

RESPECTING CHILDREN'S RIGHTS THROUGH THE INSTITUTION OF MINORS PROTECTION BY PARENTS

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MOTTO:
Our duty is to help the child live.
(Maria Montessori¹)

Abstract

Every society hopes and expects that the younger generation, meaning children, grow and become capable and responsible citizens that contribute to the welfare of the community. However in the whole world, children are denied the most elementary rights of normal development, active participation and even the survival. Therefore, both at international level and national level have been taken measures to respect children's rights and thus to protect them.

Parental care is the care of the juvenile legal means consisting of all rights and duties relating to both person and property belonging of the child by both parents equally. The exercise of parental care is performed under control of the state, represented by the guardianship court. On how to exercise parental care usually is an accomplished both parents jointly and equally. But there are certain situations where it is not possible to apply this rule, given that one of the parents is impossible to exercise their rights and duties incumbent. In these cases exception is exercising parental care by one of the parents.

Keywords: *child, children's rights, minor, parents, guardianship court, parental care*

Introduction

The child, this pure being is still an unknown, both in school and in family. This is a big problem that rises in front of us! But maybe if we banish from our eyes and our mind the fog of prejudice and ignorance, the more dazzling, the further we consider more learned, we would see what and how much we need to do for our children. Why? Also because the children, at their turn, would make everything for us, the adults. They are so sensitive to everything we say and how much they would like to submit to us! Look at their eyes when they looked up at us and you will understand the meaning of these words. You can support their look?

Any society hopes and expects that its young offspring, the children grow and become capable and responsible citizens that contribute to the welfare of their community. However, throughout the world, are denied to children the most basic rights of normal development, active participation and even survival.

The question is: why children need rights? Moreover as these are mentioned in international documents and internal laws!

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¹ **Maria Tecla Artemesia Montessori** was an Italian physician and educator, best known for the philosophy of education that bears her name, and her writing on scientific pedagogy. Her educational method is in use today in public and private schools throughout the world (http://en.wikipedia.org/wiki/Maria_Montessori).

Children should be considered the most privileged age category, because of the importance of their proper training and education. However, in the world, mostly because of poverty, children are treated more often than we might imagine as a very cheap labor - in the best scenario, but also as mercantile commodities for illegal² organs transplant trade, as the object of child prostitution and flesh trade.

Such cases of abuse and exploitation can exist only because of the child's inability to defend himself, of his physical weakness and mental immaturity.

Both in developed and in developing countries, the children face too often with the street violence, the temptation to use drugs, with the abuse and sexual exploitation. They are often forced to work an excessive number of hours, practicing activities whose risk does not matter to anyone; the danger does not mean anything. All this affects their health - and so fragile, but it also impede them to enjoy the leisure and education to which they are entitled.³

Too many children die from diseases that could be prevented. Malnutrition is still a problem that must be rooted out, the access to drinking water or sanitary facilities still remains a luxury in areas like Africa.

In some parts of the world, the age at which they should go to school, children are enrolled in the armed forces, are tortured and subjected to some punishments absurdly harsh and improper the age.

All these children whose basic needs and fundamental rights are denied, cannot, they have no way to become responsible citizens, sensitive or productive. How can we ask someone that is not aware of the concept of right to respect the rights of others?

Therefore, the initiative taken in the United Nations Organization to adopt in 1989 the most approved international document (192 states in the world approved today the document) – The Convention on the Rights of the Child is more than commendable. Perhaps not coincidentally the Convention was adopted in the year of radical changes over the whole earth. Thus it was created a special place for children in the global agenda.⁴

Built on varied legal systems and cultural traditions, the Convention on the Rights of the Child is a set of standards and obligations universally accepted and negotiable. Children are born with fundamental freedoms and with innate rights of every human being. This is the basic condition of the United Nations Convention on the Rights of the Child.⁵

The Convention on the Rights of the Child is constitute in a real code of rights of children everywhere and sets the standards of a normal life at different stages of his evolution. With 54 articles preceded by a head note, the convention is represented as an ambitious text that has the aim to promote a genuine legal status of the child.

