the child’s consent, provided that the child has reached an age and level of development that enables them to express such consent.

A practical solution is needed for obtaining consent for the simultaneous placement of children who are siblings or children who were raised in the same family when one of them refuses placement.⁸⁶ How should the Children Welfare Service act in such a situation? It appears that the provisions of Part 3 of Article 171 of the Civ. C. may apply by analogy. According to this provision, the court may make a decision contrary to the child’s opinion if such a decision is in the child’s best interests.

⁸⁵ DIIA portal. Payment for Foster Carers Services and Social Assistance Payments [Electronic resource]. Access mode: <https://guide.diia.gov.ua/view/oplata-posluh-patronatnoho-vykhovatelja-ta-vyplata-sotsialnoi-dopomohy-na-utrymannia-dytyny-v-simi-patronatnoho-vykhovatelja-4e6edd05-a206-45da-87a2-12b0f3956284>

⁸⁶ Tokarchuk L. M. Placement of Orphans and Children Deprived of Parental Care as an Implementation of the Principle of State Protection of the Family: academic dissertation ... candidate of legal sciences: Odesa, 2021 [Electronic resource]. Access mode: <https://dspace.onua.edu.ua/items/2705bd87-16f2-476e-8ef3-f6fc7ee4f22e/full>

Fifthly, with the introduction of legislative changes following the full-scale invasion, the issue of “double” representation of children placed in foster care has emerged. The *LU “On the Protection of Childhood”* was supplemented with Article 30¹, which states that in the event of relocation, including abroad for the purpose of evacuation during a state of emergency or martial law in Ukraine, foster caregivers serve *as the legal representatives of such children*. However, this representation excludes powers related to: performing legal acts concerning housing and property rights; granting consent to adoption; changing the child’s citizenship. Foster caregivers act as legal representatives until the child returns to Ukraine or is reunited with their family.

At the same time, the parents remain the legal representatives of the child, as the current legal framework establishes that the termination of legal representation only occurs upon the deprivation of parental rights.

Therefore, a conflict of representative powers may arise between parents and foster carers. In this regard, if the agreement on the placement of a child in foster care is concluded with the participation of the parents, it is advisable to clearly determine the distribution of powers within the agreement. This would ensure that the actions of parents and foster carers as legal representatives are coordinated in a way that protects the interests of the child and avoids potential conflict situations. Otherwise, the will of all representatives — and not just one of them — must be taken into account for the representation of the child’s interests. If the placement is carried out without the consent of the parents (or other legal representatives), such as in cases involving the removal of a child, then under these circumstances, the foster carer should serve as the legal representative of the child, while respecting the restrictions established by law.

Sixthly, at the legislative level, the issue of the conditions under which parents (or other legal representatives) are considered parties to the agreement on foster care over a child remains controversially resolved.

In accordance with Paragraph 15 of the Procedure for the Creation and Operation of a Foster Carer’s Family, Placement, and Stay of a Child in a Foster Carer’s Family, approved by the Resolution № 893, the parents/legal representatives of the child are considered a party to the foster care agreement if the child’s placement in a foster carer’s family is carried out *at their request*.

In turn, according to the preamble of the Model Agreement on Child Foster Care, approved by the aforementioned Resolution № 893, parents or legal representatives are considered parties to the agreement in cases where the child is placed in a foster family with *their consent*. However, it is important to note that a “*statement*” (an act of will to initiate) and “*consent*” (an act of will to approve) are not the same. This inconsistency highlights the need to amend the current legislation to ensure clarity and alignment of legal terminology.

Therefore, the above indicates the need to clarify at the legislative level the provision that parents (other legal representatives) are a party to the agreement on patronage over a child in the event of the child being placed in the family of a foster carer upon their *statement* and (or) *consent*.

Seventhly, in practice, there is a reluctance of internally displaced foster carers to renegotiate foster care agreements with Children Welfare Services whose jurisdiction extends to the area of internal displacement. This reduces the possibilities for monitoring and assistance from the Service as a party to the relevant agreement.

As a result, there is a need to enshrine in the legislation an imperative rule on renegotiating

the foster care agreement in the event of internal displacement of foster families.

Eighthly, the issue of crossing the border by a foster carer also needs to be improved. The issue is that, according to clauses 6–11 of paragraph 2³ of the Rules for Crossing the State Border by Citizens of Ukraine, approved by the *Resolution of the CMU “On Approval of the Rules for Crossing the State Border by Citizens of Ukraine” (as amended) № 57, dated January 27, 1995*,⁸⁷ in the event of a state of emergency or martial law on the territory of Ukraine, children under the age of 18 and who do not belong to the category of orphans or children deprived of parental care, but who are enrolled in institutions of different types, forms of ownership and subordination for a round-the-clock stay, are placed in families of foster carers, shall be accompanied by a person authorized by the head of the relevant institution/employee of the institution, who acts as a substitute or by the guardianship and custody authority or the regional military administration, accompanied by a foster carer who provides care for children, in particular, *if there is an invitation from institutions, organizations of various types and forms of ownership authorized by the state of final residence of children or local governments of such a state to take measures to receive and accompany children from other countries*.

Since the specified paragraph provides a general list of documents that apply to both foster carers and institutions — without distinguishing between the documents required for foster carers and those required for border crossings involving children enrolled in institutions — such wording may create ambiguity. This ambiguity could lead to the erroneous conclusion that foster carers must provide invitations from

institutions or organizations authorized to receive and accompany children from other countries when crossing the border.

To prevent ambiguous interpretation of the aforementioned provision, it is necessary to amend the norm to clearly differentiate between the documents required for a foster carer and those required when a child crosses the border as part of a childcare facility.

Placement in operating FFs and FCCHs on a temporary placement basis

FFs and FCCHs are traditionally considered permanent family-based forms of placement, where children with the status of orphans or children deprived of parental care are raised.

However, in accordance with paragraph 78 of the *Resolution of the CMU № 866* (as supplemented following the introduction of martial law in Ukraine), during a state of emergency or martial law, children left without parental care, including those separated from their families, may be temporarily placed in existing FFs and FCCHs. Such placement occurs on a temporary placement basis, while adhering to the prescribed maximum number of children allowed in these forms of family-based care.

These legislative amendments were primarily introduced in response to the increase in the number of children left without parental care as a result of military actions. Consequently, there has been a growing need for temporary alternative care. This need is further driven by the fact that not all territorial communities have functioning foster care families, or existing foster families are already at full capacity. Additionally, the number of foster families remains insufficient to meet the rising demand, and not

⁸⁷ Resolution of the CMU “On Approval of the Rules for Crossing the State Border by Citizens of Ukraine” (as amended), № 57, dated January 27, 1995 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/57-95-%D0%BF#Text>

all children have relatives or friends willing or able to provide temporary family-based care.

According to the provisions of Part 4 of Article 256² and Part 4 of Article 256⁶ of the Civ. C., adoptive parents and foster parents are legal representatives of children in their care and act without special powers as guardians or trustees. They also assume the responsibilities for the upbringing and development of children as stipulated by Article 150 of the Civ. C.

However, it should be noted that legislative acts do not include provisions similar to Part 4 of Article 30¹ of the LU *"On the Protection of Childhood"* that explicitly grant legal representative powers to foster carers. As a result, under the current legal framework, adoptive parents and foster parents are not recognized as legal representatives of children placed with them on a temporary basis.

Given that temporary placement in FFs and FCCHs is also recognized as a professional form of care during a state of emergency, it would be advisable to grant those persons the powers of limited legal representation.

Additionally, the issues of financial support for FFs and FCCHs that accept children on temporary terms,⁸⁸ as well as the duration of children's stay in such families, remain relevant and require further legislative clarification and regulation.

Regarding the latter, it should be noted that to address the outlined problem, the legislation appropriately provides provisions similar to those regulating the duration of a child's stay in foster care. Specifically, *paragraph 27 of the Procedure for the Creation and Activity of a Foster Care Family, Placement, and Stay of a Child in a Foster Care Family, approved by the Resolution of the CMU № . 893*, states: the period of a child's stay in a foster care family cannot exceed three months; if circumstances justify the necessity and expediency of the child remaining in foster care beyond this period, it may be extended up to six months based on the conclusion of the interdisciplinary team; during a state of emergency or martial law, this period may be extended beyond six months for the duration of court proceedings concerning the deprivation of parental rights or the removal of the child from their parents without deprivation of parental rights. However, the extension cannot exceed one month after the court decision enters into legal force. If it is impossible to return the child to their parents, legal representatives, or place of permanent residence due to their presence in active combat zones or in territories of Ukraine temporarily occupied by the Russian Federation, the extension is allowed. Such territories must be included in the official list approved by the Ministry of Reintegration of Temporarily Occupied Territories (MRTOT), where the end date of hostilities or occupation has not yet been determined.

2.3 STEADY TRANSITION FROM TEMPORARY TO LONG-TERM FAMILY FOSTER CARE

After temporary care, a child may be placed in permanent forms of upbringing if grounds exist for granting the child the status of an orphan or a child deprived of parental care. Alternatively, the child may be returned to their biological family.

The termination of temporary care and the adoption of long-term decisions must be properly prepared to ensure that such decisions are truly permanent and final. The transition process requires careful planning, coordination,

⁸⁸ For more details, see subsection 1.2 of this study.

and support for all parties involved, including the child, biological parents, adoptive parents, guardians (custodians), foster parents, and their family members.

According to paragraphs 60–61 of the Guidelines for Alternative Care, short-term placements should aim to create conditions for identifying a permanent solution for the child's placement. The child's right to a stable and permanent environment must be ensured without undue delay, either through reintegration into their biological family or placement with relatives. If these options are not feasible, the child should be provided with an alternative stable family environment. Planning for both temporary and permanent care (e.g., guardianship) should begin as early as possible — ideally before the child is placed in care. This planning process should carefully consider the immediate and long-term advantages and disadvantages of each available option. It must also include both short- and long-term proposals to ensure the child's best interests are prioritized.

A sustainable transition from temporary alternative care to a permanent family environment should be ensured through a comprehensive **set of measures, procedures, and tools**:

- search for the optimal model of a permanent family environment, prioritizing the reunification of the child with their biological family. If reunification is not possible, priority should be given to family-based forms of placement;
- education and training for adults, including biological parents and other legal representatives, to prepare them for their care-giving roles;
- selection and assessment of candidates, evaluating the capabilities of adults (potential legal representatives of the child) based on the specific needs and best interests

of the child, as well as ensuring mutual compatibility between the child and the candidates;

- clarification of the child's opinion;
- strict compliance with legal formalities and thorough verification of all relevant documents;
- psychological support for children, adults, and their family members;
- social support;
- financial support;
- monitoring measures after the child's placement or return to their biological family to ensure the child's well-being and safety.

Of course, this is only an approximate and general list of measures that can help ensure a sustainable transition. At the same time, it is crucial to develop an **individualized algorithm (program)** tailored to the best interests of each specific child. This program should adhere to standardized procedures and comply with general transition standards while remaining flexible enough to address the unique needs and circumstances of the child.

To ensure a sustainable transition, the child's adaptation when leaving temporary forms of care plays a significant role. This stage is particularly important and sensitive, as it must take into account the child's psychological, social, and emotional well-being.

The general algorithm for a child's adaptation when transitioning from temporary forms of care to a permanent environment should include the following stages:

1. Assessment of the child's readiness for change that includes evaluating the child's emotional and psychological state to determine their readiness to transition from temporary to permanent care, preparation of the child for the upcoming changes should include early and age-appropriate

communication about the transition in a form accessible and understandable to them.

2. Preparation of the new environment includes the assessment of a biological family or new place of care, including, if a return to the biological family is planned, social services must assess the family's living conditions and their capacity to fulfill the responsibilities of caring for the child. In cases of adoption or transfer to another permanent family-based care form, an assessment should evaluate the new family's ability to accept the child and provide the necessary conditions for their growth and development. At this stage specialists should be involved to assess the new environment and prepare the family or relatives to accept the child.
3. Gradual integration into the new environment that involves organizing the initial meetings with the participation of social workers and psychologists.
4. Stage of leaving the temporary form of care, involving planning the process of leaving, should be gradual, with a clear schedule and stages.
5. Psychological support after transition involving post-transition support and regular consultations with a psychologist.
6. Integration into the new family or social environment includes active involvement in family and social activities, with gradual adaptation to new roles and responsibilities within the family, educational institutions, and social life.
7. Monitoring of the adaptation process, which includes regular monitoring by social services, assessment of the child's interaction in the new environment and adjustment of the process if necessary. It is possible to involve additional specialists for psychological support, or additional assistance may be offered to the family. If it is not possible to provide adequate support to the child in

the new environment, another placement solution may be considered.

8. Final assessment and completion of the adaptation process. This stage includes a final assessment of the child's condition and evaluation of the child's successful adaptation to the new environment, as well as promotion of independence and self-sufficiency. If the child has reached the age when he or she can make decisions about his or her life, it is important to provide psychological and legal support for full integration into the new environment.

The proposed adaptation algorithm facilitates a smooth transition for the child from temporary forms of care, minimizing the risks of stress and emotional trauma. It also supports the child in successfully integrating into their new environment.

Transition to Permanent Family-based Forms of Alternative Care

The transition from temporary family-based care to permanent family-based care — such as guardianship, FF, FCCH, or adoption — is a critical step in ensuring a stable and long-term family environment for children. This applies to children who have been left without parental care, have not been reintegrated into their biological families, and have acquired the legal status of orphans or children deprived of parental care.

In some situations, this process may occur solely in the legal domain, while the child continues to live in the same family environment. For example, this applies in cases of guardianship (custody) or adoption by relatives or friends with whom the child was temporarily placed. It also applies to the permanent placement of a child in a FF, FCCH where the child was previously raised under temporary conditions.

What challenges do children and adults providing alternative care face along the way?



The first set of challenges concerns the **timing of temporary family-based care**. These terms directly depend on the terms for obtaining the status of an orphan or a child deprived of parental care.

According to the provisions of the current laws, the Children Welfare Service is obliged to prepare a set of documents confirming that a child has acquired the status of an orphan or a child deprived of parental care within two months.⁸⁹ During this period, service employees must collect the necessary package of documents depending on the grounds for granting the status (paragraph 9 of the Resolution of the CMU № 866).

During law enforcement, this term is often not met because the preparation of documents takes much longer or due to a lack of staff capacity in the Children Welfare Services that provide legalization of the relevant status.

To ensure that the actual period of a child's stay in a foster family does not exceed the legal limitations, the *Resolution of the CMU № 893* (paragraph 27) was amended in July 2024. The amendment stipulates that during a state of emergency or martial law, the six-month period of a child's stay in foster care may be extended. This extension applies specifically to the period of court consideration of cases concerning the deprivation of parental rights or the removal of the child from the parents without deprivation of parental rights. However, the extension may not exceed one month after the court decision enters into legal force. At the same time, no corresponding changes were made to Part 6 of Article 252 of the Fam. C., which still limits the total period of a child's stay in the family of a foster carer to six months.

However, this legislative update does not address the issue of foster carers and children developing psycho-emotional attachments, which often result in significant difficulties during separation. This situation underscores the need for qualified psychological support to help both parties navigate these challenges effectively.

In addition, judicial procedures require improvement. The transition to a permanent form of care often necessitates decisions not only from guardianship and custody authorities but also from the courts. This applies, for instance, to cases involving the deprivation of parental rights, adoption, or other legal determinations related to the child's placement.

The consideration of such cases in courts can take more than a year. If these cases were conducted in strict compliance with the time limits established by procedural law, they could be resolved within approximately three months. Addressing the problem of delays in court proceedings is feasible, but it requires legislative changes. In the long term, the establishment of a dedicated system of family courts.

Currently, the courts are facing a significant problem of understaffing within the judiciary. In addition to addressing this issue, another solution is to establish legal provisions that prioritize the consideration of adoption cases and other cases related to the protection of children's rights and interests. At present, judges do not have the authority to prioritize such cases. In this regard, experts in the field of child protection have repeatedly emphasized the need to introduce amendments to the Civil Procedure Code of Ukraine. These amendments would obligate courts to consider cases

⁸⁹ Part 1 of Article 5 of the LU "On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care" № 2342-IV, dated January 13, 2005 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/2342-15#Text>

involving the rights and interests of children as matters of priority and urgency.⁹⁰

In addition, adoption cases in Ukraine are currently heard with the participation of a jury. However, practice shows that under such circumstances, jurors often rely on the opinion of the professional judge. As a result, juries do not fully perform the functions for which a jury exists, as the current model does not reflect a jury system in its classical sense. Moreover, international experience demonstrates that jury participation is rarely effective in civil proceedings, including adoption cases. Instead, the involvement of jurors in adoption cases creates several challenges, particularly delays in case consideration. For instance, when jurors fail to appear for hearings, the court must seek replacements, leading to repeated postponements and disruptions of proceedings. Therefore, there is a clear need to either reform and improve this institution or to eliminate the participation of jurors in adoption cases altogether to ensure the timely and efficient resolution of such matters.⁹¹

Extended periods of stay in temporary placements may also result from the required training for relatives or friends seeking guardianship (custody) of a child. On average, such training lasts about two months. However, under current martial law, significant delays have emerged due to long waiting lists for training programs. These delays are caused by two key factors: the increased number of children in need of permanent family placement and the provisions of mobilization legislation, which identify child custody as a valid ground for deferral from military service.

