



REPUBLIC OF ALBANIA
PEOPLE'S ADVOCATE

Executive summary of the People's Advocate special report on children

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-Non official translation-

People's Advocate Office

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Despite the fact that a number of issues are being addressed by the current legislation in force and many facilities are already in place, children are still experiencing a lot of problems in Albania, even during the period when they are under the care of state institutions and also when the direct institutional care has terminated and these children become subject of other facilities as provided by the legislation.

The category of orphan children includes those individuals who, under applicable law, shall enjoy the orphan status. This status is granted to all persons aged between 0-25 years, fulfilling all requirements as provided by the law. The acceptance of these individuals by social care institutions, whether governmental or private, is not an excluding requirement.

The category of children exploited for labour purposes, includes all children, who perform work in support of their family, or for their survival and have not yet reached the age of 18. Despite the minimum age for employment, as provided by the law¹, child labour below the legal age is a phenomenon, which is widely spread.

The main characteristic of both categories is that each group can serve as a potential supplier for the other group, because it is very simple that in certain circumstances one orphan might be transformed to a child exploited for labour purposes.

Observed problems

The legislation on “Children Rights” includes a wide range of normative acts, which provide special protection. Starting with the Constitution, the legislation is also enriched by international acts which provide standards for guaranteeing children rights, reflecting this way a visible effort for the promotion and implementation of these rights.

Pursuant to these acts, a number of laws and by-laws have been approved in order to specify the authorities responsible for the implementation, monitoring and observance of children’s rights, the treatment of certain categories of children, the relevant procedures, as well as the inclusion into legal entities of certain children categories. There are also several policy documents, which have an indicative approach to children's issues.

In particular, the Law “On protection of children’s rights”, aims to establish suitable conditions for the development and implementation of policies that affect children’s rights, adapting them to international standards. On the other hand, this law enables the establishment of an effective system of monitoring and reporting on children's rights at the local and central level. But while this normative base exists and the monitoring and enforcement mechanisms have already been created, there are still many problems, which should be addressed.

¹ The Albanian Labour Code sets the minimum working age at 16 years old. This prohibition does not apply to the juveniles from 14 to 16 years of age, when they are employed during the holidays from school, provided that this employment doesn’t harm their health and growing up. However, juveniles between 16 and 18 years of age may be given easy jobs that do not harm their health and growing up.

There are many cases when children abandon school earlier than required by law, in order to work with their families, especially in rural areas. There are some cases when children under 18 are involved in prostitution. In this aspect children from the Roma community represent a concerning problem. Street children are often involved in begging or child labour. These children have been facing the threat of human trafficking and many of them became victims. There are many reports on orphans, who are not any longer under state custody, who have been facing many difficulties in finding a shelter or adequate public services². Although labour inspectors have investigated the formal labour sector, most cases of child labour occur in the informal sector. The law penalizes the use of child labour and forced labour, but the government did not effectively enforce the law. The findings of the 2012 Amnesty International Report “On the respect for Human rights in Albania” state that: *“The domestic violence remains a widespread problem... Most of the incidents, including child abuse went unreported... Human trafficking continued. It was mainly focused on young women and girls for forced prostitution and also on children for begging and forced labour”*. According to the Albanian legislation, homeless registered orphans till 30 years old, have the right of being treated with priority in case of social housing. However the law has been implemented very rarely and many of these orphans continued to live in school dormitories in very bad conditions and others paid the rent for a very poor accommodation.

A very small proportion of orphan children obtain economic aid (assistance). Economic aid that is guaranteed by the state covers only 5% of the minimum needs of their living. A small number of orphan children around the country are treated in 9 governmental residential centres and in 16 non-governmental centres. State Social Service Network operates in 12 regional offices around the country; offices that have not operated properly during the years of transition. This because of the fact that service network has been mostly corrupted and informal³.

Because of the blood feud in the northern areas of the country, 1400 turned into orphans, making their living more misery⁴. Local authorities have no plan in place for the social support of orphan children. According to the latest data the number of children- beggars, thieves and children that work to earn the living for their families has increased by more than 30% in recent years. 60% of these orphans remain very poor during their whole life, where even their existence its constant danger⁵.

