

LAW

## **ON THE RIGHTS OF THE CHILD**

PRESIDENT

TRANSNISTRIAN REPUBLIC OF MOLDAVIA

4 August 1997

No. 61-3

(SEMR)

**Passed by the Chamber of Legislation of the Supreme Council**

**Of the Transnistrian Republic of Moldavia**

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The present Law determines the legal status of the child as an independent subject, and guarantees its physical and mental health as well as the formation of its civic consciousness on the basis of national and universal values, providing particular care and social protection of children, temporarily or permanently deprived of a family environment or finding themselves in other unfavorable or emergency situations.

### CHAPTER I. GENERAL PROVISIONS

#### Article 1. Legal Basis

The rights and obligations of the child are stipulated in the present Law and other legal acts of the Transnistrian Republic of Moldavia.

In accordance with the present Law, every human being from birth to 18 years-of-age, is considered to be a child with the exception of children who come of age earlier according to the respective law applied to them.

#### Article 2. Bodies Concerned with the Rights and Interests of the Child

The State guarantees every child living in a family environment, as well as those living in infants' homes, children's homes and in boarding schools for orphans, the right to a standard of living needed for their physical, mental, social and spiritual development.

The State takes measures on assisting parents, as well as other persons responsible for the education and development of the child.

The protection of the child is assured by the respective competent bodies functioning within the framework of the local administration, and the human rights bodies.

#### Article 3.

All children have equal rights independent of their race, nationality, ethnic origin, sex, language, religion, belief, material status and social origin.

### CHAPTER II. FUNDAMENTAL RIGHTS OF THE CHILD

#### Article 4. The Right to Life

The right of the child to life, its physical and psychological inviolability is guaranteed by the State.

Children without exception cannot be subject to torture, to cruel, inhuman or humiliating treatment or punishment.

The State recognizes the right of the child to the most sophisticated medical treatment, in view of a complete cure, and to preventive treatment.

In cases where parents renounce on medical care for the sick child, medical treatment shall be given to the child counter to their will on the decision of a council of doctors taken in the presence of a representative of the authorities.

In accordance with the legislation, the State assures the necessary conditions for mothers, in the prenatal as well as the postnatal period, in view of the healthy development of the child, its well-balanced and healthy diet; the provision of qualified free medical assistance as well as measures for preventing diseases and information on a healthy way of life.

#### Article 5. The Right to a Name and Civil Status

The child has the right at birth to a name and is registered according to the stipulations of the Marriage and Family Code.

All children have the right at birth to a civil status. The provisions and conditions of granting or changing the civic status of a child is determined by the respective jurisdiction in force.

#### Article 6. The Right to Inviolability of Personality, Protection against Physical or Psychological Violence

The State defends the inviolability of personality of the child, protecting it from any kind of exploitation, discrimination, physical or psychological violence, prohibiting cruel, rough treatment and neglect; insults and beating; involving children in criminal activity; encouraging them to drink alcohol, smoke, consume drugs and

psychotropic substances; gambling, begging, requesting or forcing them into any kind of sexual activity, into prostitution, into pornography and pornographic material. This prohibition applies to parents or other authorized parent substitutes or relatives.

#### Article 7. The Right to Protection of Honor and Dignity

Every child has the right to the protection of honor and dignity. Any infringement on the honor and dignity of the child shall be punished in conformity with the legislation in force.

#### Article 8. The Right to Free Thought and Consciousness

The right of the child to free thought and personal opinion, as well as the right to practice its religion, shall not be violated in any way.

The State guarantees children capable of forming their own views the right to free expression of opinion concerning all issues relating to them. The opinion of a child is taken under consideration according to its age and maturity.

Every child is given the chance to be heard in the course of any judicial or administrative case touching on the interests of the child either directly or through a representative or the respective body in conformity with the legislation.

Children cannot be forced to share one opinion or other; to embrace one religion or other counter to their own conviction. Freedom of consciousness of the child is guaranteed by the State; it shall be expressed in a spirit of tolerance of belief and mutual respect.

Parents or authorized parent substitutes have the right to educate their children in accordance with their convictions without using force.

#### Article 9. The Right to Mental Development

The State guarantees all children equal opportunities and conditions for mastering cultural values; supports the creation of different state and public institutions designed to promote the development of the creative abilities of children and assures that they are accessible to them; in conformity with the legislation, it encourages the publication of children's newspapers, journals and books, as well as the production of films and radio and TV broadcasts for children.

#### Article 10. The right to education

Every child has the right to free secondary school education. Children can study in the state language or in any other language in the comprehensive schools, and continue their education in professional technical schools, high schools, colleges, and higher educational establishments in conformity with the legislation.

Children with physical, mental and psychological disorders have the right to free education and upkeep in all special educational establishments, functioning according to the respective provisions.

Orphans and children deprived of parental care have the right to free education and activities in all state educational establishments till graduation, but not later than their 25th birthday.