To address this issue, in April 2022, the legislator introduced a provision stipulating that during a state of emergency or martial law in Ukraine, individuals in family or kinship relations — including godparents — who assume guardianship, custody, or care of orphans and children deprived of parental care are exempt from the requirement to complete a child-rearing course at a social services center (paragraph 80 of the Resolution of the CMU № 866).

However, despite the aforementioned provision, Children Welfare Services currently apply this exemption only in cases where guardianship (custody) is assumed by the child's blood relatives. This practice does not align with the legislative provision, which does not explicitly restrict the exemption to blood relatives. For example, when an aunt, uncle, or godparent who is not a blood relative seeks to assume custody, the provision should still apply.

Additionally, in March 2024, paragraph 80 of the Resolution of the CMU № 866 was amended, replacing the term 'godparents' with 'a person who became a godfather or godmother of a child before the child acquired their status.' This amendment was introduced to prevent situations where individuals sought to circumvent the educational requirement by baptizing the child solely for this purpose.



The practice of a **trial period** when a child is under the care of adoptive parents is related to the problem of ensuring a sustainable transition, and thus the court, when making a decision on adoption, will take into account not only the formal criteria that adoptive parents must meet, but also the quality of the bond that has

⁹⁰ Sereda M., Hryshchenko K., Bereza M. Taking into Account the Child's Opinion in Civil Cases Concerning Their Interests (Democracy justice reforms) Kyiv, 2023. Access mode: https://drive.google.com/file/d/1r340WII_EtanOdFj2VzMAzyjQxgm7Ai/view?pli=1

⁹¹ Hryshchenko K. Adoption of Children after the War: Old Problems, New Challenges and Solutions. [Electronic resource]. Access mode: <https://dejure.foundation/Oj7x4ir8m1-usinovlennya-dtei-pslya-vini-star-proble/>

already been formed between the child and the adoptive parents.⁹²

In Ukraine, the practice of pre-adoption guardianship is currently established only during periods of martial law or a state of emergency. This applies specifically to orphans and children deprived of parental care who have been temporarily displaced (evacuated) outside Ukraine from institutions of various types, forms of ownership, and subordination, as stipulated in paragraph 78³ of the Resolution of the CMU № 866.

It appears that, among other measures, in March 2024, the Resolution of the CMU № 866 (paragraph 35) was supplemented with a provision allowing orphans and children deprived of parental care, who are registered for adoption, to be temporarily placed with Ukrainian citizens registered as candidates for adoptive parents and residing within Ukraine. This placement is contingent upon a positive conclusion from the district, Kyiv or Sevastopol city state administration, or the executive body of the city or district council (if established), affirming the expediency of adoption and its alignment with the child's best interests. Additionally, a formal application for adoption of such children must be submitted to the court.

Meanwhile, this legislative novelty raises several critical questions:

- 1) what happens if the adoption of a child temporarily placed with potential adoptive parents does not occur for one reason or another, particularly as this concerns orphans and children deprived of parental care;
- 2) who monitors the conditions of care and upbringing of such a child, as well as the observance of their rights and interests,

during the period of placement with a potential adoptive family;

- 3) who acts as the legal representative of such a child, given that representation by foster parents, caregivers, or 24-hour care facilities would seemingly be terminated in this case;
- 4) if a child registered for adoption is currently placed in FF or a FCCH, should the child's temporary placement with potential adoptive parents be preceded by formal discharge from the FF or FCCH. Notably, neither the *Resolution of the CMU № 565 "On Approval of the Regulation on Foster Family", dated April 26, 2002*, nor the *Resolution № 564 "On Approval of the Regulation on Family Child Care Homes", dated April 26, 2002* includes the temporary placement of a child with potential adoptive parents as a valid reason for discharge or for the termination of agreements concerning the child's placement and care. The answers to these questions need to be clearly addressed and reflected in the legislation.

Thus, the institution of temporary placement of children, as part of the adoption procedure, requires further improvement.



The issue of **entities authorized to make long-term decisions on the family placement of children**, or decisions that determine the legal status of a child, is of equal importance.

As previously mentioned, this procedure may involve both guardianship and custody authorities — such as guardianship arrangements, placement in a FF or a FCCH, and decisions regarding granting a child the status of an orphan or a child deprived of parental care — and the courts, which handle matters including adoption, deprivation of parental

⁹² Hryshchenko K. Ensuring the Best Interests of the Child during Adoption: Possible Lessons for Ukraine Based on the Experience of European Countries. Kyiv, 2022. // Access mode: <https://dejure.foundation/page31444568.html/>

rights, and the appointment of a guardian when it is established that a child is deprived of parental care.

The mass evacuation of children abroad due to the full-scale invasion, including those for whom long-term decisions had already been made, highlighted significant challenges — primarily of a legal nature — faced by these children and their legal representatives in foreign jurisdictions. This situation once again demonstrated that the mechanisms for making placement decisions out of court, particularly by guardianship and custody authorities, do not align with international standards for the legal regulation of systems ensuring and protecting children's rights.



An important condition for ensuring a sustainable transition from temporary to permanent family-based care is the **proper preparation** of all involved: **the children themselves, the adults welcoming the child into their family**, and, equally important, **other family members**. According to paragraph 68 of the Guidelines for Alternative Care, a child must be properly prepared for any changes in their care setting. It is crucial to follow a **child-centered approach** during this preparation.

The purpose of fostering children has changed as society has evolved. Whereas earlier the institution of permanent family placement (primarily adoption) served the interests of the family, the bloodline, and the preservation of the family name and property status, today it acts primarily in the interests of children. The state's goal is to place orphans and children deprived of parental care, to ensure stable and harmonious living conditions for children, to prevent poverty and crime in society, etc. The

goal of children is to live in a happy family, with parents who protect them, to have real family relationships, etc.

This idea is, in particular, enshrined in Part 2 of Article 207 of the Fam. C. and Article 1 of the LU *"On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care"*, as well as in paragraph 3.3. of the Decision of the Constitutional Court of Ukraine in case № 1–4/2009 dated February 3, 2009: adoption of a child is carried out in his/her best interests to ensure stable and harmonious living conditions; an individual's desire to adopt means the possibility to adopt a child; the interests of adopted children take precedence over the interests of individuals wishing to adopt a child.⁹³

Moreover, the European Court of Human Rights has repeatedly emphasized that there must be a fair balance between the interests of the child and the interests of the parents and, in maintaining such a balance, special attention must be paid to the child's best interests, which by their nature and significance must prevail over the interests of the parents (HUNT v. UKRAINE, № 31111/04, paragraph 54, ECHR, dated December 07, 2006).

Simultaneously, it should be noted that a child-centered approach does not always prevail in the placement of children. Often, when conducting information campaigns, searching for adoptive parents, etc., the emphasis is not on the right of a child to be adopted, but on the interests and needs of an adult to adopt a child.

Furthermore, Ukraine currently provides enhanced protection to adoptive parents and their right to conceal the fact of adoption from the child and from third parties. Instead, the child's

⁹³ Decision of the Constitutional Court of Ukraine in case № 1–4/2009 (On the Difference in Age Between the Adoptive Parent and the Child) dated February 3, 2009 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/v003p710-09#Text>

right to give free consent to adoption, the right to know his or her parents and to know his or her origin does not include sufficient guarantees of implementation. This is contrary to the international obligations *assumed by Ukraine under the European Convention on Adoption*.⁹⁴

Additionally, in the process of permanently placing a child, significantly more attention is given to providing comprehensive information about the child and studying their personality. In contrast, much less emphasis is placed on informing the child about the adults who will be welcoming them into their family, as well as about the family members of these adults.

It is essential that the child, provided they are of an appropriate age, is informed in advance about how the first meeting with potential adoptive or foster parents will take place and what to expect following placement into permanent family-based care. Failing to provide this information cannot be considered a child-centered approach.



To ensure a sustainable transition to permanent forms, it is crucial to ***select and train potential adoptive parents, guardians, foster parents and foster carers***; provide counseling and periodic training to improve their skills, including in raising children with special needs and children who have experienced trauma, etc.

Currently, the system for selecting and training candidates faces significant challenges, including the risk of misuse under martial law, where candidates may exploit the process to obtain deferral from military service.

The current system for candidate selection cannot be considered fully established, as it is characterized by significant imbalances. In practice, social services are primarily responsible for training candidates and issuing recommendations in the prescribed form. Based on the results of this training, candidates receive a certificate of completion of the course on the upbringing of orphans and children deprived of parental care, as approved by the *Order of the Ministry of Social Policy of Ukraine No. 1696, dated December 2, 2019, and amended by the Order № 254-N, dated May 23, 2024*.⁹⁵ Notably, recommendations regarding the age, gender, health status, and number of children have been excluded. As a result, it becomes extremely challenging to identify a candidate's true motives for guardianship or adoption and to uncover potential risks during the training process.

Currently, the capacity of prospective parents is assessed only during the training of candidates. In practice, the decision on whether a person is ready to accept a child into their family is made by the director of the Center of Social Services for Family and Youth, where the training is conducted. While the director is required to consider the recommendations of the trainers, there is no established mechanism to regulate or standardize this process.⁹⁶

In practice, Children Welfare Services often limit their role to verifying the completeness of the submitted documentation and inspecting the candidates' living conditions. In other words, their functions are effectively restricted to formal decision-making. However, the experience of many countries demonstrates the importance of conducting a more comprehensive assessment

⁹⁴ Hryshchenko K. Ensuring the Best Interests of the Child during Adoption: Possible Lessons for Ukraine Based on the Experience of European Countries. Kyiv, 2022. // Access mode: <https://dejure.foundation/page31444568-html/>

⁹⁵ Order of the Ministry of Social Policy of Ukraine "On Amendments to Certain Documents on Adoption" № 254-N, dated May 23, 2024 [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/laws/show/z0840-24#Text>

⁹⁶ Reasons for the Acute Shortage of Alternative Forms of Family-based Care and Deterioration in the Quality of Their Work (Results of the Study within the "Right to Family" Project) [Electronic resource]. Access mode: https://sos-ukraine.org/wp-content/uploads/2023/07/resultat_ost_altern-20.04.2023-dashhakivska.docx.pdf

of candidates. This includes examining their identity, family background, and motivations. Such information is essential for selecting a family that can genuinely ensure the child's best interests.⁹⁷

As a result, decisions at the local level are often made based not on the best interests of the child, but rather on the availability of community resources and administrative convenience.⁹⁸

Thus, the candidate selection system needs to be enhanced:

- 1) training should be preceded by the initial selection of candidates, which is currently non-existent;
- 2) there is a need to develop and approve a list of required competencies for families wishing to take in a child for foster care, capacity indicators, methods for assessing capacity and strengthening it⁹⁹;
- 3) it is important to develop and implement new training programs for foster carers, adoptive parents, guardians, foster parents and foster caregivers that cover all the details of raising children with disabilities, special needs, deviant behavior, psychological trauma, etc. (primarily based on the specialization of family-based forms of care to be introduced at the legislative level);
- 4) the human resources of relevant services need to be strengthened.



The transition of a child from a temporary to a permanent placement should be accompanied by a **cycle of adaptation measures for**

the child and other family members using modern methods.

As previously noted, adaptation is a critical and complex stage in the transition process. The first year often presents the greatest challenges for foster parents, caregivers, and children. During this period, children's behavior can vary significantly: some may initially be quiet and observant before gradually gaining confidence, while others may exhibit initial aggression before adapting to the family's rules and dynamics. According to interviewed social work professionals, children tend to adapt more easily when placed in the care of guardians or caregivers, which can be explained by close connections, familiar environment.¹⁰⁰



Once a child is placed in permanent family-based care, it is essential to ensure **regular monitoring** of the child's well-being and the conditions within the new family environment. This monitoring should focus on the child's personal development, changing needs, and the **family's capacity to provide ongoing care and support**. Follow-up services must include continuous support for the family, such as counseling, psychological assistance, and financial aid. This process is particularly crucial during the adaptation period, when the child and the family are transitioning and learning to adjust to one another. However, monitoring and support conducted by authorized personnel must be delivered in a manner that is supportive and respectful, avoiding any semblance of routine or overly intrusive control.

⁹⁷ Hryshchenko K. Ensuring the Best Interests of the Child during Adoption: Possible Lessons for Ukraine Based on the Experience of European Countries. Kyiv, 2022. // Access mode: Ukraine based on the experience of European countries. Kyiv, 2022. P. 12 // Access mode: <https://dejure.foundation/page31444568-html/>

⁹⁸ Roadmap for Ensuring the Rights and Best interests of the Child. P. 106 [Electronic resource]. Access mode: <https://childrights.org.ua/wp-content/uploads/2024/04/draft.pdf>

⁹⁹ The same. P. 150.

¹⁰⁰ Causes of Acute Shortage of Alternative Forms of Family-based Care and Deterioration of the Quality of Their Work (results of the study within the "Right to Family" project) // Access mode: https://sos-ukraine.org/wp-content/uploads/2023/07/resultat_ost_altern-20.04.2023-dashhakovska.docx.pdf

Monitoring, accompaniment, and support become particularly challenging in cases of adoption due to the secrecy surrounding adoption, the legislative regulation of which requires improvement.¹⁰¹ For instance, many prospective adoptive parents express a desire to adopt a child but remain uncertain about their financial stability. In Ukraine's current economic climate, the situation is extremely challenging, and the one-time financial payment provided for adopted children is insufficient to address ongoing needs. Moreover, adoptive parents do not have access to certain services and benefits that are available to guardians, foster parents, and foster carers in family-based care settings. However, even for guardians, foster parents, and foster carers, state financial support remains low and inadequate to meet the existing challenges. There is an urgent need for additional resources to ensure stable transitions and sustained support for these families.

Another legislative issue that emerged during the decentralization process, particularly concerning support and monitoring, is the "termination" of the authority to place children. The registration of orphans and children deprived of parental care is carried out by the Children's Welfare Services of territorial communities. However, only urban communities possess the full authority to ensure the placement of children in all family-based care forms. In contrast, village and settlement communities are limited to placing children under guardianship (custody). Decisions regarding the establishment of FFs and FCCHs and the adoption of children

remain under the jurisdiction of district state administrations. This division of authority creates ambiguity and inconsistency in matters of child support, monitoring of children's well-being, and comprehensive family support.¹⁰²

Closely related to monitoring and support is the issue of the ***lack of standards for leaving the family in national legislation***, particularly in the context of defining the self-sufficiency of young adults, their professional development, and socialization opportunities. As a result, the persons raising the child often determine at their own discretion what the child should be able to do. One of the most significant challenges is the professional orientation of young people, as stereotypes often limit children to a significantly narrowed range of opportunities.¹⁰³

Return of a Child to the Biological Family

According to the Guidelines for Alternative Care, the main efforts of the state should be directed toward ensuring that the child is not separated from their parents and has the opportunity to return to them or, if necessary, to other close family members. If alternative care is deemed necessary, its purpose should generally be to provide temporary care while actively promoting the child's reintegration into the family or, if this is not possible, to ensure stable care in an alternative family environment or through adoption.¹⁰⁴

In emergencies, these rules take on a new meaning in the context of ensuring the child's right

¹⁰¹ Hryshchenko K. Ensuring the Best Interests of a Child during Adoption: Possible Lessons for Ukraine Based on the Experience of European Countries. Kyiv, 2022. P. 26–30 // Access mode: <https://dejure.foundation/page31444568-html/>

¹⁰² Causes of Acute Shortage of Alternative Forms of Family-based Care and Deterioration of the Quality of Their Work (results of the study within the "Right to Family" project) // Access mode: https://sos-ukraine.org/wp-content/uploads/2023/07/resultat_ost_altern-20.04.2023-dashhakivska.docx.pdf

¹⁰³ Causes of Acute Shortage of Alternative Forms of Family-based Care and Deterioration of the Quality of Their Work (results of the study within the "Right to Family" project) // Access mode: https://sos-ukraine.org/wp-content/uploads/2023/07/resultat_ost_altern-20.04.2023-dashhakivska.docx.pdf

¹⁰⁴ Strategy for Ensuring the Right of Every Child in Ukraine to Grow Up in a Family Environment for 2024–2028 [Electronic resource]. Access mode: <https://www.kmu.gov.ua/npas/pro-skhvalennia-stratehii-zabezpechennia-prava-kozhnoi-dytyny-v-ukraini-na-a1201r>

to family reunification, including through family tracing. Only if family reunification is not possible within the relevant period, or if it is deemed not in the best interests of the child, long-term solutions should be provided (paragraph 161 of the Guidelines for Alternative Care).

