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PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 02/L-17

ON SOCIAL AND FAMILY SERVICES

The Assembly of Kosovo,

Pursuant to the Regulation Nr 2001/9, dated 15th May 2001, on the Constitutional Framework for Provisional Self-Government in Kosovo, especially Chapters 5.1(j), 5.7 and 9.3.2;

In order to establish legal grounds for the regulation and advancement of social and family services to persons in need and to families,

Hereby adopts the following:

LAW ON SOCIAL AND FAMILY SERVICES

General provisions

Article 1

1.1. This Law sets out and regulates for the provision of Social and Family Services to persons who are in need and families who are in need in Kosovo.

1.2. In circumstances where there is no family support or where this is insufficient to ensure the welfare of an individual the State has a duty to provide to those people who would not otherwise be helped, Social and Family Services in a manner that respects their dignity as human beings and their fundamental rights based on Kosovo Legislation and International Human Rights Conventions. Unless there are overriding circumstances of need or of protection, these services will be provided to persons in need and families within a community setting and not in residential homes.

1.3. Definitions

a. **Social and Family Services** shall include the provision of direct social care, counseling, or, in exceptional circumstances, material assistance, for the benefit of people in need.

b. **Direct social care** means the provision of help with domestic duties, personal care, mobility, communication or supervision. It can be provided in a person's own home, in a specialist day centre or in a residential home.

c. **Counseling** is a systematic and programmed process of providing information, advice and guidance aimed at helping an individual or a family to improve their social or interpersonal circumstances.

d. **Material assistance** means the provision of money, temporary shelter, food, medical fees, clothing or any other material necessity for which there is an urgent need and for which there is no other source available.

e. **Person in Need** shall mean any person found on the territory of Kosovo, regardless of status or place of origin, who is in need of social services because of:

1. children without parental care
2. children with antisocial behaviour
3. juvenile delinquency
4. disordered family relationships
5. advanced age
6. physical illness or disability
7. mental disability
8. mental illness
9. vulnerability to exploitation or abuse
10. domestic violence
11. human trafficking
12. addiction to alcohol or drugs
13. natural or contrived disaster or emergency
14. or other cause that renders them in need

f. **A Family in Need** is one where a parent or parents or other caregiver require help in caring for a child because of their own circumstance or those of the child or in circumstances where there is a child who is suffering serious harm as a result of the neglect or abuse of their parent or parents or other caregiver or their parent or parents' or other caregivers' inability to care for them adequately, or is exposed to the possibility of experiencing such.

g. **Child** shall mean a person who is under the age of eighteen years.

h. **Minor** shall mean a person who is between the ages of fourteen and eighteen years.

i. **Social Services Officer** shall mean a qualified Social and Family Services professional, in the area of social work, psychology sociology, law, pedagogy or other discipline closely related to social and family services licensed and registered in the register of General Social and Family Services Council.

j. **Guardianship Authority** is the function within the Centre for Social Work that is responsible for the protection of children

1.4. Any person or family who consider themselves to be in need within the terms of this Law are entitled to have their circumstances assessed by the Centre for Social Work for the area in which they reside, or in which they are found, and to have those needs met, provided that it is reasonable for the Centre for Social Work to do so, taking into account all the circumstances, including the degree of need and the availability of resources with which to meet it.

Role of the Ministry Article 2

2.1. The Ministry of Labor and Social Welfare hereafter referred to as the Ministry, has overall responsibility for the organization of the provision of Social and Family Services in Kosovo. It ensures that inhabitants of Kosovo have fair and equal access to Social and

Family Services without distinction of any kind, such as race, ethnicity, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2.2. The Ministry is responsible for the development of policies and the preparation of strategic plans for the provision of Social and Family Services to the population of Kosovo. It will also be responsible for ensuring that these policies and strategic plans are put into operation to an appropriate standard by municipalities and other organizations providing Social and Family Services. The Ministry will, in addition, be responsible for the regulatory framework for Social and Family Services. It will also co-ordinate the activities of international and government agencies and non-government organizations in order to promote the coherent development and implementation of social welfare policies, encourage community participation, the development of community initiatives and other activities related to social welfare.

2.3. Municipalities or other government or non-government organizations, including private enterprises, may provide Social and Family Services. The Ministry however reserves to itself the right to determine where, how and by whom these services will be delivered, including the right to provide these services directly itself if the circumstances warrant it.

