

Child Protection Act

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Chapter One

GENERAL PROVISIONS

Purpose of the Act

Article 1. (1) (Redesignated from Article 1, SG No. 36/2003) This Act shall govern the rights of the child; the principles and the measures for child protection; the state and municipal bodies and their interaction in the process of performing child protection activities, as well as the participation of not-for-profit legal entities and natural persons in the said activities.

(2) (New, SG No. 36/2003) The state shall protect and guarantee the basic children's rights in all spheres of public life for all groups of children in view of the age, social status, physical, health and mental development, as providing appropriate economic, social and cultural environment, education, freedom of expression and security.

(3) (New, SG No. 36/2003) The state policy for child protection shall be determined by the Council of Ministers, which shall adopt a national programme for child protection, proposed by the minister of labour and social policy and the Chairperson of the State Agency for Child Protection.

(4) (New, SG No. 36/2003) State bodies within the framework of their competence shall carry out the state policy for child protection and shall promote appropriate environment for the development of the child.

Definition of "a child"

Article 2. Within the meaning of this Act a child shall be any natural person, who has not reached the age of 18.

Principles of Protection

Article 3. Child protection shall rest on the following principles:

1. recognition and respect for the child's personality;
2. the child shall be brought up in a family environment;
3. the interests of the child shall be secured in the best possible way;
4. special protection shall be provided to children at risk or to children of prominent talent;
5. voluntary participation in child protection activities shall be encouraged;
6. persons directly involved in child protection activities shall be selected in accordance with their personal qualities and social communication abilities, and with care as to their professional training
7. restrictive measures shall be of temporary nature;
8. (New, SG No. 36/2003) child protection actions shall be immediate;
9. (New, SG No. 36/2003) elaboration of a National Strategy for the Child;
10. (Renumbered from item 8, SG No. 36/2003) the effectiveness of measures undertaken shall be controlled.

Protection Measures

Article 4. (Amended, SG No. 36/2003) (1) Child protection under this Act shall be carried out through:

1. assistance, support and services rendered in the child's family environment;
2. placement of the child with relatives or close families;
3. (Repealed, SG No. 36/2003)
4. placement of the child with a foster family;
5. placement of the child in a specialised institution;
6. police protection;
7. specialised protection at public places;
8. provision of information with regard to the rights and obligations of children and parents;
9. provision of preventative measures for security and protection of the child;
10. provision of legal assistance by the state;
11. specialised care for children with physical and mental disabilities.

(2) (New, SG No. 63/2003) Each child may be adopted under the terms and conditions laid down in the Family Code.

(3) (Renumbered from Paragraph 2, SG 63/2003) The criteria and standards for social services for children regarding application of the measures under para 1, items 1, 2, 4 and 5, shall be determined in a Regulation, adopted by the Council of Ministers under a proposal of the Minister of Labour and Social Policy.

Special Protection

Article 5. (1) (Redesignated from Paragraph 5, SG No. 36/2003) Special protection shall be secured to:

1. children at risk;
2. children of prominent talent.

(2) (New, SG No. 36/2003) The conditions and the procedure for the implementation of preventative measures aiming at abandonment prevention and prevention of accommodation of children in specialised institutions as well as their reintegration, shall be determined in a Regulation of the Council of Ministers under a proposal of the Minister of Labour and Social Policy.

(3) (New, SG No. 36/2003, amended, SG No. 28/2005, SG No. 94/2005, SG No. 103/2005) The protection of children of prominent talent shall be carried out under conditions and procedure determined with a Regulation of the Council of Ministers under a proposal of the Minister of Culture, the Minister of Education and Science and the Chairperson of State Agency of Youth and Sports, in which the following measures should be envisaged:

1. promotion of the talent and the needs of the children;
2. provision of opportunities and conditions for the entry of the children in sports and art schools;
3. financial support and incentives through scholarships and specialized educational programmes.

(4) (New, SG No. 36/2003) The specialized protection of children at public places is carried out under conditions and procedure determined in a Regulation of the Council of Ministers under a proposal of the Minister of Labour and Social Policy.

Child Protection Bodies

Article 6. Child protection shall be implemented by:

1. (Amended, SG No. 36/2003) The Chairperson of the State Agency for Child Protection and the administration that shall assist her/him in exercising his/her powers;

2. The Social Assistance Directorates;
3. (New, SG No. 36/2003) The Minister of the Interior and the administration that shall assist her/him in exercising his/her powers.

