

NATIONAL LEGISLATION: BULGARIA

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FAMILY CODE

Promulgated State Gazette No. 41/28.05.1985
Amended SG No. 11 & 15/1992, SG 63/2003

CHAPTER FOUR ORIGIN

ORIGIN FROM THE MOTHER

Article 31

- (1) The origin from the mother is determined by birth. The same applies also in cases where the genetic material belongs to another woman.
- (2) The origin from the mother, established by the birth certificate may be disputed by an action brought by the child, by the woman registered as the mother in the birth certificate, by her husband, by the woman who claims to be the mother of the child, and by the man who maintains that the child was born by his wife.
- (3) As parties to the lawsuit are also summoned the husband of the mother, the spouse of the other person who has disputed the origin and in all cases the child.

ORIGIN FROM THE FATHER

Article 32

- (1) The husband of the mother is deemed to be the father of the child who has been born during the marriage or before the elapsing of three hundred days from its dissolution.
- (2) Where the child has been born before the elapsing of three hundred days from the dissolution of the marriage, but after the mother has contracted another marriage, the husband of the new marriage is deemed as the father of the child.
- (3) In case of proclaimed absence of the husband the presumptions under Para 1 and 2 are not applicable if the child has been born after the elapsing of three hundred days from the date of the last information about the husband, and in case of an order of presumed death - from the date of the presumed death.

DISPUTING OF FATHERHOOD

Article 33

- (1) The husband of the mother may dispute that he is the father of the child by proving that it cannot have been conceived by him. The action may be brought up to one year from the day of receiving knowledge about the birth.
- (2) The mother can dispute that her husband is the father of the child by proving that it could not have been conceived by him. This action may be brought up to one year from the birth.
- (3) In the case under Article 32, Para2, if the action of the second husband is successful the first husband is deemed as the father of the child and he is entitled to bring an action for disputing the fatherhood up to one year from the day of receiving knowledge of the court's decision, but not later than three years of its coming into force.
- (4) Disputing fatherhood is not permitted where the mother with the consent of her husband, put in writing and filed with the manager of the respective establishment, has been artificially inseminated or has given birth to a child conceived with genetic material from another woman.

PARTIES TO THE ACTIONS FOR DISPUTING OF FATHERHOOD

Article 34

Where fatherhood is disputed summoned as parties to the action are the mother, the child and the husband, and where the fatherhood is disputed by the second husband, as a party in the lawsuit also summoned is the first husband.

AFFILIATION

Article 35

(Amended, SG 63/2003) Each parent may affiliate his child. It is also possible to affiliate conceived children, as well as deceased children who have left descendants.

FORM OF AFFILIATION

Article 36

(Former article 36, Amended, SG 63/2003) Affiliation is performed personally with a written declaration submitted to the officer for civil status or by a declaration with the signature attested by the Notary public, filed with the officer for civil status. The declaration may be forwarded through the manager of the establishment where the child has been born.

(New - Amended, SG 63/2003) The officer for civil status gives notice of the affiliation to the other parent in case he is known, to the child if it is of full age and to the "Social Assistance Directorate" within seven days after it has been completed.

CHALLENGING OF THE AFFILIATION BY THE OTHER PARENT AND BY THE CHILD

Article 37

(1) (Changed, SG 63/2003) The other parent or the child could dispute the affiliation within three months time after the notice by means of a written declaration filed with the officer of the civil status. If they do not dispute the affiliation, the affiliation is entered into the birth certificate.

(2) Where the affiliation is disputed the affiliating person may in three months time from receiving the notification bring an action for establishing of origin.

(3) Where at the time of affiliation the child has not yet reached full age it can dispute it in three years time from attaining majority or from the date of receiving information about it in case this information has been obtained at a later date. If the action is recovered the affiliation is deleted from the birth certificate with a corresponding note.

CHALLENGING THE AFFILIATION BY THIRD PERSONS

Article 38

(Amended, SG 63/2003) Apart from the cases under the foregoing Article the affiliation may be disputed by every person with a legal interest by bringing an action in one year time from the date of learning about it. The affiliation may be disputed also by the Agency for Social Assistance and by the Public Prosecutor.

