

LAW No. 18/2017

# ON THE RIGHTS AND PROTECTION OF THE CHILD



#UnëMbrosjFëmijët



# #UnëMbrojFëmijët

**Tirana, May 2017**

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**REPUBLIC OF ALBANIA  
THE PARLIAMENT**

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**LAW  
No. 18/2017  
ON THE RIGHTS AND PROTECTION OF THE CHILD**

Based on articles 78 and 83, paragraph 1 of the Constitution, on proposal of the Council of Ministers,

THE PARLIAMENT  
OF THE REPUBLIC OF ALBANIA  
D E C I D E D:

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**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1**

**Object**

This law shall define the rights and protection that any child is entitled to, the mechanisms and responsible authorities that shall guarantee effective exercise of, respect for, promotion of these rights, and also the special protection of the child.

**Article 2**

**Aim**

The aim of this law shall be:

a) to protect the child, through completion of the legal and institutional framework, in compliance with the Constitution, United Nations Con-

vention on the Rights of the Child, related-international acts, and also legislation in force;

b) to provide for the main underlying principles of national policies on the rights of the child, effective mechanisms, and the responsible authorities at central and local level and their competences in relation to the rights and protection of the child;

c) to guarantee the well-being and the improvement of quality of life of the child, by promoting and enabling their development in the society, the effective assistance and care to the child whose health and well-being is at stake;

ç) to take measures to ensure that the child exercises their rights, in compliance with personality development, based on the best interest of the child;

d) to take measures to ensure subsistence, survival and development of the child;

dh) to ensure cooperation among the structures and central and local authorities, and also organisations operating in the field of protection of the rights of the child;

e) to provide for effective mechanisms and functioning of the institutions entrusted with taking concrete measures for the promotion, respect for and protection of rights of the child, and also for setting up an integrated and functional child protection system, for the prevention and effective response to all the forms of violence, abuse, exploitation and neglect.

### Article 3

#### Definitions

The following terms in this law shall have the following meaning:

1. “Agency” means the State Agency for the Rights and Protection of the Child.

2. “Responsible Authority” is the state body or institution, structures at central or local level, which, within their scope of activity, draft policies and assume responsibilities in the field of rights and protection

of the child, provide and cover specialised and professional services to the child.

3. “Violence against the child” is any intentional act or omission through which any form of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse is caused.

4. “Child” is any person under 18 years of age. If the age of the person may not be determined accurately, but there are reasons to believe that the person is a child, they shall be considered a child in the sense of this law, until the age is determined according to the law in force.

5. “Unaccompanied child” is the child separated by both parents or other relatives and who is not being cared of by an adult person, according to this law.

6. “Child in need of protection” is the person under 18 years of age, irrespective of having the capacity to act, according to the legislation in force, who may be a victim of abuse, neglect, exploitation, discrimination, violence or any criminal activity, and also the individual under the age of criminal responsibility, who is alleged to have committed or accused of the commission of a criminal offence, and the children in conflict with the law.

7. “Council” means the National Council for the Rights and Protection of the Child.

8. “Child protection” is prevention of and response to violence, abuse, exploitation and neglect of the child, including kidnapping, sexual abuse, trafficking and child labour.

9. “Corporal punishment” is any form of punishment in which physical force is used and intended to cause pain or discomfort to the child, by any person who is legally responsible for the child. Corporal pun-

ishment includes the following forms: smacking, torturing, shaking, pushing, burning, slapping, pinching, scratching, biting, scolding, pulling the hair, forcing an action, using substances that cause pain or discomfort as well as any other similar act.

10. “Child neglect” is the omission, whether or not intentional, by a person who is responsible for the upbringing, care or education of the child, as a consequence of which the life, physical and mental well-being and development of the child may be at risk.

11. “Harmful content for children” is any picture, image and any other material published on the internet and threatening dignity and rights of the child.

12. “Procedural representative” is the person assigned by the proceeding authority from the list provided by the Child Protection Unit who shall represent the child procedurally in absence of their legal representative or, in case of conflict of interest between the legal representative and the child, and who shall have the representation rights on behalf of a child in conflict with the law or the child witness/victim with a view to protect the best interest of the child.

13. “Child participation” is an ongoing process of active involvement of the child and respect for the right of the child to express views and to be heard at all levels of decision-making in issues related to the child.

14. “Parent” is the person who gives birth to or adopts a child, as a couple or alone, whether married or not, or who has acknowledged the maternity or paternity of the child born out of wedlock.

15. “Integrated protection system” is the entire set of legal acts, political acts and necessary services, in all fields, particularly those of social welfare, education, health, security and justice, in order to prevent and respond to risks posed during their enforcement. The responsible insti-

tutions take concrete measures aiming at cooperation, division of responsibilities and coordination among all the governmental agencies, local government bodies, public and non-public service providers, community groups, including the case referral system, as components of the child protection system.

16. “School psycho-social service” is the service providing support to pupils and employees of educational institutions for the identification and handling of various problems, based on the psycho-social needs of the school community, provided by the local education units.

#### **Article 4**

##### **Scope of application**

This law shall apply to:

- a) the child of Albanian citizenship, stateless child, or child of foreign citizenship who is located within the territory of the Republic of Albania;
- b) the child of Albanian citizenship, who is located outside the territory of the Republic of Albania.

#### **Article 5**

##### **General principles**

The rights of the child shall be observed and protected by applying these principles:

1. The child shall be entitled to rights and these rights are universal, inalienable, indivisible, interdependent and progressive.
2. The best interest of the child shall be the primary consideration in any child-related actions.
3. Equality and non-discrimination.

4. The primary responsibility of the parent and guardian shall be to secure the living conditions, the proper upbringing, the development, the well-being, the training and education of the child.
5. Division of responsibilities between the parent or the guardian, state authorities and society for the protection of the child.
6. Every child shall live and grow up in a proper family environment and the separation of the child from the family must be the last resort.
7. Decentralisation of services provided for child protection, cross-cutting intervention and partnership between the public and non-public institutions authorised by law.
8. Provision of tailored and specialised service to every child.
9. Respect for the dignity, honour and personality of the child.
10. Participation, hearing and respecting the views of the child, in accordance with the age and maturity to understand.
11. Guaranteeing stability and continuity in the care, upbringing and education of the child by considering ethnic, religious, cultural and linguistic background.

#### **Article 6**

##### **Application of the best interest of the child**

1. This law, other sub-legal acts regulating issues related to the enforcement and protection of the rights of the child, and any other individual act issued based on them, shall be subject to the principle of the best interest of the child.
2. The public and non-public authorities, and the court, shall consider

the best interest of the child of primary importance in all actions and decisions taken concerning children.

3. The best interest of the child shall imply the right of the child to have a sound physical, mental, moral, spiritual and social development and to enjoy an appropriate family and social life suitable for the child. In implementing this principle, the following shall be considered:
  - a) needs of the child for physical and psychological development, education and health, security and sustainability as well as the upbringing/belonging in a family;
  - b) views of the child depending on age and maturity of the child;
  - c) background of the child considering special situations of abuse, neglect, exploitation or other forms of violence against the child and the potential risk of occurrence of similar situations in the future;
  - ç) ability of the child or persons caring for the child to respond to the needs of the child;
  - d) continuity of personal relations between the child and persons with whom they have kinship, social and/or spiritual relations.

## **CHAPTER II**

### **RIGHTS OF THE CHILD**

#### **Article 7**

##### **Right to life**

1. The protection of the life of the child shall be guaranteed by law. The child shall enjoy the highest attainable standard of healthcare, treatment and rehabilitation.
2. The right of access of the child to health care institutions shall be guaranteed, regardless of gender, sexual orientation, race, ethnicity and abilities, or the economic, social and legal situation of the parents or the legal guardian.

3. Every child, in need of health care, medical treatment or rehabilitation in emergency situations, whether by themselves or through their parents or legal guardian, shall have the right to approach health care or social care institutions for this purpose. The responsible person or authority, within the respective scope of competence, shall provide immediate assistance to the child and refer the child to the most suitable health care or rehabilitation institution, upon obtaining the opinion of the parent or legal guardian.

4. In exceptional cases, when the life of the child is at risk or there is a risk of serious consequences to the life and health of the child, the doctor has the right to make an examination and provide medical assistance as an immediate measure to save the life of the child, even if the parents or legal guardian do not give their consent.

## Article 8

### **Right to a name, nationality, to know parents and preserve identity**

1. In accordance with the legislation in force, the child shall have the right to:

- a) be registered immediately after birth, free of any charge. Children born outside the territory of the Republic of Albania shall also enjoy this right, upon request of the parent or legal guardian, pursuant to the rules defined in legislation in force;
- b) have a name;
- c) acquire a nationality;
- ç) know and be cared for by his/her parents, to the best possible extent.

2. A child shall have the right to preserve their identity, including designation of their surname, acquisition of nationality and knowing family relations, in accordance with the legislation in force, without unlawful intervention.

3. Where a child is illegally deprived of one or some of the elements of his/her identity, he/she shall be adequately provided with assistance with a view to re-establishing his/her identity, as well as guaranteeing the care of state institutions to provide the child with the opportunity to practice religion, culture and native language. Such assistance may include the provision of genetic information for:

- a) locating parents;
- b) locating relatives or family members of the child, refugee, asylum-seeker, with a view to enabling family unification;
- c) recording of any changes to the identity of the child such as name, nationality and parental rights.

4. Registration and confirmation of the fact of birth shall be done in line with the criteria, rules and procedure set out in the legislation in force.

5. If the identity of a child, found or abandoned in the premises of the health care institutions or the identity of the parents of the child cannot be established, the child protection worker, ex officio or upon obtaining the opinion of the structure responsible for social services, shall assign immediately one or several employees of the institution where the child is found or abandoned, to care for the child until the necessary measures are taken according to the law.

6. If the child is abandoned by the mother in the maternity hospital or other health care institutions, their social and medical staff, within 24 hours from the disappearance of the mother, shall notify via telephone and in writing, the child protection unit of the local government, and the police, at the same time and in the same manner. The child protection worker at local government level, in cooperation with the police officer shall prepare the written report on the fact of abandonment of the child, which is then signed by both parties. If the health condition of the child is good, based on the report prepared, the child protection unit at local government level shall take the measures for the placement of the child in alternative care according to article 57 of this law.