Obligation to Cooperate

Article 7. (1) (Supplemented, SG No. 36/2003) Persons, who become aware of the existence of a child in need of protection, shall immediately report the case to the Social Assistance Directorate, the State Agency for Child Protection or the Ministry of the Interior.

(2) The same obligation shall be undertaken by all persons, who become aware of the said situation in the course of exercising their profession or occupation, irrespective of them being bound by an occupational secret.

(3) (New, SG No. 36/2003) Central and regional bodies of the executive power, as well as the specialized institutions for children in view of their official duties shall render timely assistance and provide information to the State Agency for Child Protection and to the Social Assistance Directorates under the conditions and the procedure of the Protection of Personal Data Act.

Rights and Obligations of Parents

Article 8. (1) All parents may request and be granted assistance from the bodies pursuant to this Act.

(2) All parents shall have the right to be informed and consulted on all the measures and activities undertaken pursuant to this Act, with the exception of cases under Article 13. Parents may request alteration of measures in the event of a change of circumstances.

(3) (New, SG No. 36/2003) Parents shall accompany their children or shall provide a competent person over the age of 18 years as a companion of the children under 14 years at public places after 10 p. m.

(4) (Renumbered from Paragraph 3, SG No. 36/2003) Parents shall bring into effect the measures undertaken under this Act and shall provide assistance towards the implementation of child protection activities.

(5) (Renumbered from Paragraph 4, SG No. 36/2003) The provisions set forth in the previous paragraphs shall hold valid also for persons, who provide care related to the rearing and upbringing of children.

Participation of Not-for-profit Legal Entities

Article 9. (1) Not-for-profit legal entities, as well as individual natural persons shall participate in the activities related to child protection under the terms and conditions prescribed by law.

(2) The persons under para 1 and the state and municipal bodies shall cooperate in child protection activities.

Chapter Two

RIGHTS OF A CHILD

Right to Protection

Article 10. (1) Every child has a right to protection with a view to his/her normal physical, intellectual, moral and social development and to protection of his/her rights and interests.

(2) (Supplemented, SG No. 36/2003) There shall be no limitation of rights, nor any privilege, on the grounds of race, nationality, ethnic background, sex, origin, property status, religion, education and convictions or disability.

Protection against Violence

Article 11. (1) Every child has a right to protection against involvement in activities that are harmful to his or her physical, mental, moral and educational development.

(2) Every child has a right to protection against all methods of upbringing, that undermine his or her dignity; against physical, psychical or other types of violence; against all forms of influence, which go against his or her interests.

(3) Every child has a right to protection against the use of children for purposes of begging, prostitution, dissemination of pornographic material, receipt of unlawful pecuniary income, as well as protection against sexual abuse.

(4) Every child has a right to protection against forcible involvement in political, religious and trade union activities.

Right to Freedom of Expression

Article 12. Every child has a right to express freely his or her opinion on all issues affecting his or her interests. He or she may seek the assistance of the bodies and persons, to whom his or her protection pursuant to this Act has been assigned.

Information and Consultation

Article 13. Every child has a right to be informed and consulted by the child protection body even without the knowledge thereof of his or her parents or of the persons who take care of his or her rearing and upbringing, should that be deemed necessary in view of protecting his or her interests in the best possible way and in case where informing the said persons might harm the child's interests.

Protection of Religious Beliefs

Article 14. (1) The attitude of children below 14 years of age towards religion shall be decided upon by their parents or legal guardians; while those of children between 14 and 18 shall be decided by common consent between them and their parents or their guardians.

(2) Where such consent cannot be reached, the underage person may refer through the bodies pursuant to this Act to the regional court to settle the dispute.

Participation in Procedures

Article 15. (1) All cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for an mandatory hearing of the child, provided he or she has reached the age of 10, unless this proves harmful to his or her interests.

(2) In cases where the child has not reached the age of 10, he or she may be given a hearing depending on the level of his or her development. The decision to hear the child shall be substantiated.

(3) Before the child is given a hearing, the court or the administrative body shall:

1. provide the child with the necessary information, which would help him or her form his or her opinion;

2. inform the child about the possible consequences of his or her desire, of the opinion supported by him or her, as well as about all the decisions made by the judicial or administrative body.

(4) (Amended, SG No. 36/2003) The hearing and the consultation of a child shall by all means take place in appropriate surroundings and in the presence of a social worker from the Social Assistance Directorate at the current address of the child and when there is necessity - in the presence of another appropriate specialist.

(5) (New, SG No. 36/2003) The court or the administrative body shall order that the hearing of the child shall take place also in the presence of a parent, guardian or other close to the child person, with the exception when this is not in the child's best interest.