#### Article 11. The Right to Work

The child has the right to individual work activity corresponding to its age, state of health and professional training, and to payment according to the work legislation.

With the approval of their parents or authorized parent substitutes, children are allowed to light work compatible with their education at the age 14. In conformity with the legislation in force, the state bodies shall create a reserve of work places and guarantee a job suitable for orphans and children deprived of parental care.

The State protects children from economic exploitation and from doing work representing a risk to their health or standing in the way of their education, work, which harmful to their physical, mental, spiritual and social development.

Work activities of handicapped children and children with physical, mental and psychological disorders shall be assured by creating a network of institutions, enterprises and services.

Forced labor of children in any form is punished by law.

#### Article 12. The Right to Leisure

Every child has the right to leisure and recreation, the right to participate in games and entertaining events corresponding to its age group, as well as to participate in cultural life and engage in art activities.

The State encourages and gives financial support to the creation of a wide network of extracurricular establishments, sports facilities, stadiums, clubs, camps for recreation and other centers promoting the health of children; it provides for free

visits to cultural, educational, sports and fitness facilities, and vacation at holiday sites.

#### Article 13. The Right to Affiliation to Public Organizations

Children have the right to join public organizations in conformity with the legislation.

The State may provide financial support to children's public organizations.

Involving children in political activities and their adherence to political parties is prohibited.

#### Article 14. Obligations of Children

Children have the obligation of being acquainted with and observing the public order and rules of the boarding houses. They should respect national as well as universal traditions and cultural values, study well and prepare themselves for work useful to society, respecting their parents, the environment, public and private property.

### CHAPTER III. THE FAMILY AND THE CHILD

#### Article 15. Obligations of Parents with Regard to the Birth of a Healthy Child

Medical examination of couples wishing to marry, as well as consultations on medical genetic problems and on family planning shall be carried out by establishments within the state health framework locally and free of charge, and only with the consent of the persons getting married.

Women engaged in hazardous work have the right to move to a safe job the moment their pregnancy is confirmed. Their employer shall give them lighter work excluding any harmful production factors in conformity with the labor code.

Pregnant women are obliged to comply with the prescription of the doctors assuring the normal development of the baby.

Parents are obliged to follow the prescription of the doctors with a view to assuring the normal prenatal and postnatal development of the child. The State encourages parents to fully comply with the instructions of the doctors.

The State assures persons wishing to marry, and young families, the necessary conditions for undergoing the medical examination.

#### Article 16. The Right of Life in a Family

Every child has the right to live in a family, know its parents, enjoy their care, and live with them except in cases where separation with one or both parents is in the interest of the child.

#### Article 17. The Right of the Child Deprived of Parental Care

A child separated from one or both parents living in the Transnistrian Republic of Moldavia or any other country has the right to keep in touch with both parents on a regular and personal basis. It has the right to their material support if it does not run counter to their interest,

#### Article 18. The Responsibility of the Family towards the Child

Both parents or the authorized parent substitutes have equally the main responsibility for the physical, mental, spiritual and social development of the child, giving priority to its interests.

Parents or authorized parent substitutes could be brought to justice for neglecting the upbringing of young or preschool children.

If both or one parent, as well as the authorized parent substitutes do not take good care of the child or abuse their parental rights, the child has the right to turn to the guardian or trustee bodies, as well as to the judicial bodies to defend their rights and interests.

In case the child lives in a state children's home because it was abandoned or due to an illness caused by their parent's failure to follow the doctor's prescription, both parents shall compensate for the expenses of its upkeep in conformity with the legislation.

#### Article 19. The Right to Adequate Housing

Children – members of families renting an apartment, have the same rights as the other family members to use the housing space; while children - members of a family, property owner, have the right to it as well as to inherit it.

The local authorities shall assure the maintenance and repair of the homes of orphans and children deprived of parental care out of the local budget until they come of age.

Children returning from state children's establishments, from relatives' homes or those of authorized parent substitutes, shall be provided with housing without delay if it is not possible to accommodate them in their previous home.

#### Article 20. The Right to Property

Every child has the right to property. The right of the child to property is guaranteed. The child enjoys the right to property within the limits and according to the regulations of the legislation.

#### Article 21. Protection of the Family by the State

The family and the children are entitled to protection and assistance in claiming their rights.

The State gives the family assistance in the upkeep, training and education of the children, and guarantees the payment of daily expenses and compensation in compliance with the legislation.

### CHAPTER IV. PROTECTION OF THE RIGHTS OF THE CHILD IN UNFAVORABLE AND EMERGENCY SITUATIONS

#### Article 22. Protection of Orphans and Children Deprived of Parental Care

Every child deprived temporarily or permanently of its family environment as well as a child that cannot stay in such an environment in its own interest, should immediately have the protection of the guardian and trustee bodies, as well as the protection and extraordinary assistance of the State in compliance with the legislation.

