



## NATIONAL SOCIAL SERVICE OF UKRAINE

8/10 Esplanadna Street, Kyiv, Ukraine, 01601, tel./fax: (044) 289-71-68,

e-mail: info@nssu.gov.ua

code according to USREOU 43902987

No. \_\_\_\_\_ of \_\_\_\_\_

**Office fédéral de la Justice  
Unité Droit International Privé**

**E-mail: kindeschutz@bj.admin.ch**

**Re: Clarifying some provisions of the Ukrainian legislation on child's right protection**

The National Social Service of Ukraine as the central authority of Ukraine being in charge for implementation of the provisions of the 1996 Convention would like to address to you on the issue of the Ukrainian children displaced to the countries of European Union due to russia's invasion in Ukraine. Within the framework of the European Union's unwavering commitment to provide strong support to Ukraine and its people for as long as it takes, the EU has provided Temporary Protection to the Ukrainian children.

This decision was confirmed by the EU Council Directive 2001/55/EU dated of July 20, 2001, applying to the children-citizens of Ukraine on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof and the EU Implementation Decision 2022/382 dated of March 4, 2022, that establishes the existence of a massive influx of displaced persons from Ukraine within the meaning of Article 5 of the abovementioned Directive and provide temporary protection.

As stated in the Explanatory Report on Application of 1996 Convention, a published version of Preliminary Document No 7, as approved by the Council on General Affairs and Policy of the HCCH at its 2020 meeting, the competent authorities of the Contracting State of the habitual residence of an unaccompanied or separated child who is not a refugee and who has not been internationally displaced due to disturbances



ДОКУМЕНТ СЕД АСКОД

Сертифікат 0B55E8070001

Підписувач ЛУЦИК ВАСИЛЬ ВАСИЛЬОВИЧ

Дійсний з 02.01.2024 17:14:53 по 01.01.2025 23:59:59

НАЦСОЦСЛУЖБА



№ 0000-02.4-0/2395 від 06.02.2024

in their country have general jurisdiction to take measures of protection. The habitual residence of the child is the primary basis of jurisdiction under the 1996 Convention.

## **1. Legal status of the Ukrainian children displaced abroad**

First of all, First and foremost, we would like to emphasize that the Ukrainian kids are not refugee kids but are the children who moved to foreign countries to get a temporary protection after Russia's invasion of Ukraine. So, they have got legal status providing for any measure taken by foreign competent authorities in respect to the Ukrainian children are of temporary effect. Hosting countries in their activity towards the Ukrainian children must take into account administrative and judicial decisions of Ukraine that will facilitate the Ukrainian children's return to the country of their habitual residence when it is safe. In its turn, it corresponds to the provisions of Reikjavik's Declaration which an important cross-cutting focus of was the recognition of the need for unification, cohesion - for the sake of Ukraine, around the values of the European community. The Declaration adopted by the representatives of the Council of Europe member states underlined that the Ukrainian authorities expect that the children who have been displaced or who have sought refuge in other Council of Europe Member States, including those from institutions, will be repatriated to Ukraine when it is safe to do so.

## **2. Application of the 1996 Convention in respect to the Ukrainian children**

Following aforementioned, we would like to focus your attention on correct application of the provisions the 1996 Convention towards the Ukrainian children and the provisions of the national legislation.

Exactly in view of mentioned above, **Article 6 of the Convention shall not be applied to the Ukrainian children** but the provisions of **Article 5, 7-11 of the Convention are to be applied.**

The cases mentioned in Article 6 of the Convention, such as fleeing from disturbances occurring in their country and getting a refugee status are logically united by a common reason that is the threat coming from the country of habitual residence.

**The Ukrainian kids are not the children who, due to disturbances occurring in their country, are internationally displaced.**

“The disturbances occurring in their country” means the threat forcing children to leave their country of habitual residence and to get the refugee status due to disturbances caused by the government of Ukraine, a so called inside the country threat. But current situation demonstrates that the Ukrainian children have left and are still leaving

Ukraine for a reason of disturbances caused by russia's aggression, a so-called outside threat.

**Ukraine is not the country creating for the children dangerous life conditions but the aggressor state is that is russia.** The Ukrainian children were fleeing from military aggression of the neighboring country but not from disturbances caused by Ukrainian power. Hence, **Ukraine as the country is not a source of threat for them.**

The Ukrainian kids left their home country **to get a Temporary Protected Status** on the territories of hosting states.

In this context Article 11 of the Conventions shall be applied stating that in all cases of urgency, the authorities of any Contracting State in whose territory the child or property belonging to the child is present have jurisdiction to take any necessary measures of protection. The measures taken under the preceding paragraph with regard to a child habitually resident in a Contracting State shall lapse as soon as the authorities which have jurisdiction under Articles 5 to 10 have taken the measures required by the situation.

Another very important issue to be emphasized on is that as stated in the Explanatory Report on Application of 1996 Convention, a published version of Preliminary Document No 7, as approved by the Council on General Affairs and Policy of the HCCH at its 2020 meeting, the competent authorities of the Contracting State of the habitual residence of an unaccompanied or separated child who is not a refugee and who has not been internationally displaced due to disturbances in their country have general jurisdiction to take measures of protection. **The habitual residence of the child is the primary basis of jurisdiction** under the 1996 Convention.

Taking into consideration the provisions of Articles 5 and 15 of the Convention such competent authorities are the authorities of the habitual residence of the child that is Ukraine. While exercising their jurisdiction in compliance to the provisions of the Convention, they apply the Ukrainian applicable law towards the Ukrainian children.

Taking into account the provisions of Article 23 of the 1996 Convention, the measures taken by the Ukrainian **authorities shall be recognised by operation of law in all other Contracting States.**

Under the provisions of Article 24 of the 1996 Convention, any interested person may request from the competent authorities of a Contracting State that they decide on the recognition or non-recognition of a measure taken in Ukraine. Unfortunately, the Ukrainian competent authorities do not always get the information about the children children temporarily taken under protection by the local authorities of the hosting states.

In compliance to the provisions of Article 30, 31, 32, 34 of the Convention, the central authorities shall, in connection with the application of the Convention, take appropriate steps to provide information as to the laws of, and services available in their States, relating to the protection of the Ukrainian children separated from their parents or other legal representatives due to various reasons, including the cases of settling the children into the facilities for further noticing the Ukrainian central authority that is the National Social Service of Ukraine.

While adhering the strong commitment that children are not only procreation but they are continuation of our independent and sovereign state and taking into consideration that Ukraine expects its children to be back in Ukraine when it is safe, we would like to clarify you the provisions of the Ukrainian applicable legislation to take into account while considering the cases in respect to the Ukrainian children.

### **3. Ukrainian Children's Return Procedure to Ukraine**

The decision for the children's return to Ukraine under the martial law is to be taken by the Ukrainian authorized state regional administration under the following circumstances:

- ✓ child's adoption by the Ukrainian citizens. It is to be taken into consideration that the international adoption of the Ukrainian children is forbidden for the period of martial law. The national adoption is only allowed.
- ✓ transfer of the children to their biological parents or to other authorized representatives;
- ✓ children's appeal about their intent to return to Ukraine;
- ✓ child's entering the educational institution in the territory of Ukraine;
- ✓ other circumstances that make child's stay outside Ukraine impossible approved by the competent authority of Ukraine;
- ✓ orphanages and the children deprived of parental care;
- ✓ children born and left in maternity hospitals.