(6) (Renumbered from Paragraph 5, amended, SG No. 36/2003) In every legal case the court or the administrative body shall notify the Social Assistance Directorate at the current address of the child. The Social Assistance Directorate shall send a representative of its own to the case, who shall express a viewpoint, and if it becomes impossible, he/she shall present a report.

(7) (Renumbered from Paragraph 6, SG No. 36/2003) The Social Assistance Directorate may represent the child in cases provided for by law.

(8) (Renumbered from Paragraph 7, SG No. 36/2003) The child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

Confidentiality of Information

Article 16. (1) All information, obtained through administrative or judicial proceedings and concerning a child shall not be disclosed without the parents' consent and without the child's consent where the child has reached the age of 10.

(2) The court may permit the bodies under this Act to use information pursuant to para 1 without the consent of persons under para 1, should it become necessary in view of the child's interests or for purposes of undertaking child protection measures.

(3) (New, SG No. 36/2003) Social workers and officials who become aware of personal data when implementing their duties are obliged to keep the legal provisions regarding the protection of personal data as well as to respect the personal dignity.

Chapter Three

CHILD PROTECTION BODIES

Chairperson of the State Agency for Child Protection

Article 17. (Amended, SG No. 36/2003) (1) The chairperson of the State Agency for Child Protection is a specialised body under the Council of Ministers in charge of the governance, co-ordination and control of child protection activities.

(2) The State Agency for Child Protection is a legal entity maintained from state budget funds, having its seat in the city of Sofia.

(3) The Agency is governed and represented by a Chairperson, who shall be determined by a decision of the Council of Ministers.

(4) A Deputy Chair shall assist the activities of the Agency Chairperson.

(5) The Agency's activities, structure, work organisation and staff shall be determined by a Regulation, adopted by the Council of Ministers upon a proposal of the Chairperson.

Functions of the Chairperson of the State Agency for Child Protection

Article 17a. (New, SG No. 36/2003) The chairperson of the State Agency for Child Protection shall:

1. (Amended, SG No. 28/2005, SG No. 94/2005, SG No. 103/2005) Work out the state policy for child protection, together with the Minister of Labour and Social Policy, the Minister of Health, the Minister of Education and Science, the Minister of Justice, the Minister of the Interior, the Minister of Culture, the Minister of Finance, the Chairperson of State Agency of Youth and Sports, the head of the National Insurance Institute, the Secretary of the Central Commission for Juvenile Antisocial Behaviour under the Council of Ministers and the National Association of Municipalities in the Republic of Bulgaria.

2. Work out and control the implementation of national and regional programmes for child protection.

3. Monitor and analyze the implementation of the state policy for child protection and provide methodological guidance to the Child Protection Departments within the Social Assistance Directorates.

4. (Amended, SG No. 63/2003) Work out a Regulation for the criteria and standards for social services for children in the application of the measures under Art. 4, para 1, items 1, 2, 4 and 5 and propose it to the Minister of Labour and Social Policy.

5. Issue a license to natural persons, registered under the Commercial Code and legal entities which provide social services for children under the age of 18, under the conditions and the procedure of Chapter Four "a".

6. Assist the Minister of Labour and Social Policy, the Minister of Health, the Minister of Education and Science, the Minister of Justice, and the Minister of the Interior in the process of the formulation and implementation of the EU integration policy in the field of child protection.

7. May represent the State in international organizations and programmes in the field of child protection, when entitled by the Council of Ministers;

8. Work out and participate in the deliberations of draft legislative acts in the field of child protection.

9. Develop and maintain national information system on:

a) Children in need of special protection;

b) Children eligible for adoption;

c) Adoptive parents and candidates for adoptive parents;

d) Specialized institutions for children;

e) Not-for-profit legal entities working on child protection programmes;

f) Other data, relevant to child protection.

10. Assist the activities of the not-for-profit legal entities working in the field of child protection.

11. Organize and conduct scientific research and educational activities in the field of child protection.

12. Work out a Regulation on the structure, organization and the activities of the National Council for Child Protection, adopted by the Council of Ministers;

13. Organize and chair the National Council for Child Protection activities as a Chairperson of the Council.

14. Make checks with regard to the observance of children's rights by all state, municipal and private schools, kindergartens, serving units, medical establishments, Social Assistance Directorates and not-for-profit legal entities working in the field of child protection and when there is a violation of children's rights, the Chairperson shall issue compulsory prescriptions, personally or through entitlement of a certain person.