2.4. In all matters relating to any application to the courts for the removal or reduction of parental rights or the removal of or restrictions on the liberty of a person in need, the Ministry retains direct responsibility and any such action is initiated by a Centre for Social Work on behalf of the Ministry.

2.5. The Ministry is responsible for specifying the resource professional standards of Social and Family Services that must be met by municipalities and other organizations providing these services and for establishing mechanisms to ensure that these are being achieved. This includes specifying the category and number of professional staff to be employed.

2.6. Municipalities and other organizations providing Social and Family Services must adhere to the regulations, directives and procedures as laid down by the Minister. In exceptional circumstances, where the Ministry considers it necessary, they must implement directions given for the management.

2.7. In exceptional circumstances, where a municipality or other organization providing Social and Family Services continually fails to meet the minimum standards specified by the Ministry for the provision of these services, the Ministry shall be direct responsible for the delivery of such services, for as long as is necessary to rectify the situation.

2.8. Where there are cases, incidents or circumstances that give rise to serious public concern or where there are important matters of public interest in the area of Social and Family Services, the Minister may establish a panel of inquiry that sit in public and publish their findings and recommendations.

2.9. The Ministry is empowered to undertake research, or to commission others to undertake research, in areas of relevance to the delivery of Social and Family Services in Kosovo.

2.10. In order to enable municipalities, or organizations providing Social and Family Services on its behalf, to carry out these functions, the Ministry will, within a funding formula agreed between the Ministry and the Ministry of the Economy and Finances make an annual allocation of financial means, for this purpose.

Role of the department of social welfare
Article 3

3.1. The Department collaborates with the Institute of Social Policy and General Social and Family Services Council, municipalities, academia, other Ministries and other interested parties in furthering and maintaining Social and Family Services.

3.2. The Department gives proposes, suggest and advise the Ministry and the Government of Kosovo on the development of policies relating to Social and Family Services.

3.3. On behalf of the Ministry of Labor and Social Welfare the Department of Social Welfare is responsible for the direction and oversight of all operational functions under this law:

- a. preparation of regulations, directives and guidance relating to the provision of Social and Family Services,
- b. the issuing of directions in respect of service level standards to be met by providers of Social and Family Services,
- c. the conduct of inspections of Social and Family Services,
- d. the review of the relevant municipal directorates annual reports and approval of Municipalities' annual operational plans,
- e. the approval of the establishment of residential care facilities by providers of Social and Family Services,
- f. assuming responsibility for the direct management of Social and Family Services in circumstances where a municipality consistently and seriously fails to meet acceptable standards of service delivery,
- g. giving directions in respect of applications to the court for Guardianship Orders in respect of children or vulnerable adults,
- h. in exceptional circumstances, the direct supervision of Social and Family Services cases,
- i. establishment and coordination of Children's Placement Panel for fostering and adoption,
- j. management of the complaints' procedure in respect of Social and Family Services,
- k. any other form of protection not included in this Law.

3.4. The Department carry out inspections of Social & Family Services, in the statutory, non-government and private sectors, on behalf of the Ministry. It makes an annual report on these activities that will be published.

3.5. A report is prepared by the Department after each inspection, highlighting the achievements and shortcomings of the Social and Family Services under review and providing advice and directions where necessary. This report be passed to the service provider and the relevant Municipality.

3.6. All Social and Family Services providers are required to co-operate with the inspections of the Department at all times and to provide immediate and unimpeded access to all records, documents and persons as required by it. Failure to do so may result in their being prohibited by the Ministry from continuing to provide such services.

3.7. The Department is empowered to issue directions to service providers who fail to meet acceptable standards of service delivery in respect of steps they must take to bring the quality of services into line with these standards. Failure to follow these directions may lead to a provider being prohibited from continuing to provide Social and Family Services.

Institute for social policy Article 4

4.1. The Institute for Social Policy, hereafter referred to as the Institute, has the status of a Department within the Ministry of Labor and Social Welfare and shall be directly responsible to the Ministry for the discharge of its responsibilities under this Law.

4.2. The Institute is responsible for the development and promotion of professional knowledge, skills and standards in the area of Social and Family Services. To this end it undertakes research in the area of Social and Family Services and promotes professional excellence through training, through providing expert consultation to professionals and publishing relevant manuals, research reports and promotional materials.

4.3. The Ministry appoints a Director, professional staff and a Management Board for the Institute of Social Policy. The members of this Board should be representative of Ministry, Municipal, professional, service user and Non-Government Organization.

