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**on the protection and promotion of the rights of the child**

*The Parliament of Romania adopts the present law.*

## **CHAPTER 1**

### General provisions and definitions

**Article 1 – (1)** The present law regulates the legal framework concerning the observance, promotion and guaranteeing of the rights of the child.

**(2)** The public authorities, the authorized private institutions, as well as the natural and legal persons responsible for child protection must observe, promote and guarantee the rights of the child, as stipulated by the Constitution and the law, in accordance with the provisions of the UN Convention on the Rights of the Child, ratified through Law no. 18/1990, republished, and with the other international regulations in this field, to which Romania is a State party.

**Article 2 – (1)** The present law, any other regulations adopted in the field of observing and promoting the rights of the child, as well as any legal act, issued or, as the case may be, signed in this field, are subordinated primarily to the child's best interests.

**(2)** The best interests of the child also take priority over the rights and duties of the child's parents, legal guardians, or other persons legally responsible for him or her.

**(3)** In all actions and decisions concerning children, whether undertaken by public authorities and authorized private institutions, as well as courts of law, the best interests of the child shall be a primary consideration.

**(4)** The persons stipulated under paragraph (3) must involve the family in all decisions, actions and measures taken in connection with the child and support the care, upbringing, development and education of the child in the family.

**Article 3 –** The following categories of persons benefit from the provisions of the present law:

- a)** children with Romanian citizenship, located on the territory of Romania;
- b)** children with Romanian citizenship, located aboard;
- c)** children without citizenship, located on the territory of Romania;
- d)** children who request or benefit from a form of protection, according to the legal regulations on the status and treatment of refugees in Romania;
- e)** children with foreign citizenship, located on the territory of Romania, who are in emergency situations, as defined, in accordance with the present law, by the competent Romanian public authorities.

**Article 4** – Within the meaning of the present law, the terms and expressions below have the following meanings:

- a)** child - a human being below the age of 18, who has not acquired full capacity of exercise, according to the law;
- b)** family - the parents and their children;
- c)** extended family - the child, his or her parents, and their relatives up to and including the 4th degree of kinship;
- d)** substitute family - the persons, other than those who belong to the extended family, and who provide care and support for bringing up the child, according to the law;
- e)** the individualized protection plan - the document which provides the planning of special child protection services, measures, and actions, based on the psycho-social evaluation of the child and his or her family, in order to integrate a child who has been separated by his or her family, into a permanent and stable family environment, in the shortest possible time;
- f)** the service plan - the document which includes the planning of the social services which are to be provided, based on a psycho-social evaluation of the child and his or her family, in order to prevent the separation of the child from his or her family;
- g)** the child's legal guardian - the parent or person assigned, in accordance with the law, to exercise the child's rights and to fulfill parental duties towards the child;
- h)** N.A.P.R.C. – the National Authority for the Protection of the Rights of the Child;
- i)** C.P.C. – the Child Protection Commission;
- j)** G.D.S.S.C.P. – the General Department for Social Security and Child Protection;
- k)** P.S.S.S – the Public Social Security Service;
- l)** R.O.A – the Romanian Office for Adoptions.

**Article 5** – (1) Children have the right to receive protection and support, in order to fully achieve and exercise their rights, in accordance with the present law.

(2) The parents' main responsibility is to raise and ensure the proper development of the child; they have the duty to exercise their rights and to fulfill their duties towards the child, having the child's best interests as a primary consideration;

(3) Subsidiary, this responsibility falls onto the local community to which the child and his family belong. The local public administration authorities have the duty to support the parents or, as the case may be, any persons who are legally responsible for the child, in fulfilling their duties towards the child, by developing and providing for this specific purpose diversified, accessible and high quality services, which should respond to the child's needs;

(4) The intervention of the state is complementary; the state ensures the protection of the child and guarantees the observance of all of the rights of the child, through a specific activity conducted by the state institutions and the public authorities responsible in this field.

**Article 6** – Observing and guaranteeing the rights of the child should be conducted in accordance with the following principles:

- a)** observing and primarily promoting the best interests of the child;
- b)** equal opportunities and non-discrimination;
- c)** raising the awareness of the parents on the exercise of their rights and on the fulfillment of parental duties;
- d)** the primordial responsibility of the parents to observe and guarantee the rights of the child;
- e)** the decentralization of the child protection services, the multi-sectorial intervention and the partnership between the public institutions and the authorized private institutions;
- f)** providing individualized and personalized care for each child;
- g)** observing the dignity of the child;
- h)** hearing the opinion of the child and giving it due weight, in accordance with the age and degree of maturity of the child;

- i) providing stability and continuity in caring, raising and educating the child, taking into account the child's ethnic, religious, cultural and linguistic background, in the case of undertaking a protection measure.
- j) celerity in making all decisions concerning the child;
- k) providing protection against child abuse and neglect;
- l) interpreting each legal act concerning the rights of the child in correlation with the entire collection of regulations in this filed.

**Article 7** – The rights specified under the current law are guaranteed for all children, without any discrimination, and irrespective of race, color, gender, language, religion, political or any other opinion, nationality, ethnic affiliation or social origin, financial situation, degree and type of disability, status at birth or acquired status, shape, development or other types of difficulties of the child, of the parents or legal representatives, or of any other distinction.

## **CHAPTER II**

### The rights of the child

#### **SECTION I**

##### Civil rights and freedoms

**Article 8** – (1) The child has the right to receive and maintain his or her identity.

(2) The child is registered immediately after the birth and starting from this date, the child has the right to a name, the right to receive citizenship and, if possible, to meet his / her parents, to receive care, be raised and educated by them.

(3) The parents choose the child's last name and first name, in compliance with the law;

(4) The child has the right to maintain his / her citizenship, name and family relations, in compliance with the law, with no interference;

(5) When a child is illegally deprived entirely or partly of his / her identity, the public institutions and authorities shall take emergency measures in order to reinstate the child's identity.

**Article 9** – (1) In order to observe the right stipulated under Article 8, paragraph (1), the medical institutions which include maternities and / or pediatric units must employ a social worker or, as the case may be, a person with social security responsibilities.

(2) In order to establish the identity of an abandoned or found child, or of his / her parents, the competent police authorities must appoint one or more individuals who are in charge of taking the necessary steps, in accordance with the law, in order to register the child's birth.

**Article 10** – (1) The birth certificate proving the child's birth, both for the child born alive, as well as for the still born child, is issued within 24 hours from the child's birth.

(2) The chief doctor of the unit or the doctor who assisted or acknowledged the birth are responsible for fulfilling the obligation stipulated under paragraph (1).

(3) When the birth occurred outside a healthcare institution, the family physician, whose cabinet is located in the territorial range where the birth took place, has the duty to acknowledge the birth of the child, upon the request of any person, within 24 hours, and then draft and issue the medical certificate which acknowledges the birth of the child, even if the mother is not one of the patients registered with his or her office.

**Article 11** – (1) If the child is abandoned by his or her mother in the maternity hospital, the healthcare institution must report this fact by phone and in writing to the general department for

social security and child protection and the police, within 24 hours after the mother's disappearance has been acknowledged.

(2) Within 5 days from issuing the notification stipulated under paragraph (1), an official report acknowledging the child's abandonment is drafted and then signed by the representative of the general department for social security and child protection, the police representative and the maternity hospital representative; when the child's health condition allows the discharge from hospital, based on that official report, the general department for social security and child protection shall decide the emergency placement measure for the child;

(3) Within 30 days from the date when the official report was drafted, the police must conduct specific investigations concerning the mother's identity and must notify the result of these investigations to the general department for social security and child protection.

(4) In case the mother is identified, the general department for social security and child protection shall provide counseling and support for the mother, in view of undertaking the necessary steps for the issuance of the birth certificate.

(5) If, following the police investigation, the mother's identification is not possible, the general department for social security and child protection sends to the public social security service in whose territorial range the birth has occurred, the file containing the medical certificate acknowledging the birth, the official report stipulated under paragraph (2), the emergency placement decision and the results of the police investigation.

(6) Within 5 days from the receipt of the documents stipulated under paragraph (5), the public social security service must obtain the decision concerning the child's last name and first name, in accordance with the provisions of Law no. 119/1996 on the civil status documents, with the subsequent amendments, and make the birth recording statement at the competent civil status service.

(7) After recording the child's birth, the public social security service must send to the general department for social security and child protection the document registering the child's birth.

**Article 12 – (1)** In the case of a foundling, as well as of a child who was abandoned by his / her parents in other healthcare units, whose birth has not been registered, the obligation to take the legal steps stipulated by the law for the registration of the child's birth belongs to the public social security service in whose administrative and territorial range the child has been found or abandoned.

(2) The forensic examination necessary for the registration of the child's birth is free of charge.

**Article 13 – (1)** The healthcare institutions, social protection institutions, residential care services, entities with no legal personality, other legal, as well as natural persons, who receive or provide care for pregnant women or children who do not have any documents based on which their identity can be determined, must notify within 24 hours, through a written report, the local public administration authority, in whose territorial range their headquarters or, as the case may be, their residence is located, in order to establish the identity of the above-mentioned.

(2) The person who takes a child in order to provide temporary care or protection until the establishment of a legal protection measure, has the obligation to maintain the child and within 48 hours, he / she must notify the local public administration in whose territorial range is located his / her headquarters or domicile.

**Article 14 – (1)** The child has the right to maintain personal relations and direct contacts with his or her parents, relatives, as well as with other persons with whom the child has developed relations based on attachment.

(2) The child has the right to meet his or her relatives and to maintain personal relations with them, as well as with other persons with whom the child has enjoyed a family life, to the extent to which this is not contrary to the best interests of the child.

**(3)** The parents or a person who is legally responsible for the child may not prevent the personal relations of the child with his or her grandparents, brothers and sisters, or with any other persons with whom the child has enjoyed a family life, except when a court of law so decides, assessing that there are well-founded reasons which may endanger the physical, mental, intellectual or moral development of the child.

**Article 15 – (1)** Within the meaning of the present law, personal relations may be achieved through:

- a) meetings between the child and the parent or another person who, according to the present law, has the right to maintain personal relations with the child;
- b) visiting the child at his or her domicile;
- c) hosting the child, for a specific period of time, by the parent or by another person with whom the child does not live on a regular basis;
- d) correspondence or any other form of communication with the child;
- e) sending to the child information regarding the parent or other persons who, according to the present law, have the right to maintain personal relations with the child.
- f) sending to the parent or to other persons who have the right to maintain personal relations with the child, information regarding the child, including recent photos, medical evaluations or school records.