15. Carry out and control specialized institutions for upbringing of children with respect to the observance of children's rights and provide compulsory prescriptions.

16. Submit to the Council of Ministers the annual report on the activities of the Agency.

National Council on Child Protection

Article 18. (1) (Amended, SG No. 75/2002, SG No. 36/2003, SG No. 28/2005, SG No. 94/2005, SG No. 103/2005) A National Council on Child Protection with consultative functions shall be set up to the State Agency for Child Protection and shall comprise representatives of the Ministry of Labour and Social Policy, the Ministry of Justice, the Ministry of Education and Science, the Ministry of Health, the Ministry of the Interior, the Ministry of Finance, the Ministry of Culture, the State Agency of Youth and Sports, the National Insurance Institute, the Central Commission for Juvenile Antisocial Behaviour under the Council of Ministers and the National

Association of Municipalities in the Republic of Bulgaria, as well as not-for-profit legal entities, whose purpose of activity is child protection.

(2) The structure, organisation and activities of the National Council of Child Protection shall be determined by a Regulation, adopted by the Council of Ministers.

Functions of the Agency

Article 19. (Repealed, SG No. 36/2003)

Social Assistance Directorate

Article 20. (1) (Amended, SG No. 36/2003) The Social Assistance Directorate is a specialised body in charge of conducting child protection policies within the municipality. A child protection department shall be set up in the Social Assistance Directorate.

(2) (Amended, SG No. 36/2003) The Social Assistance Directorate shall work in cooperation with state bodies and not-for-profit legal entities, whose purpose of activity is child protection.

Commission for Child Protection

Article 20a. (New, SG No. 36/2003) (1) A Commission for Child Protection with consultative functions shall be set up to the Social Assistance Directorate and shall comprise representatives of the municipal administration, the Social Assistance Directorate, regional units of the national police service, regional educational inspectorates under the Ministry of Education and Science, regional Healthcare Centres, local commissions for juvenile antisocial behaviour as well as not-for-profit legal entities, whose purpose of activity is child protection.

(2) Chairperson of the Commission under para 1 is the Director of the Social Assistance Directorate.

Functions of the Social Assistance Directorate

Article 21. (Amended, SG No. 36/2003) (1) Pursuant to this Act the social assistance directorate shall:

1. perform the current practical activities of child protection within the municipality and shall make proposals to the municipal councils for municipal programmes for child protection;

2. determine and bring into effect concrete measures on child protection and shall control their implementation;

3. make checks relating to complaints and signals for violation of children's rights and shall make compulsory prescriptions to remedy the breaches;

4. give advices and consultations on child rearing and upbringing;

5. provide information on services offered and render assistance and support to the parents and families of children in need thereof;

6. compile and update registers on:

a) children in need of special protection;

b) children under police protection;

c) children eligible for adoption

d) children placed to live with relatives' or close friends' families;

e) children placed in foster families;

f) children placed in specialised institutions;

g) candidate and approved foster families;

h) not-for-profit legal entities, working on child protection programs;

i) adopters and candidates for adopters.

7. render assistance and cooperation to not-for-profit legal entities, performing child protection activities;

8. assist children in their occupational orientation and qualification of children at risk, including persons that have completed their secondary education after they had come of age;

9. organise the training and consultations for foster parents and shall cater for the selection of the latter;

10. alert the police authorities, the prosecution and the courts, who shall take immediate steps to ensure child protection;

11. organize immediate assistance for children in disastrous (force-major) situation including the cases under Art. 41 when the 48 hours police protection is over.

12. propose for appointment guardian councils and trustees;

13. investigate adoption candidates from the country and provide a written conclusion concerning the candidates suitability to adopt a child; provide an opinion in the cases, envisaged in the Family Code; organize consultations and training for the adoption candidates and for the adopters and provide a monitoring of the child for a period of one year after the date of the adoption;

14. bring claims to the court for deprivation or limitation of parental rights in interest of the child or enter as a party into court proceedings that have been already commenced.

15. prepare written reports and viewpoints in cases under Art. 15, para 6; the notification shall include: the subject of the court proceeding, the parties involved, the particular task, formulated ex officio or upon request of a party involved in the court proceeding; deadline for implementation of the task not shorter than 14 days of the date of receipt of the notification by the Social Assistance Directorate; parents or the person who takes care of the child shall get acquainted with the report prior to its submission to the requiring body.

(2) The Director of the Social Assistance Directorate shall nominate the persons in charge of representative functions under Art. 16, para 6.