The decision on children's return to the institution of permanent residence or to another institution prior the termination/abolition of martial law, as an exception, may be taken after taking all comprehensive measures to extend the children's stay in the institutions where they were displaced/evacuated to. It is to be taken by regional administration at the place of permanent location of the institution. Such a return is to be conducted in the events as follows:

- ✓ the hosting institution where the children were temporary displaced/evacuated to is not in a position to provide further maintenance;
- ✓ the hosting institution where the children were temporary displaced/evacuated to is no longer providing proper conditions for their stay certified by the conclusion of the diplomatic mission of Ukraine located in the hosting country

or by monitoring group established by the order of the Ministry of Social Policy of Ukraine;

- ✓ accompanying persons are not able to exercise their powers, inter alia, after administrative or court decision of a hosting state making it impossible for accompanying persons to exercise their powers;
- ✓ representatives of the diplomatic mission of Ukraine are limited in access to the Ukrainian children, deprived of the opportunity to contact the children to protect their rights and interests;
- ✓ in the event of other circumstances negatively affecting the children at the place of their temporary stay.

Under the martial law, a regional administration takes a decision on children's return to the place of the institution's permanent location after examining the safety of the institution location by the competent authorities of Ukraine.

The priority while addressing the issue of children's accommodation upon their return to Ukraine is given to children's parents and other Ukrainian legal representatives of the children.

While it is not possible to accommodate the children at the institution of their permanent stay in Ukraine, they are to be accommodated at other Ukrainian institutions.

The decision of children's return prior to termination or abolition of martial law is to be considered by regional, Kyiv City Military Administration at the place of the institution permanent location based on the request of the founder or head of the children's welfare office, structural unit on social protection of the population, health, education and science of regional, Kyiv City Military Administration depending on subordination of the institution at the place of its location.

In its turn, the National Social Service of Ukraine is to approve a temporary displacement/evacuation of the children after analyzing reasonableness of such a decision, compliance of the documents for temporary displacement/evacuation, checks up the availability of invitation from hosting institution, investigates the conditions to be provided for children's stay, based on the information mentioned in the invitation, their compliance with the child's age, health and needs, determines the possibility of meeting children's needs at the place where they are displaced/evacuated.

For submitting the approval for children's repeated temporary displacement/evacuation within the borders of hosting state or to any other country, the National Social Service of Ukraine examines the reasonability of the circumstances demanding repeated displacement of the children staying outside Ukraine; examines the conditions to be provided for children's stay, their compliance with age, health and

children's needs; checks up the availability of invitation from the hosting institution; checks up the compliance of the list of already displaced children to the list of the children to be repeatedly displaced inside the hosting state or to any other country.

Temporary displacement/evacuation of the children from one state to another without the approval of the National Social Service of Ukraine is prohibited. The decision on children's return in the form of an order is to be taken by regional, Kyiv City Military Administration at the place of institution permanent location.

The terms for children's return is to be defined individually for every institution, taking into consideration the period of time necessary for arranging the children's return, their preparing for return, renovation of the infrastructure necessary for meeting the children's needs at the place of their residence or stay after return and also duration of their stay in the country of temporary stay/evacuation.

#### **4. Adoption Procedure Amended**

Due to the introduction of martial law in Ukraine there were introduced some important amendments were introduced to the adoption procedure.

Under the martial law, foreigners and the Ukrainians now residing or staying abroad cannot use the right of adoption except while the adoptive parent candidates are relatives of a child or they want to adopt siblings of the child they earlier adopted.

Under the martial law in the territory of Ukraine, the orphans and children deprived of parental care while staying outside Ukraine can be transferred under care or custody of the Ukrainians registered as adoptive parent candidate and reside on the territory of Ukraine except the territories of combat operations or temporary occupied by russia and where the state bodies are functioning.

Meeting of adoptive parents candidates with a child is to be conducted at the child's place of staying outside Ukraine and to be attended by the head of the institution or a representative authorized by the head and, also, by a Ukrainian diplomatic official.

The referral to meet a child is to be issued by a Regional Children's Welfare Office.

If such a referral was issued to the Ukrainians now temporary or permanently staying abroad or to the foreigners before the introduction of martial law in Ukraine then adoptive parents candidates can complete the adoption of a child in compliance to applicable legislation of Ukraine. The fact of transferring a child to the family is to be certified by the Act of Transferring the Child signed by the head of the institution or a representative authorized by the head, a diplomatic official and by adoptive parents.

After taking a decision on transferring a child into a family, the child can be returned to Ukraine accompanied by a representative of either an institution, or a care and custody agency or an authorized representative.

Following mentioned above and keeping in mind the best interests of the child and the current situation in Ukraine due to russia's invasion in Ukraine, we would like to ask you to inform the competent authorities of your country about the possibility for the Ukrainian children to be adopted or to be taken under care or custody of the Ukrainian citizens during martial law.

We would also like to ask your competent authorities to comprehensively promote contacts of the Ukrainian adoptive parent candidates with a child/children as soon as possible because the children deserve it as soon as possible.

## **5. Family Types of Care in Ukraine**

Meanwhile, we would like to advise you on the statutory family forms of care existing in Ukraine. These are as follows:

**Foster Family** – is a family or an individual not being married who voluntarily for payment took one to four orphans or children deprived of parental care for upbringing and cohabitation.

**Family-Based Children's Home [FBCH]** – is a foster family who took for upbringing and cohabitation no less than 5 orphans and children deprived of parental care. The total number of children of the Family-Based children's Home shall not exceed 10 individuals including relatives.

**Guardianship & Custodianship** – is a placement of orphans and children deprived of parental care into the families of the Ukrainian citizens, who are mainly in family or kinship relations with these children, for ensuring their upbringing, education, development, protection of their rights and interests.

**Guardianship is established** over the children under the age of 14.

**Custodianship is established** over the children aged 14 up to 18.

Guardians/custodians, heads of the institutions and accompanying persons authorized by the head are children's legal representatives in compliance to the Ukrainian applicable legislation.

In the event of any doubts as to the power of authorized representatives of the Ukrainian children or any documents certifying such a power, the National Social Service of

Ukraine together with other Ukrainian competent authorities is ready to quickly verify the abovementioned information and documents and to give necessary clarifications.

Hope for your kind understanding and taking into consideration.

Please, find attached the samples of the relevant Ukrainian official papers.

**Head for the National Social  
Service of Ukraine**

**Vasyl LUTSYK**



UKRAINE

**D E S I C I O N****OF THE EXECUTIVE COMMITTEE OF THE \_\_\_\_\_ CITY COUNCIL**

dated \_\_\_\_\_

No. \_\_\_\_

On establishing guardianship over minor(s)

Guided by Articles 140, 146 of the Constitution of Ukraine, Article 34 of the Law of Ukraine “On Local Self-Government in Ukraine”, Articles 55, 56, 58, 59, 61, 62, 63 of the Civil Code of Ukraine, Article 243 of the Family Code of Ukraine, taking into account the conclusions of the commission on the protection of children's rights (protocols No. 6 dated 06.02.2013 and No. 8 dated 20.02.2013), after considering the applications of citizens with a request to establish guardianship over minor children, the Executive Committee of the \_\_\_\_\_ City Council

**O R D E R E D:**

## 1. To establish guardianship over minor children:

Л\*, \* birth year;

Л\*, \* birth year;

Б\*, \* birth year;

К\*, \* birth year;

К\*, \* birth year;

М\*, \* birth year.