4.4. There will be an annual transfer of funds to the Institute from the Ministry to enable it to fulfill its obligations under this Law.

4.5. The Institute for Social Policy, in consultation with the Department, prepares an annual operating plan and makes an annual report to the Ministry to be published.

General social and Family Services Council Article 5

5.1. The General Social and Family Services Council (hereinafter “The Council”) is established by this Law.

5.2. The Council is responsible for the maintenance of professional standards and discipline in the area of Social and Family Services and to this end acts as the licensing and registration authority for professionals working in this field.

5.3. The Council is responsible for holding the register of Social and Family Services professionals who are licensed to practice in Kosovo. It has authority to decide who may hold a license and who may hold a license as a specialist Social and Family Services professional. It determines what continuing professional development is required by Social and Family Services professionals. It investigates complaints against Social and Family Services professionals and decides upon disciplinary sanctions that are to be applied including the removal of a Social and Family Services professional from the register.

5.4. The Council shall adopt a code of ethics and conduct for Social and Family Services professionals.

5.5. The Council issues regulations for the appropriate conduct of its business under its own authority.

5.6. The Council shall be independent in the exercise of its functions.

5.7. There shall be a right of appeal to the Supreme Court of Kosovo against decisions of the Council.

5.8. The Council will have twenty one members and for the first three years of its operation, all members be appointed by the Minister, who must ensure that its membership is representative of the Municipal, professional, community, Non-Government Organization and academic groups relevant to Social and Family Services. The Minister appoints a Chairperson to hold office for the first three years of the Council.

5.9. Following the first three years of its operation, the Council will be composed as follows:

- there will be eleven members elected by the Social and Family Services professionals on the Council's register.
- there will be two members nominated by the Association of Joint Municipalities,
- two members nominated by the University of Prishtina,
- one member nominated by the General Health Council,
- one from NGO community and
- four nominated by the Ministry.

5.10. The Council elects from within itself a chairperson and vice chairperson.

5.11. Members of the Council shall not hold any position that is incompatible with their functions as members of the Council. They shall be independent and impartial.

5.12. The term of office is three years and there is the possibility of a renewal for a further three-year period only. No member of the Council may serve longer than six consecutive years.

5.13. The Ministry or the Council itself may refer allegations that a member of Council has failed to comply with his obligations under the regulations of the Council to a Supreme Court and having considered the evidence and response of the member of the Council may so direct that the member of council be removed from office. The Judge of the Supreme Court may refer the matter to the Prosecutorial authorities if he considers that there may have been a criminal aspect to the matter under his consideration. The Council member shall at all times be provided with evidence and papers relating to the breach of obligations.

5.14. In the event of removal from office of one of the members of the Council or in the event of a member's death or resignation, a new member shall be appointed by the Minister and shall serve for the remainder of the term of the member being replaced.

5.15. The Council may form committees and designate rapporteurs for the efficient discharge of its duties.

5.16. A quorum for a meeting of the Council shall be eleven members.

5.17. Decisions of the Council shall be taken by an absolute majority of the present members of the Council in attendance and voting and in a tie decision the Chairperson shall have an additional casting vote.

5.18. The Council shall register all Social and Family Services professionals who apply for registration provided they fulfill the requirements of education, experience and training as the Council shall deem necessary.

5.19. The Council shall register as specialists all Social and Family Services professionals who apply for professional registration provided they fulfill the requirements of education, experience and training, as the Council shall deem necessary.

5.20. The Council shall determine the requirements for Social and Family Services professionals to fulfill continuing professional development to remain on the register as Social and Family Services professionals and specialists.

5.21. The Council issues such regulations, as it deems necessary to ensure appropriate licensing, specialist registration and continuing professional development.

5.22. The Council is responsible for hearing all cases of alleged misconduct by Social and Family Services professionals.

5.23. A complaint against a Social and Family Services professional may be made directly to the Council by the Ministry of Labor and Social Welfare, other professionals or members of the public.

5.24. The Council shall determine how such complaints are to be investigated and shall inform the person under investigation of the charges, the reasons motivating investigation and his rights to access the file of complaint throughout the process as early as possible after the complaint is received and prior to any commission being convened to establish the facts of the complaint.

5.25. The commission investigating the complaint has general powers of inspection, verification and evaluation, including access to any documents that may provide relevant information to the complaint. Once the commission has completed its work it shall submit a report to the Council and a copy to the complainer and the subject of the complaint who shall be summoned to appear before a hearing of the Council.