Cooperation with the Guardianship and Trustee Body

Article 22. The Social Assistance Directorate shall work in cooperation with the guardianship and trustee body.

Chapter Four

CHILD PROTECTION MEASURES

Protection Measures in a Family Environment

Article 23. The following shall constitute protection measures in a family environment:

1. provision of pedagogic, psychological and legal aid to parents and to persons, entrusted with parental functions, concerning problems with child rearing, upbringing and education;

2. referring persons to the centres for social rehabilitation and integration;

3. consulting and informing the child in accordance with the level of his or her development;

4. consulting the parents or the persons, entrusted with parental functions, on issues of social assistance and services;

5. provision of assistance with a view to improve living conditions;

6. conducting social work to facilitate child-parent relations and solution of relations conflicts and crises;

7. studying the individual abilities and interests of a child and referring him or her to a suitable educational establishment;

8. assistance in finding appropriate jobs for children in need thereof, who have reached the age of 16, under the conditions set forth by the labour legislation;

9. referring the child to appropriate activities to fill up his or her spare time;
10. assisting the adoptive parents in their preparation to assume their parental responsibilities, to complete the act of adoption, as well as protecting the child's rights in cases of termination of adoption.

Provision of Protection Measures in a Family Environment

Article 24. (1) Assistance, support and services in a family environment shall be rendered by the Social Assistance Directorate upon the request of parents, of persons, entrusted with parental functions, of the child, as well as at the discretion of the Social Assistance Directorate.

(2) The protection measures under para 1 may be rendered in combination with other protection measures pursuant to this Act.

Grounds for Placement out of the Family

Article 25. (Amended, SG No. 36/2003) A child may be placed to live out of his or her family in cases where:

1. the parents have passed away, are unknown or have their parental rights deprived or limited;
2. the parents without a valid reason continuously do not provide care for the child;
3. the parents are in a position of permanent inability to rear the child;
4. the child is a victim of violence in the family and is in danger of her/his physical, mental, moral, intellectual and social development.

Placement out of the Family

Article 26. (1) (Supplemented, SG No. 36/2003) The placement of a child with a family of relatives or friends, as well as placement of a child to be reared by a foster family or a specialised institution shall be done by the court. Until the court comes out with a ruling, the Social Assistance Directorate at the current address of the child shall provide for temporary placement by an administrative order.

(2) The request to apply measures under para 1 shall be submitted to the court by the Social Assistance Directorate, by the public prosecutor or the parent. They shall refer to the regional court, seated in the region of the Social Assistance Directorate.

Temporary Placement by an Administrative Order

Article 27. (1) The placement out of the family pursuant to Art. 26, para 1 shall be done by the order of the Director of the Social Assistance Directorate.

(2) In cases of placement with relatives or friends, it is necessary to obtain the consent of the person with whom the child will be placed.

(3) In cases of placement with a foster family, placement shall be done after a check has been performed on the suitability of the candidate foster persons. Placement shall be effected upon the signing of a contract with the foster family, which shall specify placement period, the funding, the contractual rights and obligations, related to the rearing and upbringing of the child.

(4) The acts of the Director of the Social Assistance Directorate shall be issued and appealed in the order set forth in the Administrative Procedures Act.

Placement through the Court

Article 28. (1) (Supplemented, SG No. 36/2003) The requests to apply measures under Art. 26, para 1 shall fall within the jurisdiction of the regional court, seated in the region of the Social Assistance Directorate, which has provided the temporary placement by an administrative order.

(2) The court shall immediately consider the request in an open session, where the bodies or the persons, that have submitted the request shall participate along with the child.

(3) The court shall come out with a ruling within one month. The ruling shall be disclosed to the parties concerned and shall be brought to immediate effect. In specifying the child protection measures the court shall follow the order set forth in Art. 26, para 1, unless that goes against the child's interests.

(4) The ruling may be appealed in front of the district court within seven days. In cases where a complaint or a letter of protest has been submitted, the court shall schedule the hearing within a period of less than seven days. The district court shall come out with a ruling, which shall be final.

(5) The court may change the measure that has been ruled out upon request of the persons under Art. 26, para 2 in case that is to the child's interest.

Grounds for Termination of the Placement

Article 29. The placement out of the family shall be terminated:

1. upon cancellation of the contract;
2. at the expiration of the term;
3. by mutual consent of the parties to the contract;
4. at the adoption of the child;
5. at the child's coming of age;
6. at the invalidation of grounds under Article 25;
7. at the death of the spouses or of the foster family person;
8. at a change in the protection measure.