## 2. To appoint:

citizen \*, who lives in \_\_\_\_\_, B\* Avenue, as a guardian of minor grandchildren deprived of parental care, L\*, \* birth year, and L\*, born in \*;

citizen B\*, who lives in \_\_\_\_\_, M\* Street, as a guardian of minor granddaughter-orphan B\*, born in \*;

citizen V\*, who lives in \_\_\_\_\_, Zh\* Street, as a guardian of minor children deprived of parental care, K\*, born in \*, and K\*, born in \*;

citizens M\* and M\*, who live in the city of \_\_\_\_\_, N\* Street, as guardians of a minor niece deprived of parental care, M\*, born in \*.

The Mayor

\_\_\_\_\_

APPROVED  
by the resolution of the Cabinet of Ministers of Ukraine  
dated 10 November 2010 No. 1025  
(amended by the resolution of the Cabinet of Ministers of Ukraine  
on 18 November 2020 No. 1277)

Sample

UKRAINE



## BIRTH CERTIFICATE

Surname \_\_\_\_\_  
name \_\_\_\_\_ patronymic \_\_\_\_\_  
born on \_\_\_\_\_

(day, month, year in

numbers and words)

Place of birth \_\_\_\_\_  
(country,

region,

area,

city, settlement (village),

in witness whereof an entry No. \_\_\_\_\_ was made on  
what \_\_\_\_\_ day \_\_\_\_\_ month \_\_\_\_\_ year

## PARENTS

Father \_\_\_\_\_  
(Surname,

name, patronymic)

(citizenship)

Mother \_\_\_\_\_  
(Surname,

\_\_\_\_\_ (name, patronymic)

\_\_\_\_\_ (citizenship)

State registration at \_\_\_\_\_  
\_\_\_\_\_ (name of the state body

\_\_\_\_\_ for registration of acts of civil status)

The body of civil status acts state registration that issued the certificate

\_\_\_\_\_ (name)

Issuing day \_\_\_\_\_

USDR number \_\_\_\_\_ Tax number \_\_\_\_\_

Head of the civil status acts state registration body \_\_\_\_\_  
(signature) (initials and surname)

Series X-XX No. XXXXXX

**NOTE**

**regarding the documents that can be presented by legal representatives in the relevant authorities of the EU countries and other countries to confirm parenthood, as well as the legal fact of guardianship / care of children**

The main document that confirms the fact that an individual is the father/mother of the child is the child's **birth certificate** (a sample is attached).

State registration of birth is carried out by entering information into the State Register of Civil Status Acts of Citizens, with the issuance of a Birth Certificate confirming the fact of registering the birth of a child.

State registration of the birth of a child is carried out no later than one month from the date of their birth (failure to fulfill this obligation within the prescribed period, valid reasons for missing the one-month period or the details of the administrative offense protocol are indicated in the “For notes” column of the act record of birth)

Guardianship and custody are established **by the court and the body of guardianship and custody**.

The **guardian** or **custodian** is appointed:

over an incapacitated or limitedly capable person – by the court at the request of guardianship authorities;

over a minor or an underage child (if the issue does not concern the restriction of legal capacity) – the authority **of guardianship and custody**.

Guardianship and custody bodies are district, district in the cities of Kyiv and Sevastopol Local State Administrations, executive bodies of city or district **councils** in cities, villages, or settlements **councils**.

*Regarding the documents (samples are attached) and how to distinguish a forgery, including court decisions.*

COPY






243/8388/17  
2/243/166/2018

**JUDGMENT IN ABSENTIA**  
in the name of Ukraine

**Correct**

16 April 2018 Sloviansk City Court of the Donetsk Region composed of the Presiding Judge Husinskyi M.O., the Secretary of the Court Miroshnochenko V.V.

heard the civil-law case of the claimant PJSC "Akcent-Bank" against "Individual 1" about repaying the debt according to loan agreement.

**JUDGMENT IN ABSENTIA**

**Incorrect**

Proceeding No. 8987686  
Sloviansk City Court of the Donetsk Region composed of :

the Presiding Judge, in the presence of the Secretary of the Court, having considered the civil law-case based on the claim of "ROSVEN INVEST UKRAINA" LLC against "Individual 1" about debt repayment.

Every decision made by the court must comply with **the requirements of the procedural codes and the instructions on record keeping**, approved by the Order of the State Judicial Administration of Ukraine dated 17.12.2013 No. 173.

**Any** court decision in Ukraine must contain the image of **the small coat of arms of Ukraine** in the middle at the top of the paper. Therefore, **any other markings**, namely **letters, images of Themis**, etc., indicate the falsity of such a document

**Furthermore, every decision has the following elements in the right upper corner:**

a) a single unique number consisting of the court code, serial number, and the year in which the case materials were received by the court. These data are indicated through an oblique border (according to the new instructions, they will be separated with dots).

b) the number of the proceedings, consisting of the case code, the court code, the serial number of the relevant proceedings and the year in which the case materials were received by the court, with a slash or a dot.

Below, in the middle of the sheet of paper, **the name of the procedural document is indicated**, which necessarily contains the phrase **“in the name of Ukraine”**, for example: **“DECISION in the name of Ukraine”**.

Next, **the date** of the court decision, **the name of the court** with the **name of the judge**, **the name of the secretary** of the court session and **the participants** in the

trial, **the place of the court session** and **a summary of the essence of the case** under consideration are indicated

The introductory part of the decision is followed by the word **“ESTABLISHED”**, after which the court notes the circumstances that were established and **the reasons for the decision**.

The decisive part of the court’s order is separated by the word **“RESOLVED”** or **“HELD”**. It states the **decision on the merits of the case considered by the court**, with a **mandatory indication of the term, the procedure for appealing the decision and its entry into force**.

The court decision **must contain the personal signature of the presiding judge**. In addition, the **code** is placed in the right lower corner of the decision.

**Regardless** of whether the decision has entered into force, **its copies are sent to the parties to the case**.

Also, copies of court decisions must be **properly executed and certified with an imprint of the court seal**. If the copy of the court decision consists of **several sheets**, it must be **stitched with threads for five punctures**, and **the back of the last sheet is to bear the signature of the judge, an employee of the court apparatus, certified by an imprint of the court seal with the indication of the number of stitched sheets**.

Therefore, **any copy of the decision is certified with the court seal**.

Upon receiving **unclear documents**, as if issued by a court, **one should first check the details**. If the document **does not meet** the requirements mentioned above, **this indicates that it is fake**.

**Everyone has the right to contact the police with a report of a criminal offense if they believe that such a violation is taking place against both them and other individuals**.