5.26. The person under investigation may be assisted and, in the case of sickness or for other justifiable reason, determined by the Council, be represented by an authorized person or defense counsel who shall be granted access to all documents collected during the investigation.

5.27. The failure to appear at the hearing of the person complained of or of representation by an authorized person or defense counsel shall not prevent the Council from considering and deciding upon the case.

5.28. The hearing of the Council is public.

5.29. The Council decides whether there are sufficient grounds for establishing that a Social and Family Services professional has committed misconduct and that a sanction shall be imposed. The Council determines one of the sanctions to be applied to the Social and Family Services professional listed in (a) to (d)

- a) Reprimand
- b) Reprimand and warning
- c) Suspension from the register for a time of up to one year
- d) Removal from the register of Social and Family Services.

5.30. In determining the sanctions the Council ensures that they are proportional to the misconduct for which they have been imposed.

5.31. Individuals shall have the right of appeal to the Supreme Court against decisions of the Council.

5.32. The Honorarium to be paid to the members of the council be determined by the Ministry of Finance.

5.33. The Ministry of Labor and Social Welfare provides the facilities required for the functioning of the Council.

5.34. The Council is financed by the payment of registration fees of the Social and Family Services professionals and general funding from the Ministry of Labor and Social Welfare.

5.35. The Council may appoint a secretary and a number of staff that are necessary and affordable within its budget in order for it to discharge its responsibilities under this Law.

5.36. Within three years of the enactment of this Law all professionals working in the field of Social and Family Services in Kosovo must meet the requirements for registration with the Council and be so registered.

Role of the Municipality Article 6

6.1. Each Municipality, through its relevant Directorate, is responsible for ensuring the provision of Social and Family Services within its territory to a standard specified by the Ministry.

6.2. While they have general responsibility for the delivery of Social and Family Services within their area, no elected member of the Municipal Council or Officer of the Municipality is permitted to make directions to a Director of the Centre for Social Work or his staff with regard to the professional management of any particular Social and Family Services case, nor are they permitted to have access to confidential case records.

6.3. Directorates deliver Social and Family Services within their territory through the activities of Centres for Social Work or by providing financial or other assistance to non-government organizations to enable them to do so.

6.4. Directorates take steps to identify the nature and extent of the need for Social and Family Services within their territory. They produce annual plans for the development and maintenance of Social and Family Services. They maintain records and statistics as specified by the Department and provide it with reports on their Social and Family Services activities on an annual basis, and at any other time, as required by the Department. In order to promote community involvement, transparency and accountability, each Directorate publish its annual plan and report.

6.5. In preparing their annual plans Directorates are obliged to consult widely with Social and Family Service users, their representatives, non-government organizations and other relevant community and professional groups in their area on the development, planning and delivery of Social and Family Services.

6.6. Each Directorate ensures that the Centre for Social Work in their area is resourced to the standards as specified by the Ministry. This includes the categories and numbers of professional staff to be employed.

6.7. In addition to providing resources to meet the responsibilities placed on Centres for Social Work by this and other relevant laws, Directorates are permitted to provide or facilitate through the CSW or nongovernmental organizations, the provision of the following additional services:

- a. domestic help, including but not limited to cleaning, cooking and laundry for individuals who, because of age, disability or illness, are unable to undertake these functions for themselves and who have no family or other assistance available to them.
- b. direct personal care in their own home, including but not limited to dressing, bathing, personal hygiene, assistance with mobility and lifting, for individuals who, because of age, disability or illness, are unable to undertake these functions for themselves and who have no family or other assistance available to them.
- c. centre where individuals in need can attend on a daily basis for the purposes of social interaction, meals, personal hygiene, therapeutic work experience and any other aspect of social care and counseling.
- d. specialist counseling services for people with addiction or other psycho-social problems.
- e. assistance by way of financial support, the provision of premises or professional advice to groups of people in need or their care givers in order for them to establish and maintain mutual support and self-help groups.
- f. residential care for the elderly and people with special needs.
- g. any other suitable provision related to Social and Family Services.

6.8. Directorates make adequate provision for responding to urgent Social and Family Services cases arising out of normal working hours.

6.9. Municipalities may, with the permission of the Ministry, combine together to provide specialist or other Social and Family Services across their territories.