Procedure for Placement Termination

Article 30. (1) The placement shall be terminated by the regional court upon request of the foster family, of the Social Assistance Directorate, of the child's parents or of the public prosecutor.

(2) The placement may be terminated temporarily by the Social Assistance Directorate until the ruling of the court comes out. In that case, the Social Assistance Directorate may make a decision concerning the future rearing and upbringing of the child; or it may adopt another temporary protection measure in case it protects the best interests of the child.

(3) The ruling of the regional court may be appealed against in front of the district court. The act of appeal may not stop the execution. The ruling of the district court shall be final and is not subject of cassation appeal.

(4) The ruling to terminate the placement shall be executed in the administrative procedure.

Alteration of the Child Protection Measure

Article 30a. (New, SG No. 36/2003) The procedure for placement of children under Arts. 26 and 27 shall be followed in cases of alteration of the child protection measure under Art. 4, items 2, 4 and 5.

Foster Family

Article 31. (1) A foster family shall consist of two spouses or of a separate individual, with whom a child is placed to be reared and brought up pursuant to a contract under Art. 27.

(2) The spouses or the person of the foster family do not bear the parental rights and responsibilities.

(3) (New, SG No. 36/2003) The conditions and the procedure for application, recruitment and approval of the foster families as well as the placement of children with the foster family shall be determined with a Regulation of the Council of Ministers upon a proposal of the Minister of Labour and Social Policy.

Persons Who Are Ineligible to Become a Foster Family

Article 32. (1) The persons who are ineligible to become a foster family are those that:

1. have not come of age;
2. have been placed under prohibitory injunction;
3. have been deprived of their parental rights or whose parental rights have been limited, unless that has happened for objective reasons and their parental rights have been restored;
4. may not act as guardians;
5. are guardians or trustees, as well as foster families, who have been discarded of that activity for culpable failure to fulfill obligations;
6. are unsuitable to perform parental functions as they lack the personal qualities to bring up a child and they do not have financial means to rear and care for a child.
7. are adoptive parents at the moment of adoption termination, which has been caused through their fault pursuant to the procedure set forth in the Family Code;
8. (Amended, SG No. 70/2004 - effective 1.01.2005) are afflicted with AIDS and illnesses pursuant to Art. 61 (1) and Art. 146 (1) item 1 and 2 of the Health Act.

Relations with Birth Parents

Article 33. (1) The foster family shall provide information about the child to his or her parents and shall assist them in their personal relations with the child. Where such relations are to the interest of the child, the regional court shall rule out on their regime by a decision.

(2) The decision under para 1 may be appealed pursuant to the order set forth in the Code of Civil Procedure by the parents, the child, the prosecutor, the municipal social assistance service or the foster family.

Expression of Opinion

Article 34. The foster family has a right to express an opinion before a decision has been issued concerning a change in the child protection measure.

Placement in Specialised Institutions

Article 35. (1) (Repealed, SG No. 36/2003).

(2) (Amended, SG No. 36/2003) Children shall be placed in specialised institutions only where the opportunities for leaving the child in a family environment have been exhausted.

(3) (Amended, SG No. 36/2003) Establishments that provide services in a family environment shall not be considered as specialised institutions.

Control

Article 36. The Director of the Social Assistance Directorate shall exercise current control on the effectiveness of measures undertaken.

Police Protection

Article 37. (1) The provision of police protection to a child shall be done by the specialised bodies of the Ministry of the Interior.

(2) The bodies under para 1 shall work in cooperation with child protection bodies.

Grounds

Article 38. Police protection is an urgent measure to be applied when:

1. the child has become subject of a crime or there is an immediate threat for his or her life or health, as well as when there is a danger of the child getting involved in a crime;
2. the child has been lost or is in a helpless condition;
3. the child has been left without supervision.

Police Protection Measures

Article 39. (1) The specialised bodies of the Ministry of the Interior may:

1. accommodate the child in special premises, where they shall not permit any contacts with the child that may prove harmful to him or her;

2. place the child in specialised institutions and where necessary provide him or her with food;

3. return the child back to his or her parents or the persons entrusted with the parental functions.

(2) The specialised bodies under para 1 shall inform the child and explain to him or her in an understandable manner the measures undertaken and the grounds for them.

Obligation to Notify

Article 40. The police bodies, who have implemented the protection, shall notify immediately:

1. the child's parents;
2. the Social Assistance Directorate of the region where protection has been implemented;
3. (Amended, SG No. 36/2003) the Social Assistance Directorate at the current address of the child;
4. the public prosecutor's office.