Unique registration number 719/99/21  
Proceedings number 2/719/37/21

**DECISION**  
(by default)  
**IN THE NAME OF UKRAINE**

June 9, 2021, Novodnistrovsk

Novodnistrovsk City Court of Chernivtsi Region, composed of:

Judge V. L. Tsitsak,

with the participation of the secretary V. I. Midrihan,

representative of the plaintiff PERSON\_1,

the third person PERSON\_2,

having considered in an open court session in the city of Novodnistrovsk, Chernivtsi Region, in the order of general legal proceedings, a civil-law case based on the claim of the Executive Committee of the Novodnistrovsk City Council of the Chernivtsi Region as a body of guardianship and care in the interests of minor PERSON\_3 against PERSON\_4, with the participation of a third person who does not declare independent requirements regarding the subject of the dispute, on the side of the claimant PERSON\_2 about the deprivation of parental rights, the appointment of a guardian and the collection of alimony, -

**ESTABLISHED:**

On the 5 of March 2021, the plaintiff filed a lawsuit against PERSON\_4 in the interests of the minor PERSON\_3, with the participation of a third person who does not make independent claims regarding the subject of the dispute, on the side of the plaintiff PERSON\_2 about the deprivation of parental rights, the appointment of a guardian and the collection of alimony.

As a background to the lawsuit, it is noted that since the 9 October 2017, the minor PERSON\_3, INFORMATION\_1, has been registered with the Children's Service of the Novodnistrovsk City Council in connection with the evasion of his mother, PERSON\_4, from fulfilling parental duties, the latter's systematic consumption of alcoholic beverages, leaving the place of residence and transfer of childcare to the grandmother PERSON\_2. Indicates that during the period from 2017 to 2020, the family of PERSON\_4 was repeatedly inspected, as a result of which it was established that the mother does not live with her son, is not interested in his life and health, does not provide material assistance, but leads an immoral lifestyle, constantly changes the place of stay and abuses alcoholic beverages. Instead, only his grandmother PERSON\_2 is engaged in the care, upbringing, and education of the child, since the person of the father of the child is recorded from the words of the mother in accordance with Art. 135 of the Criminal Code of Ukraine. In connection with the above, on 10 January 2021 the body of guardianship adopted decision No. 20/2 on the expediency of depriving PERSON\_4 of parental rights regarding her minor son PERSON\_3 and, considering the statement of the child's grandmother, a claim was prepared for the appointment of PERSON\_2 the child's guardian. Taking into account the above, requests the lawsuit to be satisfied, to deprive PERSON\_4 of parental rights regarding the minor son; appoint PERSON\_2 as the child's guardian; to collect alimony from PERSON\_4 for the care of her son in the amount of UAH 1198.50; court costs to be imposed on the defendant.

By court order dated 23.03.2021 after eliminating the shortcomings of the claim statement, a general claim proceeding was opened, the parties to the case were given a deadline to submit statements on the merits, and a preparatory meeting was scheduled.

By court order dated 19.05.2021 the preliminary proceedings in the case were closed, and the case was scheduled for trial on the merits on the 2 of June 2021, which was postponed to the 9 of June 2021.

The defendant PERSON\_4 did not appear at the court session, although she was repeatedly informed about the date, time and place of both the preliminary hearings and the court session at the place of registration at the address: ADDRESS\_1; did not submit any statements or petitions to the court, did not respond to the lawsuit. At the same time, envelopes were returned to the court about the impossibility of delivering the postal item due to the absence of the addressee at the specified address.

In accordance with Clause 2 Part 7, Clause 4 Part 8 Article 128 of the Code of Criminal Procedure of Ukraine, if the parties to the case do not provide information about their address, a court summons is sent to natural persons who do not have the status of entrepreneurs at the address of their place of residence or place of stay, registered in accordance with the procedure established by law. The day of service of the court summons is the day when a note is placed in the postal message about the absence of the person at the location, place of residence or stay of the person registered in accordance with the procedure established by law, if this person has not notified the court of a different address.

Thus, taking into account the absence of the defendant at the address of registration, which is confirmed by the case materials, in particular, certificate No. 616 dated 10.03.2021, issued by the Department of Keeping the Register of the Territorial Community of Novodnistrovsk, Novodnistrovsk City Council of the Chernivtsi Region (a.s. 53), in connection with which the envelope with the summons to the court session was returned to the court, the court considers the defendant to have been properly notified of the date, time, and place of the court session.

Taking into account the non-appearance of the defendant, who was duly notified of the date, time, and place of the hearing of the case and from whom neither a response to the lawsuit nor a request to postpone the hearing of the case, or to hear the case in her absence was received, the court was not informed of the reasons for the non-appearance, having received the plaintiff's consent, the court in accordance with Articles 280-281 of the Civil Procedure Code of Ukraine decided to conduct a case hearing in absentia on the basis of the evidence available in the case.

The representative of the claimant, PERSON\_1, supported the claim on the grounds set out in the statement of claim. She emphasized that the child's mother does not demonstrate any desire to maintain family relations with her son, is not interested in his life and routine, does not monitor his academic success, does not participate in the child's extracurricular life and leisure, does not want, and does not take measures to support her son financially. Instead, the collected data indicate that the latter has an alcohol addiction, spends time in dubious companies in various settlements of the district and does not appear at the place of her registered residence for a long time. As a result of PERSON\_4's irresponsible attitude towards her son and actual self-removal from raising the child, PERSON\_3 also lost the mother-son relationship with the defendant, identifies his grandmother as his mother and wishes to stay with her.

The third person PERSON\_2 supported the position of the plaintiff's representative and confirmed the circumstances stated in the statement of the claim. In addition, she indicated that her daughter PERSON\_4 began to have problems with alcohol shortly after the birth of her son, because of which she left her son under her care from the age of one, while she tried to arrange a private life. She reported that she has repeatedly taken measures to treat her daughter for alcohol addiction, but the latter does not admit that she has problems and leaves medical institutions without completing the course of treatment. She stated that she currently lives with PERSON\_3 in a two-room apartment at ADDRESS\_1, together with other members of their family. At the same time, although the defendant is registered at the same address, she has not actually lived there for several years. She noted that PERSON\_4 has no desire to live with her son, does not inform her of the whereabouts, rarely visits them, the last time was approximately in the summer of 2020, calls more often, however, as a rule, she is in an intoxicated state at this time. She believes that now the daughter leads an immoral lifestyle, and therefore her communication with the son has a negative effect on the child, in particular, on his psychological state. She notes that the boy who lives with her permanently has good living conditions; she bears all the expenses related to the education, upbringing, and development of the child, and therefore asks the court to satisfy the claim and appoint her as the guardian of the child.

The minor PERSON\_3 testified that he lives with his grandmother and his cousins in the city of Novodnistrovsk, and he does not know where his mother PERSON\_4 is. He reported that he has now completed



the 4th grade and was transferred to secondary school; INFORMATION\_2 he turned 10 years old. He noted that his mother does not visit him, he cannot remember the last time they saw each other; instead, the latter sometimes calls him and then he tells her about his life. He also said that he goes to rest with his grandmother in the village of Neporotov on the river and in the village of Barnashivka, however, his mother does not go with them. He indicated that PERSON\_4 never offered him to live with her, and he does not want to, he wants to stay with his grandmother.