To guarantee the child's sustainable return to the biological family, it is important to work not only with the child but also with the biological family itself. According to paragraph 155 of the Guidelines for Alternative Care, measures should be taken to ensure that the actions of authorized persons do not cause family separation by providing services and benefits only to children rather than to families as a whole.

Unfortunately, in Ukraine, the competent authorities have not developed comprehensive methodological recommendations for the return of a child to their biological family from temporary placement. There is only the *Order of the MSP "On Approval of Methodological Recommendations on Preparing a Child for Return to the Biological Family after a Long Stay in a Residential Institution"* № 1101, dated November 12, 2015 (hereinafter — Methodological Recommendations), which can serve as a reference for the development of future guidelines.¹⁰⁵

The guidelines outline several stages aimed at ensuring a smooth reintegration process. First, a detailed assessment of the needs of the child and their family is conducted, including the child's emotional state, level of attachment to the parents, and the family's capacity to provide adequate care. Based on this assessment, an individualized work plan is developed, which includes the gradual reunification of the child with the family through meetings, visits, and psychological support.

The key stage involves preparing both the child and the parents for living together. The family receives support in addressing problematic aspects (such as housing and living conditions, employment, and overcoming addictions), while the child gradually adapts to the new circumstances through integration measures. After the child returns to the family, periodic monitoring continues to support the child's adaptation to the family and social environment and to address any potential issues in a timely manner.

The methodological recommendations emphasize the importance of an individual approach to each child, collaboration between social services and professionals, and systematic work with parents to ensure the successful reintegration of children into families after an extended stay in an institution.

¹⁰⁵ Order of the MSP of Ukraine "On Approval of Methodological Recommendations for Preparing a Child for Return to a Biological Family after a Long Stay in a Residential Institution" № 1101, dated November 12, 2015, [Electronic resource]. Access mode: <https://zakon.rada.gov.ua/rada/show/v1101739-15#n12>

Section 3

ISSUES IDENTIFIED THROUGH THE SURVEY

3.1 SURVEY FINDINGS

The monitoring (field) part of the analytical research included a survey of specialists in children's services, social work professionals and families where a child left without parental care is temporarily placed. The task was to involve both direct stakeholders and beneficiaries in the research in order to comprehensively identify the key problems and obstacles they face in conditions requiring emergency response, as well as to provide recommendations for improving processes, measures and mechanisms aimed at protecting children affected by the war in Ukraine in the context of the ongoing deinstitutionalization reform.

The survey covered 366 employees of children's services and social protection agencies, as well as 156 people who had taken in a child (children) on a temporary placement basis. The respondents were families where the children are or were in temporary placement on the basis of a relevant order of the children's service. They provided information about 243 children temporarily placed in their families. If a family has several children in temporary placement, information was collected separately for each of them.

The data were collected from August 8, 2024 through September 6, 2024 in 21 regions by means of a structured survey.

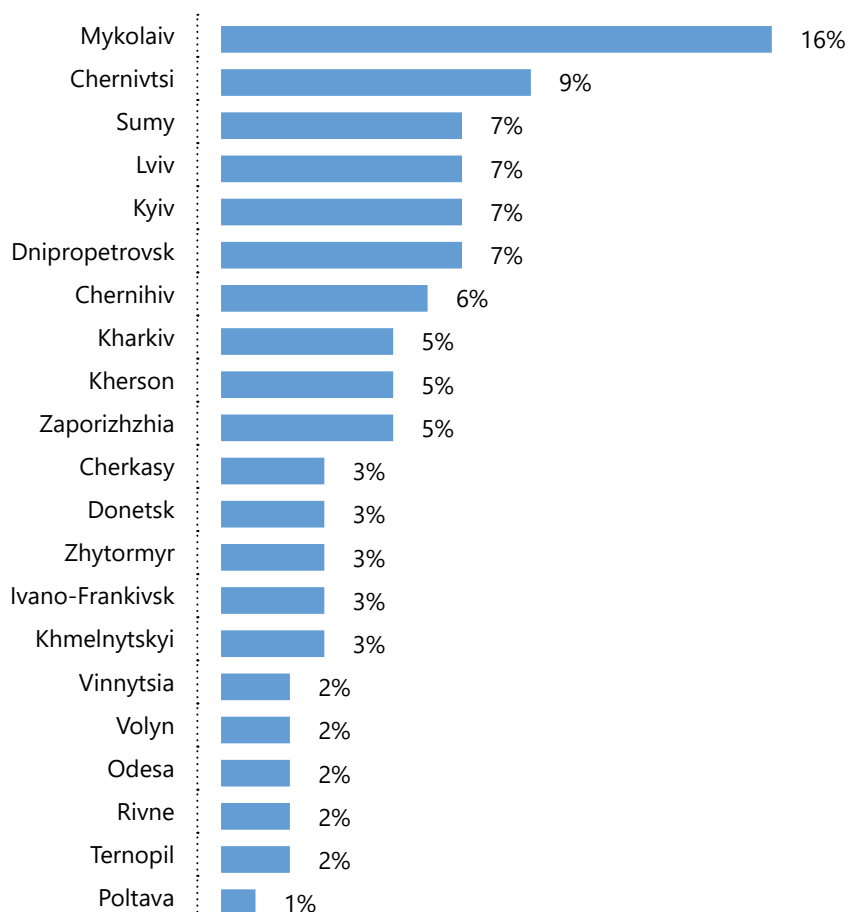
**Analysis of data from the survey of employees of children's and social services
(hereinafter also referred to as the services)**

Research demographics

The largest number of respondents were interviewed in Mykolaiv region, accounting for 16% of the total number of participants. The next largest number of respondents came from Chernivtsi region (9%), Sumy region

(7%), Lviv region (7%), and Kyiv region (7%). Detailed information on the geographical distribution of participants can be found in the diagram below.

Distribution of respondents by region



Details of respondents

The majority of respondents, 89%, are specialists in children's services, making this group the largest in the research. The number of social work specialists is 11% of respondents. The majority of respondents have powers within amalgamated territorial communities (ATCs) — **68%**, cities and towns are covered by **23%** of respondents, districts in cities — **6%**, districts of the region — **2%**, and the regional level — **1%**.

- The majority of respondents (58%) are in the age group of 41 to 59 years old. The next largest group is those 26 to 40 years old, accounting for 39% of respondents. Young people (under 25) and people 60+ years old together account for only 3% of the total number of respondents.

- The majority of respondents are skilled professionals (34% with more than 10 years of experience), followed by early and mid-career professionals — 25% with 3 to 5 years of experience and 24% with up to 3 years of experience. 17% of respondents have 5 to 10 years of experience.

In total, according to the data obtained, the number of children left without parental care in all the regions covered by the survey is 2,856.

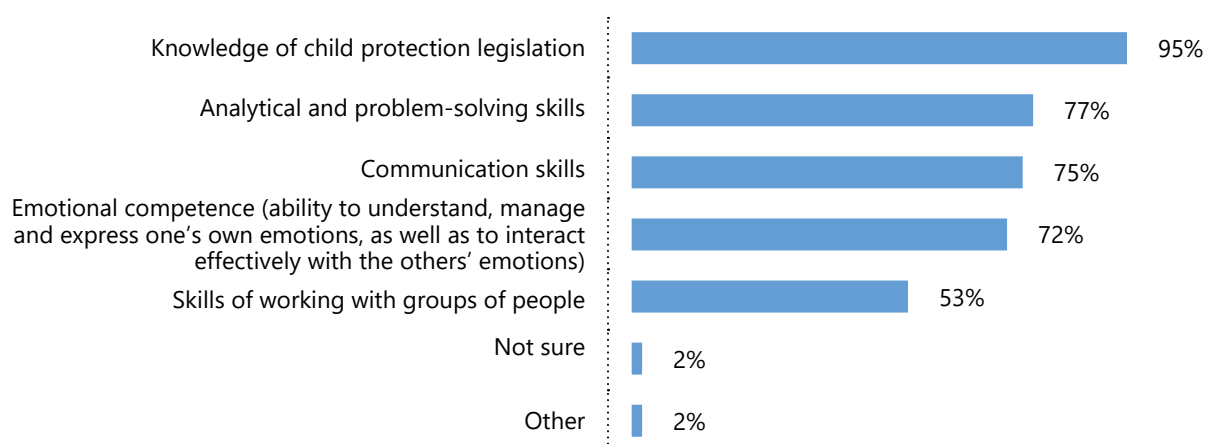
Kharkiv region has the highest number of children without parental care in temporary care, with 1,474 children, which is the largest share of the total number of such children.

Skills and competencies required for the job

The majority of respondents (95%) indicated that knowledge of child protection legislation is key in their work. This is followed by analytical and problem-solving skills (77%), as well as communication skills (75%). This may indicate

the need to develop both legal and analytical and interpersonal competencies for effective work in services. The full list is presented in the diagram below.

What skills and knowledge do you need in the course of your work?



**Respondents could choose several options*

Efficiency of services

The average rating of the efficiency of services according to their employees was 4.4 points on a five-point scale, where 1 means complete inefficiency and 5 means extremely high efficiency, which may indicate an overall positive assessment of the services. More than half of the respondents (51%) indicated a score of 4, indicating moderate efficiency. Another 43% rated the service as fully effective (5), while only 6% of respondents (rating 3) considered it less efficient.

The respondents who rated their service as less efficient (score 1–3) indicated the following main reasons:

- **Inadequate staffing:** respondents often noted that lots of responsibilities are vested on one or more specialists, which creates a heavy

workload and makes the implementation of tasks complicated, leading to burnout.

- **The lack of financial support and transportation** limits the ability to respond quickly to challenges.
- **Lack of experience and training** causes delays in work and reduces efficiency.
- **Interaction between the services is poor**, which can hamper the process of making decisions on the provision of required assistance to the population.
- Local services do not always have **the required powers** to address key issues and are often dependent on decisions made at the regional or national level.
- **The lack of regulations** to address specific situations, such as dealing with children with mental disorders, make the work quite confusing.

Following the analysis of answers of respondents who rated their service as efficient (scores of 4 and 5), the following main reasons for the positive assessment can be identified:

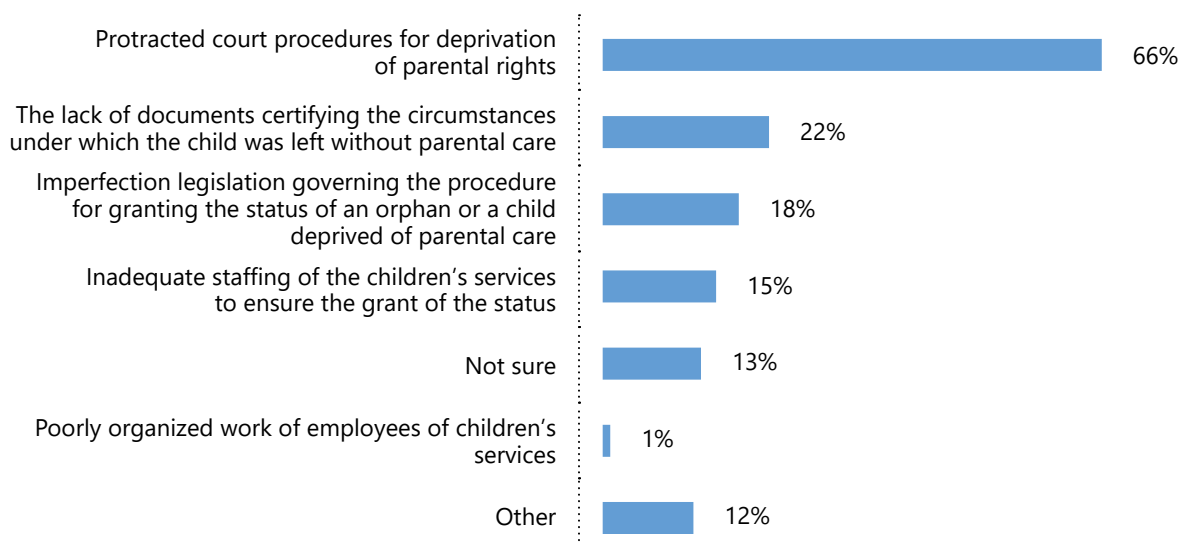
- Respondents often noted the high level of employees' skills, experience and knowledge of the law, as well as their dedication to work.
- A significant number of respondents emphasized the speed of response to public inquiries and resolution of problematic issues.
- Successful communication and cooperation between service staff and parents, guardians, as well as other stakeholders.
- The main priority of the services is to protect the rights and interests of children, as noted by many respondents. They emphasized that children's health and well-being are prioritized, even in the face of bureaucratic obstacles.
- It was noted that the children's service has numerous successful court cases, indicating the efficiency of work in the legal field and the professionalism of employees.
- There have been successful cases of reintegrating children in a safe environment, as well as placement of children in foster care.

Obstacles and challenges in the work of children's services

The most significant problem encountered in the course of granting the status of an orphan or a child deprived of parental care is the **protracted court procedures for deprivation of parental rights** (66%). Besides, **22% reported the lack of documents** confirming

the circumstances in which the child was left without parental care. The imperfection of the legislation regulating this process (18%) and the lack of staff in children's services (15%) are also significant challenges.

What key challenges arise in the course of granting the status of an orphan or a child deprived of parental care?



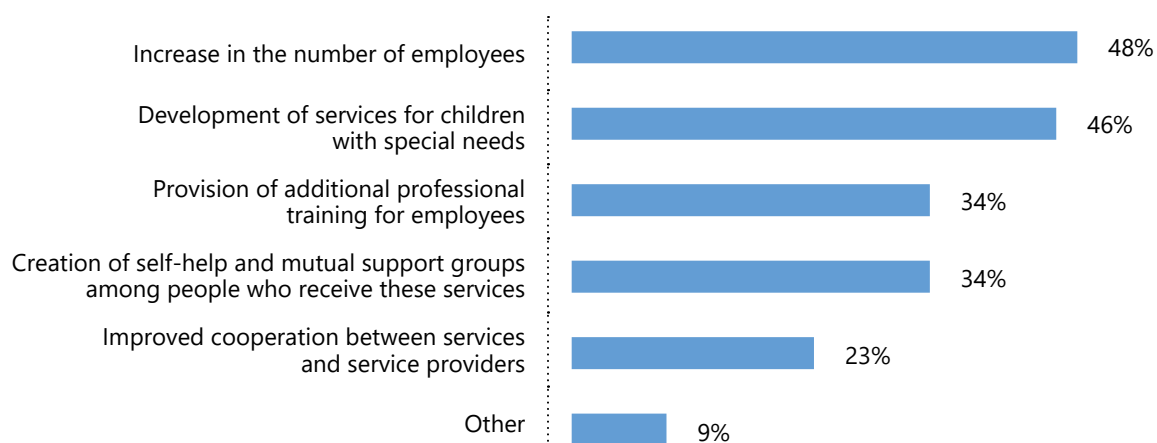
**Respondents could choose several options*

Possible ways to improve the system of support and services in the field of temporary family placement of children

To improve the system of support and provision of services in the field of temporary family placement of children, the most frequently mentioned need is to **increase in the number of employees (48%)**. The second most frequently mentioned need is **the development of services for children with special needs (46%)**, which may indicate the importance of inclusive education, day

care and support for children with complex developmental disabilities. Besides, there is a significant need for **additional professional training (34%)** to improve the skills of those providing these services. Another important step is **the creation of self-help and support groups (34%)** among service recipients, which can facilitate the exchange of experience between families.

What are the possible ways to improve the system of support and services in the field of temporary family placement of children?



**Respondents could choose several options*

In the "Other" category, the following possible ways to improve the system of support and provision of services for children were mentioned most commonly: financial, psychological

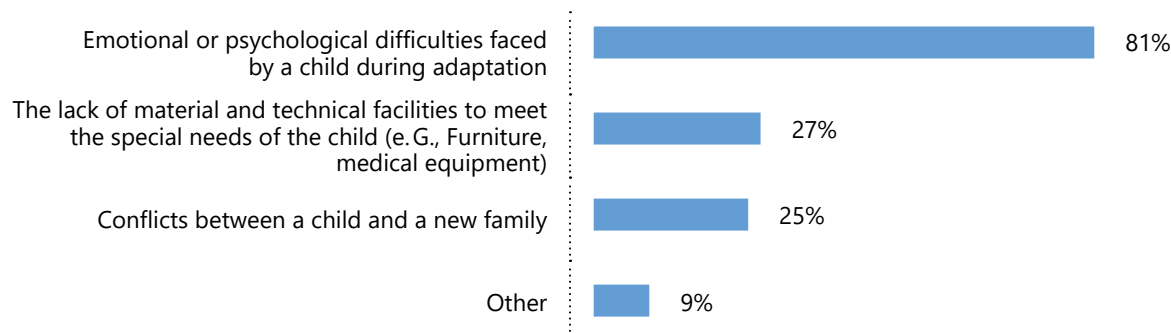
and legal support for hosting families, raising public awareness of temporary placement of children, and developing a system of foster families.