Orphans and children deprived of parental care, could be adopted, placed in a foster home or in a state children's homes as follows: from 0 to 3 years of age – in a home for infants, from 3 to 7 years of age – in children's homes, from 7 years of age to their secondary school graduation – in boarding schools for orphans.

The adoption of foreign citizens is carried out in compliance with the legislation unless another adequate solution could be found within the Transnistrian Republic of Moldavia. In choosing a suitable solution, priority is given to the need for continuity in the education of the child, its state of health, its ethnic origin, its religious and cultural identity and its mother tongue and preferences of the child.

The adoption of children, citizens of the Transnistrian Republic of Moldavia, by foreign citizens living on the territory of the Transnistrian Republic of Moldavia, and beyond, is carried out in compliance with the compulsory special authorization of the Ministry of National Education of the Transnistrian Republic of Moldavia

stipulated in Chapter XII of “The Code on Marriage and the Family” of the Moldavian SSR in force on the territory of the Transnistrian Republic of Moldavia.

#### Article 23. Care of Children in State Children’s Establishments.

If the child without parental or substitute parental care cannot be placed in a foster home, it is sent to a state children’s home or a similar establishment, where its upkeep is fully assured by the State. This decision is taken in compliance with the legislation.

Children brought up in state children’s establishments are assured favorable conditions for their physical, mental and spiritual development, for keeping their mother tongue, culture, national traditions and rituals, acquiring at the same time skills for an independent life.

#### Article 24. The Rights of Handicapped Children and Children with Physical, Mental and Psychological Disorders

The State guarantees handicapped children and children with physical, mental and psychological disorders free medical care, special psychological assistance, as well as secondary school education or professional training, provision of employment according to their ability, social rehabilitation so that they can live a decent life in an environment facilitating their active participation in social life.

The State assures handicapped children an invalidity pension.

#### Article 25. The Rights of Children in Emergency Situations

The State assures children in emergency situations (accidents, natural disasters, epidemics, wars, etc.) prompt and gratuitous assistance, and takes urgent measures for their evacuation from the dangerous zone and reunification with their family.

In the cases of children who have lost their parents, they enjoy the social protection of the State.

#### Article 26. Prohibition of Recruiting Children for Their Participation in Military Actions

It is prohibited to recruit children for military actions, as well as to spread propaganda on war and violence among children.

#### Article 27. The Right of the Child to Refugee Status



The State takes the respective measures to assure the respective protection and humanitarian assistance to children wishing to obtain refugee status or considered to be refugees in accordance with the norms and procedures of international or domestic law; it applies both to children accompanied by their parents or parent substitutes, and to children deprived of parental care.

If necessary, the State gives support to organizations specializing in the protection of such children.

#### Article 28. Protection of the Rights of the Child in Case It Is Brought to Justice

The State protects the rights of the child to personal freedom.

Detention or arrest of a child is only carried out as a final measure, and only in cases envisaged by the legislation. Parents or substitute parents are immediately informed of the detention or arrest of the child,

The children detained or arrested are kept separate from adults and convicted children under hygienic conditions and receiving human treatment.

Death or life sentence is not pronounced for crimes committed by persons who have not reached the age of 18.

A counsel for the defense and a teacher should participate without fail in the court case in which the child is implied.

#### Article 29. The Protection of Children in Specialized Educational Institutions

A child is sent to a specialized educational institution only in compliance with the decision of the court on the basis of a proposal of the respective competent body of the state administration.

A child living in a specialized educational institution has the right to human treatment, health care, to acquiring secondary school education or professional training, to meeting its parents, relatives or other interested parties, to vacation, and to correspondence.

In these specialized educational institutes, priority is given at all cost to re-educate the children in view of their return to a normal lifestyle.

In cases where the child reaches 18 years of age before the sentence deadline, the commission on cases relating to minors of the state administration could decide to prolong its stay in the educational institution to the very end.

Article 30. The Protection of the Child from Kidnapping, Trafficking and Smuggling

The State shall take all necessary measures to prevent the kidnapping of children, using them as donors of blood, organs or tissues, the trafficking or smuggling of children in any form and for any purpose. In the case of kidnapping of children, the State organizes their search.

CHAPTER V. INTERNATIONAL COOPERATION

The State assures international cooperation in the field of the protection of the rights of the child through state and other structures.

If an international agreement to which the Transnistrian Republic of Moldavia adheres stipulates norms different from the present Law, the norms of the international agreement are applied.

CHAPTER VI. VIOLATION OF THE LAW IS PUNISHED BY LAW AND CONTROL OF ITS IMPLEMENTATION

Article 32. Violation of the Law Is Punished by Law

Physical and juridical persons guilty of violating the present Law are brought to justice envisaged by the legislation.

Article 33. Control of the Implementation of the Present Law

Control of the Implementation of the present Law is carried out by the state bodies authorized to do so by the legislation.

CHAPTER VII. CONCLUDING PROVISION

Article 34

The present Law comes into force on the day of its official publication.

PRESIDENT

I. SMIRNOV

City of Tiraspol

4 August 1997