Role of the Centre for Social Work Article 7

7.1. Each Municipality establish and maintain a Centre for Social Work which will be a public institution and have one or more branch offices, hereafter referred to as the CSW. This is a centre, staffed by appropriately trained and qualified professionals' social service officers as according to the article 1.3 p. (i), responsible for exercising the powers set out by this Law on behalf of the Ministry and providing social and family services on behalf of the Ministry.

7.2. The Centre for Social Work will constitute the Guardianship Authority and perform the duties required of this function as set out in the in the relevant Kosovo statutes.

7.3. The Director of the CSW is elected by the Municipality by way of a public contest according to the Law on Civil Service. Candidates for this post must have minimum experience of three years working as a social services officer as defined in 1.3 (i) of this Law. The Ministry must approve the appointment of a Director of a Centre for Social Work by a Municipality.

7.4. The Director of the CSW is accountable to the Municipality for the effective and efficient use of the resources allocated to him for the provision of Social and Family Services.

7.5. The Director of the CSW is accountable to the Ministry for the maintenance of professional practice standards and the exercise of statutory powers and responsibilities as set out in this Law.

7.6. The CSW is obliged to conduct a professional assessment in respect of any individual or family residing in, or found in, its area who refer themselves for assistance or who by other means come to its attention as needing or appearing to be in need of Social or Family Services.

7.7. If the professional assessment of need indicates that an individual or a family require Social or Family Services the CSW may, having taken into account all other relevant circumstances, including family support, if any, and the availability of suitable resources, offer such services as it considers appropriate.

7.8. Every SWC (Social Working Center) should have the expert council consisting of all employees of social services employed by it.

7.9. The Council of experts reviews and gives the proposals and ideas to the Director for issues that have to do with:

- a. professional work and specific activities within SWC determined with law and regulation,
- b. organization of SWC and its branches,
- c. difficulties concerning the solving of professional difficult problems and practicing of the rights and other activities of SWC in most difficult individual cases,
- d. the need for the additional professional education,
- e. other things covered by this law.

Role of the non-Government Sector Article 8

8.1. Legal entities, not in the Government Sector, including enterprises, voluntary organizations and associations, faith based organizations, self-help groups and other local, national and international organizations are encouraged to provide Social and Family Services, either on their own initiative or, under contract, on behalf of the municipal Directorate in the case of local services, or the Department in the case of Kosovo wide services.

8.2. To facilitate this, the Municipalities and the Department of Social Welfare offer advice and guidance to non-government organizations proposing to undertake such activities.

8.3. Any non-government organization providing Social and Family Services must register with the appropriate authority and be licensed by the Department of Social Welfare and must adhere to the regulations, directives and procedures relating to their activities as laid down by the Ministry.

8.4. Municipalities are permitted to enter into contracts with non-government organizations for the provision of specific Social and Family Services within its territory, on behalf of the Municipality, on condition that such contracts are in keeping with the Municipal annual Social and Family Services plan.

8.5. The Ministry of Social Welfare is permitted to make grants and provide any other material assistance, including premises, or advice to non-government organizations providing specific Social and Family Services across Kosovo.

8.6. The Ministry is permitted to enter into contracts with non-government organizations for the provision of specific Social and Family Services across Kosovo.

Services to children and Families

Article 9

9.1. In all matters concerning the provision of services to children and to families the best interests of the child shall be the first and paramount consideration.

9.2. In cooperation with families, communities, Non-Government Organizations and other statutory bodied, a Municipality provides social care, counseling and, in exceptional circumstances, material assistance to children and their families who are in need and residing in, or are found in its territory, based on their assessed need for such services and the Municipality's ability to reasonably provide them.

9.3. Centre for Social Work will ensure the provision of social care and, or, counseling in circumstances where a child is in need of Social and Family Services because:

- a. she or he is without parental care
- b. her or his parents or parent, or other care giver, either because of lifestyle, physical or mental disability or illness, psycho-social problems, addiction or other reason, have difficulty providing adequate levels of care and supervision for him or her
- c. she or he has a mental disability or illness
- d. she or he has a physical disability or illness
- e. she or he has behaviour difficulties
- f. she or he is delinquent
- g. she or he is suffering as a consequence of family conflict
- h. she or he has some other form of social problem that renders them in need.