**(2)** Sending the information stipulated under paragraph (1) points e) and f) must be achieved in a way which would observe the best interests of the child and the special provisions on the confidentiality and dissemination of personal data.

**Article 16 – (1)** The child who has been separated from both of his / her parents or from just one of them, as a result of a legal measure, has the right to maintain personal relations and direct contacts with both parents, except when this is contrary to the best interests of the child.

**(2)** The court of law, considering the best interests of the child as a priority, can limit the exercise of this right, if there are rigorous reasons which may endanger the physical, mental, intellectual, moral or social development of the child.

**Article 17 – (1)** The child, whose parents reside in different states, has the right to maintain personal relations and direct contacts with both of them, except when this is contrary to the best interests of the child.

**(2)** The National Authority for the Protection of the Rights of the Child shall facilitate the exercise of the right stipulated under paragraph (1), in cooperation with the Romanian Ministry of Foreign Affairs, based on a procedure approved through a joint order.

**Article 18 – (1)** Children who are not accompanied by parents or by a person who is legally responsible for the child, or are not under the legal supervision of any persons, have the right to have their return to their legal representatives ensured, as soon as possible.

**(2)** The children's travel in the country or abroad may take place only when both parents have been notified and have agreed; any misunderstandings between the parents concerning the expression of this agreement is ruled upon by the court of law.

**(3)** The parents or, as the case may be, the person responsible for supervising, upbringing and caring for the child must notify the police on the disappearance of the child from the residence, within 24 hours at the latest after noticing that the child is missing.

**Article 19 – (1)** The diplomatic and consular missions of Romania must inform the National Authority for the Protection of the Rights of the Child about any children with Romanian citizenship who are located abroad, and who, for whatever reasons, are not accompanied by parents or by a legal guardian, or are not under the legal supervision of certain persons who are abroad.

**(2)** The National Authority for the Protection of the Rights of the Child shall undertake the necessary measures for the return of the child to his or her parents or to a legal guardian, immediately after these persons have been identified. In case the identified persons cannot or refuse to take the child in their care, upon the request of the National Authority for the Protection of the Rights of the Child, the court of law in whose territorial range is located the child's domicile, or the Bucharest Court of Law, in case the child's domicile is unknown, shall decide the child's placement in a special protection service proposed by the National Authority for the Protection of the Rights of the Child.

**(3)** The procedures related to the children's return to the country, to the identification of the parents or other legal representatives of the children, the method through which the advanced payment is made for the expenses necessary for the children's return to the country, as well as the public or private special child protection services, which have the competency to provide the emergency protection of the children who are in the situation stipulated under paragraph (1), are established through a Government decision.

**Article 20 – (1)** The foreign diplomatic and consular missions must inform the National Authority for the Protection of the Rights of the Child and the Authority for Foreigners about all cases involving children with foreign citizenship who are located in Romania, and who, for whatever reasons, are not accompanied by parents or by a legal guardian, or are not under the legal supervision of other persons. If the Romanian authorities take notice of such cases by themselves, they shall immediately inform the competent foreign mission about the respective children.

**(2)** In the cases stipulated under paragraph (1), the National Authority for the Protection of the Rights of the Child shall request the Bucharest Court of Law to decide the placement of the child in a special protection service proposed by the National Authority for the Protection of the Rights of the Child, until the completion of the legal steps that must be undertaken by the Authority for Foreigners.

**(3)** The placement measure lasts until the return of the child to his / her parents' residence country or to the country where other members of the family willing to look after the child have been identified.

**(4)** In case the child is not returned, he / she shall benefit from the special protection stipulated by the present law.

**Article 21 –** In view of enforcing the provisions stipulated under Articles 19 and 20, the necessary treaties are concluded with the states or authorities of the envisaged states, based on the proposals put forth by the National Authority for the Protection of the Rights of the Child and the Ministry of Foreign Affairs, as well as by other interested institutions.

**Article 22 – (1)** The child has the right to have his or her public image and personal, private and family life protected.

**(2)** Any action which may affect the public image of the child or the child's right to personal, private and family life is forbidden.

**(3)** The participation of the child below the age of 14 years old to public debates, during audiovisual programs, can only be made with the written consent of the child and of his or her parents or, as the case may be, of any person who is legally responsible for the child.

**(4)** Children cannot be used or exposed by their parents, their legal guardians or by any other persons who are legally responsible for raising and caring for them, in order to gain personal advantages or to influence the decisions made by public authorities.

(5) The National Audiovisual Council monitors the way in which audiovisual programs are conducted, in such a manner as to ensure the protection of and to guarantee the rights of the child mentioned under paragraph (1).

**Article 23 – (1)** The child has the right to freedom of expression.

(2) The child's freedom to seek, to receive and to impart information of any kind, which aims at promoting his or her social, spiritual and moral welfare, his or her physical and mental health, in any form and by any means available, is inviolable.

(3) The parents or, as the case may be, other legal guardians of the child, the persons who are legally responsible for children, as well as persons who, through the nature of their positions, promote and ensure the observance of the rights of children must provide information, explanations and advice according to the children's age and degree of understanding, as well as allow them to express their own point of view, ideas and opinions.

(4) Parents may not restrict the right of the minor child to freedom of expression, except in the cases expressly stipulated by the law.

**Article 24 – (1)** The child who has the capacity to discern has the right to freely express his or her opinion regarding any matter which involves him or her.

(2) The child has the right to be heard in any judicial or administrative procedure which involves him or her. The hearing of the child who has reached the age of 10 years old is mandatory. Nevertheless, the child who has not reached the age of 10 years old may also be heard, if the competent authority deems it necessary, in order to solve the case.

(3) The right to be heard grants to the child the possibility to request and receive any pertinent information, to be consulted, to express his or her opinion, and to be informed about the consequences which his or her opinion may generate, if observed, as well as about the consequences of any decision involving him or her.

(4) In all cases stipulated under paragraph (2), the child's opinions shall be taken into consideration, according to the age and degree of maturity of the child.

(5) Any child can request to be heard according to the provisions of paragraphs (2) and (3). If his or her request is denied, the competent authority shall issue a motivated decision in this regard.

(6) The special legal provisions regarding the consent or the presence of the child in the procedures which involve him or her, as well as the provisions regarding the appointment of a curator, in case of conflict of interests, are and remain applicable.

**Article 25 – (1)** The child has the right to freedom of thought, conscience and religion.

(2) According to their own convictions, the parents provide guidance to the child on choosing a religion, taking into account the opinion, age and degree of maturity of the child, without having the power to force him or her to join a certain religion or religious cult.

(3) The religion of the child who has reached the age of 14 years old may not be changed without his or her consent; the child who has reached the age of 16 years old has the right to choose a certain religion on his or her own.

(4) When the child is under a special protection measure, the persons who are legally responsible for him or her are forbidden to take any actions which may influence the child's religious beliefs.

**Article 26 – (1)** The child has the right to freedom of association, in formal and informal structures, as well as the right to freedom of peaceful assembly, within the limits stipulated by the law.

(2) The local public administration authorities, the education institutions and other competent public or private institutions take the necessary measures in order to ensure the proper exercise of the rights stipulated under paragraph (1).

**Article 27 – (1)** The child belonging to a national, ethnic, religious or linguistic minority, has the right to have his or her own cultural life, to declare his or her ethnic and religious affiliation, to

practice his or her religion, as well as the right to use his or her own language with other members of the community to which the child belongs.

(2) The National Council for Combating Discrimination ensures and monitors the exercise of the rights stipulated under paragraph (1).

**Article 28 – (1)** The child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishments or to other humiliating or degrading treatments.

(2) Disciplinary measures concerning the child can only be taken in accordance with the child's dignity, and, under no circumstances are physical punishments allowed, or punishments which relate to the child's physical and mental development or which may affect the child's emotional status.

**Article 29 – (1)** The child has the right to file complaints on his or her own regarding the violation of his or her fundamental rights.

(2) The child is informed with regard to his or her rights and on the ways to exercise these rights.

## SECTION 2

### The family environment and the alternative care

**Article 30 – (1)** The child has the right to be brought up together with his or her parents.

(2) The parents must ensure, in the appropriate manner for the developing capacities of the child, the necessary guidance and advice that are needed in order to properly exercise the rights stipulated by the present law.

(3) The child's parents have the right to receive information and specialized assistance that are necessary for upbringing, caring and educating the child.

**Article 31 – (1)** Both parents are responsible for the upbringing of their children.

(2) The exercise of parental rights and the fulfillment of parental duties must take into account the best interests of the child, and secure the material and spiritual welfare of the child, especially by providing care, by maintaining personal relations with the child, by ensuring the upbringing, education and maintenance of the child, as well as by providing legal representation and administrating the child's patrimony.

(3) In the case of disagreements between the parents concerning the exercise of parental rights and the fulfillment of parental duties, after hearing both parents, the court of law rules in accordance with the best interests of the child.

**Article 32 –** The child has the right to be brought up in an environment which would allow the child's physical, mental, spiritual, moral and social development. For this purpose, the parents must:

- a) supervise the child;
- b) cooperate with the child and respect the child's personal and private life and dignity;
- c) inform the child on all acts and deeds which may affect him or her and take into account the child's opinion;
- d) undertake all the necessary measures for the accomplishment of the rights of their children;



- e) cooperate with natural and legal persons which are involved in childcare, education and child professional training.

**Article 33** – The child may not be separated from his or her parents, or from one of the parents, against their will, except in special and limited cases stipulated by the law, under the reserve of judicial revision and only if this is required by the best interests of the child.

**Article 34** – (1) The public social security service shall undertake all the necessary measures for the early identification of risk situations, which may determine the separation of the child from his or her parents, as well as for the prevention of abusive behaviour of the parents and family violence.

(2) Any separation of the child from his or her parents, as well as any restriction in exercising the parental rights must be preceded by the systematic granting of services and assistance stipulated by the law, with a special emphasis on adequately informing the parents, providing counseling, therapy and mediation for them, based on a service plan.