Challenges in the course of adapting a child to a new family environment during temporary placement

The most common challenges in adapting children to a new family environment during temporary placement are **emotional or psychological difficulties (81%)**. **Lack of resources for children's special needs was reported by 27% of respondents**, and **conflicts with**

the new family by 25%. This may indicate the importance of emotional support and resources to facilitate children's adaptation to the family.

What challenges do you observe in the course of the child's adaptation to a new family environment during temporary placement?



**Respondents could choose several options*

In the "Other" category, respondents often mentioned such challenges as the lack of financial and material resources to meet the basic needs of children, the need for training

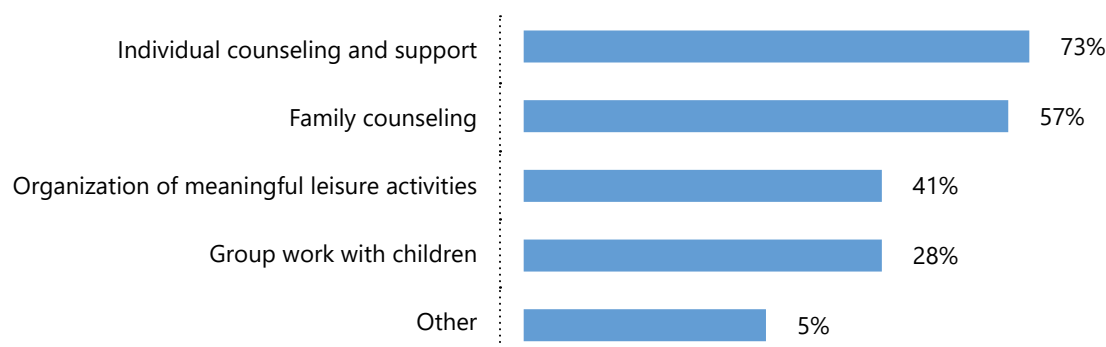
caregivers, and the lack of required technical equipment, such as laptops or tablets, for children's educational needs.

Methods and approaches to work with children and families where they are temporarily placed

Respondents consider **individual counseling and support (73%)** and **family counseling (57%)** to be the most efficient methods and

approaches to working with children and families where they are temporarily placed

What methods and approaches to work with children and families with whom they are temporarily placed can be the most effective, in your opinion?



**Respondents could choose several options*

In the "Other" category, respondents identified the following approaches as efficient: psychological support, social support and monitoring of living conditions, custom-based approach,

and financial assistance. Some respondents noted the importance of engaging additional specialists and sharing experiences between families.

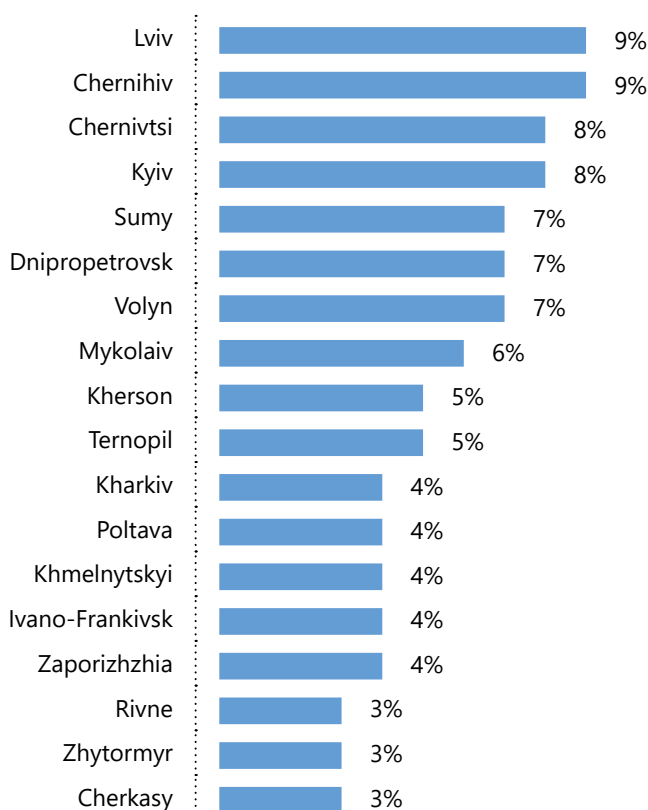
Analysis of the surveys of families where the children left without parental care are (or were) temporarily placed

Family survey demographics

The largest number of respondents were interviewed in Lviv and Chernihiv regions, which account for 9% of the total, followed by Chernivtsi and Kyiv regions in terms of the number

of respondents (8% each). Detailed information on the geographical distribution of participants can be found in the diagram below.

Survey geography

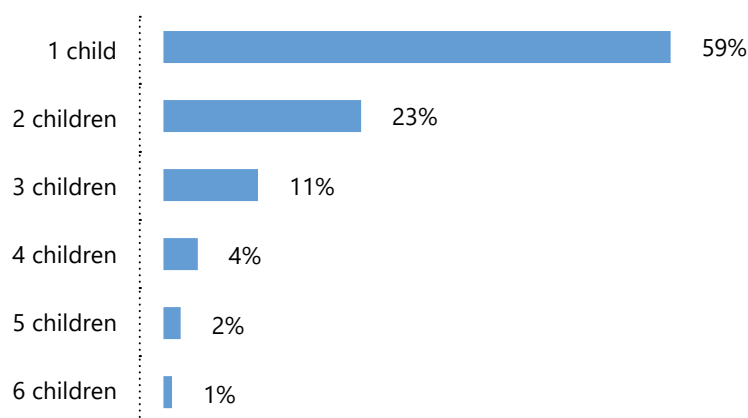


- The majority of respondents live **in cities (49%) and villages (36%)**, while a smaller share of respondents lives **in towns (8%) and urban-type settlements (7%)**.
- **More than half of the respondents (57%)** belong to the 41–59 age group. Respondents 26–40 years old account for 23%, while those 60+ years old make up 17%. The youngest

group, 18–25 years old, accounts for only 3% of the total.

The most common practice among families is temporary **foster care for one child (59%) or two children (23%)**. Families accepting more than three children for foster care are much less common (11%). Full information is presented in the diagram below.

Number of children placed in foster care

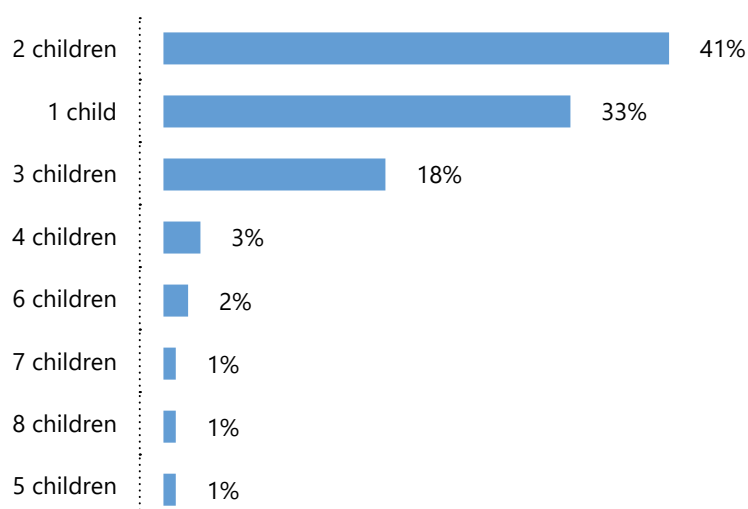


The majority of respondents who have temporarily placed children in foster care, **namely 64%, also have biological or adopted children**, while 33% do not. 3% of respondents chose not to answer the question about having children.

Families with a smaller number of children (1 or 2) make up the vast majority of those

who temporarily take children in foster care. Families with 2 children account for **41%** and families with 1 child account for **33%**, which together makes up **74%** of the total number of families. Larger families, i.e., those with 4 or more children, account for only **8%**, which may indicate that smaller families may be more prone or able to provide temporary care.

Number of biological and/or adopted children



Work of social services in communities

90% of respondents reported that there are social work specialists in their communities. 6% provided other answers, and 4% reported their absence. In the "Other" category, respondents mostly indicated that

they were not aware of the availability of social services in the community, did not have relevant information, or had recently moved and had not yet had time to inquire about the available services.

- **Most of the families (71%) receive social support, while almost a quarter (23%) do not. A small share (6%) reported a different type of support.** The “Other” category includes cases when respondents receive assistance from social services or support from humanitarian organizations irregularly or partially.
- **The majority of respondents (75%) confirmed that social workers had assessed their family’s needs.** 17% said there was no such assessment, and 8% gave other answers. In the “Other” category, some respondents are waiting for a needs assessment, others have already undergone it, and some have received such a service partially or are unsure about its provision.

Level of satisfaction with the work of social services, children’s services, and support from NGOs

On a scale from “very satisfied” to “very dissatisfied,” 74% of respondents positively **assessed the support provided by children’s services**: 49% were satisfied and 25% were very satisfied. 23% of respondents rated the services neutrally. A small share (3%) expressed negative opinions: 2% are dissatisfied and 1% are very dissatisfied. Overall, the majority of respondents are positive about the support provided, although there is a small share of respondents who are dissatisfied with the services.

- Respondents’ dissatisfaction with children’s services stemmed from ongoing audits, lack of financial support, poor communication, and inadequate assistance with school preparation and recreational programs. Some noted a complete lack of support related to regulatory guardianship requirements.

On a scale from “very satisfied” to “very dissatisfied,” the majority of respondents (67%) are satisfied with the level of **support they receive from social services**: 49% are satisfied and 18% are very satisfied. Another 29% rated the support provided as neutral. A small share of respondents (4%) reported dissatisfaction: 3% said they were dissatisfied, and 1% said they were very dissatisfied. Overall, the results show a predominantly positive attitude towards the support provided.

- The dissatisfaction expressed by respondents is related to such problems as lack of support,

slow bureaucratic processes, indifference of the authorities to the children’s welfare, and delays in the payment of financial assistance.

On a scale from “very satisfied” to “very dissatisfied,” the majority of respondents (46%) are neutral **about the support provided by NGOs**. At the same time, 40% are satisfied with the support: 32% are satisfied, and 8% are very satisfied with the support received. A significant number of respondents (14%) expressed dissatisfaction: 13% are dissatisfied, and 1% are very dissatisfied. Overall, the responses indicate a moderate level of satisfaction with the support, with a significant share of neutral responses.

- Respondents who express dissatisfaction with support cite a lack of consistent assistance and report receiving little or no assistance. Some mention occasional assistance from organizations such as UNICEF, but it is not enough to meet all needs.

The majority of respondents (61%) are aware of trainings or workshops on family education. At the same time, a significant share of respondents (39%) is not aware of these activities at all, indicating the importance of introducing or improving existing information campaigns on family education.

- Among respondents who are aware of trainings, the largest share (41%) is able

to participate in trainings or workshops on family education once a quarter. A quarter of respondents (25%) can attend such events once a year, while a smaller share (15%)

attends them monthly, and 7% — several times a month. At the same time, 12% of respondents have never had the opportunity to attend such trainings.

Formalizing the permanent family raising and child care

The majority of respondents (74%) are well aware of the next steps in the process of formalizing permanent family care and custody of a child, such as adoption or foster care, creation of a foster family, and creation of a family-type children's home. At the same time, 17% have only partial awareness, and 9% are not familiar with these procedures at all. This may indicate that, despite the high level of awareness among the majority, there is still a need to raise awareness among those who have incomplete information or are not aware of these procedures at all.

58% of respondents are ready to accept a child they temporarily care for into their family on a permanent basis. Still, 25% are not sure and cannot give a clear answer to this question, and 17% are not ready to take responsibility for further permanent care. This may indicate that although most of the respondents are ready to take this step, a significant number of people need additional support, information, or have certain obstacles to making this decision.

- Among the respondents who said they were ready to place a child, the majority (67%) prefer guardianship as a form of permanent family care. 17% are ready for adoption,

while 10% are open to creating a family-type children's home. Only 6% are interested in creating a foster family.

According to respondents, the proposed government measures to increase motivation for temporary placement of children include the following:

- Financial support — increased financial aid, benefits for utilities and education, regular financial support for families.
- Reduced bureaucracy — simplifying paperwork, eliminating annual verifications, facilitating guardianship registration and payment procedures.
- Psychological support — providing psychological assistance to foster parents and children, support in adaptation.
- Informing and training — raising public awareness of foster care, conducting trainings for foster parents.
- Legal support — simplification of legal procedures, protection of the rights of foster families, exemption from mobilization for caregivers.
- Housing — providing or improving housing conditions for foster families, especially for internally displaced persons (IDPs).

INFORMATION ABOUT CHILDREN

Circumstances that led to the child's need for temporary placement with a family

According to the respondents, the following main circumstances for the temporary placement of children were mentioned:

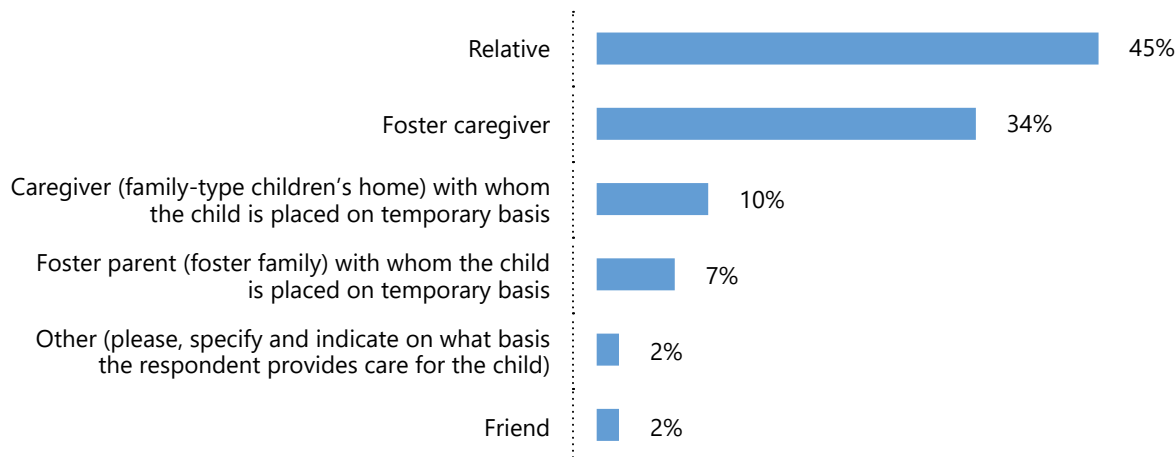
- Death or absence of parents (due to avoidance of parental responsibilities or imprisonment).

- Neglect, violence and alcohol abuse in biological families.
- The impact of the war, which left children without parental care: parents have been mobilized or killed.
- Serious health problems that prevent parents from caring for their children.

- Intervention of social services and removal of the child for protection from dangerous living conditions.

The majority of children are under the care of relatives (45%), foster caregivers (34%) and foster parents with whom the child is placed on a temporary basis (10%). Full information is presented in the diagram below.

Who are you in relation to the child?



Gender and age-stratified distribution of children in temporary placements

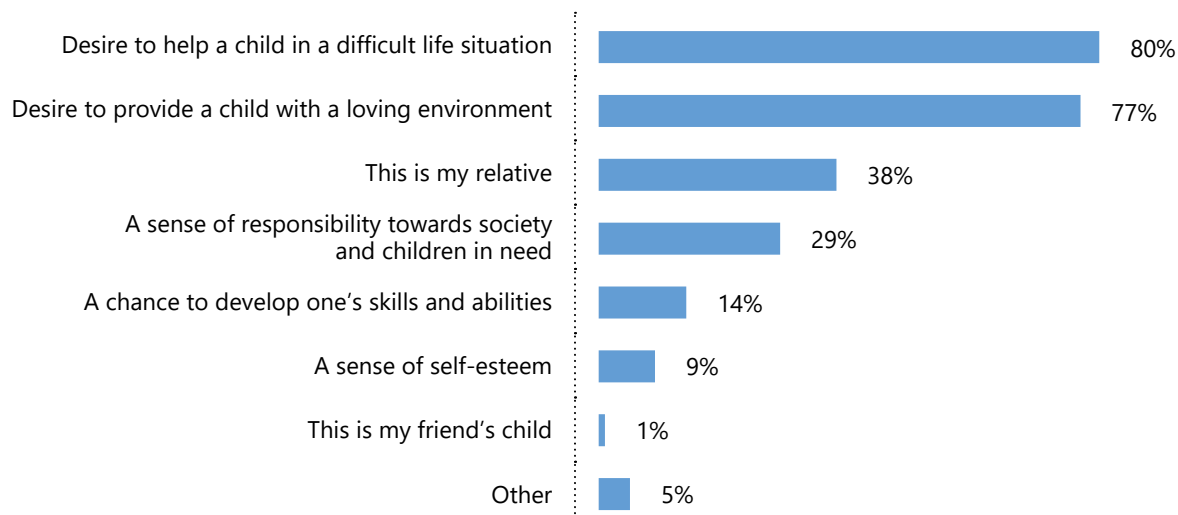
- The data show an almost equal distribution of children by gender: **52%** are girls and **48%** are boys.
- More than half of the children are in the **6–13 years old** age group (**51%**), followed by adolescents **14–18 years old** (**28%**). Children **3–5 years old** account for **15%**, while the youngest group, children **0–2 years old**, make up **6%**.
- **52%** of children have been in temporary placement **for more than 6 months**, which indicates a long period of temporary placement. **19%** of children stayed for **2–3 months**, **11%** — for **3–4 months**, **10%** — for **5–6 months**, and only **8%** — for **less than one month**.