7. If one of the parents is identified, the child protection unit of the local government shall provide counselling with a view to taking the necessary measures for returning the child to the biological family and issuing the birth certificate. If the mother is not identified after the police investigation, the child protection worker of the local unit where the child was born shall prepare the file containing the act of birth, the report prepared according to paragraph 6 of this article, the decision on the child protection measure and information sent by the police on the result of the conducted investigation.

8. Health care institutions, social services, residential services and all other legal and natural persons identifying pregnant women or children who do not possess any identification document shall notify in writing the child protection worker at the local government unit of their area of activity and the latter, in cooperation with other local government authorities shall take concrete actions to determine the identity of the pregnant woman or the child.

9. The joint instruction of the minister responsible for social issues and the minister responsible for health shall provide for the rules, procedures and the specific actions of the central or local government authorities and the obligations of the medical staff or professionals of other areas concerning prevention or treatment of child abandonment cases in health care institutions.

## Article 9

### Right to stay with the parents

1. The child shall have the right to stay with his/her parents and not be separated from them against his/her will, except when the court decides that such separation is in the best interest of the child. Lack of financial means does not constitute sufficient grounds for state authorities neither to separate the child from the family or relatives living

with the child, nor to remove parental responsibility.

2. The child shall, in any case, have the right to be heard and his/her views or consent shall be sought in the court, in line with the age of the child and his/her maturity.

3. The child separated from one or both parents shall have the right to spend time or maintain regular personal contact as well as contact them directly, except for the cases when the court decides that it is contrary to the best interest of the child.

4. The parent or legal guardian may not prohibit the child from maintaining personal relations with his/her relatives, except in cases when the court decides otherwise based on grounds detrimental to the physical, psychological or moral development of the child.

5. In cases of disagreements between the parents regarding the manners of exercising their rights to maintain contact with the child, the court shall determine a detailed timetable, according to the age of the child, the intensity of the emotional attachment that the child has with the parent with whom he/she does not live, the behaviour of the latter, and other important aspects for the decision-making of the court in each case. The court follows these criteria even when it determines the child's contacts with other persons close to them.

6. For the purposes of this law, personal relations may be built through:

- a) meetings between the child and the parent or any other person, who according to the law has the right to maintain contact with the child;
- b) visits of the child in place of residence;
- c) temporary residence of the child with a relative or a person who does not live with the child on regular basis;
- ç) correspondence or any other form of communication with the child;
- d) provision of information to the child regarding his/her parents or other persons who shall be entitled to maintain personal relations with the child according to the law;



dh) provision of information on the child, including recent pictures, medical or psychological reports, by the person who lives with the child to the other relative who has the right to maintain personal relations with the child.

e) meetings of the child with his/her relative or other persons to whom the child is emotionally attached in a neutral environment for the child, with or without supervision, based on the best interest of the child.

7. In order to ensure harmonious personal relations of the child with the parents or other persons with whom the child enjoys a family life, and with the purpose of returning the child to their residence place at the end of the visit or allowing the child to meet the other parent, according to the court decision, the latter, upon request of the interested parent or the person in charge of the upbringing of the child may impose the following measures or safeguards:

a) fine against the person who refuses to respect the schedule set for maintaining contact with the child;

b) surety bond against the parent who fails to abide by the court decision, whenever applicable, pursuant to the provisions of the Civil Procedure Code.

8. The child separated from one or both parents, shall have the right to request detailed information about the whereabouts of the parent/s or member of the family, when they are detained, arrested, imprisoned, exiled, displaced, or dead, for whatever cause, except for the cases when giving this information is detrimental to his/her well-being.

9. Parents and members of the family shall have the right to request information on the whereabouts of the child who has been separated from the parents due to detention, imprisonment, fleeing the country or death while deprived of liberty, unless the provision of information would be detrimental to the well-being of the child. In case the information is not disclosed, the parent or other members of the family shall have the right to approach the court that shall determine whether the non-disclosure is grounded or not.

10. If the parents fail to agree on the place of residence of the child, the court shall decide on his/her place of residence, considering the best interest of the child and it shall take into account:

a) willingness of each parent to involve the other parent in the decisions relevant to the child and observe the parental rights of the other;

b) record of relationship of the child with each parent, including the degree and the manner of fulfilment by them of parental obligations towards the child;

c) willingness of each parent to allow the other to maintain personal relations with the child;

ç) residence place status of each parent in the last 3 years;

d) record of violent acts against the child or other persons;

dh) distance between the residence place of each parent and the educational institutions attended by the child;

e) opinion of the child;

ë) place of residence of the child's siblings.

11. These aspects are also taken into consideration in cases where the residence place of the child is designated with other child rearing and educational institutions, or in case of protection provided to the child in need of protection.

## Article 10

### Right to family reunification

1. The child shall have the right to request to enter or leave the Republic of Albania for the purpose of family reunification. Such request shall be considered in a positive, humane and expeditious manner and may only be refused when there is reason to believe that entering or exiting the country is not in the best interests of the child.

2. In case the child's parents are illegal migrants in the Republic of Albania and the child has acquired Albanian citizenship, the parents shall be allowed to remain in the territory of the Republic of Albania and not leave the country.

## Article 11

### **The right to be transferred from one's residence or to be guaranteed return to the country of origin**

1. Transfer of a child in or out of the country shall be made upon agreement of both parents or, in case of disagreement between them, upon a court decision, once the opinion or consent of the child is obtained.
2. The opinion or consent of the child shall be taken into account for issues related to his/her return to the country of origin, in accordance with the child's age and maturity. In order to express his/her views, the child shall be provided with full information on the overall social and economic situation, as well as the services that may be provided in the country of origin.
3. A child unaccompanied by his/her parent or legal guardian shall have the right to return to them within the shortest time possible. Return to the country of origin shall only take place if it is in the best interest of the child, which is a principle taken into consideration throughout the entire process. In such cases, aspects related to the security of the child, integration in the country of return, opportunities to preserve one's identity, nationality, name and family relations, considering the opinion or consent of the child, in accordance with the age and maturity of the child shall be assessed.
4. The parent, legal guardian of the child or any other person who is informed of the disappearance of the child, must notify the responsible state authority within 24 hours in order to enable the expeditious and safe return of the child.
5. In cases involving unaccompanied minors, the diplomatic service of the Republic of Albania abroad shall inform the ministry responsible for foreign affairs, whereas in cases of children accompanied only by one of the parents, without the consent of the other, the Ministry of Justice shall be informed. These institutions shall take immediate mea-

asures for the return of the child to Albania pursuant to the provisions of the Law No. 9446, dated 24.11.2005, "On the ratification of the Convention on the Civil Aspects of International Child Abduction".

6. Rules and procedures on the return and repatriation of the child shall be stipulated by decision of the Council of Ministers and international agreements.

## Article 12

### **Freedom of expression**

1. The child shall have the right to express views and opinions freely, individually and collectively in all matters affecting the child directly or his/her family or community, in accordance with their age and maturity.
2. The child shall have the right to seek, receive and impart information and ideas of all kinds, in any form or by any means of their choice, unless public security, national security or honour and dignity or others rights are at stake.

## Article 13

### **Right to be heard**

1. The child shall be ensured the right to be heard in any judicial and administrative proceedings concerning the child, either directly or through the parent, legal guardian or representative, in a manner consistent with the procedural rules for this purpose. If authorities refuse to obtain the opinion of the child, in any case, a reasoned decision on the grounds of refusal must be given.
2. The right of the child to be heard shall be observed by the state authorities during the decision-making processes related to the development and implementation of policies on the rights and protection of the child.

3. The child, in accordance with the age and maturity shall have the right to complain, either directly or through the parent, legal guardian or representative, against decisions or measures affecting them imposed by the state authorities, according to the legislation in force.

4. When the child exercises this right directly, the civil service administration employees or judicial administration employees have the obligation to give necessary guidance to the child.

#### **Article 14**

##### **Access to information**

1. The child shall have the right to seek or receive any kind of information related to his/her well-being, education, physical and psychological development, according to the legislation in force.

2. The child shall have access to all kinds of records containing data relating to him/her.

#### **Article 15**

##### **Freedom of thought, conscience and religion**

1. The child is guaranteed freedom of thought, conscience and religion.

2. The parent or legal guardian shall provide guidance for the child in the exercise of freedom of thought, conscience and religion, in choosing own religion, upon consideration of his/her opinion and without forcing the choice of the child, in accordance with the evolving capacities of the child.

3. If the child is under protection, the persons legally responsible for the child are prohibited from taking measures affecting the religious belief of the child.

#### **Article 16**

##### **Freedom of association and peaceful assembly**

1. The child is guaranteed the right of association and peaceful assembly. Forcing a child to assemble against his/her will shall be prohibited.

2. The freedom shall be exercised in a manner consistent with the legal procedures in force.

3. Child protection structures at local government bodies, educational institutions and any other public or private institution shall oversee whether this right is guaranteed by the responsible institutions, in accordance with this law, and, in case of violation, they shall notify the police to take the necessary measures pursuant to the law, with due consideration to the safety of the child, while exercising this right.

4. Failure to fulfil the obligation set out in paragraph 1 and 2 of this article shall constitute an administrative offence and it shall be punished by fine, according to Article 69 of this law.

#### **Article 17**

##### **Right to privacy**

1. The child shall be guaranteed the respect for private and family life, home, correspondence, and the protection against unlawful infringement of morals and dignity.

2. The privacy of the child shall be protected in any situation, including within the family, health care, social care institutions and services. This right includes the privacy of relations and correspondence with others, the right to confidential counselling, control of access to child-related information recorded in the respective files.

3. The privacy of the child shall be respected at all stages of judicial or

administrative proceedings, including their media publication.

4. A child under 14 years of age shall participate in public debates and audiovisual programs only with the consent of the parent or legal guardian of the child.

5. Children may not be used or exposed by the parent, legal guardian, public or private institutions for purposes of private gains, or to influence decisions of public authorities.

6. Disregarding this prohibition shall constitute an administrative offence and it shall be punished by fine, according to Article 69 of this law.

7. Audio-visual broadcasters shall be held responsible in the cases of infringement of the freedoms and rights of the child during the broadcasting of their programs, in accordance with this law and legislation in force on audio-visual media.