**Article 35** – (1) The service plan is drafted and enforced by the public social security service that is established at the level of municipalities and towns, as well as by the individuals involved in social security issues within the communal local councils in whose administrative and territorial range is located the child, as a result of evaluating the situation of the child and of his or her family.

(2) In Bucharest, the general department for social security and child protection at the level of each sector drafts and enforces the plan stipulated under paragraph (1).

(3) The service plan is approved through a directive issued by the mayor.

(4) The service plan is aimed at preventing the separation of the child from his or her parents. To this end, the public social security service or, as the case may be, the general department for social security and child protection at the level of each Bucharest sector, support the access of the child and of his or her family to services and assistance focused on maintaining the child in the family.

(5) The service plan may result in a request for establishing a special child protection measure filed by the general department for social security and child protection only if, after the services stipulated in this plan have been granted, it is noticed that maintaining the child together with his or her parents is not possible.

**Article 36** – (1) If there are well-founded reasons to suspect that the child's life and security are endangered in the family, the representatives of the public social security service or, as the case may be, the representatives of the general department for social security and child protection at the level of each sector of Bucharest municipality have the right to visit the children at their residence and to gather information on how the children are being cared for, on the children's health and physical development, education and professional training, and may grant, where needed, the necessary advice.

(2) If, following the visits stipulated under paragraph (1) it is noticed that the child's physical, mental, spiritual, moral or social development is endangered, the public social security service must immediately notify the general department for social security and child protection, in view of undertaking the measures stipulated by the law.

(3) The general department for social security and child protection must refer the case to the court of law, in case it considers that the conditions required by the law regarding the partial or complete termination of the parental rights of one or both of the parents are met.

**Article 37** – (1) The general department for social security and child protection shall undertake all necessary measures so that parents who have been deprived of parental rights, as well as those whose rights were restricted, may benefit from specialized assistance, in order to increase their capacity to care for their children, in view of re-gaining the exercise of parental rights.

(2) The parents who request the return of the exercise of parental rights benefit from free legal assistance, in accordance with the law.

**Article 38** – The court of law is the only competent authority which may issue a decree, taking into primary consideration the best interests of the child, concerning:

- a) the person who exercises and fulfils the parental rights and duties, in case the child is deprived, either temporarily or permanently, of the protection of his or her parents;
- b) the ways in which the parental rights and duties are exercised and fulfilled;
- c) the partial or complete termination of the parental rights;
- d) the recovery of the exercise of parental rights.

**Article 39** – (1) Any child who is, either temporarily or definitively, deprived of the care of his or her parents, or who, in order to protect his or her interests, cannot be left in their care, has the right to alternative protection.

(2) The protection stipulated under paragraph (1) includes the establishment of the legal guardianship, the special protection measures stipulated under the present law, and the adoption. When choosing one of these solutions, the competent authority shall appropriately take into account the need to ensure a certain continuity in the child's education, as well as his or her ethnical, religious, cultural and linguistic background.

**Article 40** – (1) The legal guardianship is established when both parents are deceased, unknown, deprived of the exercise of parental rights or were enforced the penalty of denial of parental rights, placed under interdiction, declared dead or missing by a court of law, as well as when, upon the termination of the adoption, the court of law rules that establishing a legal guardianship is in the best interests of the child.

(2) The legal guardianship is established in accordance with the law by the court of law in whose territorial range is located the child's domicile or in whose territorial range the child has been found.

**Article 41** – (1) The legal guardianship may be entrusted to natural persons or jointly to the husband and wife who have the domicile in Romania and who are in none of the incompatibility situations stipulated by the law.

(2) The natural person or the family who are to become legal guardians must be evaluated by the general department for social security and child protection with regard to the moral warranties and the material conditions which they have to meet in order to receive a child in placement. The evaluation is conducted by the general department for social security and child protection in whose territorial range is located the domicile of the natural person or family, and the members of the child's extended family are given priority.

**Article 42** – (1) The court of law gives priority in appointing as legal guardian, if no justified reasons are opposing this decision, a relative or a friend of the child's family, who is capable of fulfilling this task.

(2) The natural person, or the couple, respectively, who are to become legal guardians, are appointed based on the presentation of the report concerning their assessment made by the general department for social security and child protection. The proposal shall be made taking into account the personal relations, the proximity of the domiciles, as well as the child's opinion.

### SECTION 3

#### The health and welfare of the child

**Article 43 - (1)** The child has the right to enjoy the highest attainable standard of health and to benefit from the medical and rehabilitation services which are necessary in order to ensure the effective realization of this right.

**(2)** The child's access to medical and rehabilitation services, as well as to medication which is adequate to his or her condition in case of illness, is guaranteed by the state, and the costs are covered by the National social health insurance fund and by the state budget.

**(3)** The specialized institutions of the central public administration, the local public administration authorities, as well as any other public or private healthcare institutions, must undertake, in accordance with the law, all the necessary measures in order to:

- a) diminish infant mortality;
- b) ensure and develop primary and community healthcare services;
- c) prevent disease and malnutrition;
- d) ensure healthcare services for the pregnant woman during the pre- and post-natal period, regardless of whether the person is or not registered in the social health insurance system;
- e) inform the parents and the children on issues concerning child health and nutrition, including issues concerning the advantages of breastfeeding, hygiene and environmental sanitation;
- f) develop actions and programs focusing on healthcare protection and the prevention of disease, on the assistance of parents and on education, as well as family planning services;
- g) periodically verify the treatment received by children who were placed in order to receive care, protection or treatment;
- h) ensure the confidentiality of the medical examination provided to the child, upon his or her request;
- i) systematically conduct educational programs in education institutions, including programs aimed at the sexual education of children, in order to prevent sexually transmitted diseases and unwanted pregnancies in minor girls.

**(4)** The parents have the duty to request medical care, in order to ensure that the child has the best attainable health standard and to prevent situations which may endanger the life, growth and development of the child.

**(5)** In an exceptional situation, when the child's life is in imminent danger or there is a risk of serious consequences with regard to the child's health or physical integrity, the physician has the right to conduct those medical acts of immediate necessity for saving the child's life, even without having the consent of the parents or of a person who is legally responsible for the child.

**(6)** The periodical visits of the specialized healthcare staff at the residence of pregnant women and children until they reach the age of one year old are mandatory, in order to protect the health of the mother and child, to provide healthcare education, to prevent child abandonment, child abuse or neglect.

**Article 44 – (1)** The child has the right to a living standard which would enable his or her physical, mental, spiritual, moral and social development.

**(2)** The parents or, as the case may be, other legal representatives have the primary responsibility to ensure, as much as they possibly can, the best living conditions necessary for the raising and development of the children; the parents must provide accommodation for the children, as well as the necessary conditions for their raising, education, learning, and professional training.

**Article 45 – (1)** The child has the right to receive social security and social insurances, according to the resources and the situation of the child and of the people who have responsibility for the maintenance of the child.

**(2)** In case the parents or the persons who, according to the law, have the responsibility to maintain the child, cannot meet, for reasons which are independent of their own will, the child's minimal needs for housing, food, clothes and education, the state, through the competent public

authorities, must provide them appropriate support, in the form of financial aid, benefits in kind, as well as other services, in accordance with the law.

(3) The parents must request to the competent authorities to grant them allowances, indemnities, benefits in cash or in kind, as well as other facilities stipulated by the law for children or for families with children.

(4) The local public administration authorities must inform the parents and the children about the rights which they have, as well as on how they can be granted the social security and social insurance rights.

**Article 46** – (1) The disabled child has the right to special care, which is adapted to his or her needs.

(2) The disabled child has the right to education, rehabilitation, compensation and integration, which are adapted to his or her own abilities, for his or her individual development.

(3) The special care must secure the physical, mental, spiritual, moral or social development of the disabled children. The special care is represented by support which is appropriate to the situation of the child and the parents, or, as the case may be, of others who are responsible for the child's care, and which is granted free of charge, whenever this is possible, in order to facilitate the effective and non-discriminatory access of disabled children to education, professional training, medical healthcare, rehabilitation services, preparation for employment, leisure activities, as well as any other activities which may allow the child's fullest possible social integration and individual development.

(4) The specialized institutions of the central public administration and the local public administration authorities must initiate programs and ensure the resources needed to develop services aiming at satisfying the needs of disabled children and of their families, in conditions which would guarantee their dignity, enable their autonomy and facilitate their active participation to community life.

## SECTION 4

### Education, leisure and cultural activities

**Article 47** – (1) The child has the right to receive an education which would allow him or her to develop his or her abilities and personality, in non-discriminatory conditions.

(2) The child's parents have priority in choosing the type of education which the child is to receive, and must enroll the child in school, and ensure the child's regular attendance of the classes.

(3) The child who has reached the age of 14 years old may request the approval of a court of law to change the type of education and professional training that he or she is receiving.

**Article 48** – (1) The Ministry of Education and Research, as a specialized institution of the central public authority, as well as the school inspectorates and the education institutions, as establishments of the local public administration with attributions in the field of education, must undertake all measures that are necessary for:

a) facilitating the access to pre-school education and providing regular obligatory tax-free education for all children;

b) developing education programs for young parents, including education programs aimed at the prevention of family violence;

c) organizing special training courses for children who cannot meet the demands of the national curriculum, in order to prevent their early employment;

d) organizing special training courses for children who have dropped out of school, in order to re-integrate them in the national education system;

- e) observing the child's right to leisure and resting time, as well as the right to freely participate in cultural and artistic activities;
- f) preventing school drop out for economic reasons, by undertaking active measures to provide social services within the school environment, such as food, stationery, transportation, and others.
- (2) During the teaching and educational process, the child has the right to be treated with respect by the teachers, to be informed on his or her rights, as well as on the methods of exercising these rights. Physical punishments during the educational process are forbidden.
- (3) The child himself or, as the case may be, represented or assisted by a person who is legally responsible for him or her, has the right to appeal against the evaluation criteria and results and to address the management of the education institution on this matter, in accordance with the law.
- (4) The teachers have the duty to inform the public social security service or, as the case may be, the general department for social security and child protection about all cases of child mistreatment, abuse or neglect.

**Article 49 – (1)** The child has the right to rest and leisure.

(2) The child must have sufficient time for rest and leisure, to engage freely in recreational activities appropriate to his or her age and to participate in the cultural, artistic and sports activities of the community. The public authorities must contribute to the provision of the conditions that are needed in exercising this right, in accordance with their responsibilities, in conditions of equality.