Motivation for accepting a child for temporary residence in a family

The reasons that motivate people to temporarily place a child with their family the most are the **desire to help a child in a difficult life situation (80%)** and to provide a loving

environment (77%). Still, 38% of respondents indicated family ties as the main reason. Full information on motives is presented in the diagram below.

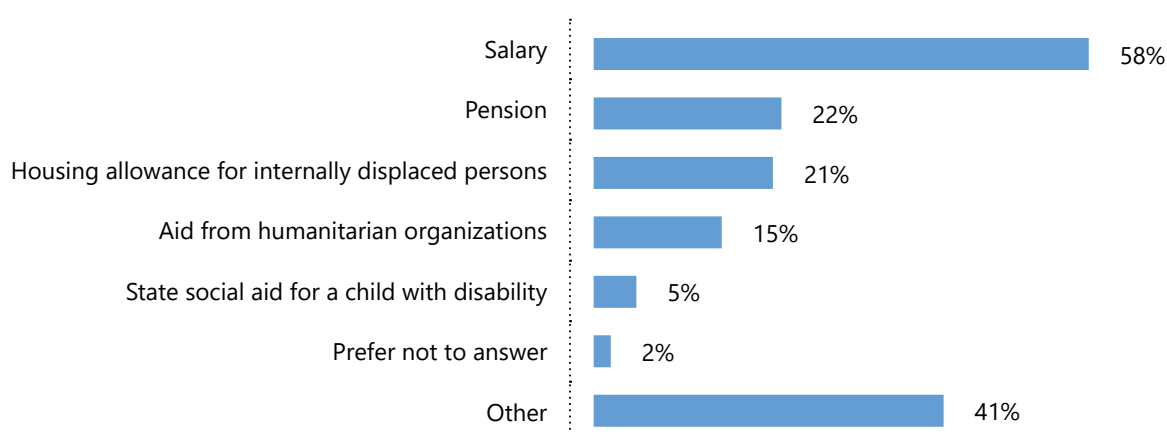
What was/is your major motivation for temporary placement of a child in your family?



**Respondents could choose several options*

Sources of income for child support, state aid, expenses

What income (funds) do you rely on to raise a child?



**Respondents could choose several options*

The majority of respondents (58%) indicated salary as the main source of income for child support. Other important sources include income classified as "Other" (41%), pensions (22%), and assistance for internally displaced persons (21%). In the "Other" category, respondents usually mention their own savings, agricultural activities, and assistance from humanitarian organizations

as the main sources of income. However, for the majority of families, state social assistance and family support, including assistance from relatives, remain the key source. A significant number of households rely on a combination of several sources of income, combining state support with temporary employment or financial assistance from relatives.

The majority of respondents (83%) did not receive assistance under the “Child is not alone” program, which provides state assistance to children who are left without parental care but do not have orphan status. Only 15% of respondents indicated that they had received assistance under this program, while 2% chose the option “Other”.

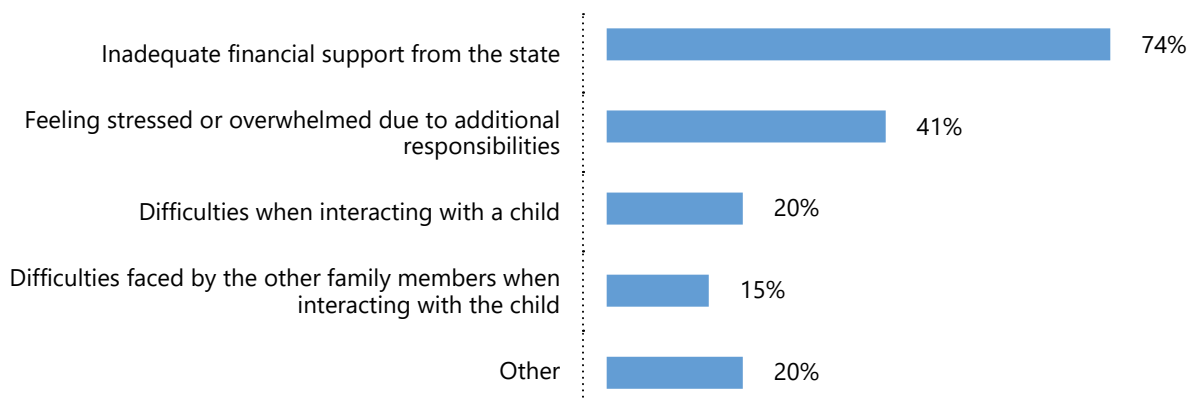
Most families estimate the cost of raising a child at an average of UAH 9,850 per month. Furthermore, the majority of respondents (74%) indicate that UAH 7,000 to 15,000 per month is needed to meet the needs of a child, with the most common amount being UAH 10,000. Some families indicate a minimum expenditure of UAH 3,000–5,000, while the maximum amount can reach UAH 20,000–30,000.

Difficulties associated with the temporary placement of a child

The majority of respondents (56%) reported difficulties during temporary placement of a child with their family, while 44% said they did not face such problems. Among the respondents who face difficulties in the temporary placement

of children, 74% usually indicate insufficient financial support from the state as the main problem. Furthermore, 41% experience stress due to increased responsibilities, and 20% have difficulty interacting with the child.

Do you currently face any difficulties associated with the temporary placement of a child in your family?



**Respondents could choose several options*

In the “Other” category, respondents pointed to the following difficulties in the temporary placement of a child in a foster family: the need

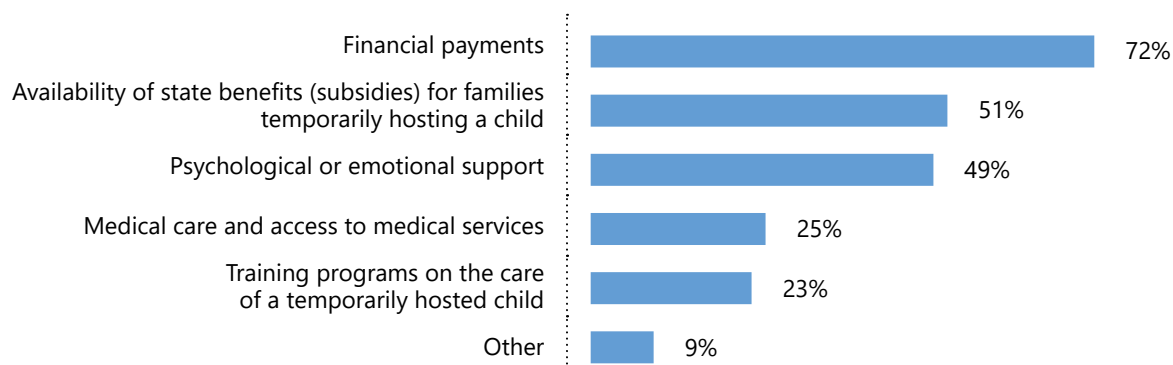
for medical care, bureaucracy, psychological adaptation of the child, strained relations with biological parents, and lack of housing.

Needs for temporary child care and challenges associated with the child’s adaptation to a new environment

Financial support is the most important resource for temporary child care (72%). Furthermore, 51% indicated the importance of state benefits or subsidies for families caring for

children in such circumstances. Psychological and emotional support also remains a significant need (49%). The full list of required resources is presented in the diagram below.

What key supporting resources do you need for temporary child care?



**Respondents could choose several options*

In the "Other" category, respondents reported the need for spacious housing, furniture and appliances. Social services, educational programs for children, support due to the lack of kindergartens, and the provision of laptops and phones for learning activities are also important.

The major challenges families face when adapting a child to a new environment are the child's emotional and psychological condition (48%). Significant difficulties are also associated with changes in the environment

and routine (26%). 9% of respondents reported difficulties in interacting with other family members. The category "Other" accounts for 17% of responses.

In the "Other" category, the majority of respondents indicated that the children placed in their care did not have any significant difficulties in adapting to the new environment. At the same time, some respondents reported health problems or psychological difficulties that arose mainly at the initial stages of adaptation.

3.2 KEY CHALLENGES

Challenges identified during the survey of employees of children's services and social protection agencies

The study surveyed 42 social work specialists from social protection agencies at various levels

and 325 specialists from children's services. The survey revealed the following key challenges.

Inadequate staffing, financial and material support

Respondents to the survey reported suboptimal work efficiency due to a lack of financial, material support (in particular, the lack of transport assigned to them to respond quickly to challenges in the area of child protection) and human resources. The respondents also

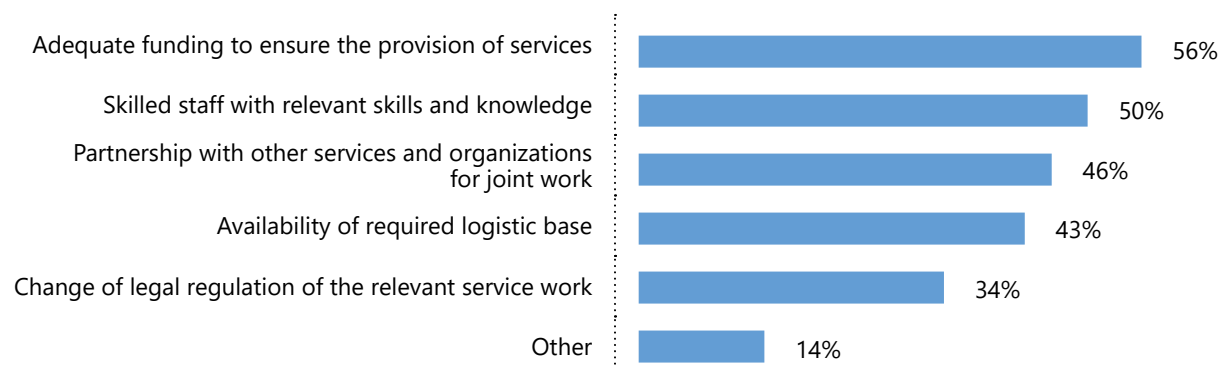
mentioned lack of experience, both their own and their colleagues', as another problem. Some respondents pointed to the need to have a team member with a law degree or to have access to legal aid. Furthermore, respondents emphasized the importance of having a practicing

psychologist or psychological service armed with efficient psychological techniques that can be helpful in martial law.

The most important resources for improving the efficiency of services are adequate funding

(56%) and skilled staff with required skills and knowledge (50%). Also, 46% of respondents emphasized the importance of cooperation with other services and organizations. The full list of lacking resources is shown in the diagram below.

What resources do you need to improve the efficiency of your service performance?



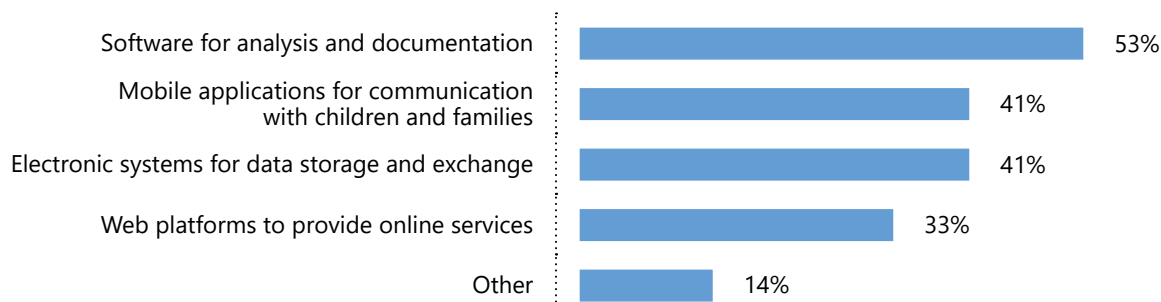
**Respondents could choose several options*

In the "Other" category, the most frequently mentioned basic needs were cars, legal support, and psychological services. Other suggestions included general resources, regulatory issues, and office equipment.

The most common tools and technologies that can improve the efficiency of services

are software for analysis and documentation (53%), electronic systems for data storage and exchange, as well as mobile applications for communication with children and families (41% each). These findings highlight the critical need for digital solutions to improve efficiency and communication in order to deliver high-quality services.

What tools and technologies can improve the performance of your service?



**Respondents could choose several options*

In the “Other” category, the majority of respondents indicated a need for laptops, software, and other office appliances.

In order to solve the problems of human, financial and material support, it is first and foremost important to assess the level of efficiency of children’s services and social protection services, namely the quality and outcome of the actions taken, as well as the level of achievement of both strategic and current goals over a certain period of time. After all, before you can overcome a problem, you need to have a clear understanding of the problem itself.

The problem of human resources requires the involvement of professional coaches who will train specialists (improve their skills) who will deal with children and their families (psychologists specialized in trauma, persons authorized to evacuate children, make decisions regarding children, etc.) with the emphasis on the fact that persons working with children, including

in crisis and emergency situations, must undergo mandatory interdisciplinary training on the issues related to the rights and needs of children of all ages. This is extremely important because, for example, in Ukraine, there is no higher education institution training workers in children’s services with the relevant major and, consequently, many such specialists have no professional background or experience.

Attracting alternative sources of funding for remuneration is also an option. It implies developing a mechanism (regulatory model) for co-investment of the wage fund (for example, establishing additional payments to the basic salary) of relevant employees (primarily specialists of children’s services who are also officials) at the expense of foreign investors, international institutions, etc. or introducing subventions from the state budget.

It is equally important to conduct information campaigns aimed at raising the prestige of work in children’s services.

Lack of methodological support and interagency coordination

The survey revealed a lack of information and methodological support, especially in the context of challenges faced by specialists for the first time in the context of military aggression and the need to make significant efforts to find solutions and answers to questions. In our opinion, this problem can be solved, in particular, by creating a training and methodological center (a standing training and advisory body) within the framework of existing institutions responsible for methodological support of the activities of children’s services, which will be responsible for developing guidelines on the issues of child protection, consulting on such issues with employees of children’s services, conducting webinars, workshops, and online trainings for specialists.

In emergency situations, **interagency cooperation** between specialists in various

fields — social, medical, legal, human rights, educational, etc. — is crucial. The respondents noted the following regarding interagency cooperation and methods to improve the same.

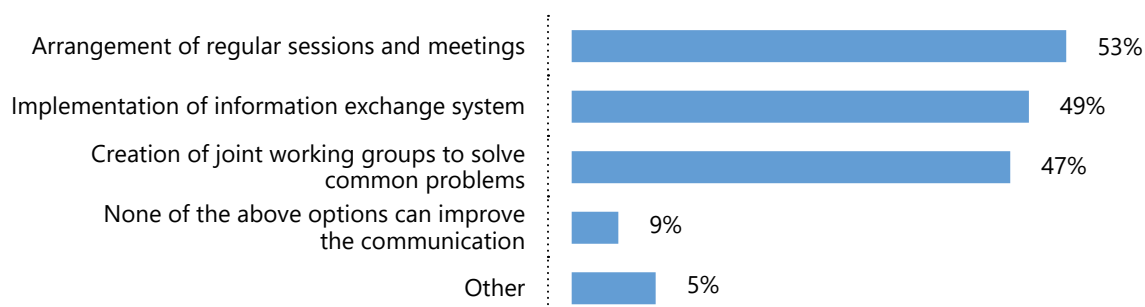
The majority of respondents (58%) reported the “highest level” of communication with colleagues from other communities and agencies, which may indicate good cooperation. At the same time, 36% rated communication as “average,” which may indicate eventual difficulties and the need for improvement, and 6% indicated that communication is rare, which highlights potential gaps in cooperation.

Those respondents who rated communication as “average” or indicated that it rarely occurs, primarily reported the need for regular meetings

and conferences (53%), the establishment of an information exchange system (49%) and joint working groups (47%) as ways to improve this interaction. Some of these methods are focused

primarily on direct interaction to discuss and jointly solve problems. The full list of ways to improve communication is presented in the diagram below.

What are the ways of improving communication between you and peers, other communities and related agencies?



**Respondents could choose several options*

This problem can be solved by well-established interagency cooperation (scheduled working sessions, meetings, etc.) and a clear regulatory segregation of powers (without duplication of functions and competencies) between agencies and officials dealing with child protection.

Standardized procedures for interagency cooperation for specialists in various fields should be prescribed at the legislative level to ensure the protection of children left without parental care before and after they are placed in temporary forms of care.