By the confirmation of the Convention, governments are obliged to fully implement the rights provided, rights that can be grouped into three major categories:

1. Protection: Children are entitled to protection against cruelty, abuses, neglect and exploitation;

2. Participation: Children are entitled to play an active role in society and to have a word to say in their own lives;

3. Care: Children are entitled that the most basic necessities of them be satisfied⁶.

² The day of Friday, March 20, 2009, represented for many of the Romanians a black day. This is because; all the televisions have shown a parent was willing to sell his own child-a girl- for organs. He had the courage to appeal to a gesture that many of us consider it criminal. Can this man have a soul? Or maybe it was fair to wonder if he has a mark of soul in him! And on top! The child looked at him with innocent eyes, but especially with confidence ...

³ Mădălina Tomescu – *Les droits de l'enfant dans la société actuelle* – Transylvanian Review, Vol. XX, No.1, Spring 2011, p. 138-145.

⁴ Ibidem.

⁵ Ibidem.

⁶ Ibidem.

The Convention is based on the philosophy that children are equal and have the same values as adults. But at the same time they are vulnerable because of their age and because of the way their lives are subject to the decisions and behavior of adults.⁷

Therefore, the New Civil Code provides parental care institution that includes all three elements: protection, participation, care. We will analyze how this Romanian institution contributes on respecting the children's rights, provided in an international document, confirmed and therefore assumed by Romania.

1. General considerations regarding parental care

Legal settlement must start from the creation of specific means of protecting and promoting the interests of minors. From a legal perspective, the basic function of parents and guardians is to exert protection of children. As Declaration of the Rights of the Child (1959) recognized, these rights are qualitatively different from those of adults, and this gives them a specific that turns them into a subject, support to study of a legal discipline.

Parental care, as usual legal means for minor protection finds its regulation in Title IV of the Civil Code devoted to parental authority, art. 483-512. According to art. 483 of the Civil Code "*(1) Parental authority is the ensemble of rights and duties relating to both person and assets belonging to the child and both parents equally. (2) The parents exercise the parental authority only in the best interests of the child, with due respect to his person, and they associate the child in all decisions that concerns him, taking into account the age and the maturity degree of the child. (3) Both parents are responsible for raising their minor children*⁸ "

Based on these law, we can formulate a definition, in a way that we will say that by parental care is understood the legal means of protection the minor which consists of the ensemble of rights and duties relating to both person and assets of the minor and belong equally to both parents.

Under the legal aspect, the term "parents" includes both natural parents (blood) and adoptive parents.

As *judicial nature*, parental care is a complex legal institution, since belongs as both family law⁹ and civil law¹⁰ as belonging to other branches of law.¹¹

2. Principles

Exercising the rights and fulfillment of the obligations of parents towards their children are subjected to certain principles committed categorical in the Civil Code.

Are considered as principles of parental care:

1. Exercising the parental care is performed exclusively in the superior interests of the minor¹². In this sense, art. 104 Paragraph.1 of the Civil Code provides that "Any measure for the protection of the individual is determined only in its interests" and also, art. 263 Paragraph 1 of the Civil Code establishes that "Any measure relating to the child, regardless of its author, must be taken with the respect of the superior interest of the child". This principle is

⁷ Stewart Asquith, Malcolm Hill, *Justice for children*, Martinus Nijhoff Publishers, 1994, p.13.

⁸ Ungureanu, O. și Munteanu, C *Civil Law. People.*, Bucharest, Hamangiu, 2011, p 234.

⁹ Especially concerning the minor person.

¹⁰ Especially concerning the minor assets.

¹¹ For example, labor rights and social security.

¹² This principle is enshrined and by the Article 3. 1 of Law no. 18/1990 for ratifying the Convention on the Rights of the Child, republished, art. 48 Para. 1 of the Constitution, according to which "*parents have the right and duty to ensure growth, education of the children.*"

set out in art. 483 Paragraph 2 and 3, according to which "(2) The parents exercise parental authority only in the superior interests of the child, with respect due to its person, and they associate the child in all the decisions that concern him, taking into account the age and the grade of maturity of the child . (3) Both parents are responsible for raising their minor children. "

2. The equality of both parents in exercising parental rights and duties, is another principle established in Art. 483 Paragraph 1 and 3, as well as art. 503 Paragraph 1, according to which "parent exercise together and on an equal basis the parental authority."

3. Both parents have equal rights and obligations to their children, without drawing a distinction as they are from marriage, outside of marriage, or adopted.