Witness PERSON\_5 testified that she works as a primary school teacher and was the teacher of PERSON\_3 for 4 years. She indicated that only PERSON\_2, who is his grandmother, took care of the child during his studies. She confirmed that PERSON\_2 attended school holidays and parent meetings; provided funds for the purchase of school supplies; was interested in the child's academic success and helped with homework. Instead, the witness does not know the mother of a boy; the latter does not like to talk about her and does not know about her whereabouts. She remembered that the last time PERSON\_3 mentioned his mother in a conversation with her, but later clarified that he meant his grandmother, since he lives with her and the latter cares about him.

After hearing the plaintiff's representative and the third person, examining the written evidence provided, hearing witnesses, including the minor child PERSON\_3, the court found that the defendant PERSON\_4, INFORMATION\_3, has a son PERSON\_3, INFORMATION\_1, which is confirmed by the Birth Certificate series NUMBER\_1, issued by the State Registration Department acts of civil status of Novodnistrovsk City Department of Justice of the Chernivtsi Region on 17.06.2011. (a.s. 11).

PERSON\_6 is recorded as the boy's father from the words of the child's mother in the order of part 1 of the Article 135 of the Criminal Code of Ukraine, which is confirmed by Extract No. 00029083284 dated 29 December 2020 from the State Register of acts of civil status of citizens on birth with information about the father in accordance with Part 1 of Art. 135 SC of Ukraine (a.s. 12).

The family of PERSON\_4 has been registered in the Novodnistrovsk City Centre of Social Services for Family, Children, and Youth since the 9 of October 2017 in connection with the improper performance of parental duties by the mother and abuse of alcoholic beverages (a.s. 34).

In connection with the above, the material and living conditions of the family at ADDRESS\_1 were repeatedly inspected, based on the results of which reports of the material and living conditions were drawn up on 06.12.2017, 26.06.2018, 10.07.2018, and 20.02.2019, 19.03.2020, 15.07.2020, 27.08.2020, 23.09.2020, 16.10.2020, 04.11.2020, 21.12.2020 (a.s. 14-20, 93-96). In the above-mentioned documents, it is recorded that PERSON\_3's living conditions are good, the latter is provided with the necessary clothes, food, and school supplies. It was established that the child has a friendly and loving relationship with his grandmother, on the other hand, the boy's mother is not in the apartment, she is not interested in his life, studies, and health, she does not inform her relatives about her whereabouts.

As a result of PERSON\_4's improper performance of her parental duties, the Commission for the Protection of Children's Rights twice (on 12.07.2018 and 01.21.2019) decided to warn the latter of the responsibility for improper performance of parental duties regarding her minor son PERSON\_3, born in 2011, and correct the situation in the family (a.s. 97-98).

In October 2017 and in March 2020 a needs assessment of the family and the child was carried out, and relevant acts were drawn up on the 4 of October 2017 and 18.03.2020, according to which PERSON\_3 is under the constant supervision of PERSON\_2, and PERSON\_4 initially had little interest in the child, and later removed herself from the performance of parental duties and does not appear at home (a.s. 104-110).

According to the social card of the family/person No. 11 regarding PERSON\_4, started on the 17 of March 2020, the latter is recommended to restore family relations, develop the skills of responsible parenting, and establish emotional contact with family members (paragraphs 111-116).

At the same time, PERSON\_4, who is registered together with his mother PERSON\_2 and son PERSON\_3 at the address: ADDRESS\_1, is positively characterized by the place of residence; during the year was brought to administrative responsibility for violating quarantine rules and drinking alcoholic beverages in public places or appearing in such places in an intoxicated state; registered at the employment centre as of October 2020 was not present; until 30 June 2018 received state social assistance for single mothers, but did not apply for it in the future (paragraphs 13, 24, 33, 35-36).

On the 11 of January 2021, the third person PERSON\_2 applied to the body of guardianship and custody to deprive PERSON\_4 of her parental rights and to be appointed as a guardian (a.s. 21), which was considered by

the Commission for the Protection of Children's Rights on the 27 of January 2021 and it is recommended to consider it expedient to deprive PERSON\_4 of parental rights regarding her son PERSON\_3 (paragraphs 8-9).

On the 10 of February 2021, the executive committee of the Novodnistrovsk City Council of Chernivtsi region adopted decision No. 20/2 On the fulfilment of parental duties, according to which it is also considered appropriate to deprive PERSON\_4 of her parental rights regarding her son PERSON\_3 (a.s. 5).

On the 19 February 2021, the Executive Committee of the Novodnistrovsk City Council of the Chernivtsi Region, as a body of guardianship and custody, issued opinion No. 351 on the expediency of depriving PERSON\_4 of parental rights due to the evasion of parental duties (a.s. 6), and on the 24 of February 2021, submitted claim No. 395 on the establishment of guardianship, according to which the grandmother PERSON\_2, born in 1975 (a.s. 7) should be appointed as the guardian of the minor child PERSON\_3, born in 2011.

As of the date of the case hearing, the child PERSON\_3 completed his studies in the 4th grade at the "Novodnistrovsk Gymnasium" Comprehensive School in the Chernivtsi Region, where he studied during all four years. At the place of study, he is characterized positively, is calm, friendly, but vulnerable and needs attention; according to the doctors' opinion, he is healthy. The school director and class teacher note that the child is taken care of by PERSON\_2, who monitors the boy's progress in studies, participates in parents' meetings, pays for school supplies and food, and organizes after-school time; instead, the school does not have information about the mother of the child (a.s. 30-32, 89-91).

PERSON\_2 is the grandmother of PERSON\_3, who is not contested as a party to the case and currently lives with the boy at the address: ADDRESS\_1 (a.s. 24).

The latter informed that she does not have a permanent place of work, but is engaged in seasonal part-time jobs, and has savings (a.s. 26, 28). She indicated that she is able to support her grandson, which she has been doing for a long time, providing him with the proper conditions for living, feeding, studying and developing. The persons involved in the case do not deny the specified circumstances.

The court also established that PERSON\_2, INFORMATION\_4, has no previous convictions, is positively characterized by her place of residence, according to the doctors' opinion, she is healthy; there are no circumstances that would prevent her from becoming the guardian of the minor child (paragraphs 22-23, 25, 27, 29).

Taking into account the provisions of Articles 10-13 of the Civil Code of Ukraine, when resolving a dispute within the limits of the stated requirements and in accordance with the established circumstances of the case, based on the evidence of the parties, the court shall apply the laws of Ukraine, international treaties, the binding consent of which has been granted by the Verkhovna Rada of Ukraine.

As stated in Article 3 of the Convention on the Rights of the Child dated 20 November 1989, which was ratified by Resolution of the Verkhovna Rada of Ukraine No. 789-12 dated 27 February 1991 and entered into force for Ukraine on the 27 of September 1991, (hereinafter – the Convention), in all actions regarding children, regardless of whether they are carried out by public or private institutions dealing with social security, courts, administrative or legislative bodies, primary attention is paid to the best possible ensuring the interests of the child.