(3) The public authorities must provide, according to their responsibilities, sufficient and adequate playgrounds for the children, especially in the case of intensely populated areas.

### **CHAPTER III**

The special protection of the child who is temporarily or definitively deprived of the protection of his or her parents

#### **SECTION 1**

Joint provisions

**Article 50 –** The special child protection is made up by the all measures, assistance and services aimed at the care and development of the child who is deprived, either temporarily or definitively, of the protection of his or her parents, or of the child who, in view of protecting his or her best interests, cannot be placed in the care of his or her parents.

**Article 51 – (1)** The child receives the special protection stipulated by the present law, until reaching the full capacity to exercise his or her rights.

(2) Upon the request of the youngster, which is expressed following acquirement of full capacity to exercise his or her rights, if the youngster continues his or her studies in the regular, mass education system, the special protection is granted, according to the law, for the entire duration of his or her studies, but without exceeding the age of 26 years old.

(3) The youngster who has acquired full capacity to exercise his or her rights and has benefited from a special protection measure, but who is not continuing his or her studies and does not have the opportunity to return to the family, being confronted with the risk of social exclusion, receives special protection upon request for a period of maximum 2 years, for the purpose of facilitating his or her social integration. In case proof is made of the fact that the youngster has been offered a job and / or accommodation and that he or she has successively turned the offer

down or has been deprived of them by his or her own fault, the provisions of the current paragraph are no longer applicable.

**Article 52** – The special protection services are those listed under Articles 108 - 110.

**Article 53** – (1) The special child protection measures are established and enforced based on the individualized protection plan.

(2) The plan stipulated under paragraph (1) is drafted and revised according to the methodological norms elaborated and approved by the National Authority for the Protection of the Rights of the Child.

(3) The special child protection measures for the child who has reached the age of 14 years old are established only with the child's consent. In case the child refuses to give his or her consent, the protection measures are established only by the court of law which, under strongly motivated circumstances, may overlook the child's refusal to express his or her consent for the proposed measure.

**Article 54** – (1) The general department for social security and child protection must draft the individualized protection plan immediately after receiving the request to enforce a special protection measure or immediately after the director of the general department for social security and child protection has decided on the emergency placement of the child.

(2) In the case of the child for whom a legal guardian has been appointed, the provisions of paragraph (1) are not applicable.

(3) Upon establishing the objectives of the individualized protection plan, special priority is given to the re-integration of the child in the family or, if this is not possible, the placement of the child in the extended family. The plan's objectives are established by obligatorily consulting the parents and the members of the extended family who have been identified.

(4) The individualized protection plan may stipulate the placement of the child in a residential type of service, only if no legal guardianship could be established or no placement with the extended family, with a maternal assistant or with another person or family could be achieved, in accordance with the present law.

**Article 55** – The special child protection measures are:

- a) placement;
- b) emergency placement;
- c) specialized supervision.

**Article 56** – The beneficiaries of the special child protection measures established by the present law are:

- a) the child whose parents are deceased, unknown, deprived of the exercise of parental rights or have been enforced the penalty of denial of parental rights, placed under interdiction, declared dead or missing by a court of law and for whom no legal guardianship could be established;
- b) the child who, in view of protecting his or her best interests, cannot be left in the care of the parents, for reasons for which the parents cannot be held accountable;
- c) the abused or neglected child;
- d) the foundling or the child who has been abandoned by the mother in a hospital ward;
- e) the child who has committed an act stipulated by the criminal law and who is not criminally liable.

**Article 57** – The parents, as well as the child who has reached the age of 14 years old have the right to appeal in a court of law the special child protection measures established by the present law, and they have the right to receive free legal assistance, in accordance with the law.

## SECTION 2

### Placement

**Article 58 – (1)** The placement of the child represents a temporary special child protection measure, which, in accordance with the present law and by case, may be decided, as follows:

- a) with a person or family;
- b) with a maternal assistant;
- c) in a residential service, stipulated under Article 110, paragraph (2) and licensed in accordance with the law.

**(2)** The person or family who is legally responsible for the placed child must have residence in Romania and must be evaluated by the general department for social security and child protection with regard to the moral warranties and the material conditions that have to be fulfilled, in order to receive a child in placement.

**Article 59** – Throughout the entire duration of the placement measure, the domicile of the child is, as the case may be, the same with that of the person, family, maternal assistant or the residential service who is legally responsible for the child.

**Article 60 – (1)** The placement of the child who has not reached the age of 2 years old may only be decided with the extended or substitute family and it is forbidden to place him or her in a residential service.

**(2)** As an exception to the provisions stipulated under paragraph (1), the placement in a residential service of the child who has not reached the age of 2 years old may only occur in the case in which the child has severe disability and is dependent on specialized residential care services.

**(3)** The following issues shall be targeted when establishing the placement measure:

- a) giving priority to the placement of the child in the extended or the substitute family;
- b) placing the siblings together;
- c) facilitating the parents' opportunity to exercise the right to visit the child and to maintain personal relations with the child.

**Article 61 – (1)** The placement measure is decided by the child protection commission, if the consent of the parents has been granted, for the situations stipulated under article 56, points b) and e).

**(2)** The placement measure is decided by the court of law, upon the request of the general department for social security and child protection:

- a) for the child who is in the situation stipulated under Article 56, point a), as well as for the child who is in the situation stipulated under Article 56, points c) and d), if it is necessary to replace the emergency placement measure decided by the general department for social security and child protection;
- b) for the child who is in the situation stipulated under Article 56, points b) and e), when the consent of the parents or, as the case may be, of one of the parents has not been granted for enforcing this measure.

**Article 62 – (1)** The parental rights and duties towards the child are maintained throughout the duration of the placement decided by the child protection commission.

**(2)** The parental rights and duties towards a child for whom a legal guardian could not be appointed and for whom the court of law has decided the placement measure are exercised and, respectively, fulfilled by the president of the county council, and by the Bucharest sector mayor, respectively.

(3) As an exception to the provisions stipulated under paragraph (2), the parents who have been deprived of their parental rights, as well as those who were enforced the penalty of interdiction of parental rights, still maintain the right to consent to the adoption of their child.

(4) The method of exercising the parental rights and fulfilling the parental duties regarding the person and the assets of the child who is in the situation stipulated under Article 56, points c) and d) and, respectively, Article 56, points b) and e) is decided by the court of law.

**Article 63** – The child protection commission or, as the case may be, the court of law which has decided the placement of the child, shall also determine the amount of the monthly contribution which the parents must make for the maintenance of the child, in accordance with the conditions stipulated by the Family Code. The amounts thus collected represent an income to the county budget and, respectively, to the budget of the Bucharest sector where the child is coming from.

### SECTION 3

#### Emergency placement

**Article 64** – (1) The emergency placement of the child is a temporary special child protection measure, which is undertaken in the situation of the abused or neglected child, as well as in the situation of the foundling or of the child abandoned in healthcare institutions.

(2) The provisions stipulated under Article 58 - 60 are properly enforced.

(3) Throughout the entire duration of the emergency placement, the exercise of parental rights is suspended *de jure*, until the court of law rules on maintaining or replacing this measure and on the exercise of parental rights. Throughout the suspension period, the parental rights and duties towards the child are exercised and fulfilled respectively, by the person, family, maternal assistant or by the head of the residential service that has received the child in emergency placement, and those regarding the assets of the child are exercised and fulfilled, respectively, by the president of the county council or by the Bucharest sector mayor.

**Article 65** – (1) The emergency placement measure is decided by the director of the general department for social security and child protection from the administrative – territorial unit where the foundling or the child abandoned by the mother in a hospital ward or the abused or neglected child is located, in case there is no opposition from the representatives of the legal persons, or from the natural persons who take care of the respective child and ensure the child's protection.

(2) The emergency placement measure is decided by the court in accordance with the provisions stipulated under Article 94, paragraph (3).

**Article 66** – (1) In the case of the emergency placement measure decided by the general department for social security and child protection, the department has the duty to inform the court of law within 48 hours from the date when this measure was decided.

(2) The court of law shall analyze the reasons based on which the general department for social security and child protection adopted the measure and shall rule on either maintaining the emergency placement or replacing it with the placement measure, on the establishment of the legal guardianship, or on the re-integration of the child in his or her family. The court of law must also rule on the exercise of parental rights.

(3) If the emergency placement is decided by the court, the court shall rule in accordance with Article 94, paragraph (4).

### SECTION 4

#### Specialized supervision

Unofficial translation



**Article 67 – (1)** The specialized supervision measure is decided, in accordance with the present law, for the child who has committed a criminal act and who is not criminally liable.

**(2)** In case the parents or the legal guardian have granted their agreement, the specialized supervision measure is decided by the child protection commission, and in the absence of this agreement, by the court of law.

## **SECTION 5**

### Monitoring the enforcement of the special child protection measures

**Article 68 – (1)** The circumstances which led to the establishment of the special child protection measures, which were decided by the child protection commission or by the court of law, must be verified on a quarterly basis by the general department for social security and child protection.

**(2)** In case the circumstances stipulated under paragraph (1) have changed, the general department for social security and child protection must immediately notify the child protection commission or, as the case may be, the court of law, in order to change or terminate the measure.

**(3)** The parents or another legal representative of the child, as well as the child, have the right of notification stipulated under paragraph (2).

**Article 69 – (1)** The general department for social security and child protection or, as the case may be, the authorized private institution, must monitor the way in which the special child protection measures are enforced, the development and the care provided to the child throughout the entire duration of the measure.

**(2)** In fulfilling the duty stipulated under paragraph (1) the general department for social security and child protection or, as the case may be, the authorized private institution drafts reports concerning the evolution of the child's physical, mental, spiritual, moral or social development and the way in which the child is taken care of, either quarterly or every time there is a situation which requires this.

**(3)** If, based on the report drafted according to paragraph (2), it is noticed that there is a need to change or, as the case may be, to terminate the measure, the general department for social security and child protection must immediately notify the child protection commission or, as the case may be, the court of law.