In this respect we recall the provisions of art. 260 of the Civil Code, which states that "*Children born outside the marriage are equal before the law with those born in marriage, as well as adopted children.*" This legal provision enshrines the principle of equal opportunities and non-discrimination in the field of child rights.¹³

4. Economic independence principle, a principle enshrined in Art. 500 of the Civil Code: "The parent has no right over the child's assets and neither the child has no right over parent's assets, besides the right of inheritance and maintenance" and

5. Parental care is exercised under the control of society, especially of the state.

The exercise of parental care is performed under control of the state, represented by court guardianship, sense in which the art. 107 of the Civil Code establishes: "(1) The procedures provided in this Code concerning the protection of the individual are the competence of the court of guardianship and family established by law, hereinafter referred to as guardianship court. (2) In all cases, the court guardianship immediately resolves these claims."

Noted that the first two principles are enshrined in art. 18 section 1 of the Convention on the Rights of the Child: "*The States Parties will strive to ensure the recognition of the principle that both parents have a common responsibility for child growth and development. The responsibility for raising the child and ensure its development rests primarily to the parents and, when applicable, to his legal guardians. They must guide, before anything, by the superior interest of the child*"¹⁴.

We retain that these principles must be exercised in observing the fundamental principles which govern the general legal framework regarding respecting, promoting and ensuring all children's rights provided by Law no. 272/2004, art. 6 (Official Gazette no 575/2004).

All these principles put in practice a significant amount of rights enshrined in the International Convention on the Rights of the Child. Among these are mentioned: the respect towards the child's dignity, the child's right to be consulted, depending on the age and the grad of maturity of the child, the right to participate in society, but especially the basic rights: the right of life and survival, the right of development, the right of nondiscrimination.

3. Ways to exercise

Regarding the manner of exercise the parental care, the rule is that both parents realizes it together and equally.

The rule is enshrined in the provisions of art. 503 Paragraph 1 of the Civil Code, as follows: "*Parents exercise together and equally the parental authority.*"

¹³ In this regard see the provisions of art. 48 para. 3 of the Constitution, Art. 7 of Law no. 272/2004, art. 446, 448 and 471 para. 1 and 3 of the Civil Code.

¹⁴ See also the provisions of art. 1372 of Civil Code.

But there are some situations where it is not possible to apply this rule, given that one of the parents is in the impossibility to exercise the rights and duties laid upon him. In these cases the exception consists in *exercising the parental care by one of the parents*.

The cases in which applies this method of exercising parental care are devoted to art. 507 of the Civil Code: "If one of the parents is deceased, declared dead by court order, put under the ban, decayed of the exercise of parental rights or if, for any reason, he is in the impossibility to express the will, the other parent exercises single parental authority".

As observed, the mere circumstance that, in fact, one of the parents is in the impossibility to exercise his parental rights and duties is sufficient to attract their exercising of the other parent.

Also as an exception, art. 490 Paragraph 1 recognizes the minor parent who has reached the age of 14 exercising the parental rights and duties, but only on the child's person (personal aspect), the rights and duties of the child's assets being excluded, these returning to his guardian or, where appropriate, to other persons, under the law (art. 490 paragraph 2 Civil Code).

The legislature has regulated this tiebreaker, as the minor over 14 years, with limited exercise capacity, has in turn the need of legal guardian consent to close certain legal acts.

There are also cases provided by law, in which the exercise of parental care has certain features (in the case of parents divorce, giving in foster home).

The ways to exercise parental rights according to art. 9 of the Convention on the Rights of the Child are:

"1. States Parties shall ensure that no child will not be separated from his parents against their will, except the situation when competent authorities decide, under the control of judicial review and respecting the laws and applicable procedures that such separation is in the best interests of the child. Such decision may become necessary in particular cases such as, for example where abuse or neglect children by parents or in the case of parents living separately and is imposing taking a regarding the place of residence of the child.

2. In all cases referred to in paragraph 1 of this article, all interested parties should be able to participate in debates and to make their views known.

3. States Parties shall respect the right of the child who is separated from both parents or one of them, to maintain personal relations and direct contact with both his parents, on a regular basis unless it violates the superior interests of the child.

4. When the separation results from any action taken by a State Party, such as detention, imprisonment, exile, deportation or death (including death from any cause occurring during detention) to both parents or one of them or the child, the State Party will provide, upon request of parents, the child or, if appropriate, another member of the family, basic information about the place where the absent member of the family can be found, except the case of disclosure these information would harm the child welfare. States Parties shall further ensure that showing such a request shall not conscript by itself adverse consequences for the person or persons concerned.