Principle 6 of the Declaration of the Rights of the Child, adopted by resolution 1386 (XIV) of the UN General Assembly on the 20 of November 1959, of which Ukraine is a member, states that a child needs love and understanding for the harmonious development of their personality. They should, whenever possible, grow up under the care and responsibility of their parents and in any case in the atmosphere of love, moral and material security; a minor child should not, except in exceptional circumstances, be separated from their mother.

In accordance with Part 1 of Article 18 of the Convention, member-states make every possible effort to ensure the recognition of the principle of general and equal responsibility of both parents for the upbringing and development of the child. Parents or, in appropriate cases, legal guardians bear the primary responsibility for the upbringing and development of the child. The best interests of the child are their primary concern.

According to clauses 1, 2 of Article 27 of the Convention member-states recognize the right of every child to the standard of living necessary for the child's physical, mental, spiritual, moral, and social development. The parent(s) or other persons who raise the child bear the primary responsibility for ensuring, within their abilities and financial capabilities, the living conditions necessary for the development of the child.

Similar norms are enshrined in the Family Code of Ukraine, in particular, according to clauses 1-5 of Article 150 of the Civil Code of Ukraine, parents are obliged to raise their children in the spirit of respect for the rights and freedoms of other people, love for their family and relatives, their people, their Motherland. Parents are obliged to

take care of the child's health, physical, spiritual, and moral development. Parents are obliged to ensure that the child receives a full general secondary education, to prepare them for an independent life. Parents are obliged to respect the child. Handing over a child for upbringing to other persons does not release the parents from the obligation of parental care.

According to Article 180 of the Civil Code of Ukraine, parents are obliged to support the child until they reach legal age.

Clause 1 of Article 9 of the Convention states that States Parties shall ensure that the child is not separated from the parents against their will, except when the competent authorities, pursuant to a court decision, determine in accordance with the applicable law and procedures that such separation is necessary in the best interests of the child. Such a determination may be necessary in one or another case, for example, when the parents abuse or neglect the child, or when the parents live separately and a decision needs to be made about the child's place of residence.

According to Article 14 of the Law of Ukraine "On the Protection of Childhood", children and parents must not be separated against their will, except for cases when such separation is necessary in the interests of the child, and it is required by a court decision that has entered into force. During actions related to the separation of a child with one or both parents, as well as other actions concerning the child, in accordance with the procedure established by law, the court listens to the opinion and wishes of the child.

In accordance with Part 4 of Article 155 of the Civil Code of Ukraine, the evasion of parents from fulfilling parental duties is the basis for imposing on them the responsibility established by law. In particular, according to Clause 2, Part 1, Article 164 of the Civil Code of Ukraine, a mother or father may be deprived of parental rights by court, if she or he evades the fulfilment of his or her duties regarding the upbringing of the child and/or ensuring that he or she obtains a full general secondary education.

According to Part 4 of Article 164 of the Civil Code of Ukraine, when making a decision on the deprivation of parental rights, the court takes into account information about the implementation of social support for the family (person) in the case of such support.

The right to appeal to the court with a claim for deprivation of parental rights in accordance with Article 165 of the Civil Code of Ukraine is given to one of the parents, a guardian, a custodian, a person in whose family the child lives, a health care institution, an educational or other children's institution in which the child is staying, a body of guardianship and custody, a prosecutor, as well as the child himself or herself, who has reached fourteen years of age.

Clauses 1, 2 of Article 171 of the Civil Code of Ukraine state that a child has the right to be heard by their parents, other family members, and officials on issues concerning them personally, as well as family issues. A child who can express their opinion must be heard when resolving a dispute between their parents and other persons regarding their upbringing, place of residence, including when resolving a dispute about deprivation of parental rights.

In clauses 15, 16 of the Resolution of the Plenum of the Supreme Court of Ukraine No. 3 of 30 of March 2007 "On the practice of the application of legislation by the courts when considering cases on adoption and on deprivation and renewal of parental rights", deprivation of parental rights (that is, the right to raise a child, protect their interests, to take a child away from other persons who illegally keep them, etc.), which are given to parents before the child reaches legal age and are based on the fact of kinship, is an extreme measure of influence on persons who do not fulfil parental duties, and therefore the question of its application should be resolved only after a full, comprehensive, objective investigation the circumstances of the case, in particular, the attitude of parents towards children. Persons may be deprived of parental rights only with respect to a child who has not reached the age of eighteen, and only on the grounds provided for in Article 164 of the Criminal Code of Ukraine. Avoidance of parents from fulfilling their duties takes place when they do not take care of the physical and spiritual development of the child, their education, preparation for independent life, in particular: they do not provide the necessary nutrition, medical care, treatment of the child, which negatively affects their physical development as a component of education; do not communicate with the child in the amount necessary for their normal self-awareness; do not give the child access to cultural and other spiritual values; do not contribute to their assimilation of generally recognized moral standards; show no interest in her inner world; do not create conditions for them to receive an education. The specified factors, both individually and collectively, can be considered as evasion of raising a child only under the condition of guilty behaviour of parents, deliberate neglect of their duties. Simultaneously with the deprivation of

parental rights, the court may, at the request of the plaintiff or on its own initiative, decide on the issue of child support.

When the court considers disputes regarding the deprivation of parental rights in accordance with clauses 4-6 Article 19 of the Civil Code of Ukraine, the participation of the body of guardianship and custody, represented by the appropriate legal entity, which submits a written opinion to the court on the resolution of the dispute based on the information obtained as a result of the examination of the child's living conditions, parents, and other persons who wish to live with the child, to participate in their upbringing, as well as on the basis of other documents related to the case. The court may not agree with the conclusion of the guardianship authority if it is insufficiently substantiated, contradicts the interests of the child.

As stated in the Generalization of the Supreme Court of Ukraine's practice of court consideration of cases related to deprivation of parental rights, renewal of parental rights, adoption, and establishment of guardianship and custody of children dated 11.12.2008 the court should demand a written opinion from the guardianship authority in accordance with Part 5 of Article 19 of the FC, as well as the court may interrogate the representative of this body in a court session. The court may not agree with the conclusion of the guardianship authority if it is insufficiently grounded, contrary to the child's interests.

According to clauses 3, 4 of Article 12, Part 1 of Article 13, clauses 1, 5, 6 of Article 81 of the Code of Criminal Procedure of Ukraine, the court considers cases no differently than at the request of a person submitted in accordance with this Code, within the limits of the requirements declared by him and on the basis of evidence submitted by the participants in the case or demanded by the court in the cases provided for by this Code. Each party must prove the circumstances that are relevant to the case and to which it refers as the basis of its claims or objections. Each party bears the risk of the consequences associated with taking or not taking procedural actions. The parties and other participants to the case submit evidence. Proof cannot be based on assumptions.

Thus, the actual circumstances of the case (in particular, the self-removal of PERSON\_4 from the upbringing and maintenance of her son, his school life, the resolution of issues regarding the provision of proper conditions for living, feeding and development, which has been taking place for a long time), have been established on the basis of the examined written evidence, while the negative characterization of the defendant by the social support body of the family, taking into account the conclusion of the body of guardianship and custody and the opinion of the minor child, collectively testify to the fact that PERSON\_4 is indifferent to the further fate of her son and avoids fulfilling her duties to raise PERSON\_3, INFORMATION\_1, which the court considers these to be exceptional circumstances within the meaning of principle 6 of the Declaration of the Rights of the Child and which allows concluding that there is a real violation of the child's rights, which is the basis for depriving the defendant of parental rights.