8. Exceptions to the protection of privacy shall be made only if they serve to the best interests of the child.

## Article 18

### Right to education

1. The child shall have the right to access and attend free and quality education, on the basis of equal opportunities and non-discrimination, in accordance with the age and maturity of the child. This right shall be guaranteed also to the child who wishes to pursue further education upon the completion of compulsory education.

2. The parent or legal guardian of the child shall take appropriate measures to ensure that the child attends compulsory education or other levels of education, as preferred by the child, and guarantee that they

attend education on regular basis and barrier-free.

3. The ministry responsible for the pre-university education, as the responsible public authority, as well as the local education units shall take concrete measures with a view to:

a) enabling access of the child to preschool education and free compulsory education for all children, including the cases when children may be over the age of compulsory education, but have been unable to attend it;

b) developing educational programmes for parents, including programmes for the prevention of domestic violence in cooperation with the ministry responsible for health;

c) organising special educational programmes for the child who fails to reach the proper levels intended by the educational programme, in order to prevent early school drop-out by the child;

ç) organizing special training courses for children who abandon school or who have never attended school or children who return after their stay abroad,

d) observing the right of the child to rest, as well as the right to participate in cultural and artistic activities;

dh) taking concrete measures for providing social services within the premises of the school, such as food, transportation, and others, with the purpose of preventing school drop-out for economic reasons.

e) creating the necessary conditions to improve quality of education, through curricula, learning tools, appropriate infrastructure, as well as the periodic evaluation of teaching personnel;

ë) allocating adequate and sufficient human, material and financial resources to ensure quality education to children;

f) taking concrete actions to guarantee the right to education of children belonging to a group or regions with considerable educational gaps, or facing situations of vulnerability due to difficult socio-economic situation or special physical or mental state, or due to aspects related to their gender, religious beliefs or cultural practices, or who are part of a cultural or ethnic group, or come from a migratory situation.

- g) establishing efficient mechanisms for prevention, treatment within the school and reporting cases of violence to the responsible authorities, including peer-to-peer violence (bullying);
- gj) foreseeing and applying appropriate sanctions on the academic staff when the latter allows, promotes, tolerates or fails to report acts of violence or harassment against children in educational institutions, according to this law;
- h) taking measures for identification of child at risk of dropping out of school or child who has already dropped out, by coordinating actions with local government authorities in order to keep them in or return them to school.

4. If children who do not attend compulsory education because of failure to register with the civil registry office or other reasons, are identified, the employee of the needs assessment and referral unit of the local government shall take immediate measures for the enrolment of the child in school, in accordance with the legislation in force.

5. During the teaching and educational process the child shall be treated with dignity by the teachers and the personnel and be informed of his/her rights and the means of exercising them according to this law. Corporal punishment of the child and any other form of violence during the educational process shall be prohibited.

6. The child shall have the right to complain against the evaluation of his/her knowledge, according to the criteria set by the legislation in force on pre-university education.

#### Article 19

##### **Right to rest and cultural entertainment and sports**

1. The child has the right to rest, entertain, engage in play and recreational activities and to participate freely in the cultural life, arts and sports, appropriate to the age of the child.

2. The central and local public authorities, within their scope of competencies, shall take concrete measures to create the appropriate conditions and equal opportunities for all children to engage in cultural, artistic and recreational activities. They create necessary spaces, in accordance with their means, for the playgrounds of children. These measures include:

- a) adoption of the urban-planning regulatory framework and acts of local government authorities to ensure proper urban spaces and safe access to sports premises, playgrounds or other recreational premises for all children, regardless of age, gender, race, ethnicity, ability or social economic conditions
- b) establishing safety and accessibility standards of all recreational premises and playgrounds, with a view to protecting children from potential health injuries;
- c) creating adequate spaces to enable safe and all-inclusive performance of sports, cultural and recreational activities in school premises and community;
- ç) developing school curricula so that children are provided with the opportunity to have adequate time for leisure, rest and engagement in sports activities.

#### Article 20

##### **Right to adequate standard of living**

1. The child shall have the right to a standard of living adequate to the child's physical, mental, spiritual, moral and social development.
2. The parent or the legal guardian shall have the obligation and the primary responsibility to secure, within their abilities and financial capacities, the best conditions of living necessary for the upbringing and development of the child.
3. Every child shall have access to early childhood development programmes, including access to nurseries, kindergartens and other de-

velopment programmes, and the right to food during participation in these programmes according to standards foreseen in sub-legal acts.

4. Local government authorities, the ministry responsible for education along with the responsible subordinate institutions shall take the necessary measures to support parents or the legal guardian to exercise these rights in case they need material assistance or support programmes.

## Article 21

### Right to health care

1. The child is guaranteed the right to free health care and the highest attainable standard and entitlement to facilities for the treatment of illnesses and rehabilitation of health. This right may not be limited regardless of whether the child is registered with the civil registry and whether the parents of the child have paid taxes.

2. The ministry responsible for health shall ensure this right by taking measures:

- a) to reduce infant and child mortality;
- b) to ensure the provision of free and quality health care to all children with emphasis on the development of primary health care;
- c) to combat disease and malnutrition, even under the primary health care context, through, inter alia, the provision of adequate nutritious foods and clean drinking-water, taking into consideration the risks of environmental pollution;
- ç) to ensure appropriate pre-natal and post-natal health care for mothers;
- d) to ensure, in cooperation with the ministry responsible for education, that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the preven-

tion of accidents;

dh) to develop preventive health care and promote healthy living of children, guidance for parents and children, family planning education and services in the field of reproductive health to parents and children, in accordance with the age and maturity of the child;

e) to review periodically the treatment of the child placed in health care institutions or in temporary or permanent protection by a court decision;

ë) to protect confidentiality of the child in relation to third parties during and after the medical examination of the child, except in cases where life and health of the child is at risk, according to article 67 of this law;

f) to provide health care service to disabled children with a view to supporting their rehabilitation and social inclusion, and exercising of rights on an equal basis as other children.

3. The right of the child to have access to medical and rehabilitation services as well as proper medication for the disease shall be guaranteed by the state and the Health Care Compulsory Insurance Funds, according to the legislation in force, shall cover the expenses.

4. The parents shall have the obligation to request medical care so that the child enjoys the highest attainable health standard and to prevent situations that may put at risk the life, growth and development of the child.

5. Regular home visits by the medical and health care staff of mother and child to the place of residence of pregnant women and children until they reach the age of 1 year old shall be mandatory. They are made according to the basic package of primary health care services and standard protocols for these services, in order to protect the health of the mother and the child, including counselling for child-rearing, preventing and avoiding child abandonment, abuse, exploitation, neglect or any form of violence against children

## Article 22

### Right to social welfare benefits

1. The child has the right to social welfare benefits, directly or through the parent or legal guardian, according to the legislation in force on welfare services.
2. If the parent/s or the person/s taking care of the child does/do not has/have sufficient financial means, due to reasons beyond their will, the state shall provide for, when required by them, the minimum needs of the child for housing, food, clothing and education according to the legislation on welfare services.
3. Every public or non-public institution exercising its activity in the field of protection of the rights of the child shall have the obligation to provide to the parents the necessary information for benefiting from welfare services, according to the legislation in force.

## Article 23

### Protection from all forms of violence

1. The child has the right of protection against all forms of violence, including abuse, neglect, exploitation, trafficking, kidnapping, pornography, sexual abuse, and other forms of violence, regardless of where it occurs, according to the legislation in force. Moreover, the child is protected from all forms of illegal migration, according to legislation in force on control and supervision of the state borders.
2. The parents of the child or the legal guardian shall, in cooperation with the health care institutions, educational institutions, child protection structures and social welfare service providers, take all the necessary measures to enable the physical, psychological and emotional rehabilitation and social integration of the child victim of violence, neglect, exploitation or abuse according to the legislation in force.

3. Subjects mentioned in paragraph 2 of this article, shall ensure all the necessary conditions with the purpose of integrating the child into a normal life and respecting the child dignity and self-determination of the child, in accordance with the age of the child.

4. Corporal punishment or punishment of any other form entailing consequences on the physical and mental development of the child shall be prohibited.

## Article 24

### Protection from economic exploitation

1. A child shall be protected from economic exploitation, as provided for in the Criminal Code, including the performing of any work that:
  - a) pose risks to the physical and mental health, well-being and overall development of the child;
  - b) affect education adversely;
  - c) is forced.
2. Employment of children under the age of 16 shall be prohibited. The child may perform any work that does not harm health and development of the child, or interfere with the child's education, in accordance with the provisions foreseen in the Labour Code.
3. The child is protected from economic exploitation, and from performing any forced labour within the family, school, rehabilitation and detention institutions, or cultural, artistic, sports, modelling activities, or for advertising purposes, that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
4. Any practice obliging the child to perform actions mentioned in paragraph 2 and 3 of this article shall be prohibited, regardless of the knowledge of the parents or legal guardian, and of the fact whether

rewarded or not.

5. If a child within the age of compulsory education avoids education with the purpose of performing prohibited activities, according to the law, the academic staff shall notify immediately the parent or legal guardian, as well as the child protection unit, who shall take immediate measures for the child to return to school.

#### **Article 25**

##### **Protection from use of alcohol, tobacco, narcotic and psychotropic substances**

1. The child shall be protected from:
  - a) use of alcohol, tobacco, narcotic and psychotropic substances;
  - b) illicit production and trafficking of such substances.
2. Sale of mixers or solvents for production or use of narcotic and psychotropic substances, tobacco and alcoholic drinks to children shall be prohibited.
3. The State Police, in cooperation with the ministry responsible for education, ministry responsible for health and ministry responsible for social affairs, within their respective competencies, shall take measures in order to:
  - a) prevent involvement of children in production, distribution and trafficking of narcotic substances;
  - b) raise public awareness, including children, on this matter, as well as drafting the necessary curricula for this purpose;
  - c) support children and their families through counselling;
  - ç) draft policies, strategies and services that guarantee the physical, mental, and social rehabilitation of the child using alcohol, tobacco or narcotic and psychotropic substances;
4. The child protection structures at the local government unit support

the child and the family through referring the cases to relevant specialized services.