4. The content of parental care

The content of parental care is based on two components:

1. *the personal side* which concerns protecting the minor, and
2. *the asset side* which refers to:

- assets management and representation of the minor under 14 years in civil legal acts;
- Authorize civil legal acts of the minor 14 to 18 years.

The *personal side*, which concerns the protection of minor, mainly belongs to family law, sense in which the New Civil Code has the art. 487: " *Parents have the right and duty to*

raise the child, taking care of health and the child's physical, mental and intellectual development, of his education, teaching and professional, according to their own beliefs, characteristics and needs of the child, they are obliged to give the child guidance and necessary advices for the proper exercise of the rights which the law recognizes for him."

Romanian law, as international regulation, mentions the right and *duty* of parents to raise the child. This means the **obligation** of parents to ensure the optimal conditions for harmonious physical and mental development of the child. Therefore, they must ensure both the climate necessary to biological and physical development of the child (*caring for the health and physical development*) and also family environment (moral, based on mutual affection) that can ensure the development in good conditions of the child's personality and also to supervise and guide the child in such a manner that he is able to integrate into society, to cope with social demands, which once with the development of society, are becoming increasingly complex¹⁵.

It seems that the idea of "duty" is very important, in condition I which in Romania there are parents willing to sell their child for modest amounts of money. In this respect, we mention the case of the two parents from Moreni, who in November 2013 were caught red-handed while trying to sell their last child, aged two months, for the amount of 2000 lei.¹⁶

The above situation is not unique to our country. A simple journalistic investigation revealed that throughout the country there are people willing to sell their children's souls. It is well known, for a man of sixty years from the village of Rodna, Bistrita-Năsăud who has nine children. But, he grew up but only three. He sold the rest of them. He recognizes with lightness, even showing pictures of his children which he does not know under what conditions they live. For him, these children meant 5000 lei each.¹⁷

Even if this practice is condemned by the criminal law, these people act without caring that they can go to jail, because of the very high levels of poverty.

On the other hand, an important place in this side is occupied by the educational aspects, sense in which can intervene the punishable civil liability of the parent for the illegal act of the minor¹⁸.

Patrimonial side. The contents of this side of parental care is established by the provisions of article 501 of Civil Code, according to which: "(1) The parents have the right and duty to manage the assets of their minor child, and to represent him in legal civil acts or to approve for him these acts, as appropriate. (2) After the age of 14 years minor exercise his rights and performs his duties alone, under the law, but only with the consent of parents and, where applicable, the guardianship court."¹⁹

Towards the thirds of good faith, any parents that fulfills single a current act for exercising parental rights and duties, is estimated to have the consent of the other parent (art. 503 par. 2 of the Civil Code).

Note that the rights and duties of parents to manage the child's assets are obeying to the rules established for the administration of minor's assets by the guardianship, excepting

¹⁵ Lișman Fănuța - *Discussions on the edge of parental responsibility essence for the injury event of the minor* - item available on the website <http://www.juridice.ro/104244/discutii-pe-marginea-fundamentului-raspunderii-parintilor-pentru-fapta-prejudiciabila-a-minorului.html>

¹⁶ See <http://www.mediafax.ro/social/doi-parinti-din-moreni-prinsi-in-flagant-dupa-ce-si-au-vandut-copilul-cu-2-000-de-lei-11631861>

¹⁷ www.antena3.ro/romania/copil-de-vanzare-5000-lei-bucata-cat-costa-o-via-a-in-romania-190886.html

¹⁸ Article 1372 provides: "(1)The one who under the law, of a contract or of a court decision is obliged to supervise a minor or a person under the interdiction responds for the injury caused to another by the last people. (2) The responsibility subsists even if when the offender being devoid of discernment, is not responsible for his own deed. (3)The one obliged at the supervision is relieved of liability only if he proves that he could not prevent the injury act. In the case of parents or, when applicable, of legal guardians, the evidence is deemed to be made only if they prove that the act of the child is the result of a cause other than how they have fulfilled the duties arising from the exercise of parental authority."

¹⁹ Dumitriu, A.P, *New Civil Code, notes, correlations, explanations*, Bucharest: CH Beck, 2011, p 32.

inventory preparation. Also, the legal status of documents available is the same as the one regulated by art. 144 of the Civil Code in matters of guardianship, excepting the consent of the family council, because this is required to establish only in the case of juvenile guardianship.