Term

Article 41. (Amended, SG No. 36/2003) The child may not remain under police protection longer than 48 hours.

Search for a Disappeared Child

Article 42. The actions for the search of a disappeared child shall be undertaken immediately.

Regulation

Article 43. The terms and conditions to provide police protection shall be governed by an ordinance issued by the Minister of the Interior in consultation with the State Agency for Child Protection.

Specialised Protection of Children at Public Places

Article 43a. (New, SG No. 36/2003) (1) The specialised protection of children at public places is the setting up of conditions that do not threaten the physical, mental, and moral development of the children.

(2) Specialised protection of children at public places shall be provided by the bodies of the Ministry of Interior, Social Assistance Directorates, the municipality, Regional Educational Inspectorates under the Ministry of Education and Science, regional Healthcare Centres as well as the owners, tenants, users and organisers of public events, commercial places, cinemas and theatres.

Chapter Four "a"

(New, SG No. 36/2003 - effective 1.01.2004)

LICENSING

A License

Article 43b. (1) The Chairperson of the State Agency for Child Protection shall issue a license for the provision of social services for children upon a proposal of a commission, including representatives of the Ministry of Labour and Social Policy, the Ministry of Education and Science, the Ministry of Health, the Ministry of the Interior, the Ministry of Justice, the State Agency for Child Protection and the Agency for Social Assistance.

(2) The license is personal and it may not be ceded.

(3) The license shall be issued for a period of five years.

Conditions for Issuing a License

Article 43c. The license shall be issued, when the applicant:

1. is a natural person, registered under the Commercial Act, or a legal entity;
2. has not been declared bankrupt or is not in bankruptcy proceedings;
3. is not in liquidation proceedings;
4. has not been convicted of a crime, as for the legal entities this requirement refers to the members of their managing bodies;
5. (Amended, SG No. 63/2003) provides social services that meet the standards determined in the Regulation under Art. 4, para 2.

Issuing of the License

Article 43d. (1) Within two months of the receipt of the application for issuing a license, the Chairperson of the State Agency for Child Protection, upon a proposal of the commission under Art. 43b, shall issue or refuse to issue a license, if the candidate meets the requirements set out in Art. 43c.

(2) The license shall specify:

1. The holder of the license;
2. The social services covered by the license;
3. The time limit of the license.

(3) The licensing procedure shall be defined in the Implementing Regulation on the Child Protection Act.

Withdrawal of the License

Article 43e. The Chairperson of the State Agency for Child Protection may withdraw the license issued for the provision of social services for children, where the holder:

1. fails to start providing the services within 12 months of the issuing of the license;
2. fails to keep the standards concerning the provision of social services for children;
3. operates in breach of the license issued.

Appeal

Article 43f. The refusal as well as the withdrawal of the license shall be appealed under the procedure set forth in the Supreme Administrative Court Act.

Fees

Article 43g. The fees, collected by the issuing of licenses for provision of social services for children shall be paid in the Social Assistance Fund set up to the Minister of Labour and Social Policy and shall be spent for child protection activities.

Registration

Article 43h. Natural persons, registered under the Commercial Act as well as legal entities, licensed under Art. 43b, shall provide social services for children after registration under the procedure set forth in the Social Assistance Act.

Chapter Five

FINANCING OF CHILD PROTECTION ACTIVITIES

Sources of Financing

Article 44. (Amended, SG No. 36/2003) (1) Child protection activities are financed from:

1. The state budget;
2. Municipal budgets;
3. National and international programmes and agreements in the field of child care;
4. Donations of Bulgarian and international natural persons and legal entities;
5. the Social Assistance Fund;

6. Other sources.

(2) The Social Assistance Directorates under the Agency for Social Assistance shall provide financial aid and/or assistance in kind under conditions and procedure set forth in the Implementing Regulation on the Child Protection Act.

(3) Financial aid and/or assistance in kind shall be provided by the Director of the Social Assistance Directorate under the Agency for social assistance at a decision given in writing.

(4) The financial aid is provision of special resources in cash as:

1) One-time aid;

2) Monthly aid.

(5) The assistance in kind is the provision of chattels of an urgent need and others necessary for the rearing and upbringing of the child.

(6) The financial aid and/or assistance in kind under para 2 shall be provided as to support the child and her/his family with the purpose of prevention and reintegration, rearing and upbringing of the child by relatives, close friends and foster families.

(7) The financial aid and the assistance in kind under para 2 are free of taxes and fees.