AVOIDING THE AFFILIATION

Article 39

The affiliating person may seek the avoidance of the affiliation on the grounds of error or fraud within one year from the date of the affiliation, in cases of intimidation - within one year from the date at which the intimidation has terminated, and in case of incompetence - within one year from attaining full competence.

ACTION FOR ESTABLISHING THE ORIGIN FROM THE MOTHER

Article 40

The origin from the mother may be established by an action brought by the child, by the mother or by the father. The husband of the mother who, according to Article 32 could be presumed to be the father of the child, is also summoned as a respondent.

ACTION FOR ESTABLISHING THE ORIGIN FROM THE FATHER

Article 41

The origin from the father may be established by an action brought by the child up to the elapsing of three years from becoming of full age, and by the mother within three years from the date of birth of the child. Where the action is brought by the child the mother is summoned as a party to the lawsuit.

PARENTAL RIGHTS BY ESTABLISHING THE ORIGIN BY MEANS OF AN ACTION

Article 42

Where the court recovers the actions under Articles 40 and 41 it is bound ex officio to decree measures for discharging of parental rights and sets provisions for the personal relations between the child and the parents, its support, applying Article 106 respectively.

BARS FOR ESTABLISHING OF ORIGIN

Article 43

An action for establishing of origin may not be brought, and affiliation may not be effected until the present origin, established by the presumption under Article 32 by the birth certificate or by affiliation, is not revoked by an action. Both actions may be joined.

ACTIONS FROM AND AGAINST THE HEIRS

Article 44

- (1) The heirs are not entitled to maintain the actions set forth in this chapter but may continue the lawsuits which their ancestor has brought.
- (2) Where the father or the mother are deceased, the action for establishing or disputing the origin is brought against their heirs.

TERMS

Article 45

The terms under this chapter are observed by the court ex officio and are not subject to arrest or interruption in their running.

ADOPTION

CONSENT FOR ADOPTION

Article 54

(1) Necessary for the adoption shall be the consent of:

1. the adoptive parent;
2. the parents of the person to be adopted;
3. the spouses of the adoptive parent and of the person to be adopted;
4. the adopted person if he/she has completed fourteen years of age.

OPINION ON ADOPTION

Article 55

(Amended, SG 63/2003) (1) The person to be adopted shall be heard out by the court under the procedure provided for in Article 15 of the Law on Child Protection.

FULL ADOPTION

Article 61

(Amended, SG 63/2003) (1) The adoption shall be compulsory full where the person to be adopted:

is a child of unknown parents

has been left in a specialized childcare institution with the prior consent of the parents for adoption;

has been placed in a specialized childcare institution and has not been asked for within 6 month-period from the date at which he/she was supposed to be taken.

(2) (New, SG 63/2003) In the cases referred to in paragraph 1, between the adopted and his/her descendants, on one hand, and the adoptive parent and his/her relatives, on the other hand, rights and obligations shall arise as between relatives by origin, and the rights and obligations between the adopted and his/her descendants with their relatives by origin shall be terminated. The same consequences shall also occur where the persons referred to in Article 54, paragraph 1 give their consent to that effect without the full adoption being compulsory. The impediments for contracting marriage due to affinity provided for in Article 13, paragraph 2, item 1 and 2 shall not be invalidated.

(3) (Amended, SG 11/92 former paragraph 2, amended SG 63/2003) The regional court shall rule that a new birth certificate is issued, in which the adoptive parent shall be entered as parent. The certificate shall be drawn up by the official in charge of the registry office in the municipality, the town council or the region at the permanent address of the adoptive parent.

RESTRICTED ADOPTION

Article 62

With the exception of the cases under the clauses of the foregoing Article, the adoption is restricted and therefrom arise rights and obligations as relatives by origin only between the adopted and his/her descendants on the one side, and the adopter on the other side, and the rights and obligations between the adopted and his/her descendants with their relatives by origin are preserved. Under this form of adoption the parental rights and obligations are transferred to the adopter and the parents by birth of the adopted do not inherit him/her.

ADOPTION BY THE SPOUSE OF THE PARENT

Article 63

By an adoption under the provisions of Article 61 and Article 62 of a child by the spouse of the parent the rights and obligations between this parent and his/her relatives on one hand, and the adopted and his/her descendants on the other hand, are preserved.