9.4. Centre for Social Work maintains a register of families and the children in need who are resident in their territory and who lack family or other community support and who have difficulty with caring for their children, or where a child is at risk of neglect, exploitation or abuse or of any other form of harm. The Centre for Social Work shall arrange for those families in need of Social and Family Services who are on this register to be visited on a regular basis by a responsible person, in order to ensure the safety and well being of the child and provide the family or the child with whatever services may be considered necessary.

9.5. In fulfilling its responsibilities under the Juvenile Code, a Centre for Social Work, in its role as Guardianship Authority, ensures that services provided under this mandate will be in keeping with its obligations to children as set out in the United Nations Convention on the Rights of the Child.

9.6. Where a court notifies the Centre for Social Work of proceedings against a child, and that child or his family are known to the Centre, then it is obliged to provide the court with whatever information or advice that might be relevant to the proper management of the case.

Child protection Article 10

10.1. A child's best interests are usually best served when their physical and psychological developmental needs are met within the context of their natural family. The Ministry of Labor and Social Welfare and those acting on its behalf shall therefore make every effort to promote the welfare of children within their families through the provision of social care and counseling and, in exceptional circumstances, material assistance.

10.2. Only in circumstances where there are grounds to suspect that a child is experiencing serious harm to his physical or mental health, or is at risk of such within his family can consideration be given to removing her or him from the care of his parents or parent or other care giver.

10.3. Except in the case of short term emergency measures, a child shall not be removed from the care of his parent or parents or care giver without their permission or an Order of the court.

10.4. If a Social Services Officer, approved by the Department of Social Welfare for the purpose, has reasonable cause to believe that there is an immediate serious risk to the health, safety or welfare of a child, that professional may, on their own authority, enter any premises and remove the child to a place of safety where they will be cared for, for a period not exceeding seventy two hours.

10.5. Before that time expires, if CSW have no permission from a parent or caregiver, the case must be brought before a judge who may, if he or she considers there to be sufficient grounds, make an Assessment Order for a period up to twenty one days, to allow further investigations and assessments to be made, by which time the matter has to be brought before the court for further direction.

10.6. Any member of the teaching, nursing, medical, dentistry or psychology professions or any police officer or other professional with a duty of care towards children who suspects or has evidence that a child is suffering from physical, sexual or psychological abuse from a parent or care giver is obligated by this Law to report the matter to the Director of the relevant Centre for Social Work. Failure to do so on the part of any of the above-mentioned groups renders them liable to prosecution under Article 156 of the Criminal Code for Kosovo.

10.7. Where it comes to the attention of a Centre for Social Work that there are grounds to suspect that a child resident in, or found in, their territory is abandoned or orphaned or suffering from, or at risk of, any form of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s) or any other person who has care of the child, the Centre for Social Work must take whatever steps are necessary to safeguard the child's safety report, the matter to the Department of Social Welfare without delay and conduct a comprehensive professional assessment of the child's need for protection.

10.8. In circumstances where there are grounds to suspect that a child is beyond the control of his parents or other persons having responsibility for his care, to the extent that their behaviour or lifestyle poses a serious risk to their own welfare, health or safety or that of others then the Director of the Centre for Social Work must without delay conduct a comprehensive professional assessment of the child's need for Social and Family Services.

10.9. It is duty of any professional who has had contact with a child who is the subject of a comprehensive professional assessment by a Centre for Social Work to cooperate with and assist the assessment where possible.

10.10. Where abuse to a child is suspected, it will be the duty of law enforcement organs to assist the Centre for Social Work in its comprehensive professional assessment of a child's need for Social and Family Services and to carry out their own criminal investigations if the circumstances warrant it.

10.11. On the completion of the comprehensive professional assessment of a child's need for Social and Family Services, the Centre for Social Work will forward a report to the Department of Social Welfare without delay. If the Department considers that there are grounds for it seeking protective measures, it has a duty to direct the Director of the relevant Centre for Social Work to bring the matter before the court on its behalf and make an application for an Order.

10.12. The Director of the Centre for Social Work may apply to the court for an Assessment Order for up to twenty-one days, or for a Guardianship Order.

10.13. In making an application for an Assessment Order the Director of the Centre for Social Work must provide evidence to the court that a reasonable assessment of the child's needs could not be made without such authority.

10.14. In making an application for a Guardianship Order the Director of the Centre for Social Work must confirm to the court their assessment that the child is in need of the protection of the court and that all other reasonable alternatives have been considered before the initiation of court action.