#### **Article 26**

##### **Protection from Trafficking and any Form of Sexual Exploitation and Abuse**

The child shall be protected from trafficking, sale and any form of sexual exploitation and abuse, including illegal sexual activity, child prostitution or other illegal sexual practices, exposure, display or involvement in pornographic materials or sexual abuse of children according to the provisions of the Criminal Code and other acts in force.

#### **Article 27**

##### **Protection of the child from access to materials of harmful or illegal content on Internet**

1. The parent, legal guardian or any other person, in contact with the child shall be responsible for the protection of the child from access to materials of harmful or illegal content on the Internet.
2. Internet providers, educational institutions and any other public or private institution providing Internet access shall apply technical tools and other measures for the protection of children from access to materials of harmful or illegal content on the Internet, according to the legislation in force.
3. Where the State Agency for the Protection of the Rights of the Child finds that computer or information networks, internet webpages or premises for children circulate material with harmful content for the child, according to this law and the law on cyber security, shall request the responsible authority to take measure to block access to these networks or webpages.



4. Measures for the protection of children from access to materials of harmful or illegal content on the Internet shall be determined by decision of the Council of Ministers.

#### **Article 28**

##### **Protection from involvement in armed conflict and civil emergency situations**

1. Direct or indirect involvement of a child in armed conflict shall be prohibited.
2. In case of armed conflicts or civil emergency situations, the child shall be guaranteed special respect and protection from any form of illegal assault. During conflicts, the child shall receive special care and assistance in accordance with the age and for any other reason.
3. The child arrested or detained for reasons related to armed conflicts, shall be accommodated in premises separated from adults, except in cases when the child has been detained with his/her family.
4. The child protection unit in any local government unit shall, within 24 hours of the outbreak of an armed conflict or civil emergency situation, draft a list of all the children located in the territory of the respective administrative unit and send it to the civil emergency directorate with the purpose of protecting and supervising them specifically during the conflict.
5. In cases of population evacuation during an armed conflict or civil emergency situation children shall be given priority. The Civil Emergency Directorate and the child protection unit shall take the necessary measures for the safe evacuation of the child. In any case, the child shall not be separated from the parents or their family.

#### **Article 29**

##### **Right to legal aid and psychological assistance during administrative or judicial proceedings**

1. The child shall be guaranteed free legal aid and psychological assistance, in any administrative and judicial proceedings in accordance with the development and maturity of the child.
2. Legal aid and psychological assistance shall be provided to the child directly and without any barriers, in full respect of the principle of non-discrimination and the best interest of the child.
3. Legal aid and psychological assistance to the child includes all administrative and judicial actions, as well as any counselling provided by the representative, the lawyer chosen by the child, or assigned by the responsible authorities according to the legislation in force, throughout the administrative or judicial proceedings.
4. Psychological assistance includes all actions and counselling by the psychologist assigned by the responsible authorities according to the legislation in force.
5. The child, directly or through the parent, guardian or representative, shall address a request for legal aid to the responsible institutions, which inform the child, the guardian or representative of the proceedings, according to the legislation in force.
6. During the development of administrative and judicial proceedings, personal data and private life of the child shall not be made public.

#### **Article 30**

##### **Exercising parental responsibility**

1. The parent or legal guardian shall have the obligation to secure the child's emotional, physical, social and material well being by caring

for him/her and by taking the necessary measures for the child to exercise every right under this law.

2. In case the parent or legal guardian, despite their will, fails to fulfil obligations foreseen in paragraph 1 of this article, the child protection unit shall take measures to support the parent in fulfilling obligations towards the child. Regardless of the provided support, if the staying of the child with their parent is not deemed to be in the best interest of the child, the child protection unit shall take measures for the temporary removal of the child from the parents and shall place the child on temporary alternative care according to the provisions of the Family Code and this law.

3. Regardless of who exercises parental responsibility, the child's parents have the right to seek the necessary information and assistance for the upbringing, care and education of the child, to receive information on the child from the school, the health care service, or any other institution in contact with the child.

4. In case both parents exercise parental responsibility but they do not cohabit, decisions concerning choice of education or vocational training, complex medical treatments or surgical interventions, domicile of the child, or the administration of the assets of the child, shall be taken upon consent of both parents.

5. In case one of the parents shall refuse to give consent on a decision concerning issues stipulated in paragraph 4 of this article, or the parent may not be contacted due to unknown whereabouts, or because of the urgent need to take a decision concerning the child, decisions shall be taken by the parent who lives with the child, except for cases when the decision conflicts with the best interest of the child.

6. In case of disagreement between the parents regarding exercise of parental rights and fulfilment of their obligations towards the child, either of them may request that the dispute be settled by the compe-

tent court. Once both parents are heard, and the views of the child are considered, the court shall decide in accordance with the best interest of the child.

## Article 31

### Alternative care

1. A child temporarily or permanently deprived of his/her family environment, because parents have deceased, or due to a court decision, or in whose own best interest cannot be allowed to remain in that environment because of a protection measure, shall be placed in alternative care. When implementing this measure, priority shall be given to the placement of the child in a family environment, in accordance with the best interest of the child.

2. Alternative care may involve:

- a) placement of the child with their extended family, provided that this is possible and not contrary to the best interest of the child;
- b) placement of the child in a foster family, if neither of the biological parents nor the extended family may care for the child;
- c) placement of child in residential care institution for the shortest period of time.

3. The child in need of protection may be placed in one of the above forms of alternative care because of a protection measure, pursuant to article 55 of this law.

4. The procedures to be followed for choosing one of the alternatives provided for in paragraph 2 of this article shall be made in line with the provisions of the Family Code.

## Article 32

### Disabled child

1. A disabled child shall enjoy all the rights provided for in this law in a manner that is complete and equal to all the other children.
2. The disabled child shall enjoy the right to receive health, social, educational and any other services, according to the needs, determined by the responsible structures of assessment of disability. Responsible authorities shall take measures to ensure that these service be accessible by the child and free of charge, whenever possible and taking into account the financial resources of the parent or legal guardian.
3. The parent or the legal guardian has the obligation to follow all the mandatory procedures, according to this law, to ensure the access of the child to all the services entitled by the child according to the legislation in force. To this end, the parent or the legal guardian shall be assisted by the child protection structures, where needed.
4. A disabled child may be provided educational, health or rehabilitation service, in accordance with the specific needs, from a local government unit which is different from that of his/her place of residence and which fulfils the criteria for this purpose. The expenses in such case shall be covered by the budget of both local government units. The rules and procedures for the expenses shall be determined in a joint instruction of the minister responsible for social issues, minister responsible for health and minister responsible for education.
5. Responsible authorities shall, according to this law, eliminate all infrastructural, social, environmental, institutional and legal barriers in the field of education, employment and vocational training, health care, rehabilitation, cultural, recreational and sports activities, in order for disabled children to exercise the rights foreseen in this law.
6. Responsible authorities shall guarantee reasonable adaptation on a

case by case basis.

7. Responsible authorities shall guarantee the participation of disabled children in all policy-making and legislation levels through information adapted to the type of disability, age and maturity of the child.

## Article 33

### Child belonging to ethnic minorities

1. A child belonging to an ethnic, religious, or linguistic minority shall have the right to cultural life, to declare ethnic and religious belonging, to exercise religious belief and to use their own language with other members of the community they belong to.
2. A child belonging to an ethnic minority has the right to use his/her mother tongue during the procedures concerning his/her matters.
3. The manners of exercising the rights stipulated in this article shall be guaranteed, considering even respect for the rights of other children.

## CHAPTER III

### INSTITUTIONAL MECHANISMS FOR THE RIGHTS AND PROTECTION OF THE CHILD

## Article 34

### Institutional advisory and coordination mechanisms and structures for the rights and protection of the child

1. Institutional advisory and coordination mechanisms for the rights and protection of the child, in accordance with the scope of their activity, operate both at the central and local level.

2. Institutional advisory and coordination mechanisms include:
  - a) the National Council for the Rights and Protection of the Child, at the central level;
  - b) the inter-sectorial technical group at the municipality or local administrative unit level.
  
3. The structures for the rights and protection of the child at the central level include:
  - a) the minister coordinating action for issues of rights and protection of the child;
  - b) the State Agency for the Rights and Protection of the Child.
  - c) any minister responsible, by respective area of competence, for the rights and protection of the child.
  
4. The structures for the protection of the child at the local level include:
  - a) the municipality
  - b) the structure responsible for social services at the municipality;
  - c) the child protection unit attached to the structure responsible for social services at the municipality;
  - ç) the needs assessment and referral unit attached to the municipality or administrative units;
  - d) the child protection worker attached to the child protection unit and the needs assessment and referral unit.
  
5. The mechanisms and structures, at both central and local level, cooperate and coordinate work between them in terms of enforcement of legislation and government policies on the rights and protection of the child. Coordination of their activity over issued related to the rights and protection of the child, set out in this law, shall be determined by decision of the Council of Ministers.
  
6. These mechanisms and structures cooperate with non-profit organizations to implement national and local policies for protection and rights of the child, and also for the provision of necessary child pro-

tection services, based on detailed rules determined by decision of the Council of Ministers.

7. The People's Advocate shall monitor the enforcement of this law in line with the Convention on the Rights of the Child, in the light of fulfilment of obligations defined in the law no. 8454, dated 4.2.1999, "On People's Advocate", amended.

### Article 35

#### **National Council for the Rights and Protection of the Child**

1. The National Council for the Rights and Protection of the Child is an advisory body established by order of the Prime Minister, upon proposal of the minister coordinating action for issues of rights and protection of the child.
  
2. The main task of the National Council for the Rights and Protection of the Child is to give advice on and coordinate government policy for guaranteeing rights and protection of the child in all fields, particularly in justice, social service, education, health and culture.
  
3. The National Council for the Rights and Protection of the Child is chaired by the minister coordinating action for issues of rights and protection of the child and it consists of 9 members, representative assigned by the Prime Minister, at ministerial level, the People's Advocate, the Commissioner for Protection from Discrimination, 1 representative from the Association for Local Autonomy and 5 representatives from the civil society. The meetings of the National Council for the Rights and Protection of the Child are attended by children in the capacity of observers, who represent the students' governments, organisations, forums, or any other group of children.
  
4. Civil society representatives at the National Council for the Rights and Protection of Child must be Albanian citizens, who are familiar with and who have participated in remarkable activities in the field

of protection of the rights of the child. The National Council of Civil Society elects civil society representatives.