The representation and consent of the minor civil documents are required because, as seen in the legal representation of individuals lacking of legal capacity, minors under 14 years is voided of exercise capacity, and the minor between 14 and 18 has the ability of restricted exercise. As it is known, the lack of exercise capacity requires the legal representation, and limited exercise capacity involves the prior consent of legal guardian for valid conclusion of certain civil acts by minors of 14 to 18 years.²⁰

5. Settlement of disagreements between parents

Whenever there is a disagreement between the parents concerning the exercise of the rights or performance of parental duties, the guardianship court, after listening the parents and taking into account the conclusions of the report on the psychosocial investigation, decides the best interest of the child. Listening to the child is mandatory, the provisions of art. 264²¹ being applicable (Art. 486 Civil Code).

Guardianship court resolves disputes between parents and children which affect social relationships of the last ones, in the case in which the parents impede the correspondence or personal ties of the child under the age of 14 years (art. 494 of the Civil Code). Also disagreements between parents regarding child's housing or the change of it is settled also by the guardianship court. In both cases, the child's hearing is mandatory in conditions of the art. 264, 496 and 497 Civil Code.²²

6. The liability for non-performance or improper performance of parental care

Failure to exercise or improper exercise of the rights and failure to fulfill or inappropriate fulfillment of parental duties, appeals parental liability according the law.

Depending on the negative consequences of parental behavior, the liability can take many forms:

1. criminal liability²³
2. *contravention*²⁴ liability, and
3. *civil* liability

Analyzing the problem from the point of view of civil law, first of all, the parents may be deprived of the exercise of parental rights, this being the most severe sanction that can be imposed by the guardianship court, at the request of public authorities with responsibility in

²⁰ Beleiu, G., *Civil Law. People*, Bucharest T.U.B., 1982, p 143.

²¹ According to art. 264 of the Civil Code "(1) *In administrative or judicial proceedings which concerns him hearing the child who has reached the age of 10 is required. However, it can be heard and the child that has not reached the age of 10 years if the competent authority considers necessary to resolve the case.* (2) *The right to be heard requires children opportunity to request and receive any information, according to his age, to express their opinions and be informed about the consequences it can have it, if is respected, as and about the consequences of any decision concerning him.* (3) *Every child may ask to be heard, according to Para. (1) and (2). The request refusal by the competent authority must be motivated.*"

²² Ungureanu, C. T., *Civil Law. General part. People*, Bucharest Hamangiu, 2012, p 370.

²³ It can interfere in the case of infractions: family abandonment (art. 228 of the Penal Code.) minor maltreatment (art. 229 of the Penal Code.) inobservance of measures concerning the child custody (art. 230 of the Penal Code.) unauthorized inventory (art. 258 of the Penal Code.) endangering a person being in the impossibility to take care of himself (art. 198 of the Penal Code.).

²⁴ This responsibility can be trained in the conditions of Law no. 61/1991 for the punishment of violations acts of some rules of public order social cohabitation, republished (Official Gazette. Nr. 387/2000).

child protection filed, if the parent endangers the life, health or development of the child through his maltreatment, through alcohol or drugs consumption, through abusive behavior by severely negligence in fulfilling the parental obligations or by severely touching the interest of the child. The application is judged urgently, by summoning the parties and on the basis of psychosocial investigation report and with mandatory participation of the prosecutor (art. 508 of the Civil Code).

Typically, cancelling the exercise of parental rights is absolute and extends to all children born until the date of pronouncing the decision and only by exception, the guardianship court may order partial cancelling, either considering certain parental rights, or only regarding some of the children, but only if, in this way, are not endangered the growth, education, teaching and professional training of children (art. 509 of the Civil Code). Cancelling the exercise of parental rights does not discharge the parent of his obligation to give maintenance to the child (art. 510 of the Civil Code).

If, after the imposition of this measure, the child is in the position to be deprived of the care of both parents, will be institutionalized the guardianship (art. 511 of the Civil Code).

If the circumstances that led to the institution of this measure have ceased, it is possible that the guardianship court renders the exercise of parental rights if the parent does not endanger the life, health and child development (art. 512 par. 1 of the Civil Code). Pending resolution of the request, the guardianship court may allow the parent to have personal ties with the child if they are in the best interests of the child (art. 512 par. 2 Civil Code).

We want to point out that, although there are clear evidences of child abuse, in many cases, those responsible have not asked for cancelling the parental rights for the individuals who hardly can be called parents. We present below some situations that claim urgently cancelling from parental rights.