Child Assistance Fund

Article 44a. (New, SG No. 63/2003, repealed, SG No. 115/2004)

Chapter Six

ADMINISTRATIVE PENALTY PROVISIONS

Sanctions

Article 45. (1) (Amended, SG No. 36/2003) Persons who fail to fulfil an obligation pursuant to this Act shall be punished with a fine ranging from BGN 50 to BGN 500, unless they are subject to a more serious administrative punishment under a special law or their act does not constitute a crime.

(2) (Amended, SG No. 36/2003) Officials who fail to fulfil an obligation shall pay a fine ranging from BGN 100 to BGN 1,000, unless they are subject to a more serious administrative punishment under a special law and their act does not constitute a crime.

Procedure

Article 46. (1) (Amended, SG No. 36/2003) Violations shall be established by an act of a social worker from the child protection department in the Social Assistance Directorate, whereas the penalty order shall be issued by the Director of the Social Assistance Directorate.

(2) (New, SG No. 36/2003) Violations by officials from the Social Assistance Directorate under Art. 45, para 2, shall be established by an act of an inspector from the Agency for Social Assistance and penalty orders shall be issued by the Executive Director of the Agency for Social Assistance or another person authorised by her/him.

(3) (Renumbered from Paragraph 2, SG No. 36/2003) Acts establishing violations and penalty orders shall be drawn up and appealed according to the procedure set forth in the Administrative Violations and Penalties Act.

ADDITIONAL PROVISION

§ 1. Within the meaning of this Act:

1. (New , SG No. 36/2003) "Protection" of the child" is a system of legislative, administrative and other measures for the implementation the rights of the child.

2. (Renumbered from item 1, SG No. 36/2003) "A family environment" is the biological family of the child or the family of the adoptive persons, of the grandmother and grandfather or

of the child's relatives, or a foster family, with whom the child is being placed pursuant to Art. 26.

3. (Renumbered from item 2, SG No. 36/2003) "Services" within the meaning of Art. 23 are the social services in the usual home environment under the Social Assistance Act.

4. (Renumbered from item 3, SG No. 36/2003) "A foster family" is a family of two spouses or of an individual person within the meaning of Art. 31.

5. (Renumbered from item 4, amended, SG No. 36/2003) "Specialised institutions" are homes of boarding type for rearing and upbringing of children where the latter are permanently separated from their family environment.

6. (Renumbered from item 5, SG No. 36/2003) "A child at risk" is a child:

- a) who does not have parents or has been permanently deprived of their care;
- b) who has become victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment either in or out of his or her family;
- c) for whom there is a danger of causing damage to his or her physical, mental, moral, intellectual and social development;
- d) who is afflicted with mental or physical disabilities and difficult to treat illnesses.

7. (Renumbered from item 6, SG No. 36/2003) "A child of prominent talent" is a child that has demonstrated permanent capabilities and achievements in the field of science, arts or sports, and his or her achievements outdo those of his or her peers.

8. (New, SG No. 36/2003) "Prevention" is protection of the child through assistance, support and services in family environment aiming at abandonment prevention as well as prevention of accommodation in specialized institution.

9. (New, SG No. 36/2003) "Reintegration" is a process of durable reunification of the child, placed outside the family under Art. 4, items 2, 4 and 5, back to her/his biological family or her/his adoption.

10. (New, SG No. 36/2003) "Current address of the child" is the address where the child stays.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 2. Within a period of six months from the effective date of this Act, the Council of Ministers shall by decree set up a State Agency for Child Protection under the terms and conditions of the Administration Act. The financing under Art. 44, items 1 and 2 shall become effective as of 1 January 2001.

§ 3. Within a period of six months from the effective date of this Act, the state authorities, specified in the respective provisions, shall issue the secondary legislative acts provided for by the Act.

§ 4. The implementation of this Act is assigned to the Council of Ministers.

Act on the Amendment and Supplement to
the Child Protection Act

Promulgated, State Gazette No. 36/18.04.2003
(effective 18.04.2003)

CONCLUDING PROVISIONS

§ 32. The Minister of Justice, the Minister of Labour and Social Policy, the Minister of Education and Science, the Minister of Health and the Minister of the Interior shall adjust the secondary legislation they have issued to the provisions of this Act within six months of its effective date.

§ 33. The Council of Ministers shall adopt the Implementing Regulations on this Act within six months of its effective date.

§ 34. This Act shall enter into force on the date of its promulgation in The State Gazette, except for § 27, which will enter into force on 1 January 2004.