5. The members of the National Council for the Rights and Protection of the Child shall serve for a 4-year term, with a right of re-appointment, save members who serve ex-officio. In any case, renewal of all the members of the Council at the same time shall be prohibited.

6. The National Council for the Rights and Protection of the Child has the right to establish technical advisory committees on issues of rights and protection of the child and determine their composition and regulations.

7. Representatives of the child and civil society representatives shall be elected according to the instructions of the National Council for the Rights and Protection of the Child.

8. Rules of the functioning of the National Council for the Rights and Protection of the Child shall be determined in the regulation of this council, which shall be approved by decision of the Council of Ministers.

#### **Article 36**

##### **Duties of the National Council related to rights of the child**

The National Council for the Rights and Protection of the Child, in relation to the rights of the child, shall have the following duties:

- a) assess the status quo of enforcement of the rights of the child in Albania, taking into consideration national commitments, in the context of the Convention on the Rights of the Child and other human rights related treaties;
- b) assess budget planning from the child's rights perspective;
- c) provide specific recommendations to the State Agency for the Rights and Protection of the Child and other relevant state author-

ities, with responsibility in the respective areas;  
ç) propose and make recommendations to the Council of Ministers for improvement of the legislation concerning respective areas of enforcement of the rights of the child.

#### **Article 37**

##### **Duties of the National Council related to protection of the child**

The National Council for the Rights and Protection of the Child, concerning the protection of the child, shall have the following duties:

- a) assess and analyse implementation of government policies as well as national and regional child protection programmes;
- b) propose to the minister coordinating action for issues of rights and protection of the child the main child protection government programs and the government policy approach towards improving their treatment;
- c) recommend specifically designed child and family oriented programs;
- ç) recommend inter-sectorial preventive services and programs for child protection;
- d) propose and make recommendations towards improvement of legislation in the area of child protection.

#### **Article 38**

##### **Minister coordinating action for issues of rights and protection of the child**

The Minister coordinating action in issues of rights and protection of the child is the main responsible state authority, which, through the policy-making structure, shall perform the following duties:

1. Concerning the direction and monitoring of government policy and situation of the rights of the child:
  - a) coordinates and monitors the development and implementation of policies and the relevant measures for enforcement of this law, the

national strategy and action plan for children, as well as international commitments of the Republic of Albania as regards the rights and protection of the child and prepares the respective reports;

b) inspects the activity of the State Agency for the Rights and Protection of the Child and approves its annual progress report on the enforcement of the rights and protection of the child;

c) orients national and international donor support for the attainment of objectives of the national strategy for children;

ç) provides support to non-profit organizations operating in the field of rights and protection of the child, according to the procedures stipulated in the legislation in force on organisation and functioning of the Agency for the Support of Civil Society;

d) coordinates action to prepare materials and organize meetings of the National Council for the Rights and Protection of the Child;

dh) analyses statistical reports data and other reports and coordinates with other ministers in order to adapt dynamically the policy on the rights and protection of the child.

2. Concerning child protection, it has the following duties:

a) takes measures, in cooperation with other ministers for the establishment and proper functioning of an integrated child protection system, the effective prevention and response on child protection, through coordinated multi-disciplinary inter-sectorial child-centred services;

b) develops policies, government programmes and strategies in the field of child protection and services for children, as well as it plans budget allocation for their implementation;

c) proposes to the Council of Ministers legal and sub-legal amendments, the signing of international conventions on child protection and the taking of measures necessary to guarantee their rights, ex officio and based on recommendations proposed by the National Council for the Rights and Protection of the Child;

ç) issues methodological guidelines for the activity of child protection structures within the self-governing local authorities;

d) coordinates action with the responsible state authorities for the development and achievement of child protection standards;

dh) ensures provision of services necessary for child protection, in accordance with this law and the child protection standards;

e) ensures the establishment of a system for accreditation, quality control and capacity building of child protection structures;

ë) is responsible for the creation of a national electronic database of cases of children in need of protection and it takes measures for the approval of sub-legal acts to make mandatory the use of the database.

3. The responsible state authorities, at both central and local level, have the legal obligation to cooperate with the minister coordinating action for issues of rights and protection of the child, when drafting relevant common policies and programs.

4. The manner of coordination of action between the state authorities responsible for the rights and protection of the child shall be defined by a decision of Council of Ministers.

### **Article 39**

#### **Ministers' duties**

Ministers, within the scope of governmental activity, through their policy-making structures, shall have the duty to:

a) ensure full implementation of this law and the progressive realisation of the rights of the child, recognised in international instruments ratified by the Republic of Albania;

b) develop sectorial policies, legal and sublegal acts necessary for the rights and protection of the child, as well as contribute to the development of inter-sectorial policies and programmes, by making sure that the views of the child are considered;

c) accompany any draft-law or draft sub-legal act developed by them, with an analysis of impact on children, boys and girls;

ç) foresee in their annual or multi-annual budget plan the fund needed for the progressive fulfilment of rights and protection of the child;

d) collaborate with the respective institutions to ensure that the sub-

ordinate employees and structures dealing with child protection, are equipped with proper knowledge and specialised in child protection.

#### **Article 40**

##### **The State Agency for the Rights and Protection of the Child**

1. The State Agency for the Rights and Protection of the Child is a legal person under the ministry coordinating action for issues of rights and protection of the child, funded by the State Budget and other resources, according to the law.
2. The Agency is chaired and represented by the chairperson, whose labour relations are governed by the civil service legislation.
3. The structure and organisational set-up of the agency are approved by the Prime Minister, on the proposal of the minister coordinating action for issues of rights and protection of the child.
4. The rules of organization and functioning of the State Agency for the Rights and Protection of the Child are determined in the regulation of the agency, which is approved by the Council of Minister.

#### **Article 41**

##### **Duties of the State Agency for the Rights and Protection of the Child related to the establishment and proper functioning of the integrated child protection system**

1. The Agency is responsible for coordination and organization of the integrated child protection system, in implementing national child protection policies, including the implementation of interventions and taking of measures for prevention and protection of the child from abuse, neglect, maltreatment and violence.

2. The Agency has the duty to provide direct support to the child protection structures at the local level with regard to:
  - a) coordination with other governmental and private agencies;
  - b) performance of child protection-related professional activities;
  - c) assistance to the case management and settlement of certain cases of children in need of protection as well as supervision in certain cases; coordination of action for inter-state child protection cases;
  - ç) advising local and central state agencies, along with the staff of public and private institutions on assistance to the child at risk or in need of protection, in relation to which the Agency issues an internal order of operation.

3. Moreover, the Agency has the duty to:

- a) collect data on child protection at the national level and administer the national electronic database for cases of the child in need of protection;
- b) analyse the needs for specific intervention in the field of child protection and family support, with a special focus on prevention;
- c) control the service quality of protection structures.
- ç) coordinate and organize continuous training sessions for child protection workers and other professionals, working with children in need of protection.
- d) cooperate, in implementing article 11, paragraph 6 of this law, with the authorities responsible for the implementation of the protection process and taking measures for the management of cases involving the child in a migration situation, cross-border situation and in need of protection outside the territory of the Republic of Albania, unaccompanied minor.

## Article 42

### **Duties of the agency related to coordination of action with the minister responsible for issues of rights and protection of the child**

1. The State Agency for the Rights and Protection of the Child shall present to the minister coordinating action for issues of rights and protection of the child, proposals on policies and legal and sub-legal amendments in the field of rights and protection of the child;
2. It shall prepare and propose to the minister coordinating action for issues of rights and protection of the child, methodological guidelines for the child protection structures at the self-governing local bodies and the inter-sectorial coordination in the field of child protection;
3. It coordinates action for the development of materials and organizing of meetings of the National Council for the Rights and Protection of the Child, in cooperation with the responsible structure of the minister coordinating action for issues of rights and protection of the child;
4. It presents to the minister coordinating action for issues of rights and protection of the child, within the first quarter of each year, the report of the previous year on the activity performed, state of progress, problems encountered and ways of overcoming them, in the field of the rights and protection of the child.

## Article 43

### **Duties of the Agency related to the policies and activities for the protection of rights of the child**

1. The State Agency for the Protection of the Rights of the Child has the duty to cooperate with the responsible state structures in the process of developing proposals and implementing policies towards EU integration in the field of protection of rights of the child;

2. It designs and implements, either on its own, or in collaboration with other institutions, educational, training and awareness raising activities for citizens and also for public administration and justice system employees and officials.

3. It coordinates or organizes awareness raising campaigns and concrete activities for the promotion of child participation in all fields;

4. It initiates and implements pilot projects in cooperation with the civil society and it gives technical support to the non-profit organizations working in the field of rights and protection of the child;

5. It organizes and coordinates scientific research in the field of rights and protection of the child;

6. It collects and analyses data and reports on the implementation of child-focused strategic documents as well as on the situation of the rights of the child.

7. It develops and maintains an information system focused on institutions specialised on children, non-profit organizations working in the field of protection of rights of the child and other data related to child protection;

8. It coordinates its activity with the counterpart agencies in other countries.

## Article 44

### **State authorities' support to the Agency**

1. The responsible state authorities at central and local level are legally bound to cooperate with the Agency to make interventions and take necessary measures in terms of building and applying standards for a functional integrated system of rights and protection of the child, as



well as to exchange information, statistics and other data required in the context of its activity.

2. The types, manner of exchange and processing of information and statistical data that the Agency requests from the responsible state structures, at the central and local level, shall be determined by decision of the Council of Ministers.

#### **Article 45**

##### **Employees of child protection structures and employees working with children**

1. The employees of child protection structures as well as employees working with children may not be employed and, when employed, they shall terminate their employment relationship if:

- a) they are sentenced by a final court decision for intentional criminal offence against a person;
- b) one of protection measures against domestic violence is taken against them upon a court decision.

2. Employees of child protection structures and employees working with children shall be suspended from duty if criminal proceedings are instituted against them for criminal offences against children or they are accused of commission of a criminal offence in collaboration with a child.

3. The criteria for employment of employees of child protection structures and employees working with children shall be defined by decision of the Council of Ministers.