**Article 70 –** When the special child protection measures cease as a result of the re-integration of the child in his or her family, the public social security services which is established at the level of cities and towns, the persons who are involved in providing social security services within the communal local councils, as well as the general department for social security and child protection, in the case of the Bucharest sectors, in whose territorial range is located the domicile or, as the case may be, the residence of the parents, must monitor the evolution of the child's development, as well as the way in which the parents are exercising their rights and fulfilling their duties towards the child. To this end, they draft monthly reports for a period of minimum 3 months.

**Article 71 –** The child who was subject to a special child protection measure has the right to maintain personal relations with other persons, if these persons do not have a negative influence on his or her physical, mental, spiritual, moral or social development.

## **CHAPTER IV**

### The protection of refugee children and the protection of children in case of armed conflict

**Article 72 – (1)** The children who request a refugee status, as well as those who have obtained this status, receive the protection and humanitarian assistance which are appropriate for the realization of their rights.

**(2)** The children referred to under paragraph (1) receive one of the forms of protection stipulated by the Government ordinance no. 102 / 2000, on the status and treatment of refugees in Romania, approved through Law no. 323 / 2001, with subsequent amendments and additions.

**Article 73 – (1)** In case the child who requests the refugee status is not accompanied by the parents or by another legal representative, the protection of the child's interests during the procedure for granting the refugee status is provided by the general department for social security and child protection in whose administrative and territorial range is located the territorial institution of the Ministry of Administration and Internal Affairs where the petition shall be filed.

**(2)** The petition for granting the refugee status to the child who is in the situation stipulated under paragraph (1) is analyzed with priority.

**(3)** In order to adequately protect the interests of the child referred to under paragraph (1), the general department for social security and child protection appoints a persons with a graduate degree in law or social work from its own staff or from the staff of an authorized private institution, who would protect the rights of the child and would participate together with the child in the entire procedure for granting the refugee status.

**(4)** In case it is noticed that the person appointed by the general department for social security and child protection fails to appropriately fulfill the duty to protect the interests of the child or shows ill-faith in fulfilling this duty, the National Office for Refugees may request the general department for social security and child protection to replace this person.

**Article 74 – (1)** Until a final and irreversible decision is reached for the petition to receive the refugee status, the accommodation of the children referred to under Article 73 is achieved by means of a residential service stipulated by the present law, which belongs either to the general department for social security and child protection or to an authorized private institution.

**(2)** Children who have reached the age of 16 years old may also be accommodated in the centers that are in the subordination of the National Office for Refugees.

**(3)** The children referred to under paragraph (1), who have been granted the refugee status, receive the special child protection measure for the child who is deprived of the protection of his or her parents, either temporarily or definitively, which is stipulated by the present law.

**Article 75 – (1)** In case the petition of the child referred to under Article 72 to be granted the refugee status is denied through a final and irreversible court decision, the general department for social security and child protection informs the Authority for Foreigners and requests the court of law to decide on the placement of the child in a special child protection service.

**(2)** The placement measure lasts until the child returns to the residence country of his or her parents, or to the country where other members of the family, who are willing to take the child, have been identified.

**Article 76 – (1)** The children who are affected by armed conflicts receive protection and assistance in accordance with the present law.

**(2)** In case of armed conflicts, the state institutions take the necessary measures in order to develop special mechanisms which are aimed at monitoring the measures adopted for protecting the child's rights.

**Article 77** – No child shall be used as a spy, guide or courier during armed conflicts.

**Article 78 – (1)** In the case of an armed conflict, the National Authority for the Protection of the Rights of the Child, in cooperation with the Ministry of Administration and Interior, the Ministry of National Defense, as well as other institutions with specific responsibilities must initiate and implement strategies and programs, including at the family and community level, in order to ensure the discharge of children soldiers and to remedy the physical and psychological effects of the conflicts upon the child and to promote the social re-integration of the child, respectively.

**(2)** The central public administration institutions referred to under paragraph (1), in cooperation with the National Agency for Employment and the Ministry of Education and Research shall promote appropriate measures in order to:

- a) educate in the spirit of understanding, solidarity and peace, as a general and continuous process in conflict prevention;
- b) educate and prepare discharged children for an active and responsible social life.

**Article 79 – (1)** In any county or sector of Bucharest, the president of the county council or, as the case may be, the mayor of the respective Bucharest sector must forward to the general department for social security and child protection, within 24 hours from the initiation of an armed conflict, a complete list of all children located on the territory of the respective administrative and territorial department, in view of monitoring their situation.

**(2)** The infrastructure which is aimed at the protection and promotion of the rights of the child shall not be used for military purposes.

**(3)** In the case of evacuation missions conducted as a result of armed conflicts, children shall be given priority. The general department for social security and child protection, in cooperation with the civil protection service, shall take the necessary measures in order to ensure the surveillance of children who are being evacuated by persons who can assume the responsibility of protecting and providing security for them. As often as possible, the members of the same family shall be housed together.

## **CHAPTER V**

The protection of the child who has committed a criminal act and is not criminally liable

**Article 80 – (1)** One of the measures stipulated under Article 55, points a) and c) shall be undertaken for the child who has committed an act stipulated by the criminal law, and who is not criminally liable, based on a proposal submitted by the general department for social security and child protection in whose administrative-territorial range is located the child.

**(2)** When establishing one of the measures stipulated under Article 55, points a) and c), the Child Protection Commission, in case the parents or the person who is legally responsible for the child have expressed their agreement, or, as the case may be, the court of law, in case this agreement hasn't been expressed, shall take into account the following:

- a) the conditions which facilitated the commitment of the act;
- b) the degree of social danger of the act committed;
- c) the environment in which the child has been raised and has lived;
- d) the risk that the child may commit a second offence stipulated by the criminal law;
- e) any other elements which may describe the situation of the child.

**Article 81 – (1)** The specialized supervision measure is enforced by maintaining the child within his or her family, on condition of observing certain duties, such as:

- a) regularly attending school;
- b) using the day-care services;
- c) undergoing medical, counseling and psycho-therapy treatments;
- d) interdiction to go to certain places or to maintain relations with certain persons.

(2) In case it is not possible to maintain the child within the family, or when the child does not fulfill the duties established through the specialized supervision measure, the child protection commission or, as the case may be, the court of law, according to the distinctions stipulated under Article 80, paragraph (2), may decide the placement of the child in the extended or substitute family, as well as request that the child fulfils the duties stipulated under paragraph (1).

**Article 82** – In case the act stipulated by the criminal law, which was committed by the child who is not criminally liable, presents an increased risk of social danger, as well as in case when the child who was subject to the measures stipulated under Article 81, commits second offences, the child protection commission, or, as the case may be, the court of law may decide, for a determined period of time, the placement of the child in a specialized residential service.

**Article 83** – It is forbidden to publicize any information concerning a criminal act committed by the child who is not criminally liable, including personal data concerning the child.

**Article 84** – (1) Throughout the duration of the measures enforced upon the child who has committed criminal acts and who is not criminally liable, specialized services shall be provided, in order to assist the children in the social re-integration process.

(2) The types of specialized services referred to under paragraph (1) as well as the standards concerning the method of providing these services are approved through a Government decision.

## CHAPTER VI

### The protection of the child against exploitation

**Article 85** – (1) The child has the right to be protected against any forms of violence, abuse, maltreatment or neglect.

(2) Any natural or legal person, as well as the child, can notify the authorities empowered by law to take the appropriate measures, in order to protect the child against any forms of violence, including sexual violence, harm or physical or mental abuse, maltreatment or exploitation, abandonment or neglect.

(3) The staff of the public or private institutions who come into contact with the child through the nature of their profession and have suspicions concerning a potential case of child abuse, neglect or maltreatment, must urgently notify the general department for social security and child protection.

**Article 86** – (1) The child's parents or, as the case may be, any other legal representative of the child, the public authorities and private institutions must take all the appropriate measures in order to facilitate the physical and mental rehabilitation and the social re-integration of any child who has been the victim of any form of child neglect, exploitation or abuse, torture, cruel, inhuman or degrading punishments or treatments.

(2) The persons referred to under paragraph (1) shall provide the necessary conditions so that the re-adjustment and re-integration of the child should have as primary consideration the child's health, self-respect and dignity.

## SECTION 1

### The protection of the child against economic exploitation

**Article 87 – (1)** The child has the right to be protected against exploitation and cannot be forced to perform any work with a potential risk and which is likely to compromise the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

**(2)** Any practice through which a child is given away by one or both parents or by his / her legal representative, in exchange or not for a reward, with the purpose of exploiting the child or his / her work, is forbidden.

**(3)** In situations when school-age children avoid the educational process and conduct various types of activities in violation of the law, the education institutions must immediately notify the public social security service. In the event of such situations, the public social security service, together with the county school inspectorates and the other competent public institutions must undertake measures in view of the educational re-integration of the child.

**(4)** The Labor Inspection in cooperation with the National Authority for the Protection of the Rights of the Child must promote awareness and information campaigns targeted on:

- a) the children – focusing on the protection measures they can receive and on the risks involved by economic exploitation;
- b) the general public – which include parental education and training activities for the professionals who are working with and for children, in order to help them provide real protection for the children against economic exploitation;
- c) the employers and potential employers.

## **SECTION 2**

### The protection of the child against drug consumption

**Article 88 – (1)** The child has the right to be protected against the illegal use of drugs and psychotropic substances.

**(2)** It is forbidden to sell solvents to children, without the consent of the parent or of another legal representative.

**(3)** The National Anti-Drug Agency, in cooperation with the National Authority for the Protection of the Rights of the Child, and, as the case may be, with other central public administration authorities or specialized institutions, must take the appropriate measures in order to:

- a) prevent the involvement of children in the illegal production and trafficking of these substances;
- b) increase the public awareness and especially the awareness of children concerning this issue, including through the education system and, as the case may be, by introducing this topic in the school curriculum;
- c) support the children and their families through counseling and guidance – of a confidential nature, if necessary – but also through the elaboration of policies and strategies which guarantee the physical and mental rehabilitation and the social re-integration of the drug addicted children, including by developing, for this purpose, methods of alternative intervention to the traditional psychiatric institutions;
- d) further develop the data collection systems, in order to gather real data on the occurrence of the drug abuse in children, as well as on the involvement of children in the illegal production and trafficking of drugs; conduct an ongoing assessment of these situations, of the progress made, of the difficulties encountered, and of the future objectives, respectively;
- e) develop a public information system which should lower the tolerance level on drug consumption and should help identify the first symptoms of drug consumption, especially in the case of children.