At the same time, the court notes that the arguments of the plaintiff's representative and a third party about the defendant's chronic alcoholism and the latter's immoral lifestyle were not substantiated due to the failure to provide the court with relevant evidence.

The court also rejects the arguments of the plaintiff's representative about the defendant's financial inability to provide for her son as an independent basis for depriving her of her parental rights, since these are not based on the norms of Ukrainian legislation.

In accordance with Clause 6 of Article 164 of the Civil Code of Ukraine, the court's decision on the deprivation of parental rights, after it has entered into force, the court sends it to the state registration body of acts of civil status at the place of registration of the child's birth.

According to Clauses 1, 2 of Article 20 of the Convention, a child who is temporarily or permanently deprived of a family environment or who, in their own best interests, cannot remain in such an environment, has the right to special protection and assistance provided by the state. Participating states, in accordance with their national laws, provide for the change of care of the child.

In accordance with Clause 4 of Article 167 of the Civil Code of Ukraine, if the child cannot be handed over to the other parent, the grandmother and grandfather, adult brothers and sisters, other relatives of the child, stepmother, stepfather have the priority right over other persons to hand over the child to them, upon their application.

According to Article 243 of the Civil Code of Ukraine, guardianship and custody is established over orphans and children deprived of parental care. Guardianship is established over a child who has not reached fourteen years

of age by the body of guardianship and custody, as well as by the court in cases provided for by the Civil Code of Ukraine.

Here, according to Clause 3 of Article 60 of the Civil Code of Ukraine, the court establishes guardianship over a minor, if it is established during the consideration of the case that he/she is deprived of parental care and appoints a guardian at the request of the body of guardianship and custody.

According to Clauses 1, 2 of Article 244 of the Civil Code of Ukraine, the guardian of a child may, with her consent, be a person of full legal capacity, in the appointment of whom the body of guardianship and custody considers the personal qualities of the person, their ability to raise the child, their attitude toward the child, as well as the wishes of the child himself.

Thus, the court comes to the conclusion about the need to establish guardianship over the minor child PERSON\_3, INFORMATION\_1, appointing the grandmother PERSON\_2, INFORMATION\_4, as a guardian, in relation to which the circumstances provided for in Article 212 of the Criminal Code of Ukraine.

According to Clauses 2, 3 of Article 166 of the Civil Code of Ukraine, a person deprived of parental rights is not released from the obligation to maintain a child. When the lawsuit regarding the deprivation of parental rights is satisfied, the court simultaneously makes a decision on the collection of alimony for the child. If the child's mother, father or other legal representatives refuse to receive alimony from a person deprived of parental rights, the court makes a decision to transfer alimony to the child's personal account in a branch of the State Savings Bank of Ukraine and obliges the mother, father or other legal representatives of the child to open the specified personal account within a month from the date of entry into force of the court decision.

When determining the amount of alimony, the court is obliged in accordance with Article 182 of the Civil Code of Ukraine to take into account the state of health and financial situation of the child and the payer of alimony; the presence of the payer of alimony for other children, disabled husband, wife, parents, daughter, son; availability of ownership, possession and/or use of the alimony payer's property and property rights; expenses of the alimony payer proved by the alimony collector, including for the purchase of immovable or movable property, the amount of which exceeds ten times the subsistence minimum for an able-bodied person, if the alimony payer has not proven the source of the funds; as well as other significant circumstances.

In accordance with Clause 2 of Article 182 of the Civil Code of Ukraine, the amount of alimony must be necessary and sufficient to ensure the harmonious development of the child. The minimum guaranteed amount of alimony per child cannot be less than 50 percent of the subsistence minimum for a child of the appropriate age. The minimum recommended amount of alimony per child is the subsistence minimum for a child of the appropriate age and can be awarded by the court in case of sufficient earnings (income) of the alimony payer.

According to Article 7 of the Law of Ukraine "On the State Budget of Ukraine" for 2021 subsistence minimum for a child aged 6 to 18 from January 1 was 2395 hryvnias, from July 1 it was 2510 hryvnias, from December 1 it constituted 2618 hryvnias.

According to Clauses 1, 2 of Article 184 of the Civil Code of Ukraine, the court determines the amount of alimony in a fixed monetary amount based on the recipient's application. The amount of alimony determined by the court in a fixed monetary amount is annually subject to indexation in accordance with the law, unless the payer and the recipient of alimony have agreed otherwise.

In accordance with Clause 1 of Article 191 of the Civil Code of Ukraine, child support is awarded by court decision from the day the lawsuit is filed.

In view of the above, the court comes to the conclusion that the defendant, who does not have a constant stable income, should be charged alimony for the benefit of a minor child in a fixed monetary amount, based on the reasonableness and sufficiency of the amount of alimony necessary to meet the child's care needs and taking to the attention of the declared claims, in the amount of 1198, 50 hryvnias monthly, which should be transferred to the child's personal bank account.

According to Clause 1 Part 1 of Article 430 of the Code of Criminal Procedure of Ukraine, the court allows immediate execution of the decision in cases of recovery of alimony - within the amount of payment for one month.

In accordance with Clause 3 of Article 141 of the Civil Code of Ukraine if the plaintiff, in whose favour the decision was made, is exempted from paying the court fee, it is collected from the defendant to the state income in proportion to the satisfied or rejected part of the claims.

Thus, a court fee for three claims (for deprivation of parental rights, establishment of guardianship, collection of alimony) in the total amount of UAH 2724.00 is subject to recovery from the defendant in favour of the state.

On the basis of Articles 3, 9, 18, 20, 27 of the Convention on the Rights of the Child dated 20 November 1989, which was ratified by the Resolution of the Verkhovna Rada of Ukraine on the 27 of February 1991, and entered into force for Ukraine on the 27 of September 1991, the Declaration of the Rights of the Child, adopted by resolution 1386 (XIV) of the UN General Assembly on the 20 of November 1959, Article 14 of the Law of Ukraine "On Childhood Protection", Articles 19, 150, 155, 164-167, 171, 180-182, 184, 191, 212, 243-244 of the Family Code of Ukraine, Article 60 of the Civil Code of Ukraine, Resolution of the Plenum of the Supreme Court of Ukraine No. 3 dated 30 of March 2007 "On the practice of the courts' application of legislation when considering cases of adoption and deprivation and renewal of parental rights", Generalization of the Supreme Court of Ukraine on the practice of consideration by courts of cases related to the deprivation of parental rights, renewal of parental rights, adoption, establishment of guardianship and care of children from 11.12.2008, guided by articles 2-4, 7-13, 17-19, 76-82, 89, 90, 92, 95, 141, 247, 258-259, 263-265, 268, 272-273, 280-284, 288-289, 352, 354-355, 430, item 3 of the Final Provisions, item 15.5. Transitional Provisions of the Civil Code of Ukraine, -

#### **HELD:**

The lawsuit of the Executive Committee of the Novodnistrovsk City Council of the Chernivtsi Region as a body of guardianship and custody (address of location: Chernivtsi Region, Novodnistrovsk, Dibrova district, administrative building, URSEOU code 33330163) in the interests of a minor PERSON\_3 ( INFORMATION\_1, registered at the address: ADDRESS\_1) against PERSON\_4 (INFORMATION\_3, registered at the address: ADDRESS\_1, identification number NUMBER\_2), with the participation of a third person who does not make independent claims regarding the subject of the dispute, on the side of the plaintiff PERSON\_2 (INFORMATION\_4, registered at the address: ADDRESS\_1, identification number NUMBER\_3) about deprivation of parental rights, the appointment of a guardian and the collection of alimony – is to be satisfied.