#### **Article 46**

##### **Role of the municipality**

Municipalities are responsible for the establishment of the respective child protection structures at municipality and at administrative unit level under their subordination, in implementing standards, and, through these, an integrated system of protection of the child, by ensuring, inter alia:

- a) reflection and respect for the rights of the child in the local development plans, programmes and projects in line with the national policies
- b) provision, in their budgets, of funds for the progressive realisation of the rights of the child;
- c) development of programs and projects to guarantee the rights and well-being of the child, prevent and reduce factors putting at risk the life and moral, physical, psychological and emotional integrity of the child
- ç) collection, analyses and reporting of data, in cooperation with other local institutions, on the situation of the rights of the child and families, with a view to developing programmes that create an enabling environment for the optimal development of the child;
- d) Implementation of national child protection policies and protection measures, as foreseen in this law;
- dh) establishment of child protection structures, according to this law, by creating conditions for their functioning to perform the tasks defined by this law, including even the allocation of respective funds for the effective functioning of child protection structures at local level;
- e) application of the procedure for case management of children in need of protection, as well as for establishment and coordination of the system of referral, reporting, protection and follow-up of cases of children in need of protection, through its structures;
- ë) organizing and provision of services for children in need of protection, community-based services for the prevention of violence and protection of the child as well as supporting services for families and services of alternative care for children;
- f) designing of rehabilitation and reintegration programmes and ser-

vices for children in need of protection, with particular focus on children victims of violence, abuse, neglect and exploitation as well as children, under the age of criminal responsibility, who are alleged to or have committed criminal offences;

g) contribution to the establishment and management of the national child protection information system, falling within their competence;

gj) financing of expenses for implementation of the Individual Protection Plan of the Child and the Parenting Skills Plan.

#### **Article 47**

##### **Municipality structure responsible for social services**

1. The municipality structure responsible for social services is responsible even for child protection issues in general. It takes all the necessary measures to realize and guarantee child protection in the territory of the municipality, through its subordinate structures and in cooperation with other municipality directorates, the local protection mechanisms and other local institutions.

2. The structure responsible for social services reports to the Mayor and Municipality Council on the progress of cases of children in need of protection, within the territory of the municipality.

3. The structure responsible for social services sets up the inter-sectorial technical group for the protection of the child at municipality level and where necessary, at administrative unit level, and it coordinates and supervises its activity, in accordance with the legal acts in force.

#### **Article 48**

##### **Director of the structure responsible for social services**

1. The Director of the structure responsible for social services shall be responsible for:

a) taking decisions on child protection measures, based on the proposal of the child protection worker and the inter-sectorial technical group;

b) approving and coordinating cross-cutting actions with the state institutions for the implementation of the Individual Protection Plan;

c) taking measures for coordination with the respective units within the municipality to procure services necessary for implementing the Individual Protection Plan, when they are not covered by the state structures;

ç) taking measures necessary for organizing and planning an emergency 24/7 protection service, which is made known even to the State Police structures;

d) monitoring and coordinating interventions for the protection and guaranteeing of access to the rights of the child in the territory of the municipality;

dh) reporting on the progress of the activity of the child protection unit and child protection worker of the municipality and on the situation of children in need of protection in the territory of the municipality.

2. The Minister coordinating action for issues of rights and protection of the child shall approve, upon instruction, the manner of placement of the child in relation to whom the protection measure is taken, in social care institutions.

#### **Article 49**

##### **Child protection unit**

1. The municipality child protection unit is established and shall function as a special unit within the structure responsible for social services at municipality level and is tasked, specifically, with the prevention, identification, assessment, protection and follow up of cases of children at risk and/or in need of protection.

2. The employees of the child protection unit, including its head, are child protection workers who have been graduated as social workers.

3. The child protection worker of the child protection unit, in addition to the tasks set out in article 51 of this law, is responsible for and has the duty to:

- a) support the child protection worker at administrative unit level for the management of cases of children in need of protection;
- b) enter information on children in need of protection, protection measures and Individual Protection Plans to the respective database, approved by the responsible minister coordinating action for issues of rights and protection of the child, at the municipality and administrative unit level;
- c) oversee advancement and progress of the child in need of protection in relation to whom a measure is taken, or an Individual Protection Plan is developed, in the administrative units of municipalities;
- ç) report periodically to the State Agency for the Rights and Protection of the Child, statistical data processed for the children in need of protection in the territory of the municipality and of the respective administrative units;
- d) identify all stakeholders and public and non-public child protection service providers in the territory of the municipality, including representatives from the alternative care services, health, psychological, social, legal services, specialized police officers, representatives of the prosecution office and educational institutions;
- dh) coordinate the functioning of the inter-sectorial group at municipality and/or administrative unit level, for the identification, analysis, protection of the child in need of protection, as well as the referral and the follow-up of child protection and domestic violence cases in the justice system;
- e) raise community awareness, organise informative, educational and training meetings related to child protection in the municipality/com-mune jurisdiction;
- ë) serve as an information centre, where children and families in the territory of the municipality may receive information or may be referred to other support services and institutions, in accordance with their needs;

4. The child protection unit at the municipality develops and updates, annually, the list of the procedural representatives for children in conflict with the law, children victims and witnesses in criminal process and sends the list to the local structures of the State Police, Prosecution office and to the respective judicial district court and appeal court. The criteria and procedures of selection of procedural representatives are defined by joint instruction of the minister coordinating action for issues of rights and protection of the child and the Minister of Justice.

5. The child protection unit exercises any other competence according to the legislation in force.

#### **Article 50**

##### **Child protection worker in administrative units of the municipality**

1. The child protection workers in the administrative units are part of the needs assessment and referral unit and perform only child protection-related duties.
2. Any administrative unit of the municipality having more than 3000 children shall have at least one child protection worker. They may not be engaged in other duties within the Needs Assessment and Referral Unit. When the administrative unit has less than 3000 children, this task may be performed by one of the employees of the needs assessment and referral unit, whose job description includes the function as a child protection worker.

#### **Article 51**

##### **Duties of the child protection worker**

1. The child protection worker performs the function of the case manager for children in need of protection from the moment of identification or referral, during the definition and enforcement of the protection

measure and the Individual Protection Plan until their termination.

2. The Child Protection Worker has the duty to:

- a) proactively identify cases of children at risk and in need of protection through regular field and family visits of children at risk, communication with professionals from the education, health and law-enforcement sectors, who are in contact with children;
- b) assess the risk level of every referred and identified case of a child in need of protection;
- c) request the meeting of the inter-sectorial technical group and draft an Individual Protection Plan, which includes even the proposal for taking the protection measures;
- ç) inform the head of the child protection unit and propose to the director of the structure responsible for social services, the taking of protection measures based on the Individual Protection Plan, as well as to coordinate interventions and actions defined in the plan;
- d) collaborate and exchange information on the management of the case of a child in need of protection with any responsible health, education, police prosecution and judicial structure, at local and national level, as well as with the civil society, thereby maintaining confidentiality of personal data of the child;
- dh) monitor advancement and implementation of the protection measure, the development progress of the child in relation to whom the protection measure is taken. Other professionals involved in the implementation of the protection measure or the Individual Protection Plan are obliged to keep the child protection worker informed of the progress, challenges and problems encountered during their implementation;
- e) propose the change or removal of the protection measure and/or change or termination of the Individual Protection Plan if the conditions which led to the measure imposed and the plan developed no longer exist or if this serves to the child and/or it is in his/her best interest;
- ë) facilitate and support the child and/or the family of the child in fulfilling the actions or duties set in the Individual Protection Plan;
- f) participate in court proceedings examining the protection measures

proposed in the Individual Protection Plan of the child, in relation to which s/he is the case manager;

- g) approach the prosecutor or the court for the removal of parental responsibility, informing them about parents who show gross negligence in the exercise of their parental responsibility, or who, through their actions, affect adversely the education and development of the child.
- gj) assist the child and/or family of the child with the drafting and sending of complaints to the People's Advocate or other responsible authorities.

## Article 52

### **Inter-sectorial technical group**

1. The inter-sectorial technical group for handling of cases of children in need of protection shall be established on ad hoc basis in every municipality and municipality administrative unit, which has over 3000 children.
2. The inter-sectorial technical group is convened by the director of the structure responsible for social services, at municipality level or by the child protection worker at the administrative unit level.
3. The inter-sectorial technical group is composed of representatives of police structures, social services structures, and representatives from the field of education, health, justice, representatives of non-profit organisations, as well as any other specialist who is familiar with the situation of the child or who may contribute in taking or implementing child protection measures, who are obliged to attend the meetings of the inter-sectorial technical group.
4. The following persons are convened to the meetings of the inter-sectorial technical group:
  - a) members required to manage the case of the child at risk;
  - b) parents or family members of legal guardians of the child;

c) child, depending on the age and ability to understand and considering the protection of the best interest of the child.

5. The inter-sectorial technical group supports the child protection worker and the needs assessment and referral unit in assessing the case, developing the Individual Protection Plan, facilitating case referral, and implementing interventions or actions specified in the Individual Protection Plan.

6. The functioning of the inter-sectorial technical groups shall be regulated by decision of the Council of Ministers.

## CHAPTER IV

### CHILD PROTECTION MEASURES

#### Article 53

##### Child Protection

Child protection is realized through protection measures, interventions for respecting the rights of the child and provision of services, where needed, aiming at the development and well-being of the child in the family environment or placement of the child in alternative care, when the child is temporarily or permanently deprived of parental care and protection or when because of the best interest of the child, the latter may not be entrusted to parental care.

#### Article 54

##### Individual protection plan

1. The Child Protection Worker, in cooperation with the Needs Assessment and Referral Units and the inter-sectorial technical group,

operating at municipality level or attached to the municipality administrative unit, must prepare an Individual Protection Plan, containing even the proposal on the protection measure, where needed.

2. In addition to the protection measures, the Individual Protection Plan shall contain other needed interventions ensuring respect for and facilitating child's access to his/her rights and also social services or other necessary services, based on the needs identified during case assessment.

3. The Individual Protection Plan shall, where appropriate, contain even measures for investigation and immediate intervention if the child is at risk of abuse, violence, neglect and exploitation and measures for medical aid, psychological, legal, social or other necessary rehabilitating or reintegrating service, according to the needs identified during case assessment, and also activities for education, learning and entertainment of children, measures for parental recovery, support programmes and assistance to the parent, legal guardian and members of the extended family.