TERMINATION OF THE ADOPTION

Article 64

(1) The adoption shall be terminated by the court:

1. (Amended, SG 63/2003) In case of nullity due to violation of Article 49, 51, 52, paragraphs 1 and 2, Article 53, Article 53d, paragraphs 1 to 5, 54, paragraph 1, items 1, 2 and 4 and paragraphs 2, 3, and 5;

2. (Supplemented, SG 63/2003) by mutual consent of the adoptive parent and the adopted person, where both are legally capable in the cases of incomplete adoption;

3. due to serious offence committed by one of the parties or in the presence of other circumstances, which deeply upset the relations between the adoptive parent and the adopted person.

(2) Claim to declare the adoption void due to a violation of Article 54, paragraph 1, item 1, 2 and 4 may be lodged within one year, which shall run for the adoptive parent and for the parents of the adopted person from the time of learning, and for the adopted person - from the coming of age.

(3) (Supplemented, SG 63/2003) Except for the cases provided for in the preceding paragraph, termination of the adoption referred to in paragraph 1, item 1 may be requested by the adoptive parent, the adopted person and by the parents of the adopted person, and those referred to in paragraph 1, item 3 - by the adoptive parent and the adopted person. If a public interest is injured the prosecutor may request termination of the adoption as well. In the cases of an international adoption, termination of the adoption may be requested by the minister of justice as well.

(4) The participation of a prosecutor in the legal proceedings for termination of the adoption under paragraph 1, item 1 and 3 shall be obligatory.

LEGAL EFFECT OF THE TERMINATION

Article 67

The operation of the adoption ceases to exist with its termination.

CHAPTER SEVEN

RELATIONS BETWEEN PARENTS AND CHILDREN

PARENTAL CARES FOR THE CHILDREN

Article 68

- (1) The parents are obliged to care for their children and to prepare them for socially useful activity.
- (2) The step-father and the step-mother are obliged to assist the parent in the discharge of his or her duties.

CHILDREN'S OBLIGATIONS TO THEIR PARENTS

Article 69

- (1) The children are obliged to respect their parents and to help them. The children have the same obligations towards their step-father or step-mother.
- (2) The adult children are obliged to care for their elderly, disabled or sick parents.

RELATIONS BETWEEN THE GRAND-CHILDREN AND THEIR GRAND-FATHER AND GRAND-MOTHER

Article 70

- (1) The grand-children are obliged to respect their grand-father and grand-mother and to help them.
- (2) The grand-father and grand-mother are entitled to personal relations with their grand-children who are minor. Where there are obstacles in the way of maintaining personal relations, the regional court at the place of residence of the grand-children, at the request of the grand-father or the grand-mother, decrees measures for personal relations with them, except where this is not in the interest of the children.

PLACE OF RESIDENCE OF THE CHILDREN

Article 71

- (1) The children who are not yet of full age are obliged to live with their parents unless valid reasons necessitate that they live elsewhere. By departure from this obligation, at the request of the parents the court at the place of their residence, after hearing the child, where it has completed ten years of age, decrees an order for its return to its parents. The order is subject to appeal to the President of the County court, but the appeal does not stop its execution. The order is executed through administrative channels.
- (2) Where the parents do not live together and are unable to reach an agreement as to with whom of them the children will live, the dispute is resolved by the regional court at the place of residence of the children, after the court has heard them where they have completed ten years of age. The decision of the court is subject to appeal according to the general rules.

DISCHARGE OF PARENTAL RIGHTS AND OBLIGATIONS

Article 72

Parental rights and obligations are discharged by both parents jointly and separately. Where there is a disagreement between them the dispute is resolved by the regional court after hearing the parents, and where necessary also the child. The decision may be appealed according to the general rules.

REPRESENTATION AND GUARDIAN ASSISTANCE

Article 73

- (1) Each one of the parents is entitled to represent solely his or her infant children, and to give consent for the legal acts of his or her minor children only in their interest.
- (2) The appropriation of real property and chattels, with the exception of fruits and perishables, the encumbering thereof with liabilities and in general the undertaking of acts of disposition, related to the property of minors, are allowed with the permission of the regional court at the place of residence only in case of necessity or where this is in their obvious interest.
- (3) The donation, waiver of rights, lending and guaranteeing the debts of third persons by pledge, mortgage or endorsement, effected by children not yet of full age are null and void. This does not apply to the transactions executed by married minors to whom only the limitation of Article 12, Para 3 is relevant.