To deprive PERSON\_4, INFORMATION\_3, of parental rights regarding her minor son PERSON\_3, INFORMATION\_1.

To establish guardianship over a minor PERSON\_3, INFORMATION\_1, appointing his grandmother PERSON\_2, INFORMATION\_4 as his guardian.

To charge from PERSON\_4 (INFORMATION\_5, registered at the address: ADDRESS\_1, identification number NUMBER\_2) alimony for the care of the child PERSON\_3, INFORMATION\_1, in a fixed amount of 1198.50 (one thousand one hundred ninety-eight hryvnias 50 kopecks) monthly, starting from 05.03.2021 and until the child reaches legal age, which should be transferred to the child's personal account at the branch of the State Savings Bank of Ukraine.

To oblige PERSON\_2 (INFORMATION\_4, registered at the address: ADDRESS\_1, identification number NUMBER\_3) to open a personal account of PERSON\_3 (INFORMATION\_1, registered at the address: ADDRESS\_1) at the branch of the State Savings Bank of Ukraine within a month from the date the court decision enters into force.

The amount of alimony determined by the court in a fixed monetary amount is subject to indexation in accordance with the law.

The decision regarding the collection of alimony for one month is subject to immediate execution.

The court's decision on the deprivation of parental rights after it has entered into legal force shall be sent to the body of state registration of acts of civil status at the place of registration of the child's birth.

Collect from PERSON\_4 (INFORMATION\_5, registered at the address: ADDRESS\_1, identification number NUMBER\_2) a court fee in the amount of UAH 2724.00 (two thousand seven hundred and twenty-four hryvnias 00 kopecks) in favour of the state.

A decision in absentia may be reviewed by the court that passed it, upon a written application of the defendant.

An application for review of a decision in absentia may be submitted to the Novodnistrovsk City Court of Chernivtsi region within thirty days from the day of its announcement.

A party to the case who was not served with a full court decision in absentia on the day of its announcement has the right to renew the missed deadline for submitting an application for its review - if such an application is submitted within twenty days from the day the full court decision was delivered to them in absentia.

The plaintiff has the right to appeal the decision in absentia following the general procedure established by this Code, namely, within thirty days from the day of its promulgation, to file an appeal against the court decision to the Chernivtsi Court of Appeal through the Novodnistrovsk City Court of the Chernivtsi Region.

If only the introductory and final parts of the court decision were announced at the court session, or in the case of case consideration (resolution of the issue) without notice (summons) of the participants in the case, the specified term is calculated from the date of the full court decision.

A party to the case, who was not served with the full court decision on the day of its announcement or conclusion, has the right to renew the missed deadline for appealing the court decision, if the appeal is filed within thirty days from the date of delivery of the full court decision.

During the quarantine established by the Cabinet of Ministers of Ukraine in order to prevent the spread of the coronavirus disease (COVID-19), the court, at the request of the participants to the case and persons who did not take part in the case, if the court decided the issue of their rights, interests and (or) obligations (if they have the right to perform the relevant procedural actions provided for by this Code), renew the procedural terms established by the norms of this Code, if they consider the reasons for their omission to be serious and such as are due to the restrictions introduced in connection with the quarantine. The court can renew the relevant term both before and after its expiration.

A decision in absentia takes legal effect if, within the terms established by this Code, an application for review of the decision in absentia or an appeal is not submitted, or if the decision is upheld as a result of the appellate review of the case.

The full text of the decision was prepared in accordance with Clause 6 of Article 259 of the Civil Code of Ukraine on the 9 of June 2021.

Judge:

## ADDRESS TO THE COUNTRIES OF MASS INFLUX OF DISPLACED PEOPLE FROM UKRAINE

Intending to ensure a safe environment, comprehensive care, necessary assistance, child's rights to preserve their identity, including nationality, name and family relations as recognized by law without unlawful interference, the due regard shall be paid to going on child's upbringing and to child's ethnic, religious, cultural and linguistic background and legitimate interests for children, who arrived to the EU countries from war-torn Ukraine. In compliance to the United Nations Convention on the Rights of the Child dated of November 20, 1989, and its Optional Protocol on the Involvement of Children in Armed Conflict dated of 2000, the 6<sup>th</sup> Commentary of the United Nations Committee on Child Rights on Unaccompanied and Separated Children Outside Their Country of Origin dated of 2006, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children adopted in Hague of October 19, 1996, to which Ukraine are parties.

The National Social Service of Ukraine asks the hosting Competent Authorities to notify Ukrainian diplomatic missions immediately on every case of a detecting an unaccompanied child and providing guardianship or custodianship:

### **Algorithm of Ukraine-Hosting Country cooperation during detection and identification of Ukrainian unaccompanied children:**

Step 1. During identification procedure of a Ukrainian unaccompanied child, detected in a hosting country – a **hosting country authority urgently notify the Ukrainian diplomatic missions.**

Step 2. Diplomatic missions of Ukraine NOTIFY the National Social Service Agency of Ukraine [they check the registers and institutions] and the National Police of Ukraine [they look for the child's parents or other legal representatives or relatives].

Step 3. Within 10 days, information about the child, their parents, etc. is sent to the **Ministry of Foreign Affairs**, which, within 3 days, notifies the consular institution of sending the information about the results.

Step 4. **The embassy** notifies hosting country institutions for the protection of children's rights about the search result and takes other necessary measures of legislation and international norms and agreements.

In accordance with the Ukrainian legislation, the detection of an orphan or a child deprived of parental care abroad begins with Ukrainian diplomatic missions [**embassies and consulates**]. This an authority who may receive the first notification about DETECTION of such a child. We hope that hosting country authorities will



still cooperate with Ukrainian diplomatic missions in the search for relatives of unaccompanied children found on the territory of these countries, or coordinate with Ukrainian authorities and registers of the data about guardians and other legal representatives of children.

In accordance with the Resolution of the CMU dated of January 29, 2020, No.85 on the Procedure for Keeping Records of the Citizens of Ukraine who Live Outside Ukraine, there to be required the information as follow to carry out measures in respect to the identified child:

Primarily, the following data is to be submitted:

1. Surname, first name, patronymic of the child;
2. Date, month, year of birth [if available];
3. List of available documents [series and number of birth certificate, passport, another document confirming the identity of the child];
4. Information about parents or legal representatives, accompanying persons [if available];
5. Place of residence/stay of a child in Ukraine before temporary displacement/evacuation [address, name of the institution where the child lived or was enrolled in for round-o'clock stay], if available.