A shocking case is that of Grigore Marcu and his brothers from the village Pungești, Vaslui. On 6 February 2008, Grigore Marcu died in Reanimation of Vaslui Emergency Hospital, where he had been brought by ambulance, the day before. Valeriu Lupu, chief of pediatrics, stated then for a central newspaper that the boy "*was 7 years old, but looked like he was 5. He suffered from a rare condition, the Barter syndrome. The child was almost destroyed; the lack of nutrition or the very poor nutrition brought him in this condition*" However, DGASPC²⁵ Vaslui now claims that "*Grigore not died from starving*" even if, from the subsequent story, it appears that all the children from the family were very poorly fed, at medical assessment was discovered "*many problems due to food deficiencies*."

Grigore was part of a family with five children. The mother had psychiatric disorders, the father was abusing alcohol and then the children and the wife. After Grigore's death, the family entered into a DGASPC's monitoring program, that had the aim to keep the children in the family. According to representatives of the institution, "in the same period, the family received from the Department for Employment and Social Solidarity of Vaslui material support in the amount of 1,000 lei, which consisted in food and non-food products(a stove with gas bottle, including clock and hose blankets, towels, shoes for them and for the children, detergents, etc.)". During subsequent visits, food products were not identified anymore, but even more, the children still were barefoot, the clothes they were wearing were dirty, and the stove with the gas bottle no longer existed. "Once started the grape harvest, the fights have intensified in Marcu's family and the misery deepened." Considering the reasons which have led to the institution of protective measures for two of the family's children (the measures were instituted before the boy's death of 7 years) – incest attempt (but unproven) the affirmations of one of the children from which comes out that one of the little girls is

²⁵ General Direction Of Social Assistance And Child Protection.

«*dad's favorite, with her he plays the most and she is the one he caress the most* » - which raises doubt about the father and in this sense, the death of the two children of the family in suspicious circumstances (first child died in 1989) the children desires expressed verbally to leave the family environment as well as those presented previously, we conclude that the life and safety of children are jeopardized in the natural family, which is why we required for presidential ordinance issuance of placement of the four children in matter of urgency ."- ends the DGASPC Vaslui informing on this case. However though, not even for those parents was not turned on the action of cancelling from parental rights.²⁶

Another case is that of Petronela, a girl of eight years from Bivolari, which in June 2008, came to the hospital after her father "disciplined" her with a chain. The girl had a thoracic and abdominal contusion and concussion on the left arm and forearm. But as the brutality father correction was not enough, the episode of child torture was accomplished by her mothers, who hold her under the father's chain. At that time, the family of Petronela was living from the allowances of the four children. Once recovered, Petronela was entrusted again the family because "that was a singular event," explains Tiberius Bantaş (DGASPC). *"The child was advised and monitored by psychologists of DGASPC and the father is advised and monitored constantly by psychologist and social worker. The police from the village investigate for minor maltreatment."*²⁷

With regarding to this case, in June 2008 DGASPC's spokesman told the press that: "Following the investigation, it can reach up to cancelling from parental rights, but until then it is necessary a protective measure." DGASPC Iaşi has NEVER started in court an action of cancelling the rights of abusive parents. It was argued that police investigative maltreatment cases for minors. But the police action does not relieve DGASPC from the obligations which is incumbent. Consequently, these individuals, who can hardly be called "parents" would have been decayed from parental rights as soon as possible. Thus, it would have been relieved also from the obligations that they do not seem to remember...

Secondly, the parents, exercising parental authority respond with civil actions for illegal acts which cause injuries committed to their underage children, on the basis of punishable civil liability for his acts (art. 1357 Civil Code). Similarly, parents respond in punishable way also for illegal acts which cause injuries committed by their underage children, on the basis of punishable civil liability for the acts of another person (art. 1372 Civil Code)²⁸.

In this context it is worth mentioning the case of minor GLD from Paşcani²⁹ who, by legal representative GC (her mother), and along with her, have sued the PV and PD, for their minor daughter PIC, asking the court the jointly coercion of the last ones to pay the following amounts of money: 4.760 lei and 100 Euros, equivalent to the injury caused by PIC and the amount of 64.3 lei representing costs of enforcement, all amounts being updated to the payment date. In motivating the request is shown that since fall 2007 and until November 2008, the applicant GLD, aged 14 at the time, was the victim of blackmail from his colleague PIC, daughter of the defendants. The last one has repeatedly asked for different amounts of money to the claimant minor who, being a sensitive nature and to escape the insistence of the colleagues brought her from the family home and gave to various colleagues, including PIC's.