RESTRICTION OF PARENTAL RIGHTS

Article 74

- (1) Where the behaviour of the parent jeopardizes the personality, upbringing, health or property of the child, the regional court ex officio or at the request of the other parent, or by the public prosecutor, decrees appropriate measures in the interest of the child, and where necessary settles the latter in a suitable place.
- (2) Similar measures are undertaken where the parent, due to long physical or mental illness or to prolonged absence or other objective reasons is unable to discharge his or her parental rights.

DEPRIVING OF PARENTAL RIGHTS

Article 75

- (1) The parent may be deprived of parental rights:
 1. In exceptionally severe cases under the foregoing Article;
 2. Where, without a valid reason, he or she continuously does not care for the child and does not support him/her;
 3. Where he or she has left the child for rearing at a social institution and has not looked for it within a year from the day on which the parent had to take it back.
- (2) The court proceedings for depriving of parental rights are initiated ex officio by the regional court, at the request of the other parent or the public prosecutor. The case is dealt with according to action proceedings with the participation of lay judges.
- (3) In the law-suit it is mandatory to be heard the public prosecutor and the parent whose depriving of parental rights is sought, unless he or she fails to appear for no valid reason.

MEASURES AS TO PERSONAL RELATIONS

Article 76

In all cases of restriction or depriving of parental rights the court also decrees the measures for the personal relations between the parents and the children.

ALTERATION OF THE MEASURES AND RESTORATION OF PARENTAL RIGHTS

Article 77

(1) With the change of circumstances the court may alter the measures decreed under Articles 74, 75 and 76.

(2) The parent may request the court to restore his or her parental rights where the grounds on which he or she has been deprived of parental rights have ceased to exist.

REGISTRATION

Article 78

In the cases under Articles 75 and 77 the court ex officio informs the municipal council at the place of residence of the parent for the respective registration of the depriving of parental rights or their subsequent restoration.

SUPPORT OF CHILDREN BY PARENTS

Article 82

(Amended, SG, No. 11/1992)

(1) The parents are obliged to furnish support to their children who are not of full age regardless of whether they are fit for labour or can support themselves from their own properties.

(2) The parents are obliged to furnish support to their children who have come of age, if the latter cannot support themselves from their income or use of their properties, when they study at secondary, undergraduate and higher education establishments, for the specified term of education, up to 20 years of age in the case of study at secondary school and up to 25 years of age in the case of study at undergraduate or higher education establishment.

(3) The support under the preceding subArticle is due provided it does not particular inconvenience for the parents.

CONSEQUENCES ARISING FROM THE ANNULMENT OF MARRIAGE

Article 98

(1) The rules regarding the consequences of the dissolution of marriage through divorce in connection with the personal property and property relations between the spouses, and also about the relations between them and the children are also applicable to the annulment of marriage. The bad faith by annulment of marriage has the same meaning as the guilt by divorce.

(2) The children who have been conceived or born during the annulled marriage are deemed as born in wedlock and for them the presumption for fatherhood, under Article 32 is also applicable.

DIVORCE THROUGH BREAKDOWN OF THE MARRIAGE

Article 99

(1) Each of the spouses is entitled to seek a divorce where the marriage has deeply and irrevocably been broken down.

(2) Together with the decision allowing the divorce the court pronounces ex officio as to the guilt for the breakdown of the marriage unless it is caused by objective reasons which cannot be ascribed as guilt to any one of the spouses.

(3) The court does not pronounce itself as to the guilt for the breakdown of the marriage where the spouses request this and submit to the court their agreement regarding the discharge of parental rights, the personal relations and the support of the children, and also about their property relations, the use of the matrimonial home, the alimony between them and the family name.

(4) A divorce is not allowed where the breakdown of the marriage is caused by the misbehaviour of the plaintiff only, and the other spouse insists on the preservation of the marriage, unless important considerations call for the divorce action to be recovered.