Lack of efficient mechanisms to influence parents in difficult life circumstances

Respondents reported the problem of a lack of efficient levers of influence on parents whose families are in difficult life situations. This is especially true in cases of parental addictions (alcohol, drug, etc.), psychological or mental health disorders. This problem can be solved by changing the legislation to expand the powers of children's services and shifting the regulatory emphasis from a penal (punishment for a committed act or omission) to a preventive (prevention of adverse consequences) function.

Special attention should be paid to the fact that according to paragraph 4 of Part 1 of Article 164

of the Family Code, the grounds for deprivation of parental rights are "chronic alcoholism or drug addiction", which must be confirmed by relevant medical reports. However, the term of "chronic alcoholism" is somewhat incorrect because there is no such medical diagnosis. The International Statistical Classification of Diseases, revision 10 (ICD-10: Class V. Mental and Behavioral Disorders¹⁰⁶), which was introduced in Ukraine in health care facilities on January 1, 1999 (*Order of the Ministry of Health of Ukraine № 297 dated October 08, 1998*), does not use the same (only various diagnoses describing mental and behavioral disorders due to alcohol

¹⁰⁶ ICD-10: Class V. Mental and Behavioral Disorders [Online]. Available at https://uk.wikipedia.org/wiki/MKX-10:_Клас_V._Розлади_психіки_та_поведінки

use is mentioned). In court, the circumstances related to the treatment of a person, a systemic implementation of treatment and preventive measures (medical check-up, medical examination, compulsory treatment, etc.) shall be proven. Relevant evidence may also be contained in police reports. Thus, we can talk about the need to improve the provisions of the Family Code with due regard to applicable healthcare laws, including WHO documents.

In turn, the definition of “drug abuse” is given in Article 1 of the *Law of Ukraine on Measures to Counteract Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse*, which means intentional repeated illegal use of drugs by a person.

Lack of specialized forms for emergency placement of children, as well as for rehabilitation

of children with behavioral problems or certain medical diagnoses.

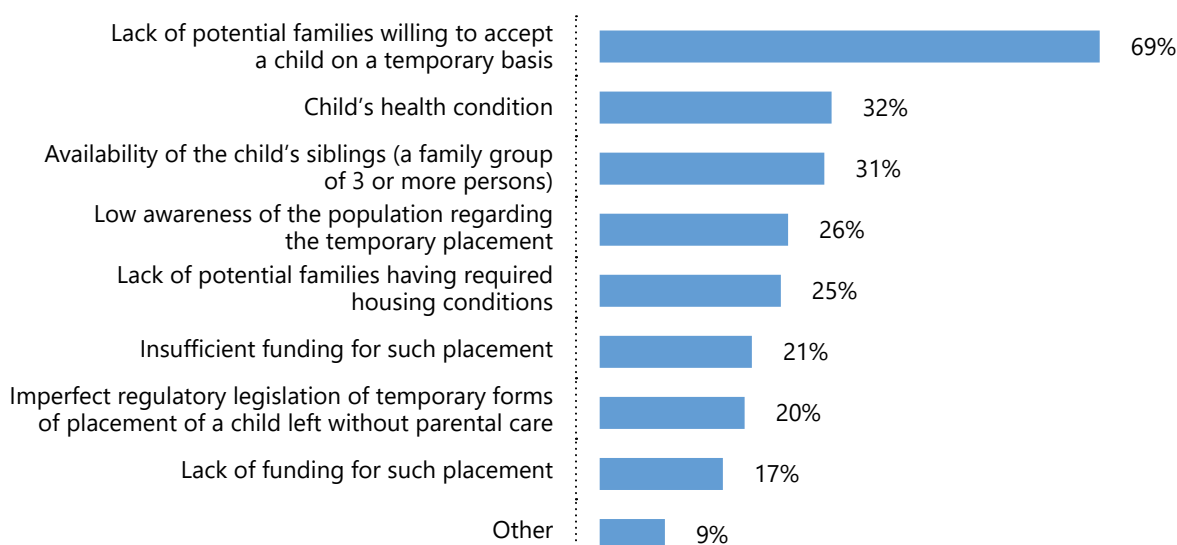
The respondents pointed to the lack of special legislative regulation of the placement of children with behavioral problems, namely deviant behavior, self-destruction, suicide attempts, mood and behavioral changes of the depressive type, and mixed behavioral and emotional disorders as a problem. To solve this problem, it is required to develop regulations that would provide for the peculiarities of placement of such children and their care, and in the future to create specialized family-based forms of placement from among persons with additional competence (psychologists, teachers, social workers, etc.), as well as to train and upgrade their skills using special training programs. Such forms of placement also require increased financial, material and social support.

Difficulties in recruiting candidates for temporary placement

The biggest obstacles in finding candidates for temporary placement of children without parental care are primarily the lack of potential

families willing to accept a child on a temporary basis (69%), the child’s health problems (32%), and availability of the child’s siblings (31%).

What factors are the most likely to interfere with the search for candidates for temporary placement of a child left without parental care?



*Respondents could choose several options

In the “Other” category, the following factors were most commonly mentioned as complicating the search for candidates for temporary placement of children without parental care:

- some families are hesitant to take responsibility for a child, fearing of difficulties related to the need to return the child later;

- in some areas near the front line, there are limited accommodation options due to security risks;
- legislation often does not work efficiently due to limited local budgets.

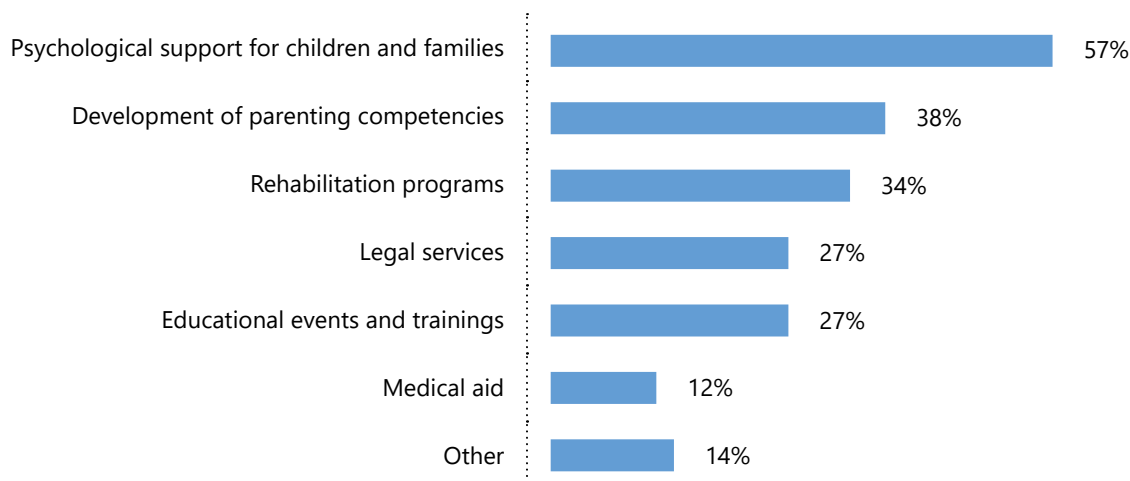
Today, this problem is being addressed, including, but not limited to, by engaging professional recruiters — employment centers.

Lack of services for persons temporarily placing a child and the child him/herself

The largest gaps in services were identified in the area of psychological support for children and families (57%), as well as in the development of parenting competencies (38%) and rehabilitation programs (34%). These areas describe

important needs, which may indicate the need for targeted measures to better support families hosting and children placed in temporary care. The full list of needs is presented in the diagram below.

In your opinion, what services for persons temporarily hosting a child and the child him/herself are lacking in your region?



**Respondents could choose several options*

The situation can be remedied through greater involvement of NGOs in the provision of social

services and mapping of social service needs in the community.

Problems identified during the survey of beneficiaries (persons who were raising and caring for a child on the basis of an order of the children's service on the temporary placement of a child)

The survey covered 156 such individuals. They provided information about a total of

243 children temporarily hosted by their families. The interviews revealed the following problems.

Poor coverage and awareness of respondents about social support and needs assessment by social workers

Almost a quarter (23%) of respondents do not receive social support from social protection services. A small share (6%) indicated other types of support. The category "Other" includes cases when respondents receive assistance from social services or support from humanitarian organizations irregularly or partially.

17% answered that no assessment of the family needs for social support services was conducted, and 8% gave other answers. In the "Other" category, some respondents are waiting

for a needs assessment, others have already undergone it, and some indicated that it was partially completed or were unsure about its implementation.

The lack of an adequate level of social support is a significant problem today, which is primarily caused by the above-mentioned problems of lack of human and financial resources and is solved by strengthening the local capacities of both state social protection services and NGO social service providers.

Lack of awareness of educational events on family education

A large share of respondents (39%) are not aware of educational activities on family education at all, indicating the importance of introducing or improving existing information campaigns on such activities.

Among respondents who are aware of trainings, the largest share (41%) is able to participate in trainings or workshops on family education once a quarter. A quarter of respondents (25%) can attend such events once a year, while a smaller share (15%) participates monthly,

and 7% — several times a month. At the same time, 12% of respondents have never had the opportunity to attend such trainings.

In view of the above, we see the need to inform relevant beneficiaries more widely about family education events, as well as to coordinate efforts between state bodies, local governments and public sector organizations to conduct periodic educational activities for persons who place a child in their family on a temporary basis.

The need to raise awareness about the next steps in the course of arranging permanent family care for a child, including adoption

The majority of respondents (74%) are well aware of the next steps in the course of permanent placement of a child, including adoption. At the same time, 17% have only partial awareness, and 9% are not aware of these

procedures at all. 58% of respondents are ready to accept a child they temporarily care for into their family on a permanent basis. At the same time, 25% are not sure and cannot give a clear answer to this question, and 17%

are not ready to assume responsibility for further permanent care. This may indicate that although most respondents are ready for such a step, a significant number of people need additional support, information, or have certain obstacles to making a decision.

Among the respondents who said they were ready to place a child on a permanent basis, the majority (67%) prefer guardianship as a form of permanent family care; 17% are ready for

adoption, while 10% are open to creating a family-type children's home. Only 6% are interested in creating a foster family.

Thus, there is a certain imbalance in the answers of respondents in favor of foster care. There is a need for systematic and targeted work to increase the number of people willing to become adopters, as this form of permanent family placement is a priority and provides long-term ties with adoptive parents.

Lack of funding for temporary child care

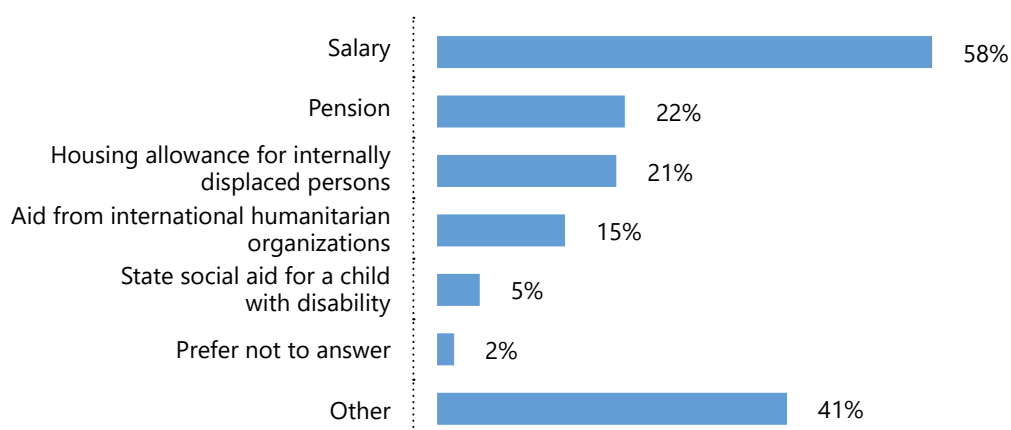
Financial support is the most required resource for temporary child care (72%). Furthermore, 51% indicated the importance of state benefits or subsidies for families caring for children in such circumstances.

The majority of respondents (58%) indicated salary as the main source of income for raising child. Other important sources include income classified as "Other" (41%), pensions (22%), and assistance for internally displaced persons (21%). In the "Other" category, respondents most commonly mention their own savings, agricultural activities, and assistance from humanitarian organizations as the main sources of income. However, for the majority of families,

state social assistance and family support, including assistance from relatives, remain key. A significant number of households rely on a combination of several sources of income, combining state support with temporary employment or financial assistance from relatives.

Most families estimate the cost of raising a child at an average of UAH 9,850 per month. Furthermore, the majority of respondents (74%) indicate that UAH 7,000 to 15,000 per month is needed to meet the needs of a child, with the most commonly reported amount being UAH 10,000. Some families indicate a minimum expenditure of UAH 3,000–5,000, while the maximum amount can reach UAH 20,000–30,000.

What income (funds) do you rely on to raise a child?



**Respondents could choose several options*

A separate component of this problem today is **the technical inability and, consequently, lack of efficiency in providing temporary assistance for a child who has been temporarily placed in a family under the “Child is not alone” program.**

The majority of respondents (83%) did not receive assistance under this program, which provides state aid to children who are left without parental care but do not have the status of

an orphan or child deprived of parental care. Only 15% of respondents indicated that they had received aid under this program, while 2% chose the option “Other”.

Thus, there is a problem with the prompt provision of financial assistance, which leads to inadequate funding for the needs of children at a critical period of their lives. This assistance should be prompt and accrued immediately upon registration of a child’s temporary placement.

Little or no opportunity to communicate with biological parents

The largest share of respondents (45%) indicated that they do not have the opportunity to communicate with their child’s biological parents. Among those who do have this opportunity, 14% are satisfied, while a total of 16% expressed dissatisfaction (7% dissatisfied and 9% very dissatisfied). A significant number (13%) remained neutral, and 8% of respondents found it difficult to answer. The data shows that the level of satisfaction with communication with biological parents varies, and a significant share does not have an opportunity to communicate at all.

Since temporary placements are an emergency response to difficult life circumstances in a child’s life, they are primarily intended to remedy the situation and, if possible, preserve

the child’s family ties with biological parents and relatives. According to the survey results, communication between persons who have placed a child for temporary care and the child’s biological parents is inadequate or even absent. Thus, it seems required to regulate communication between biological parents and persons with whom a child is placed for temporary care.

This can be a social (family) care service,¹⁰⁷ when a specifically trained family professionally assists vulnerable families, including building communication between biological parents and persons with whom the child is temporarily placed, as well as the child him/herself, if it is in his/her best interests.

¹⁰⁷ Currently, the use of the term “social care service” as a form of work of the social services centers of Ukraine is regulated only in the work with persons who have served a sentence of restriction of liberty or imprisonment for a certain period of time, as well as those released from further serving these types of sentences (according to the Law of Ukraine on Social Adaptation of Persons Who Are Serving or Have Served a Sentence of Restriction of Liberty or Imprisonment for a Certain Period of Time, social care is defined as assistance to released persons through the implementation of a set of legal, economic, organizational, psychological, social and other measures, including the provision of services aimed at their social adaptation).

CONCLUSIONS

The current situation in Ukraine, particularly the ongoing hostilities and economic turbulence, significantly exacerbate the problem of children deprived of parental care. The war has increased the number of children who have lost their parents or found themselves in situations where parents are effectively unable to provide them with proper care. Those children face a plenty of challenges, including psychological trauma, lack of access to appropriate education and healthcare, as well as threat of exploitation and abuse.

In these conditions, a particularly urgent and crucially important task is to develop a dependable system for identification and monitoring of cases where children become deprived of parental care and emergency response to such cases, including prompt placement of such children in foster family care to prevent their institutionalization. While the implementation of this system is mandatory under the ongoing DI reform and necessary for wider overhaul of the entire children's rights protection system, it is also crucial for ensuring children's welfare and safety.

1 Current global trends necessitate the development of a *child protection system that would be capable of quick adaptation to emergencies*. It is important to implement solid mechanisms allowing its fast transformation for effective emergency response, should the need arise.

Emergency response means a complex of legal, socioeconomic, policy, organizational, technical, sanitary, and other measures, mechanisms, and tools for mitigation of industrial, natural, and other hazards, risk assessment, timely response to emergency threats, and damage control.

Emergency response measures include physical safety measures, healthcare measures, provision of psychological support, measures to place children in foster family environments and prevent their institutionalization, educational measures, legal measures, measures to prevent child abuse and exploitation, as well as measures for reintegration and rehabilitation of affected children.

2 The effectiveness of measures for child protection in emergencies depends on several crucial aspects. *First*, the promptness of emergency response holds crucial importance, meaning that the measures have to be taken without any delay in order to minimize risks to children. *Second*, the coordination of effort between public authorities, international organizations, NGOs, and local communities is essential to ensure integrated and well-organized response. *Third*, a case-to-case approach is necessary in order to take into account every given child's age, as well as social, educational, and other needs. Finally, the child protection measures have to be transparent and reportable, which will facilitate their routine monitoring and assessment, in turn allowing for better adjustment of the strategies used.