²⁶ <http://jurnalul.ro/special-jurnalul/decaderea-din-iadul-copiiilor-pe-pam-acirc-nt-tara-lui-eu-te-am-facut-eu-te-omor-139671.htm>

²⁷ Ibidem.

²⁸ Article 1372 of the Civil Code provides: "(1) *The one who under the law of a contract or of a judicial decision is obliged to supervise a minor or a person laid under interdiction, responds for the injury caused to someone by the last ones.* (2) *The responsibility subsists even if when the offender being devoid of discernment, is not responsible for his own deed.* (3) *The one obliged to supervision is relieved of liability only by proving that he could not prevent the injury act.* In the case of the parents and, when applicable, legal guardians, the evidence is considered to be made only if they prove that the act of the child is the result of a cause other than how they have fulfilled the duties arising from the exercise of parental authority. "

²⁹ http://www.euroavocatura.ro/jurisprudenta/1641/Raspunderea_parintilor_pentru_fapta_copilului_minor

Thus, during 6th and 7th grade, the claimant gave and the daughter of defendants received various amounts of money. The mother of the minor applicant claimed that her daughter behaved in this way as a result of blackmail applied by three colleagues, the last ones denying this aspect and showing that GLD willingly gave them the money, they just had to ask.

To prove the factual situation described, in November 2008 was organized an act in which PIC was surprised to receive the sum of 3.000 lei. The complaint gave various amounts of money to AM and IM, not only to the daughter of defendants. To recover these amounts of money was formulated the criminal complaint, but considering the age of the girls, was found that they do not respond criminally.

The defendants have requested to dismiss the action since the injury alleged is false in conditions in which their daughter paid back during prosecution all the money she had received from the minor complaint. They also argued that it was not about blackmail between the two girls in no any moment, the GLD complaint voluntarily giving money to the simple request of her colleagues.

GC complaint's guilt was invoked as the parent of the minor who stole money from home, regarding the lack of oversight that showed for almost a year when her daughter dragged out from the parental home around 10,000 lei.

It is noted that obviously, the PIC minor parents were called to answer for the acts of their child. If the court had been established a fault of the child, then those who had been responded were the parents.

Regarding the two complaints: GC (mother) and GLD (daughter), it appears that the mother was not fully discharged from parental obligations because, negligently allowed the production of a real damage to her own family.

7. The cessation of parental care

As a rule, parental care ceases when the child acquires full exercise capacity, as applicable, at the end of age 18 years old, at the date of marriage of women less than 18 years or lifting the ban if the person has turned 18.

By exception, parental care may cease before this time, respectively in the expressly cases provided by law when is succeed to establish the guardianship.

8. Instead of conclusions...

The children are the future. Therefore, we believe it must be found the most appropriate ways to ensure a balance between parental authority and the realization of child rights. In this regard the local authorities and public services closest to the child and family should have the information and tools necessary to support parents and extended family to their turn and to assume responsibilities regarding the growth and development of children.³⁰

The complex child protection must be simultaneously legal, economic and financial, medical, psycho-educational and social. This involves the simultaneous and coordinated action of professionals from the respective fields, assuming:

- A minimum of information of each actor about the other areas involved;
- Multidisciplinary team working skills and effective action in this formula;
- Harmonization of programs / projects starting from the complex requirements of the child and not from the field which initiate the action.

30 Tomescu, M. - Human Rights. Trends and contemporary orientations, Ed. Prouniversitaria, Bucharest, 2013, p. 127-128.

Complex intervention is a way of action which, in the context of coordination the immediate objectives with those on the medium and long term takes into account the following:

- Overall, creating some optimal conditions for development, evolution and manifestation of any child, so a default protection and on long term, although derived from general social conditions, is in the field of action of each person;
- In terms of prevention, medium and long-term orientation starting on the difficulty or risk factors;
- With repairing or therapeutic effect, post-factum action on short and medium term, to reduce, offset or removal of some negative items already manifested.

That is why the family, the community and organizations created by it is involving more actively in identifying social needs, of appointee service, means of approaching and solving problems, of action and funding plans, and in quality assessment in child protection services.³¹

Respecting the children's rights should be a priority in all communities. Otherwise, we will receive when we have reached the 3rd age, what now receives too many children: humiliation, pain, hunger.

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31 Idem.