Public and private residential structures for children have made progress in implementing standard services, but still there are difficulties and unclarities in several directions. Institutions still are focused on the implementation of standards related to physical aspects, and have difficulties in the enforcement of standards related to psycho-social aspects of children, reintegration, participation of parents and relatives in the process of drafting individual plans, relations with community, etc. Deficiency of staff appears in terms of professional figures and

² United States of America, Department of State, update 2012, date of viewing 01.02.2013; www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper. Section 6. Discrimination, Societal abuses and Trafficking in Persons.

³ National Meeting Resolution of Orphans of Albania “For the integration of Albania together with orphans in the European Union”, Tirana, page 2, published by the National Institute of Integration of the Albanian Orphans, Tirana, on 20 May 2012. www.nifao-orfan.org.

⁴ Ibid.

⁵ Ibid.

professional capacities/qualifications for the treatment of children according to age-group, psychological development and according to their specific needs. Difficulties are encountered in the functioning of multidisciplinary teams and in addressing the needs of children.

In all social care institutions, public and private, new typologies of services such as family-home service should take place.

During the process of decentralization of powers from central government to local authorities, related to the protection of children's rights, several problems have been observed dealing with non appropriate inclusion of local authorities in the exercise of responsibilities for the effective management and monitoring of institutions devolved under their authority, lack of capacities and limited financial opportunities that lead to apathy in setting up new services according to the needs of vulnerable children. The age –group of children that are eligible for all residential services offered is 0-16 years old. Over this age the support services are few and are provided mainly by NGOs that support this age-group with community integration programs, through the promotion of independent living. Their low levels of education influence negatively on their employment opportunities. The employment of young people is usually informal, underpaid, without qualification and social security, so they can not benefit from free health care services.

Conclusions

Orphans and children who are used to work, represent a concerning social category over the period of transition. Their real situation and the overall dynamics of our society, display the need of multilateral state-society intervention, to provide an environment where children start life in the best way possible. For this purpose, is primary the need of implementation of official studies by the relevant state institutions, related to these categories, of the causes of this situation, the dynamics of the development of these categories, positive and negative trends in this context, state policies on action and ways for solution/improvement of the situation.

The correct implementation of existing legislation and its improvement should be the product of the interaction between state actors and civil society; an economic development that increases family income and living standards, fighting so poverty; a qualitative educational system, comprehensive, free and compulsory to add human capital, which creates a workforce trained and qualified; positive change in social mentality for children, on family level, employers and institutions, for the elimination of child labour; taking measures to reduce the phenomenon of the informal economy and all its negative consequences, as well as of a constant struggle against corruption; establishment and functioning of social services, as well as of a continued support for these categories of children and their families to face reality, in which the child is growing up.

It is necessary the improvement of legislation regarding labour relations for cases of exploitation of child labour in the family system, providing even appropriate penalties. This constitutes a huge gap, having in mind the phenomenon of child labour by parents or other tutors, when the child is in school age, is very widespread. There is a lack of legal provisions related to the rehabilitation of children who have been victims of violence or witnesses of violence. It is necessary to amend the law “On the status of orphan”, especially the legal status of children in

care aged 16-18 years that is not regulated by law, as well as the expanding the definition of orphan.

It is essential the implementation of legislation against child labour, violence against children, mandatory education laws, as well as of laws that indirectly aim punishing individuals abusing with them.

The consolidation and improvement of the system of social care for children in need, requires a reform of social services, in harmonization with the process of decentralization and that of deinstitutionalization. Important remains the process of strengthening the capacities at central and regional level, of the entities that work with children as well as constant trainings of the staff of social services.

For these reasons, it is needed the establishment of an independent mechanism in the country, that would guarantee and promote in the Parliament, Government, in the civil society and other actors, the implementation of the Convention on the Rights of the Child. This can happen with the establishment of the Commissioner for Children's Rights. These measures constitute the challenges for the state and our society, since the proper treatment of these categories enables them to become citizens with dignity, in a society with values.