3 The urgency of emergency response measures must never get in the way of *the best interest of the affected children*. Clearly, such best interest is much harder to ensure in crisis circumstances, when it has to be assessed both promptly and comprehensively, with consideration of all potential risks. This gives great significance to *mechanisms, criteria, and algorithms for assessment and ensuring of children's best interest in times of emergency*; those must regulate all response measures irrespective of

the area and be based on the standards for child protection in emergencies. This will allow to fill the notion of children's best interest with practical sense and facilitate achievement of best results for any given child in given conditions, rather than merely use it as a formal concept.

4 *Emergency response system* must ensure immediate all-round support to children deprived of parental care, while integrating in the general context of deinstitutionalization, i.e., transition from outdated institutional childcare approaches to modern ones oriented at foster family care.

In times of emergency, DI must be implemented with consideration of the following provisions.

First, no emergency can be used as a justification or reason for stopping the DI underway in Ukraine or for taking a formal approach to it.

Second, in times of emergency, DI cannot be carried on or accelerated at the cost of simplification of the required procedure, if this may create risks for children.

Third, institutional care facilities affected by emergencies must not be rebuilt and used to host children anymore.

5 Russia's full-scale invasion of Ukraine triggered numerous challenges that required building a better regulatory framework and implementing a number of protective and other measures, including: emergency (urgent) provision of social services; implementation of a system to identify children deprived of parental care, keep record of them, and place them in short-term foster care; evacuation of children from affected areas; creation of safe learning environments, etc.

6 Study and adaptation of *foreign experience* offer a unique chance to adopt tried-and-true best practices from other countries.

One good example is South Korea's Agency (Center) for the Protection of Children's Rights, which analyses state policy's (both domestic and foreign) impact on children, assesses its alignment with the well-being of children, as well as ensures the development of baseline children's policy plans and assessment of its implementation. Ukraine could also use Croatia's experience in arrangement of foster care for children with special needs (e.g., disabilities, special educational needs, self-harming behaviors, etc.). Croatian law stipulates that to be eligible to provide foster care to children with special needs, applicants must have at least a bachelor's degree in social work, psychology, educational rehabilitation, social pedagogy, logopedics, ergotherapy, physiotherapy, and nursing (or a completed vocational training in the above fields), have at least three years' experience working with children and young people placed in special care, as well as have knowledge and skills specific to the special needs of the child taken into foster care; all of the above in addition to meeting the general requirements for foster parenting. The U. S. law pays much attention to variability of short-term foster care types depending on a given child's situation and needs.

7 The global nature of modern challenges creates the need for *new forms of international cooperation*. It would be advisable to initiate the creation of a new *international coalition for child protection in crises and emergencies* to work on the development of universal standards for child protection and rehabilitation, preparation of guidelines, and creation of tools to support their implementation on national levels.

One of the important areas of work on the international level is the development of *Guidelines for Child Protection in Crises and Emergencies* (similarly to Guidelines for the Alternative Care of Children), a non-regulatory document that would lay the foundation for the development

of *national standards for child protection in crises and emergencies*, as well as a *universal international standard for social support, housing, and monitoring of evacuated children*.

8 *Short-term foster care* is an important part of Ukraine's childcare system, especially during martial law. It ensures the support of children that cannot be raised by their biological parents or legal guardians due to a variety of external and internal factors, including cases where a child's parents are dead, missing, prisoners of war, stay on the occupied territories, etc., during the time from the child becoming effectively deprived of parental care to the adoption of a long-term decision concerning the child. The development of short-term foster care system is directly related to DI.

9 Analysis shows that law provisions governing foster childcare suffer from the *following problems*:

- the lack of a general framework for placement of children deprived of parental care in foster care: applicable law contains no general provisions and principles governing foster care (incl. short-term);
- applicable law neither sets out a clear, structured system of short-term foster care types nor defines the order of priority for them, only containing a list of long-term foster care forms types provisions governing those;
- fundamental provisions regulating short-term foster care cannot be laid down in a secondary legislation instrument, while currently they are, namely in the CMU Resolution No. 866 Matters of Child Welfare Agencies Activities Related to the Protection of Children's Rights of September 24, 2008; legislation governing matters of such importance as care for children deprived of parental care cannot be developed or adopted by an executive authority.

10 While the legislative developments are underway, the matter of *financing short-term foster care provision* still stands, as legislative novelties do not work in this area due to the lack of necessary software (technical works for the improvement of the UISSS are underway).

11 The full-scale invasion has highlighted a number of issues having to do with the need to *improve the legal regulation of the institution of guardianship*. Applicable law does not clearly determine persons that can be legal guardians of a child deprived of parental care in a number of cases (including those where the child is officially recognized as an orphan or deprived of parental care while still being placed in short-term care) requiring immediate action, e.g., when someone has to apply for the child's document or give consent for the child's evacuation or medical treatment. Other issues include overlapping authority of foster and biological parents as a child's legal guardians, as well as granting of legal guardianship to short-term foster carers. The matter of a minor's legal guardian's (parent, foster parent, custodian, etc.) right to delegate their powers to a third person by a power of attorney (legal authority to act on behalf of a minor) also needs better legal regulation.

12 During the martial law, the *problem of lack* of both long-term and short-term foster care providers (i.e., *foster families*) has grown especially acute.

13 Termination of short-term foster care and adoption of long-term decisions concerning children must be properly prepared to ensure that such decisions will have steady and lasting results. The transition from short-term to long-term foster care requires careful planning, coordination, and provision of support to the children, biological parents, adoptive parents, custodians, foster parents, caregivers, and members of their families.

Steady transition from short-term alternative care to long-term foster care must be supported by a *set of relevant measures, procedures, and tools*.

14 Ensuring of steady transition to long-term foster care is related to the practice of *probationary period*, meaning the period of time when a child is placed in custody of the prospective adoptive parents, which allows the court consider both formal eligibility criteria for adoptive parents and the quality of the connection between the child and adoptive parents when making a decision on granting the adoption order.

The legal institution of children placement in short-term foster care of their prospective adoptive parents as part of the adoption procedure, implemented in Ukraine's legislation in March 2024, has given rise to numerous issues and needs improvement.

15 In today's conditions, the *child-centered approach* does not always play a central role in children placement in foster care. Outreach campaigns often focus on the needs and interest of adoptive parents rather than on children's right to adoption. When children are placed in long-term foster care, the emphasis is given to the provision of information on the children and their personalities to the prospective adopters, while the children receive much less information about the adoptive parents and their families.

16 Many children were evacuated abroad due to the full-scale invasion, including those placed in long-term foster care. The issues such children and their legal guardians faced in other countries again showed that the *mechanism of extrajudicial foster placement* (i.e., placement in foster care by decision of child welfare agencies) does not meet the international standards for legal regulation of child protection.

17 Today, the *system for selection and training of prospective adoptive parents and custodians*

faces significant challenges, including risks of abuse of adoption rights to become deferred from draft in time of martial law.

The existing selection system cannot be viewed as fully developed; it is unbalanced and needs significant improvement.

18 Ensuring children's long-term return to their biological families requires working with both the children and the families. Ukraine's competent authorities have not developed any *guidelines for children's return to their biological families* after being in short-term foster care.

19 *The findings of the survey of short-term foster carers* allow to draw the following key conclusions.

- Most foster families provide short-term care to one or two children, while having more foster children is significantly less common. Out of the respondents surveyed, families that have biological children are more likely to become foster families for children deprived of parental care.
- Social welfare agencies are active in the communities, and most of the families surveyed benefit from their assistance, including needs assessment and social support services.
- The level of satisfaction with services provided by social workers and child welfare agencies is high, with most of the respondents positively evaluating assistance they receive. However, some respondents have complaints, including about arrears in social welfare payments, insufficient financial aid, communication issues, and bureaucratic hurdles.
- When asked about assistance provided by non-governmental organizations, most of the respondents were neutral in their evaluation. This shows that NGO support needs to become more stable and accessible.
- The most often suggested ways to increase families' motivation to take children in

short-term or long-term foster care included allocation of financial aid, reduction of bureaucratic hurdles, and psychological support.

- Most of the times, children are placed in short-term foster care in order to support them in difficult life circumstances and create a favorable environment for their upbringing.
- Children are most commonly put in custody of their relatives.
- The most pressing needs of short-term foster families are improvement of financial aid and psychological assistance.
- The respondents also note difficulties related to children's adaptation to new circumstances, including both emotional and psychological challenges.
- Despite the generally high level of satisfaction with informational support related to short-term foster care, a part of the respondents state that they need more clear and structured information.
- While the awareness of foster care trainings is comparatively high, many respondents do not participate in them or do not know about them, which indicates issues with access to the trainings and public outreach about them.

20 *The findings of the survey of social and child welfare workers* allow to draw the following principal conclusions.

- There is an urgent need to increase the workforce capacity of welfare agencies to improve the provision of legal and social services alike. Excessive workload on social workers can cause burnout and decrease in performance.
- The lack of financing provided to welfare agencies remains one of the key factors limiting their effectiveness. Additional resources, such as vehicles, equipment, and other operating assets are needed to ensure timely and effective provision of services.
- The respondents named lengthy court proceedings and bureaucratic hurdles as the

most significant barriers in matters related to child protection and termination of parental rights.

- Improvement of the social support system and services related to short-term foster care rely heavily on increasing of the number of welfare workers, provision of vocational training to them, and development of services for children with special needs.
- While the respondents assess the level of communication between welfare agencies and local communities as high, there is still place for improvement in this area. Strengthening of interagency cooperation, more joint meetings, and implementation of information exchange systems might improve the overall coordination of their activities.
- Integration of digital tools, such as document management software and mobile applications for communication with families, may significantly improve the performance of welfare services. Investing in technology will allow them to streamline service delivery and ease the administrative burden.
- Search for potential short-term foster families remains a difficult task, especially when it comes to children with health issues or those having siblings.
- Emotional and psychological challenges are the main issue children face when placed in short-term foster care. Their successful adaptation to the new environment depends heavily on the availability of personal counselling and family support services, as well as on the development of parenting skills on the foster carers' part.
- The respondents state that welfare workers need better transport support to be able to respond to challenges faced by foster families irrespective of their geographical location.
- The respondents also noted the importance to reform the legal regulation of child welfare system, in particular aiming to improve the court procedures concerned and ensure the observance of child protection laws.

RECOMMENDATIONS

The findings of this study allow to formulate some recommendations aimed at ensuring the effective protection of children's rights in emergencies, including the right to growing up in family environments, which is a crucial component of the DI reform.

These will prove useful for both policymakers and administrative bodies, primarily for social and child welfare agencies.

To the Parliament of Ukraine

- In order to ensure systemic, rather than fragmentary, update of applicable law, infamous for its inconsistencies and doubling of provisions, a new codifying statute (i.e., *Children's Rights Code*) needs to be developed. Its provisions must govern relationships associated with care for children deprived of parental care due to death of the parents, termination of the parents' parental rights, illness of the parents, or other reasons, as well as relationships concerning the protection of children's personal intangible rights. It has to include a section regulating children's right protection in emergencies.
- This codifying statute should be adopted after the development of *Concept of the Reform of Child Protection Laws*.
- Applicable law needs to set out a *system of short-term and long-term foster care types*, lay down fundamental principles of putting children deprived of parental care in foster care, include a definition of the category of children concerned, define the order of priority for short-term foster care types, improve legal regulation of certain types (including the provisions of Section 20 of Fam. C. governing foster care, which need to be aligned with applicable secondary legislation provisions that have been significantly amended during the martial law).
- Regulation and legislative recognition of *special foster care types* (concerning children with disabilities, special educational needs, deviant behaviors, etc.).
- Improvement of regulation of the *legal guardianship* institution, namely:
 - 1) recognition of short-time foster parents and foster carers (in foster families and FCCHs, respectively) as legal guardians of the children put in their care (with exceptions for legal authority to act on behalf of such children in any procedures concerning their housing and property rights and consenting to adoption and change of citizenship);
 - 2) add to the Article 65 of Civ. C. (Care for Natural Persons not Appointed a Guardian or Foster Carer) a provision stipulating that welfare agencies providing support to such persons are deemed those persons' legal guardians;
 - 3) clearly stipulate parents' right to delegate their legal authority to act on behalf of a minor, including execution of deeds that require notarization, to third persons (without harm to law provisions limiting authority to dispose of a minor's property and similar provisions);
 - 4) set out clear rules for delineation of authority between foster and biological parents during martial law.
- Amend the Civ. C. to authorize testators to include *dispositions concerning testamentary guardianship* in their wills, specifying person(s) they wish to entrust with short-term

or long-term care for their children in cases where, after the testator's death, the children will be eligible for recognition as orphaned or deprived of parental care. If, as per Article 1240 of Fam. C. (Testamentary Burden) the testator imposes a testamentary burden on a certain heir, obliging such heir to care for the testator's children and allocating a part of the inheritance for this purpose, this does not mean that a child welfare agency concerned has to put such children in such heir's care.

- Amend the procedural legislation to *prioritize the hearing of cases having to do with the protection of children's rights and interest*.
- The *implementation of evacuation measures* would be advisable to regulate by means of a separate law governing, among other things, the matters of children evacuation and determining the conditions under which children may be separated from their parents in the course of mandatory evacuation. This law should also stipulate additional safeguards to be provided in such cases and measures aimed at preventing children's return to dangerous areas.
- It is also recommended to provide legislative clarification of the above matters and hold an outreach campaign to define persons entrusted with consenting to evacuation of children from occupied areas, if their stay in such areas entails their deprivation of parental care (i.e., in cases where the parents are missing or staying at areas controlled by Ukraine). This includes regulation of consenting to evacuation by parents (if possible), consenting to evacuation by welfare agencies, recognition of children as deprived of parental care, and appointment of a guardian (foster parent) to make the decision concerning evacuation.
- The *right to safe learning environment* (including during emergencies and martial law) has to gain legislative recognition, namely in the LU On Education; applicable law

(LU On Education) should include a *clear definition of safe learning environments* and list safety measurements in times of emergency and martial law; ensure legislative recognition (in LU On Education) of the *continuous learning principle* and determination of measures to ensure its observance in times of emergencies and martial law; develop a *regulatory classification of shelters by their suitability for people with special needs*, including children with special educational needs; set out *technical requirements for shelters* to ensure, among other things, the continuity of learning process for children with health conditions and developmental challenges, taking into account such conditions and challenges; set out *shelter zoning requirements* to make sure that children with different conditions and developmental challenges can use any given shelter at the same time, and to ensure the separation of staff not participating in evacuation measures from other people.

To the Cabinet of Ministers of Ukraine and the Ministry of Social Policy of Ukraine

- Develop *universal national standards for child welfare (including child protection in emergencies)*, which will stipulate criteria and mechanisms for the management, delivery, quality assessment, and monitoring of childcare services aimed at the provision of family-type care; develop a public control system to monitor observance of such standards (including by means of implementation of a mandate system).
- Develop *criteria, and algorithms for assessment and ensuring of children's best interest in times of emergency*. Those must regulate all response measures irrespective of the area and be based on the standards for child protection in emergencies.

- Ensure prompt performance of technical works for improvement of the UISSS, in order to ensure *compliance with legislation governing the financing of short-time foster care*.
- Develop and implement the *social (family) patronage service*, with families that received special training professionally helping vulnerable families, including during the development of communication between foster and biological parents, with the inclusion of children in the process, if this is deemed in line with the children's interest.

To the State Service of Ukraine for Children's Affairs

- Develop a *system for assessing performance* of child welfare agencies, taking into account the quality and outcomes of measures taken, as well as the progress toward achievement of both long-term and short-term objectives within a given period.
- Develop guidelines for *children's return to their biological families* after being placed in short-term foster care.
- Ensure the establishment of a *training center* (to function as a permanent training and advisory body) developing guidelines on problematic child protection matters, providing advice on such matters to child welfare workers, hold webinars, trainings, and online classes for child welfare professionals.

To the State Service of Ukraine for Children's Affairs, local governments, local state administrations, and military administrations

- Ensure community outreach to educate local residents on the *procedure to be followed in cases of identification of a child deprived of parental care*, namely start with trying to

contact the local child welfare agency and, if this is impossible, follow-up by contacting the regional child welfare agency governed by the region state administration or the National Social Service of Ukraine, and, if these efforts prove futile, call the National Police (at 101) or ambulance (at 103).

To the Ministry of Health of Ukraine

- Ensure mandatory *routine mental health monitoring* of children deprived of parental care due to the war.

To the Ministry of Digital Transformation of Ukraine

- Ensure the *update of the outdated Children I/AS*, taking into account the modern-day challenges and IT development, providing for continuous automated update of information stored in it by means of data retrieval from other registers (e.g., State Register of Vital Records, Unified State Demographic Register, etc.) to facilitate timely making of decisions concerning children and minimization of risks threatening their rights.
- Ensure the *digitalization of personal records of institutionalized children*.