(4) The institutions referred to under paragraph (3) shall make sure that the children's opinions are taken into account when elaborating the anti-drug strategies.

### SECTION 3

#### The protection of the child against abuse or neglect

**Article 89** – (1) Child abuse means any voluntary action of a person who has a relation of responsibility, trust or authority towards the child, through which the life, the normal physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child are endangered.

(2) Child neglect means the omission, either voluntary or involuntary, of a person who is responsible for upbringing, caring for and educating the child, to undertake any measure which is subordinated to this responsibility, and which results in endangerment of the physical, mental, spiritual, moral and social development, the bodily integrity and the physical and mental health of the child.

**Article 90** – It is forbidden to enforce physical punishments of any kind or to deprive the child of his or her rights, which may result in the endangerment of the life, the physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child, both within the family, as well as in any institution which ensures the protection, care and education of children.

**Article 91** – (1) Any person who, through the nature of his or her profession, works directly with a child and has suspicions concerning the existence of a case of child abuse or neglect, must notify the public social security service or the general department for social security and child protection in whose territorial range was identified the respective case.

(2) For the notification of the cases of child abuse or neglect, at the level of each general department for social security and child protection, a “child telephone point” shall be established, and the number should be widely publicized.

**Article 92** – In view of providing special protection for the abused or neglected child, the general department for social security and child protection shall:

- a) verify and provide a solution for all notifications concerning child abuse and neglect cases, including those coming from family social workers;
- b) provide the services stipulated under Article 107, which specialize in addressing the needs of children victims of abuse and neglect and their families.

**Article 93** – In order to verify the notifications concerning cases of child abuse and neglect, the representatives of the general department for social security and child protection have the right to gain access, according to the law, to the headquarters of the legal persons, as well as to the domicile of the natural persons who are legally responsible or provide child protection. In order to conduct these verifications, the police must support the representatives of the general department for social security and child protection.

**Article 94** – (1) The representatives of the legal persons, as well as the natural persons who are legally responsible or provide child protection must cooperate with the representatives of the general department for social security and child protection and offer them all necessary information for addressing the situations.

(2) In case when, following the verifications, the representatives of the general department for social security and child protection reach the conclusion that there are sound reasons to support the existence of an imminent dangerous situation for the child, as a result of child abuse and

neglect, and they do not face any opposition from the persons referred to under paragraph (1), the director of the general department for social security and child protection shall establish the emergency placement measure. The provisions stipulated under Articles 58 - 60, Article 64, paragraph (3) and Article 66 are properly enforced.

(3) In case the persons referred to under paragraph (1) refuse or prevent in any way the representatives of the general department for social security and child protection to conduct the verifications, and it is established that there are sound reasons to support the existence of an imminent, as a result of child abuse and neglect, the general department for social security and child protection notifies the court of law, requesting the issuance of a presidential ordinance for the emergency placement of the child with a person, family, maternal assistant or in a residential service, which is licensed in accordance with the law. The provisions stipulated under Articles 58 – 60 and Article 64, paragraph (3) are properly enforced.

(4) Within 48 hours from the date of executing the presidential ordinance through which the emergency placement measure was established, the general department for social security and child protection notifies the court of law, requesting it to issue a decree ruling on: the replacement of the emergency placement with a placement measure, the partial or complete termination of parental rights, as well as on the exercise of parental rights.

**Article 95 – (1)** During the process mentioned under Article 94, paragraphs (3) and (4), the written statement of the child concerning the abuse or neglect situation to which he or she was subjected, may be administered ex-officio as evidence. The child’s statement may be recorded, according to the law, through technical audio-visual methods. The recordings are made obligatorily with the assistance of a psychologist.

(2) The child’s consent is mandatory for the recording of his or her statement.

(3) If the court of law deems necessary, it may subpoena the child in order to conduct a hearing. The hearing only takes place in the council chamber, in the presence of a psychologist and only subsequent to an initial preparation of the child in this regard.

**Article 96 –** In case the child abuse or neglect were committed by persons who, based on a legal working contract or another type of contract, were providing the protection, upbringing, care and education of the child, the employers of these persons must notify immediately the criminal investigation authorities and must separate the respective persons from the children who are in their care.

**Article 97 –** It is forbidden to employ a person against whom a final and irreversible court decree has been issued for intentionally committing a crime, in the public or private institutions, as well as in the public or private residential services, which provide the protection, upbringing, care or education of children.

#### **SECTION 4**

The protection of the child against kidnapping and any form of trafficking

**Article 98 – (1)** The Ministry of the Administration and Interior and the National Authority for the Protection of the Rights of the Child, in cooperation with the Ministry of Education and Research, shall undertake the necessary steps in order to adopt all legal, administrative and educational measures that are destined to ensure the efficient protection against any forms of internal or international child trafficking, for any purpose or in any form, including by the child’s own parents.

(2) For this purpose, the public authorities referred to under paragraph (1) have the responsibility to elaborate a strategy at a national level for the prevention and eradication of this phenomenon,

including an internal mechanism for coordinating and monitoring the already accomplished activities.

## **SECTION 5**

### The protection of the child against other forms of exploitation

**Article 99 – (1)** The child has the right to be protected against any form of exploitation.

**(2)** The public authorities and institutions, according to their responsibilities, adopt specific regulations and enforce adequate measures in order to prevent, among others:

- a) the illegal transfer and the failure of returning of the child;
- b) the conclusion of adoptions, either national or international, for any other purposes than the best interests of the child;
- c) sexual exploitation and sexual violence;
- d) the kidnapping and trafficking of children, for any purpose and in any form;
- e) the involvement of children in armed conflicts;
- f) the forced development of children's abilities to the detriment of their harmonious physical and mental development;
- g) the exploitation of the children by the media;
- h) the exploitation of children as part of scientific researches or experiments.

## **CHAPTER VII**

### Institutions and services with responsibilities in the field of child protection

## **SECTION 1**

### Central institutions

**Article 100** – The monitoring of the observance of the principles and rights established by the present law and by the UN Convention on the Rights of the Child, ratified by Romania through Law no. 18 / 1990, republished, as well as the coordination and control of the child rights protection and promotion activities, are conducted by the National Authority for the Protection of the Rights of the Child, as a specialized institution of the central public administration, with legal personality, and which is subordinated to the Ministry of Labor, Social Solidarity and Family.

**Article 101** – The defense of the rights and freedoms of the child in his or her relations with the public authorities, for the purpose of promoting and improving the condition of the child, is achieved through the Office of the Ombudsman.

## **SECTION 2**

### Local institutions and services

**Article 102** – The local public administration authorities must guarantee and promote the observance of the rights of the children in their administrative - territorial establishments, by preventing the child's separation from his or her parents, as well as the special protection of the child who is deprived, either temporarily or definitively, of the care of his or her parents.



**Article 103 – (1)** The local public administration authorities must involve the local community in the process of identifying the needs of the community and solving at the local level the social issues involving children.

**(2)** Consultative community structures can be created for this purpose, which may include, but which are not limited to, local businessmen, priests, teachers, doctors, local counselors and police officers. The role of these structures is both to solve concrete cases and to meet the global needs of the respective community.

**(3)** The mandate of the consultative community structures is established through documents issued by the local public administration authorities.

**(4)** The consultative community structures shall benefit from social work and child protection training programs, in order to fulfill the role for which they have been created.

**Article 104 – (1)** The child protection commission operates under the subordination of the county council, and, respectively, of the local councils of the Bucharest sectors, as the specialized institution of these authorities, without legal personality, and having the following responsibilities:

- a) determining the degree of disability and the educational orientation of the child;
- b) making decisions, in accordance with the present law, on the proposals regarding the establishment of special child protection measures;
- c) addressing the petitions concerning the issuance of the maternal assistant certificate;
- d) other responsibilities, as stipulated by the law.

**(2)** The organization and operating methodology of the child protection commission is regulated through a Government decision.

**Article 105 – (1)** The specialized child protection public service, which operates under the subordination of the county councils and the local councils of the Bucharest sectors, respectively, as well as the public social security service which operates at the level of the counties and of the Bucharest sectors, are re-organized in order to create the general department for social security and child protection.

**(2)** The general department for social security and child protection is a public institution with legal personality, established under the subordination of the county council, or of the local council of the Bucharest sectors respectively, which takes over, in an appropriate way, the responsibilities of the public social security service at the level of the county, and of the public social security service at the level of the Bucharest sectors, respectively.

**(3)** The institution referred to under paragraph (2) has, in the field of child rights protection, the responsibilities stipulated by the present law, as well as by other legal acts that are currently in force.

**(4)** The organizational structure, the number of persons in its staff and the financial support of the general department for social security and child protection is approved through a decision of the county council or of the local council of the Bucharest sector, respectively, which establishes it, in such a way as to ensure the appropriate achievement of their responsibilities, as well as the full realization and the effective exercise of the rights of the child.

**(5)** The responsibilities and the framework-regulation concerning the organization and operation of the general department for social security and child protection are approved through a Government decision, based on a proposal made by the Ministry of Labor, Social Solidarity and Family.

**Article 106 – (1)** The public social security services organized at the levels of municipalities and towns, as well as the persons with responsibilities in the field of social security within the communal local councils, have the following responsibilities in the field of child protection:

- a) monitor and analyze the situation of the children located in their administrative - territorial range, as well as the enforcement of the rights of these children, by providing the centralization and synthesis of the relevant data and information;

- b) conduct the activity aimed at the prevention of the child's separation from his or her family;
- c) identify and evaluate the situations which call for services and / or financial assistance for the prevention of the child's separation from his or her family;
- d) draft the documentation which is necessary for providing services and / or financial assistance and grant these services and / or assistance, in accordance with the law;
- e) offer counseling and information for families who provide maintenance for children, on their rights and duties, on the rights of the child and on the services available at the local level;
- f) provide and monitor the enforcement of the prevention and eradication measures against the alcohol and drug consumption, family violence, as well as delinquent behaviour;
- g) pay regular visits to the domiciles of families and children who benefit from services and financial assistance;
- h) forward proposals to the mayor, in case it is necessary to undertake a special protection measure, in accordance with the law;
- i) monitor the evolution of the child's development, and the way in which the parents are exercising their rights and fulfilling their duties towards the child who has benefited from a special child protection measure, and was re-integrated in his or her family;
- j) cooperate with the general department for social security and child protection in the filed of child protection, and provide it all the requested information and data in this field.