DIVORCE BY MUTUAL CONSENT

Article 100

(1) Where between the spouses there is a serious and firm mutual consent for divorce, the court allows it without investigating their motives for the termination of the marriage.

(2) The petition for a divorce by mutual consent cannot be presented before three years have elapsed from the contraction of the marriage.

SETTLEMENT OF THE SPOUSES IN A DIVORCE BY MUTUAL CONSENT

Article 101

(1) In a divorce by mutual consent the spouses have to set forth their settlement as to the discharge of parental rights, the personal relations, and the support of the children, and also their property relations, the use of the matrimonial home, the alimony between them, and the family name. The settlement is ratified by the court after it is satisfied that the interests of the children have been protected.

(2) Where the settlement is not complete or the interests of the children are not well protected the court sets a term during which these defects should be eliminated. Where in the set term the defects have not been eliminated the divorce petition is dismissed.

(3) Actions for the discharge of parental rights and the support of the children after the termination of the marriage by mutual consent are admissible where a change in the circumstances has occurred.

PARENTAL RIGHTS AFTER THE DIVORCE

Article 106

(1) With the pronouncement of the divorce the court decrees ex officio to whom of the spouses the exercising of the parental rights shall be granted, orders measures in connection with the discharge of these rights and as to the personal relations between the children and the parents as well as the support of the children.

(2) The court hands over the discharge of the parental rights after scrutinizing all circumstances with a view to the children's interests. Those rights can not be granted to the spouse who was found guilty for the divorce, where this may have negative effect for the rearing and upbringing of the children.

(3) The court hears out the parents and the children where they have completed fourteen years of age. Where the court finds it appropriate it can hear out the children who have completed ten years of age, and also close relatives and friends of the family.

(4) Where the interests of children require it, as an exception, the court may decree that they live with their grand-father, grand-mother or somebody else, with the consent of the latter, or at a social institution.

(5) When a change in the circumstances occurs the court may, at the petition of one of the parents or ex officio, change the previously decreed measures and decree new ones.

CHILD PROTECTION ACT

SG. 48/2000. Changes and amendments: SG. 75/2002, SG. 120/2002, SG. 36/2003 and SG. 63/2003

CHAPTER ONE GENERAL PROVISIONS

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) 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 22 p.m.
- (4) Parents shall bring into effect the measures undertaken under the present Act and shall provide assistance towards the implementation of child protection activities.
- (5) 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.

CHAPTER TWO RIGHTS OF A CHILD

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 can not 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 obligatory hearing of the child, provided he or she has reached the age of 10, unless that 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) 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) 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) 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) The Social Assistance Directorate may represent the child in cases provided for by law.

(8) 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) 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

FUNCTIONS OF THE SOCIAL ASSISTANCE DIRECTORATE

Article 21

Pursuant to the present 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 programs 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:
children in need of special protection;
children under police protection;
children eligible for adoption
children placed to live with relatives' or close friends' families;
children placed in foster families;
children placed in specialized institutions;
candidate and approved foster families;
non-for-profit legal entities, working on child protection programs;
adopters and candidates for adopters.
7. render assistance and cooperation to non-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. organize 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 Article 41 when the 48 hours police protection is completed.

12. propose for appointment guardians 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 1 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 the Article 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 Article 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

PLACEMENT OUT OF THE FAMILY

Article 26

(1) 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 specialized 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 a temporary placement by administrative order.

(2) The request to apply measures under par. 1 shall be submitted to the court by the social assistance directorate, by the prosecutor or the parent. They shall refer to the regional court, seated in the region of the social assistance directorate.

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 Article 27.

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

(3) 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 labor and social policy.

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 par. 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.

ADDITIONAL PROVISION

§1

In the meaning of this Act:

1. "Protection of the child" is a system of legislative, administrative and other measures for the implementation the rights of the child.

2. "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 Article 26.

3. "Services" in the meaning of Article 23 are the social services in the usual home environment under the Social Assistance Act.

4. "A foster family" is a family of two spouses or of an individual person in the meaning of article 31.

5. "Specialized institutions" are establishments of residential type for rearing and upbringing of children where the latter are permanently separated from their family environment.

6. "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.