APPENDICES

Appendix 1

QUESTIONNAIRE FOR SURVEYING SPECIALISTS OF CHILDREN'S SERVICES AND SOCIAL WORK SPECIALISTS

Within the framework of the project "Protecting Lives Through Integrated Multi-Sectoral Support" by the Right to Protection CF as a partner of the Ukraine Protection Consortium, coordinated by Save the Children with financial support from the USAID Bureau of Humanitarian Assistance (BHA), **we are conducting a survey on the protection of children left without parental care and placed in temporary family-based care in your community.** The survey we are conducting meets the requirements of confidentiality, which stipulate that:

- 1) We will use only impersonal and generalized data based on the survey findings;
- 2) The connection between the answers provided and the identity of a particular respondent cannot be traced;
- 3) The database of survey results is subject to protection during processing and analysis.

Also please, be informed that:

- Your participation in this survey is voluntary, free of charge, does not impose any obligation on you to provide answers, and the survey will be terminated at your first request;
- Your personal data will not be disclosed to the third parties, and the survey results will be analyzed anonymously and used in a confidential manner;
- Your answers are very important, because based on the information received, our

organization will develop proposals to improve the regulatory framework for temporary family-based forms of child placement.

May I ask you the following questions and record your answers? This will take approximately 10–20 minutes of your time.

Note:

- If the answer to this question is no, the survey will stop here.
- You can choose several answers to one question.

The monitor shall enter the following information personally:

- Full name of the monitor
- Region where the survey is conducted
- District
- Community
- Settlement
- Date of the survey

INFORMATION ABOUT THE RESPONDENT

1 The region in which the respondent works at the time of the survey:

2 Position of the respondent:

- ☐ A) an employee of the children's service
- ☐ B) a specialist in social work

3 Level of authority (single choice)

- ☐ A) city neighborhood
- ☐ B) city (town)
- ☐ C) amalgamated territorial community
- ☐ D) district of the region
- ☐ E) region

4 Number of children left without parental care (who do not have the status of an orphan or a child deprived of parental care) living in the territory covered by your authority (number)

- ☐ A) approximately _____ children;
- ☐ B) I do not have such information.

5 Age of the respondent

- ☐ A) under 25 years old;
- ☐ B) 26 to 40 years old;
- ☐ C) 41 to 59 years old;
- ☐ D) 60+ years old.

6 Work experience in the specialty

- ☐ A) less than 3 years;
- ☐ B) 3 to 5 years;
- ☐ C) over 5 years;
- ☐ D) over 10 years.

QUESTIONS

1 What skills and knowledge do you need in the course of your work? (multiple choice)

- ☐ A) Knowledge of child protection legislation
- ☐ B) Emotional competence (the ability to understand, manage and express one's own emotions, as well as to interact effectively with the others' emotions)
- ☐ C) Communication skills
- ☐ D) Problem analyzing and solving skills
- ☐ E) Skills of working with groups of people
- ☐ F) Not sure
- ☐ G) Other _____

2 How would you rate the efficiency of your service? (rate from 1 to 5, where 1 is completely inefficient and 5 is fully inefficient)

If your rating is 1, 2, 3, please, explain.

If your rating is 4, 5, please, explain.

3 What resources do you need to improve the efficiency of your service? (multiple choice)

- ☐ A) Adequate funding to ensure the provision of services by the service
- ☐ B) Availability of required material base
- ☐ C) Qualified personnel with appropriate skills and knowledge
- ☐ D) Partnership with the other services and organizations for joint work
- ☐ E) Changes in the legislative regulation of the relevant service

4 What tools and technologies can help improve the performance of your service?

- ☐ A) Electronic systems for storing and exchanging data
- ☐ B) Web platforms for providing online services
- ☐ C) Mobile applications for communication with children and families
- ☐ D) Software for analysis and documentation
- ☐ E) Other _____

5 How do you rate the level of communication between you and fellow from the other communities and related agencies?

- ☐ A) The communication level is top
- ☐ B) The communication level is medium
- ☐ C) The communication is quite rare
- ☐ D) There is no communication.

If you selected options B-D when answering the previous question, go to question 6, and if you selected option A, go to question 7.

6 How can communication between you and fellows from the other communities and related agencies be improved?

- ☐ A) Implementation of an information exchange system
- ☐ B) Organizing regular meetings and conferences
- ☐ C) Creating joint working groups to address common problems
- ☐ D) None of the above can improve communication
- ☐ E) _____

7 What obstacles or challenges do you face in your work?

- ☐ A) Lack of funding
- ☐ B) Heavy workload for employees
- ☐ C) Complicated communication with children and their families
- ☐ D) Poor coordination with other services
- ☐ E) Bureaucratic obstacles
- ☐ F) Negative public attitude
- ☐ G) High staff turnover in the units
- ☐ H) Imperfect regulatory framework
- ☐ I) Other _____

This question is only for those who chose option A (children's service workers) when answering to question 2 (Information about the respondent):

8 What key challenges arise in the course of granting the status of an orphan or a child deprived of parental care? (question for employees of children's services only) (multiple choice)

- ☐ A) Lack of documents certifying the circumstances under which the child was left without parental care
- ☐ B) Protracted court procedures for depriving the child's parents of parental rights
- ☐ C) Poorly organized work of employees of children's services
- ☐ D) Inadequate staffing of children's services to ensure the grant of the status
- ☐ E) Imperfect legislation governing the procedure for granting the status of an orphan or a child deprived of parental care
- ☐ F) Other _____

9 What factors commonly interfere with the search for candidates for temporary placement of a child without parental care? (multiple choice)

- ☐ A) Children have siblings (family group 3 or more)
- ☐ B) Child's health status
- ☐ C) Absence of funding for such placement
- ☐ D) Lack of funding for such placement
- ☐ E) Lack of potential families willing to take in a child on a temporary basis
- ☐ F) Lack of potential families with required living conditions
- ☐ G) Lack of public awareness of temporary forms of placement
- ☐ H) Imperfection of legislative regulation of temporary forms of placement of a child left without parental care
- ☐ I) Other _____

10 What services for persons temporarily placing a child and the child him/herself, in your opinion, are lacking in your region?

- ☐ A) Psychological support for children and families
- ☐ B) Development of parental competencies
- ☐ C) Legal services
- ☐ D) Medical care
- ☐ E) Rehabilitation programs
- ☐ F) Conducting educational events and trainings
- ☐ G) Other _____

11 What are the possible ways to improve the system of support and services in the field of temporary family placement of children?

- ☐ A) Provision of additional professional training for employees
- ☐ B) Increase in the number of employees
- ☐ C) Improved cooperation between services and service providers
- ☐ D) Creation of self-help and mutual support groups among people who receive these services
- ☐ E) Development of services for children with special needs (e.g., support for children during inclusive education; day care for children with complex developmental disorders, etc.;)
- ☐ F) Other _____

12 What challenges do you observe in the course of the child's adaptation to a new family environment during temporary placement? (multiple choice)

- ☐ A) Emotional or psychological difficulties faced by the child during adaptation
- ☐ B) Conflicts between the child and the new family
- ☐ C) Lack of material and technical facilities to meet the special needs of the child (e.g., furniture, medical equipment)
- ☐ D) Other _____

13 What methods and approaches to work with children and families with whom they are temporarily placed can be the most effective, in your opinion?

- ☐ A) Individual counseling and support
- ☐ B) Family counseling
- ☐ C) Group work with children
- ☐ D) Organization of meaningful leisure activities
- ☐ E) Other _____

14 What, in your opinion, is needed to prevent the repeated removal of a child from his or her biological family?

- ☐ A) Ongoing financial support for vulnerable families
- ☐ B) Ongoing humanitarian support for vulnerable families
- ☐ C) Providing vulnerable families with access to psychological support and counseling
- ☐ D) Social support for vulnerable families for a certain period after overcoming difficult life circumstances

- ☐ E) Introduction of the "foster family care" service (a trained family professionally assists vulnerable families for a certain period after overcoming difficult life circumstances)
- ☐ F) Other _____

15 Your comments and suggestions

Appendix 2

QUESTIONNAIRE FOR SURVEYING A PERSON TEMPORARILY HOSTING A CHILD

Within the framework of the project “Protecting Lives Through Integrated Multi-Sectoral Support” by the Right to Protection CF as a partner of the Ukraine Protection Consortium, coordinated by Save the Children with financial support from the USAID Bureau of Humanitarian Assistance (BHA), **we are conducting a survey on the protection of children left without parental care and placed in temporary family-based care in your community.** The survey we are conducting meets the requirements of confidentiality, which stipulate that:

- 1) We will use only impersonal and generalized data based on the survey findings;
- 2) The connection between the answers provided and the identity of a particular respondent cannot be traced;
- 3) The database of survey results is subject to protection during processing and analysis.

Also please, be informed that:

- Your participation in this survey is voluntary, free of charge, does not impose any obligation on you to provide answers, and the survey will be terminated at your first request;
- Your personal data will not be disclosed to the third parties, and the survey results

will be analyzed anonymously and used in a confidential manner;

- Your answers are very important, because based on the information received, our organization will develop proposals to improve the regulatory framework for temporary family-based forms of child placement.

May I ask you the following questions and record your answers? This will take approximately 10–20 minutes of your time.

Note:

- If the answer to this question is no, the survey will stop here.
- You can choose several answers to one question.

The monitor shall enter the following information personally:

- Full name of the monitor
- Region where the survey is conducted
- District
- Community
- Settlement
- Date of the survey

INFORMATION ABOUT THE RESPONDENT

A separate question:

- 1 **Did you provide temporary care and raise a child on the basis of an order of the children's service on the temporary placement of the child?**

- ☐ A) Yes
☐ B) No (end of the survey)

- 2 **The region of respondent's residence at the time of the survey**

- 3 **Type of settlement:**

- ☐ A) City
☐ B) Urban-type settlement
☐ C) Village
☐ D) Settlement

- 4 **Age of the respondent:**

- ☐ A) 18 to 25 years old
☐ B) 26 to 40 years old
☐ C) 41 to 59 years old
☐ D) 60+ years old.

- 5 **How many children are temporarily placed in your family?**

Open-end answer

Note: if the respondent has more than one child, the further survey shall cover each child separately.

INFORMATION ABOUT EACH CHILD

- 6 **What circumstances led to the child's need for temporary placement with your family? (If question 1 = yes), (open-ended question)**

- 7 Who are you in relation to the child?**
- ☐ A) Relative
 - ☐ B) Friend
 - ☐ C) Foster parent (foster family) with whom the child is placed on temporary basis
 - ☐ D) Caregiver (family-type children's home) with whom the child is placed on temporary basis
 - ☐ E) Foster caregiver
 - ☐ F) Other (please, specify and indicate on what basis the respondent provides care for the child) _____
- 8 The child placed in the respondent's family on a temporary basis has a gender**
- ☐ A) Male
 - ☐ B) Female
- 9 Age of the child temporarily placed in the respondent's family**
- ☐ A) 0 to 2 years old
 - ☐ B) 3 to 5 years old
 - ☐ C) 6 to 13 years old
 - ☐ D) 14 to 18 years old
- 10 For how many months has the child been staying in your family on a temporary basis?**
- ☐ A) less than one month
 - ☐ B) 2–3 months
 - ☐ C) 3–4 months
 - ☐ D) 5–6 months
 - ☐ E) more than 6 months
- 11 What was/is your major motivation for temporary placement of a child in your family? (multiple choices)**
- ☐ A) A desire to provide a child with a loving environment
 - ☐ B) A desire to help a child in a difficult life situation
 - ☐ C) A sense of responsibility towards society and children in need
 - ☐ D) A chance to develop one's skills and abilities
 - ☐ E) A sense of self-esteem
 - ☐ F) This is my relative
 - ☐ G) This is my friend's child
 - ☐ H) Other _____
- 12 What income (funds) do you rely on to raise a child?**
- ☐ A) Salary
 - ☐ B) Pension
 - ☐ C) State social aid for a child with a disability
 - ☐ D) Aid for children with serious illnesses
 - ☐ E) Housing allowance for internally displaced persons

- ☐ F) Aid from humanitarian organizations
☐ G) Prefer not to answer
☐ H) Other: _____

13 Have you received assistance under the program “A Child Is Not Alone” (state aid for children who have been left without parental care but have not acquired the status of an orphan or a child deprived of parental care)?

- ☐ A) Yes
☐ B) No
☐ C) Other: _____

14 How much money per month (approximately) do you need to support a child temporarily placed in your family?

- ☐ UAH _____

15 Do you currently face any difficulties associated with the temporary placement of a child in your family?

- ☐ Yes
☐ No (skip question 16)

16 If yes, what kind of difficulties? (multiple choice)

- ☐ A) Inadequate financial support from the state
☐ B) Feeling stressed or overwhelmed due to additional responsibilities
☐ C) Difficulties when interacting with the child
☐ D) Difficulties faced by the other family members when interacting with the child
☐ E) Other: _____

17 What key supporting resources do you need for temporary child care?

- ☐ A) Psychological or emotional support
☐ B) Medical care and access to medical services
☐ C) Training programs on the care of a temporarily hosted child
☐ D) Financial payments
☐ E) Availability of state benefits (subsidies) for families temporarily hosting a child
☐ F) Other: _____

18 What are the key challenges associated with the child’s adaptation to a new environment in your family? (multiple choice)

- ☐ A) Emotional and psychological state of the child
☐ B) Change in the environment and daily routine
☐ C) Interaction with other family members
☐ D) Other: _____

19 Are you satisfied with the amount of information you received about the temporary family-based care before hosting a child?

- ☐ A) Yes, I am very satisfied (skip question 20)
- ☐ B) Yes, I am satisfied (skip question 20)
- ☐ C) Neither satisfied nor dissatisfied (skip question 20)
- ☐ D) No, I am dissatisfied
- ☐ E) No, I am very dissatisfied

20 Why are you dissatisfied with the amount of information you received about the conditions of temporary family-based care before hosting a child?

21 How do you rate the level of communication with the child's biological parents (if possible)?

- ☐ A) Very satisfied
- ☐ B) Satisfied
- ☐ C) Neither satisfied nor dissatisfied
- ☐ D) Dissatisfied
- ☐ E) Very dissatisfied
- ☐ F) Unsure
- ☐ G) There is no possibility to communicate with parents

Completion of the unit for each child

22 Do you have biological and/or adopted children and, if so, how many?

- ☐ A) Yes
- ☐ B) No
- ☐ C) Prefer not to answer

22.1 If the answer is A, please, specify how many?

15 Are there any social work specialists in your territorial community?

- ☐ A) Yes
- ☐ B) No
- ☐ C) Other: _____

15 Is social support provided to your family?

- ☐ A) Yes
- ☐ B) No
- ☐ C) Other: _____

15 Did social workers assess the needs of your family?

- ☐ A) Yes
- ☐ B) No
- ☐ C) Other: _____

15 How do you rate the level of support you receive from children's services?

- ☐ A) Very satisfied (skip question 26.1)
- ☐ B) Satisfied (skip question 26.1)
- ☐ C) Neutral (skip question 26.1)
- ☐ D) Dissatisfied
- ☐ E) Very dissatisfied

26.1 If dissatisfied/very dissatisfied, why? _____

27 How do you rate the level of support you receive from social services?

- ☐ A) Very satisfied (skip question 27.1)
- ☐ B) Satisfied (skip question 27.1)
- ☐ C) Neutral (skip question 27.1)
- ☐ D) Dissatisfied
- ☐ E) Very dissatisfied

27.1 If dissatisfied/very dissatisfied, why? _____

28 How do you assess the level of support you receive from civil society organizations?

- ☐ A) Very satisfied (skip question 28.1)
- ☐ B) Satisfied (skip question 28.1)
- ☐ C) Neutral (skip question 28.1)
- ☐ D) Dissatisfied
- ☐ E) Very dissatisfied

28.1 If you are dissatisfied/very dissatisfied, why? _____

29 Do you know about trainings or workshops on family education?

- ☐ A) Yes
- ☐ B) No
- ☐ C) Other

29.1 If yes, how often do you have an opportunity to attend trainings or workshops on family education?

- ☐ A) Several times a month
- ☐ B) Once a month
- ☐ C) Once a quarter
- ☐ D) Once a year
- ☐ E) Never

30 Are you aware of the eventual further steps to formalize permanent family raising and care for a child (adoption, guardianship, foster care, creation of a foster family)?

- ☐ A) Yes
- ☐ B) No
- ☐ C) Partially

31 Are you ready to put a temporarily hosted child in a permanent family-based foster care with your family?

- ☐ A) Yes
- ☐ B) No (skip question 31.1)
- ☐ C) Still not sure (skip question 31.1)

31.1 What kind of permanent family placement are you ready to create?

- ☐ A) Adoption
- ☐ B) Guardianship (trusteeship)
- ☐ C) Foster family
- ☐ D) Family-type children's home

32 What, in your opinion, should the state introduce to increase the motivation of adults to temporarily place children without parental care in their families?
(open-ended question)

33 What other additional questions/comments do you have about the temporary placement of children left without parental care? *(open-ended question)*