4. All the interventions and services foreseen in the Individual Protection Plan shall be provided free of charge.

5. The procedures of case referral and management, the drafting and content of the Individual Protection Plan, financing of expenses for its application as well as the enforcement of protection measures shall be governed by decision of the Council of Ministers.

#### Article 55

##### Protection measures

1. Protection measures shall include:

a) emergency protection measure, which is a provisional protection measure removing the child from the family and placing the child in alternative care;

- b) protection measure placing the child in alternative care;
- c) protection measure ensuring specialised supervision of the child in family environment.

2. Protection measures shall be taken in relation to the child:

- a) whose parents are deceased or are declared dead by the court, are not known, have been removed parental responsibility and are under the conditions of need for protection;
- b) whose parent or legal guardian has been taken under police custody, detained, arrested or sentenced to imprisonment, and the child is in need of emergency protection;
- c) who, in his/her best interest, may not be entrusted to parental care, because the physical, moral, psychological and emotional integrity of the child is at stake;
- ç) who has been subject of abuse, violation, exploitation or neglect;
- d) who has been abandoned by the parents at birth or who is under 16 years of age and no one is taking care of the child;
- dh) who has committed a criminal offence, and who has no criminal responsibility due to the age;
- e) who has, is alleged to have or accused of committed or sentenced for the commission of a criminal offence, is at large and in need of protection.

#### Article 56

##### **Emergency protection measure**

1. The emergency protection measure removing a child from the family and placing the child in alternative care is a temporary protection measure taken against the child who is in the following situations:
  - a) the child is assessed to be in a situation of high and imminent risk because of abuse, exploitation, neglect or any form of violence and the child protection worker and state police or prosecution structures have allegations or possess facts that the family or environment where the child stays is not safe for the child;

- b) the child has been abandoned at birth by the parent or is under 16 years of age and is found abandoned in any environment;
- c) the child is left without parental care because the parents have been arrested, hospitalised or are in such situations that make it impossible to exercise their parental responsibility.

2. The parents may not exercise their parental responsibility during the period of validity of an emergency protection measure taken by the director of the structure responsible for social services, or of a court decision confirming the measure.

3. The child, child's parent, relatives and any other person, who has a lawful interest, have the right to appeal with the court within 5 days from the taking of the emergency protection measure by the director of the structure responsible for social services. The appeal shall not suspend enforcement of the measure. The appeal shall be examined by the court along with the request for evaluation of the measure by the court.

#### Article 57

##### **Protection measure placing a child in alternative care**

1. Placing a child in alternative care is a temporary protection measure taken in relation to the child left without parental care and when sheltering or placement in alternative care is needed to protect the child, by following this order:
  - a) placing the child with a relative;
  - b) placing the child with a foster family;
  - c) placing the child with a residential care institution, where none of the above-mentioned alternatives is possible.
2. When taking the protection measure of placement of the child in alternative care, siblings must not be separated.
3. The decision to take the protection measure placing the child in

alternative care shall apply until the court rules whether or not to confirm it and it has the same effects as the court decision on legal guardianship.

4. Persons or institution where the child is placed in alternative care, shall have the same tasks, responsibilities and rights as the legal guardian, set out in the Family Code, while the parents of the child, so long as the protection measure is valid, may not exercise their parental responsibility.

5. During the enforcement of this protection measure, the child protection worker shall follow these issues with priority:

- a) treatment and psycho-emotional state of the child placed in alternative care;
- b) assistance and creation of opportunities for parents to keep personal contacts and relationship with their children;
- c) preparation of relevant documents required by the court in judicial proceedings for the confirmation or not of the protection measure and the placing of the child in legal guardianship.
- ç) need for the change or removal of the protection measure depending on the progress, conditions and the circumstances of the case.

6. The child, parents of the child, his/her relatives and any other person who has a legitimate interest shall have the right to appeal with the court, within 5 days, from the taking of the protection measure by the director of the structure responsible for social services. The appeal shall not suspend enforcement of the measure. The appeal shall be examined by the court along with the request for evaluation of the measure by the court.

## Article 58

### Protection measure of specialised supervision in family environment

1. The specialized supervision in the family environment shall be imposed as a protection measure in relation to a child, who may be treated and protected within the family, while being monitored according to a plan determined by the child protection structures.

2. This measure is imposed even in cases when the child may stay with one of the parents, who is able and has the means to care for and protect the child from the actions of the other parent, alleged or established to have abused, violated, exploited or neglected the child and who does not live or who, because of an emergency protection order or protection order, is not allowed to stay in the same building or family environment with the child in need of protection.

3. The Individual Protection Plan, which contains even the protection measure of specialized supervision in the family environment, shall be drafted in cooperation with the parents, or one of the parents. If the parents fail to cooperate or to give their consent over this child protection measure, the child protection structures shall then impose one of the other protection measures.

## Article 59

### Decision-making on protection measures

1. Protection measures, intervention for respecting the rights of the child and the services necessary for the child shall be determined and implemented based on the Individual Protection Plan.

2. The Child Protection Worker at the municipality or administrative unit level or the director of the child protection unit at the municipality level shall send the Individual Protection Plan along with the proposal

on the protection measure, to the director of the structure responsible for social services at the municipality, who takes the decision on the protection measure within 24 hours. This decision enters into force on the same day. In the case of emergency protection measures, or the protection measures of placing the child in alternative care, the decision shall apply until the relevant court decision is taken. The decision on the protection measure of specialized supervision in the family environment shall apply until the measure is repealed by the director of the structure responsible for social services, based on the proposal of the child protection worker and it shall not be sent for judicial review.

3. Protection measures for children over 14 years of age shall be imposed upon the consent of the child. If the child does not consent, then the protection measure shall be taken by the director of the responsible structure for social services, a decision which shall be valid until the court rules to uphold it, if a judicial review is stipulated in relation to this protection measure in conformity with this law.

4. The Child Protection Worker, within 5 days from the day the decision on the relevant protection measure is taken by the director of the responsible structure for social services, shall deposit with the competent court the request for the confirmation of the emergency protection measure or of the protection measure placing the child in alternative care, which contains even the request for the placement of the child in legal guardianship. The court shall examine and decide, within 5 days from the depositing of the request by the child protection worker, on the confirmation of the protection measure by examining even the respective appeals submitted by the parties. When the court decides that the protection measure be taken, it proceeds even with the examining of the request to place the child in legal guardianship, according to the legislation in force.

5. The court decision in favour of the emergency protection measure or of the protection measure placing the child in alternative care shall apply until the child is placed in legal guardianship, according to the

legislation in force. The court shall deem the best interest of the child as a primary consideration when taking the decision on the child protection measures and their placement in legal guardianship.

6. The court shall rule for the removing of the protection measure upon the request of the child protection worker where during the judicial review it finds that the grounds upon which this measure was imposed, no longer exist.

7. The judicial district court shall be the court competent for the protection measures and placement of the child in legal guardianship.

8. The activity of workers of child protection structures, in relation to the taking and enforcement of protection measures and individual protection plans shall be subject to inspection by the State Inspectorate of Labour and Social Services.

## Article 60

### Monitoring of protection measures

1. The child protection worker is responsible for monitoring the child protection measures. They must report to the director of the structure responsible for social services, at least once a month, on the progress, advancement of the measure and/or the need to amend or change it.

2. The child protection worker shall send the proposal to remove the protection measure and return the child to their family, to the director of the structure responsible for social services, supporting it with the relevant documentation which proves that parents are capable of caring for the child and the return of the child in the family will not expose him/her to any potential risk to their life and physical, psychological, moral or emotional integrity.

3. If the director of structure responsible for social services approves



the proposal to remove the protection measure, s/he shall authorize the child protection worker to submit a request for the removal of the protection measure, in case it has been confirmed by the competent court.

4. If the parent, in the framework of the Individual Protection Plan, has been obliged to attend parenting courses, or perform any other activities, the child protection worker shall verify the successful fulfilment of these obligations by the parents and include the relevant information in the proposal to remove the protection measure.

#### Article 61

##### **Parenting skills measure**

1. The child protection worker, in collaboration with the other municipality structures or the needs assessment and referral unit at the administrative unit level, has the duty to assess the family situation of every child in need of protection and, in any case, with priority, aim at ensuring child protection within the family.
2. If the protection measure for placing the child in alternative care is taken, the child protection worker, when possible, shall draft a Parenting Skills Plan, which is part of the Individual Protection Plan for the child and aims at preparing the parents for the return of the child in the family, once the protection measure terminates.
3. The Parenting Skills Plan may contain measures obliging parents to attend parenting skills courses, psychological counselling for anger management, medical treatment against alcohol or use of narcotic and psychotropic substances, mental health treatment, as well as interventions to support the family for registration with the civil registry office, the economic aid scheme, employment services, health services, and any other interventions that would improve family situation and guarantee the child protection within the family.

4. Implementation of the Parenting Skills Plan is followed by the child protection worker, in collaboration with the employees of the needs assessment and referral unit.

## CHAPTER V

### SPECIAL PROTECTION FOR CERTAIN CATEGORIES OF CHILDREN

#### Article 62

##### **Protection of the child victim of abuse, neglect, maltreatment and violation**

1. The child protection structures are responsible for verification and handling, by providing the necessary protection, of any identified or reported case of child victim of abuse, neglect, maltreatment and violation. These structures, in cooperation with other local responsible structures and authorities must ensure enforcement of the protection measures, interventions and necessary specialized services to meet all the needs of child victims of abuse, neglect, maltreatment and violence.
2. The child protection structures, based on the best interest of the child, shall have the right of access to the residence place of the parent or natural person and to the residence place of the legal person, who are legally responsible for the child in order to verify the situation of the child identified or reported as victim of abuse, neglect, maltreatment and violence. The child protection structures, where necessary, based on the circumstances and the facts, shall seek support by the state police authorities.
3. The parent, the person legally responsible of the child, either natural or legal person, is bound to cooperate with the child protection

structures and provide them with the necessary information to address the situation or the case. If the above-mentioned persons refuse to cooperate or refrain the protection structures from making the necessary verifications, then verification shall be done by force with support of the State Police bodies. Failure to cooperate or refraining the child protection structures from making the verification shall constitute an administrative offence and it shall be punished by fine, unless it constitutes a criminal offence.