(2) At the level of the Bucharest sectors, the responsibilities stipulated under paragraph (1) are carried out by the general department for social security and child protection.

**Article 107 – (1)** In order to prevent the child's separation from his or her parents, as well as in order to provide special protection for the child who has been separated, either temporarily or definitively, from his or her parents, the following types of services are organized and made operational:

- a) day-care services;
- b) family-type services;
- c) residential services

(2) The framework-regulation concerning the organization and operation of the services stipulated under paragraph (1) is approved through a Government decision.

**Article 108 – (1)** The day-care services are those services which provide the maintenance, re-establishment and development of the capacities of the child and of his or her parents, in order to overcome situations which may determine the child's separation from his or her family.

(2) Access to these services is made based on the service plan or, as the case may be, on the individualized protection plan, in accordance with the present law.

**Article 109 –** The family-type services are those services which, at the domicile of a natural person or a family, provide the upbringing and care of the child who has been separated, either temporarily or definitively, from his or her parents, as a result of enforcing the placement measure, in accordance with the present law.

**Article 110 – (1)** The residential services are those services which ensure the protection, upbringing and care of the child who has been separated, either temporarily or definitively, from his or her parents as a result of enforcing the placement measure, in accordance with the present law.

(2) Placement centers and emergency child receiving centers are part of this category of residential services.

(3) The maternal centers are also considered residential services.

- (4) The residential services which belong to the public administration authorities are organized only within the structure of the general department for social security and child protection, as functional parts of these departments, with no legal personality.
- (5) The residential services are organized based on the family model and may have specialized characteristics, according to the needs of the placed children.

**Article 111 – (1)** In order to ensure the prevention of the child’s separation from his or her parents, the local councils of the municipalities, towns, communes and Bucharest sectors, must organize, either autonomously or in association, day-care services, according to the needs identified within the respective community.

**(2)** In case the local council does not identify enough financial and human resources to organize the services stipulated under paragraph (1), upon the local council’s request, the county council shall provide the necessary funding for establishing these services. The local council shall provide funding up to 50% of the operational expenses of these services, the quota and the total amount of these expenses are established on a yearly basis, through a decision of the county council.

**Article 112 –** In order to ensure the special protection of the child who is deprived, either temporarily or definitively, of the protection of his or her parents, the county council and the local council of the Bucharest sectors respectively, must organize, either autonomously or in association, family-type and residential services, according to the needs identified at the level of their administrative and territorial unit. According to the evaluated needs of the placed children, the county council may also organize and develop day-care services.

## **CHAPTER VIII**

### Private institutions

**Article 113 – (1)** The private institutions which may conduct activities aimed at the protection of the rights of the child and at providing special child protection are private legal persons, with non- patrimonial purpose, which are established and accredited in accordance with the law.

**(2)** In conducting the activities stipulated under paragraph (1), the private accredited institutions are subject to the public law status stipulated by the present law, as well as by the regulations through which this law is enforced.

**Article 114 –** The private institutions which were legally established and accredited may set up, organize and develop services aimed at the prevention of the child’s separation from his or her family, as well as the special child protection services, which are stipulated under Article 107, only based on the license issued by the National Authority for the Protection of the Rights of the Child.

## **CHAPTER IX**

The licensing and inspection of the services aimed at the prevention of the child’s separation from his or her family, as well as of the special protection services for the child who has been deprived, either temporarily or definitively, of the protection of his or her parents

**Article 115 – (1)** The public authorities or the authorized private institutions may set up, organize and develop services aimed at the prevention of the child’s separation from his or her family, as well as special protection services for the child who has been deprived, either temporarily or definitively, of the protection of his or her parents, which are stipulated by the

present law, only if they have obtained the operational license for the respective service, issued by the National Authority for the Protection of the Rights of the Child.

(2) The operational license stipulated under paragraph (1) is granted based on the observance of the minimal obligatory standards established for the services aimed at the prevention of the child's separation from his or her family, as well as for the special protection services of the child who has been deprived, either temporarily or definitively, of the protection of his or her parents. These standards are drafted by the National Authority for the Protection of the Rights of the Child and are approved through an order of the State Secretary.

**Article 116** – The National Authority for the Protection of the Rights of the Child conducts periodical inspections which focus on the way in which the public authorities or the authorized private institutions are observing the standards stipulated under Article 110.

**Article 117** – The conditions and the procedure for granting, withdrawing, annulling or suspending the license stipulated under Article 115, as well as the conditions and procedure for conducting the inspections stipulated under Article 116, are established through a Government decision.

## **CHAPTER X**

### The funding sources of the child protection system

**Article 118** – (1) The prevention of the child's separation from his or her family, as well as the special protection of the child who has been deprived, either temporarily or definitively, of the protection of his or her parents, is financed from the following sources:

- a) the local budget of the communes, towns and municipalities;
- b) the local budgets of the counties, or of the Bucharest sectors, respectively;
- c) the state budget;
- d) donations, sponsorships, and other forms of financial contributions, which are allowed by the law;

(2) The National Authority for the Protection of the Rights of the Child may provide financial support for programs of national interest for the protection and promotion of the rights of the child, from funds transferred from the state budget for this specific purpose, from foreign refundable or non-refundable funds, as well as from other sources, in accordance with the law.

**Article 119** – (1) For each child for whom a placement measure has been enforced, a monthly placement allowance shall be granted, amounting to 670,000 ROL, which is indexed through a Government decision. The child for whom legal guardianship was established also receives this allowance, in accordance with the law.

(2) The allowance is paid to the person or the representative of the family with whom the child has been placed, or to the legal guardian.

(3) The placement allowance is covered by the state budget through the budget of the Ministry of Labor, Social Solidarity and Family.

**Article 120** – The expenses entailed by the payment of wages or indemnities for maternal assistants, as well as those related to the enforcement of the provisions of Law no. 326 / 2003 on the rights of children and youngsters placed in the specialized public child protection services, the mothers sheltered in maternal centers, as well as children who have been entrusted or placed with professional maternal assistants, are covered by the county budget or by the budget of the Bucharest sector, respectively, and are administered by the general department for social security and child protection.

**Article 121 – (1)** The mayors grant exceptional financial assistance, in case the family who is legally responsible for the child is temporarily facing financial problems, which are caused by an exceptional situation and which endangers the harmonious development of the child.

**(2)** The exceptional financial assistance is granted primarily to children whose families do not have the opportunity or capability to provide appropriate care for the child, or as a result of the need to cover some particular expenses aimed at preserving the personal relation of the child with his or her family.

**(3)** In each case, separately, the mayor decides on granting the exceptional financial assistance and the amount of this assistance, through a directive.

**Article 122 –** The maximum amount, as well as the conditions for granting the exceptional financial assistance, are determined through a decision of the local council.

**Article 123 –** The exceptional financial assistance may also be granted in kind, based on a directive issued by the mayor, primarily in the form of food, clothes, school books and stationery or school equipment, or it may cover the expenses related to transportation, procurement of prostheses, medicine, and other medical accessories.

## **CHAPTER XI**

### Special procedural rules

**Article 124 – (1)** The cases stipulated by the present law concerning the establishment of the special protection measures, are decided by the court of law in whose territorial range the child's domicile is located.

**(2)** If the domicile of the child is unknown, the competence to rule such cases is transferred to the court of law in whose territorial and administrative range the child was found.

**Article 125 – (1)** The cases stipulated under Article 124 are subject to speedy trials, and involve the subpoenaing of the child's legal guardian, and of the general department for social security and child protection, as well as the mandatory participation of the prosecutor.

**(2)** The hearing of the child who has reached the age of 10 years old is mandatory and it is conducted in accordance with the provisions stipulated under Article 24, with the exception of the cases which concern the establishment of special child protection measures for the abused or neglected child; in such a case, the hearing of the child is conducted in accordance with the provisions stipulated under Article 95, paragraph (3).

**(3)** The intervals between the court sessions cannot exceed 10 days.

**(4)** The parties involved are legally subpoenaed, if the subpoena was served at least one day prior to the trial day.

**Article 126 – (1)** The court decrees which rule upon the case are issued on the day when the court debates come to an end.

**(2)** In exceptional circumstances, the issuance of the court decree may be postponed for 2 days at the most.

**Article 127 – (1)** The court decree of the trial court is executory and final.

**(2)** The court decree is drafted and communicated to the parties involved within 10 days at the most from the date it was issued.

**Article 128 –** The deadline for the second appeal is of 10 days from the date when the court decree was notified.

**Article 129** – The provisions of the present law on the procedure for addressing the cases concerning the establishment of the special protection measures are supplemented by the provisions of the Civil Procedure Code accordingly.

**Article 130** – In all cases which concern the enforcement of the present law, the general department for social security and child protection in the administrative-territorial area where the child resides or was found, drafts and presents to the court of law a report concerning the child, which shall include information on:

- a) the personality, physical and mental condition of the child;
- b) the socio-medical and educational records of the child;
- c) the conditions in which the child was raised and in which he or she has lived;
- d) proposals concerning the person, family or residential service in which the child could be placed;
- e) any other information on the upbringing and education of the child, which may be used in ruling the case.

(2) The reintegration and supervision service to the court of law shall draft a report in all the cases regarding the establishment, replacement or termination of the special protection measures that are specified under the present law for the child who has committed a criminal act and is not criminally liable.

**Article 133** – The cases which are related to the enforcement of the present law are exempt from the judicial stamp tax and the judicial stamp.

## **CHAPTER XII**

### Liabilities and sanctions

**Article 132** – (1) Persuading or facilitating a minor to practice begging, or gaining any sort of advantage as a result of this activity of the minor child, is punished by 1 to 3 years in prison.

(2) Recruiting or forcing a minor to practice begging is punished by 1 to 5 years in prison.

(3) If the offence stipulated under paragraphs (1) or (2) is committed by a parent or by the person who is legally responsible for the child, the punishment is of 2 to 5 years in prison, for the offence stipulated under paragraph (1), and of 2 to 7 years in prison and the deprivation of certain rights for the offence stipulated under paragraph (2).