4. If the child protection structures, after the assessment conclude that there are substantial reasons which show that a situation of high/ imminent risk to the child is present, they have the right to take the emergency protection measure of placing the child in alternative care.

5. If following child case assessment it is concluded that abuse, neglect, maltreatment or violence is committed by persons legally responsible for caring for the child, including employees of public or private care institutions, guardians, foster families, relatives with whom the child is placed due to a protection measure, then the protection structures shall take immediate measures to separate the child from these persons and they notify immediately the police and prosecutor's office.

6. In domestic violence cases, in addition to the request for confirmation of the emergency protection measure or protection measure, set out in article 59 of this law, the child protection worker who serves even as the case manager may initiate with the competent court the process for issuing the emergency protection order or protection order. In such case, both requests shall be tried by the same judge.

7. In any case, following the above-mentioned assessment, the child protection worker shall draft an Individual Protection Plan of the Child, containing the respective protection measure, the necessary interventions and services needed by the child, in order to treat the child from both the medical and psycho-emotional aspect as well as rehabilitate and reintegrate the child. Likewise, when it is possible for the

child to stay with the family or it is presumed that the child will return to the family, despite the protection measure taken to place the child in alternative care, the child protection worker shall draft and take measures to implement a parenting skill plan.

8. Data concerning assessment, treatment and rehabilitation of the child victim of abuse, neglect, maltreatment, violence, are kept confidential, unless they are used before the justice authorities.

9. In any case, the child shall be accompanied by the child protection worker or a psychologist assigned by the latter, according to the Individual Protection Plan, in any proceedings before the police, prosecution or court authorities.

10. The child protection worker shall take measures to monitor implementation of the Individual Protection Plan.

## Article 63

### Statement of the child

1. The statement of the child, during the process of reviewing the child's situation by the child protection worker, may be administered ex-officio as an evidence. The statement of the child shall be considered valid regardless of the manner of its recording, whether in writing or by audio-visual means, always in the presence of a psychologist and with the consent of the child over 10 years of age.

2. The court considers the statement of the child as evidence during the judicial process for confirmation and taking of the emergency protection measure or the protection measure of placement of the child in alternative care. If the child requests to be heard, the court shall consider his/her request which may be overturned only for serious reasons and upon a reasoned decision.

## Article 64

### Protection of the child from economic abuse

1. The child protection structures have the duty to identify actively and handle with priority any reported cases of the child victim of exploitation, including children in street situations. These structures are responsible for and have the right to undertake concrete actions, with the support from the state police, to remove children from the situation of economic exploitation or street situation. The procedures for identification, immediate assistance and referral are governed by a Decision of the Council of Ministers.

2. Following the assessment of each case, the child protection worker shall, in cooperation with the needs assessment and referral unit along with the inter-sectoral technical group, include the following to the Individual Protection Plan, but not limited to:

- a) taking one of the protection measures provided for in this law;
- b) enrolment of the child in school and / or regular attendance of the school curriculum;
- c) learning support, through special teachers or integrated classes;
- ç) prohibition to go to certain places;
- d) psychological counselling;
- dh) medical treatment, where necessary;

3. The child protection worker, based on the family situation of the child, may report the parents to the police and prosecutor's office or designate a parenting skills plan for the parents of the child, which shall include, but not limited to:

- a) attending parenting skills courses;
- b) attending courses against alcoholism or programs against narcotic and psychotropic substances;
- c) support to be registered with the respective local unit and for the registration of all family members with the civil registry office;
- ç) assistance to be integrated in the economic aid scheme;
- d) assistance to access the labour market;

dh) any other necessary measure assisting the improvement of the family situation, by creating opportunities for protecting the child from exploitation.

4. The child protection worker is responsible for the implementation and monitoring of the progress of the Individual Protection Plan of the Child and also for changing it, by adapting or removing any measure or intervention if the situation leading to their imposition has changed. In any case, the child protection worker informs the director of the structure responsible for social services on implementation or the need for changes to the Individual Protection Plan.

## Article 65

### Protection of the child under the age of criminal responsibility

1. The child protection structures shall take immediate measures for the case assessment of the child, under the age of criminal responsibility, who is alleged to have committed or who has committed criminal offences, by engaging the needs assessment and referral unit and the multi-disciplinary group in the development of the Individual Protection Plan, which contains one of the protection measures set out in this law, as well as other services and interventions that are necessary for the child's reintegration, considering:

- a) the conditions, facilitating child's involvement in the crime;
- b) the level of social risk and the criminal offence committed;
- c) the environment where the child was brought up and lived;
- ç) the risk or the likelihood that the child may commit another criminal offence;
- d) any other factor, which may help understand the situation of the child.

2. The child protection structures may include in the Individual Protection Plan even counselling sessions for parents of the child who is alleged to have or has committed criminal offences, who are not

subject of criminal proceedings or who have not been criminally sentenced of this.

3. The activity of the child protection structures in relation to children under the age of criminal responsibility shall be regulated by decision of the Council of Ministers.

#### **Article 66**

##### **Protection measure of specialized supervision over children under the age of criminal responsibility**

1. The measure of specialized supervision over the child, under the age of criminal responsibility, who is alleged to have committed, or who has committed criminal offences, shall be applied by allowing the child to stay with his/her family, provided that the following activities are supervised:

- a) attendance of school on a regular basis;
- b) participation in activities of para-social services;
- c) following medical treatment or psychological counselling;
- d) prohibition to go or attend certain places;

2. If it is impossible to leave the child with the family, or the child does not fulfil the conditions set in the Individual Protection Plan, the child protection structures may propose and decide on one of the other protection measures, including the measure of placement of the child with one of the relatives, and asking the child, in any case, to comply with the conditions set out in the Individual Protection Plan.

## **CHAPTER VI**

### **REPORTING CASES OF CHILD IN NEED OF PROTECTION**

#### **Article 67**

##### **Duty to report**

1. Any natural or legal person, who possesses information or the child him/herself, must notify the central institutions and local structures of child protection or the State Police, of any suspected or eventual case of abuse, neglect or exploitation of the child.

2. Any employee of public and private institutions who comes into contact with children because of the profession and suspects of a child being abused, neglected, maltreated or found at risk thereof, must notify immediately the State Police authorities or the child protection structures at local level.

3. Teachers and providers of school psychosocial service have the duty to report any suspected or eventual case of child abuse, neglect or exploitation to the local education units or child protection structures. The local education unit shall, in any case, upon being informed of a child in need of protection, report to the child protection structures.

4. Employees of public or private health or child care institutions have the duty to report immediately any suspected or eventual case of child abuse, maltreatment, abandonment, neglect or violence to the director of the institution, State Police authorities, child protection structures.

5. With a view to facilitate the reporting, the child protection structures shall take measures to post contact information notices in all public and private child care institutions, education and health institutions.

6. All the persons who, according to this law, have the duty to report,

shall have the obligation to protect personal data in compliance with the obligations stipulated in the legislation in force on personal data protection.

7. The procedures for reporting cases shall be regulated by joint instruction of the respective ministers.

### **Article 68**

#### **Hotline for children**

The State Agency for the Rights and Protection of the Child, either alone or in cooperation with non-profit organisations, shall make available a toll-free telephone line for children, with a telephone number widely publicized, and it shall be obliged to verify and refer any reported case to the child protection units or other competent structures.

## **CHAPTER VII**

### **ADMINISTRATIVE SANCTIONS**

### **Article 69**

#### **Administrative offences**

1. Violation of rights provided for in articles 8, 9, 12, 13, 14, 15, 16, 17, 18, 21, 23, 24, 25, 26, 27, 29, 32 and 33 of this law, unless it constitutes a criminal offence, shall constitute an administrative offence and it shall be punished by fine, respectively:

- a) natural person, from ALL 40 000 to ALL 80 000;
- b) legal person from ALL 60 000 to ALL 100 000;
- c) natural person within a legal person who is responsible for the violation, from ALL 40 000 to ALL 80 000;
- ç) person who exercises a public function, from ALL 60 000 to ALL 80 000.

2. Any failure of the designated structures and respective employees to fulfil the legal obligations shall be considered administrative offence according to articles 38, 39, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 57, 59, 60, 62, 64, 65, 66 and 67 of this law.

3. The State Agency for the Rights and Protection of the Child is the body finding the administrative offence, imposing and enforcing administrative sanctions.

4. The decision of the State Agency for the Rights and Protection of the Child is an executive title. The procedure of reviewing the administrative offence and enforcing the fines, defined in paragraph 1 of this article, shall be conducted in accordance with the legislation in force on administrative offences.

5. The procedures of checking and imposing of sanctions by the State Agency for the Rights and Protection of the Child shall be determined by decision of the Council of Ministers.

### **Article 70**

#### **Appeal**

The decision of the State Agency for the Rights and Protection of the Child, according to article 69 of this law, may be appealed against with the competent court conform to the legislation in force on administrative offences.

FINAL PROVISIONS

**Article 71**

**Sub-legal acts**

1. The Council of Ministers shall, within 6 months from entry into force of this law, be in charge of issuing sub-legal acts in implementing articles 11, paragraph 6; 27, paragraph 4; 34, paragraphs 5 and 6; 35, paragraph 8; 38, paragraph 4; 40, paragraph 4; 44, paragraph 2; 45, paragraph 3; 52, paragraph 6; 54, paragraph 5; 64, paragraph 1; 65, paragraph 3; and 69, paragraph 5, of this law.

2. The Prime Minister shall, within 6 months from entry into force of this law, be in charge of issuing the sub-legal act in implementing article 40, paragraph 3, of this law.

3. The responsible ministers, shall, within 6 months from entry into force of this law, be in charge of issuing the sub-legal acts in implementing article 8, paragraph 9; 32, paragraph 4; 48, paragraph 2; 49, paragraph 4; and 67, paragraph 7, of this law.

**Article 72**

**Repeals**

Law no. 10 347 dated 4.11. 2012 “On protection of the rights of the child” shall be repealed upon the entry into force of this law.

**Article 73**

**Entry into force**

This law enters into force 3 months after publication in the Official Gazette.

Adopted on 23.2.2017

Promulgated by decree no. 10060 dated 6.3.2017 of the President of the Republic of Albania, Bujar Nishani



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