**Article 133** – The act committed by the parent or by the person who is legally responsible for the child, of using the child in order to repeatedly ask for charity from the public, by requesting either financial or material support, is punished by 1 to 5 years in prison and by deprivation of certain rights.

**Article 134** – (1) Failure to observe the duties stipulated under Article 36, paragraph (2), Article 48, paragraph (4) and Article 91, represents a serious misbehaviour and is sanctioned in accordance with the law.

(2) The failure to observe the duty stipulated under Article 36, paragraph (2), Article 87, paragraph (3), thesis one, represents a misbehaviour.

**Article 135 – (1)** The following acts represent violations:

- a) failure to observe the duty stipulated under Article 9, paragraph (1), within 30 days from the date of entry into force of the present law;
  - b) failure to observe the duty stipulated under Article 9, paragraph (2);
  - c) failure to observe the duty stipulated under Article 10, paragraphs (1) and (3);
  - d) failure to observe the duty stipulated under Article 11, paragraph (1);
  - e) failure to inform the police authorities on the result of the specific verifications concerning the identity of the mother, in accordance with the provisions stipulated under Article 11, paragraph (3);
  - f) failure of the public social security service to draft the birth recording statement, in accordance with the provisions stipulated under Article 11, paragraph (6);
  - g) failure to observe the duty stipulated under Article 11, paragraph (7);
  - h) failure to observe the duties stipulated under Article 13 and Article 18, paragraph (3);
  - i) failure to observe the provisions stipulated under Article 22, paragraphs (2) – (4), and under Article 83;
  - j) failure to observe the duty stipulated under Article 96.
- (2)** The violations stipulated under paragraph (1) are sanctioned as follows:
- a) those stipulated under points a), c), g) and h) with a fine of 1 to 3 million ROL;
  - b) the violation stipulated under point f), with a fine of 2 to 5 million ROL ;
  - c) those stipulated under points b) and d) and j) with a fine of 3 to 6 million ROL;
  - d) those stipulated under points e) and i), with a fine of 5 to 15 million ROL.
- (3)** The violations are recorded and the sanctions are enforced by individuals specifically appointed for this assignment from among persons who have control responsibilities within:
- a) the Ministry of Health, in the case of the violations stipulated under paragraph (1), points a), c) and d);
  - b) the Ministry of Administration and Interior, in the case of the violations stipulated under paragraph (1), points b), e), h) and i);
  - c) the National Authority for the Protection of the Rights of the Child, in the case of the violations stipulated under paragraph (1), point j);
  - d) the county council, or the local council of the Bucharest sector respectively, in the case of the violations stipulated under paragraph (1), points f) and g).

**Article 136 –** The provisions of Government Ordinance no. 2 / 2001 on the legal status of violations, approved, amended and completed through Law no. 180 / 2002, with subsequent amendments are applicable in the case of the violations stipulated under Article 135.

### **CHAPTER XIII**

#### Final and transitory provisions

**Article 137 –** Within 6 months from the entry into force of the present law, the general department for social security and child protection shall re-evaluate the circumstances which led to the establishment of the protection measures ordered by the child protection commission, and, as the case may be, shall request the court of law to establish legal guardianship or a special child protection measure, in accordance with the present law.

**Article 138 –** The placement centers, the emergency receiving centers and the maternal centers organized in the framework of the former specialized child protection public services are re-organized through a decision of the county council, or of the local councils of the Bucharest sectors respectively, in the framework of the general department for social security, under the subordination of the county council, or of the local councils of the Bucharest sectors respectively, as functional components of these authorities, with no legal personality.

**Article 139** – (1) The day-care services aimed at preventing the situations that endanger the security and development of the child, established by the county councils, as well as the staff within these services, are transferred to the local councils on whose territorial range they are operating.

(2) The specialized day-care services for the abused or neglected child, which are considered to be of county interest, are an exception to the provisions stipulated under paragraph (1).

(3) In case the services stipulated under paragraph (1) are part of a group of services which are also involved in residential child protection, namely the placement center, the emergency receiving center or the maternal center, the transfer is completed only if it is possible to separate the staff and the assets.

(4) The local councils have the duty to maintain the destination and organizational chart of the staff of the services that were taken over.

(5) The transfer stipulated under paragraph (1) is conducted based on a protocol signed between the county council and the local council.

**Article 140** – The teaching and auxiliary staff who was transferred in accordance with Article 46 from the Emergency Government Ordinance no. 26 / 1997 on the protection of the child in difficulty, republished, with subsequent amendments and additions, and who, on the date of entry into force of the present law is employed under this status within the specialized child protection public services, maintains their status.

**Article 141** – Within 30 days from the entry into force of the present law, the county councils, or the local councils of the Bucharest sectors respectively, the Ministry of Health, the Ministry of Administration and Interior and the National Authority for the Protection of the Rights of the Child must appoint the individuals who shall record the violations and enforce the sanctions mentioned in the present chapter, from among the persons with control responsibilities.

**Article 142** – (1) On the date of entry into force of the present law, the following legal acts are repealed:

- a) Article 88 from the Family Code;
- b) the Emergency Government Ordinance no. 26 / 1997 on the protection of the child in difficulty, republished in the Romanian Official Gazette, Part I, no. 276 / July 24, 1998, with subsequent amendments and additions, with the exception of Article 20;
- c) the Government Decision no. 604 / 1997 on the authorization criteria and procedures for private child protection institutions, published in the Romanian Official Gazette, Part I, no. 280 / October 16, 1997;
- d) the Emergency Government Ordinance no. 123 / 2001 on the reorganization of the child protection commission, published in the Romanian Official Gazette, Part I, no. 643 / October 15, 2001, approved with amendments through Law no. 71 / 2002;
- e) point A, paragraph (2), Article 3 of the Framework-Regulation for the organization and operation of the public social security service, approved through the Government Decision no. 90 / 2003, published in the Romanian Official Gazette, Part I, no. 81 / February 7, 2003, with subsequent amendments.

(2) The provisions concerning the birth registration of the child who was abandoned by the mother in the hospital, from Law no. 119 / 1996 on documents concerning the civil status, published in the Romanian Official Gazette, Part I, no. 282 / November 11, 1996, with subsequent amendments and additions, shall be modified accordingly.

(3) Any other contrary provisions are repealed on the date of entry into force of the present law.

**Article 143** – (1) The initial training in the field of child protection is mandatory for all staff categories in the system, and for the individuals who have decision-making responsibilities concerning the child.



(2) Permanent education and lifelong professional training in the field of special child protection is provided for all staff categories in the system.

(3) The National Authority for the Protection of the Rights of the Child, together with the Ministry of Education and Research, the Ministry of Labor, Social Solidarity and Family, the Ministry of Health as well as, as the case may be, the other interested public or private institutions, shall provide the initial and lifelong training of the staff who, in exercising their responsibilities, come across the protection and promotion of the rights of the child.

**Article 144 – (1)** The education, protection and nursing staff within the public and private institutions who come into contact with the child through the nature of their job, must undergo through a neuro-psychiatric evaluation at the time when they are employed.

(2) The staff mentioned under paragraph (1) is assessed on a yearly basis from a psychological point of view.

(3) The neuro-psychiatric evaluation reports and the psychological assessment reports are kept in the personal file of each staff member, according to the law.

**Article 145 – (1)** The internal regulations of the legal persons which conduct child protection activities shall specifically mention the rules established in order to ensure the exercise of the rights and the fulfillment of duties by the children, according to their age, health and degree of maturity.

(2) These regulations shall be displayed in a visible place, enabling the access of children and their adequate information.

**Article 146 –** The provisions of the current law are supplemented by other regulations concerning the rights of the child, including the provisions of the international conventions and treaties to which Romania is a state party.

**Article 147 –** The elaboration of the legal acts which refer to any of the rights of the child stipulated under the current law is done only with the endorsement of the National Authority for the Protection of the Rights of the Child.

**Article 148 – (1)** The present law comes into force on January 1, 2005, with the exception of the provisions stipulated under Article 17, paragraph (2), Article 19, paragraph (3), Article 84, paragraph (2), Article 104, paragraph (2), Article 105, paragraph (5), Article 107, paragraph (2) and Article 117, which come into force 3 days from the date when the present law is published in the Romanian Official Gazette, Part I.

(2) The procedures concerning the child's return to the country, or to the identification of the parents or of the persons who are legally responsible for the child, as well as the public or private special child protection services, which have the competency to provide the emergency protection of children who are aboard and who, for any reasons, are not accompanied by their parents or by any person who is legally responsible for them, or are not under the legal supervision of any persons who are aboard, in the situation stipulated under Article 19, paragraph (3), are compiled by the National Authority for Child Protection and Adoption.

(3) The organization and operating methodology of the child protection commission, which is stipulated under Article 104, paragraph (2), are compiled by the National Authority for Child Protection and Adoption.

(4) The framework-regulation on the organization and operation of the services stipulated under Article 107, paragraph (2) is compiled by the National Authority for Child Protection and Adoption.

(5) The conditions and the procedure for granting, withdrawing, annulling or suspending the license stipulated under Article 115, as well as the conditions and procedure for conducting the inspections stipulated under Article 116, are compiled by the National Authority for Child Protection and Adoption.

(6) The procedures concerning the exercise of the child's right to maintain personal relations and direct contact with the parents who reside abroad, which is stipulated under Article 17, paragraph (2), is compiled by the National Authority for Child Protection and Adoption together with the Ministry of Foreign Affairs.

(7) The type of specialized services, stipulated under Article 84, paragraph (2), which are ensured for the entire duration of the measures enforced upon the child who has committed criminal acts and who is not criminally liable, in order to assist the children in the process of re-integration into society, as well as the standards concerning the provision of these services are compiled by the National Authority for Child Protection and Adoption in cooperation with the Ministry of Justice.

(8) The responsibilities and the Framework-regulation on the organization and operation of the general department for social security and child protection, which are stipulated under Article 105, paragraph (5), are compiled by the Ministry of Labour, Social Solidarity and Family.

This law was adopted by the Parliament of Romania, with observance to the provisions stipulated under Article 75 and Article 76, paragraph (1) of the Romanian Constitution, republished.

CHAIRMAN OF THE CHAMBER  
OF DEPUTIES  
VALER DORNEANU

CHAIRMAN OF THE SENATE  
NICOLAE VĂCĂROIU

Bucharest, June 21, 2004.  
No. 272.