10.15. In considering an application for a Guardianship Order the court will pay particular regard to:

- a. the ascertainable wishes and feelings of the child concerned
- b. his physical, emotional and educational needs
- c. the likely effect on him of any change in his circumstances
- d. his age, sex, background and any characteristics they might have that the court considers relevant
- e. any harm that he has suffered or is at risk of suffering
- f. how capable each of the child's parents, and any other person in relation to whom the court considers the issue to be relevant, is of meeting his needs
- g. the ranges of powers available to the court suitable for dealing appropriately with the case

10.16. If the court considers that the child is in need of care and protection it is empowered to make a Guardianship Order in respect of the child. The court must state the terms and conditions of the Order that will apply to each individual case.

10.17. The options within a Guardianship Order that are available to the court are:

- a. supervision of the child and his living circumstances by a social services officer approved by the Department of Social Welfare for the purpose, while remaining in the care of their parent/s or care giver/s.
- b. guardian's rights shared between the parent/s or care giver/s and the Department of social Welfare.
- c. guardian's rights transferred to the Department of Social Welfare, with the child continuing to reside at home.
- d. guardian's rights transferred to the Department of Social Welfare with the requirement that the child is cared for away from his parent/s care giver/s.
- e. in circumstances where a child will not live with his parents the arrangements to be made for the child to have access to their parent/s care giver/s.
- f. the length of time the Order will be in force before lapsing or being reviewed by the court.

10.18. It will be the duty of the Director of the Centre for Social Work to ensure that the requirements and conditions of a Guardianship Order are met.

10.19. Parents or care givers whose child is subject to a Guardianship Order will be assisted by the Centre for Social Work, where possible, to bring about the necessary changes in their circumstances so as to enable them to resume their full parental rights and responsibilities.

10.20. The cases of children in respect of whom there is a Guardianship Order in force be reviewed by the Centre for Social Work on behalf of the Department of Social Welfare at least every six months and, if the circumstances in the child's family have changed to the degree that the Order is no longer necessary or appropriate, application must be made to the court for its revocation.

Alternative forms of child care

Article 11

11.1. The Centre for Social Work, on behalf of the Department of Social Welfare has a duty of care and is at all times obliged to act as a good parent would towards a child:

- a. who has been orphaned of both parents
- b. who has been placed with it by his parent or parents for adoption
- c. who has been abandoned
- d. whose parents are not known
- e. who has been placed by his parent or parents in the temporary care of the Centre for Social Work
- f. who has been placed in the care of the Centre for Social Work, acting on behalf of the Department, by the court.

11.2. If a child has been orphaned of both parents and is being provided with adequate care by an individual or family to which the child is not related then the Department, through the Centre for Social Work for the territory where the child resides, arranges for this position to be regularized through the Institution of Guardianship. In these

circumstances, the Department may pay whatever allowances are appropriate towards the care and maintenance of the child.

11.3. In the case of a child being abandoned, whose parents are unknown or who has been placed with the Department for adoption, it will be the duty of the Department to make arrangements for the child to be provided with suitable long-term care.

11.4. In exceptional circumstances, where a professional assessment of a child's or minor's needs indicates that she or he would benefit from being provided with social care or counseling away from their home, and the parent or parents, or caregiver make an application for this, and the child has been consulted in the matter and his wish taken into consideration, then the child may be placed by the Centre for Social Work in a place other than his home. In such circumstances the parent or parents will retain all their parental rights and responsibilities and can have the child returned to his home immediately upon requesting the Centre for Social Work to do so. Where the subject of such an application is a minor and they do not consent to the placement, they can only be removed from parental care by the making of a Guardianship Order by the Court.

11.5. In no circumstances will a child admitted to the care of the Centre for Social Work under 10.4 above be placed in a penal establishment.

11.6. In respect of a child who is committed to the care of the Department by the court, the judge specifies when making a Guardianship Order the terms in which the Department discharges this responsibility.

11.7. In order to discharge its responsibilities to the children coming into its care the Department provides, according to the needs of each individual child, residential care, foster care or adoption arrangements.

11.8. In order to assist the Department in the management and oversight of the care of children for whom it has direct responsibility, the Ministry appoints a Child Placements Panel.

11.9. This panel has the following functions:

- a. approval of foster parents
- b. approval of adoptive parents
- c. allocation of children to foster parents
- d. matching of children with adoptive parents

11.10. The Child Placements Panel be chaired by the Director of the Department of Social Welfare or another person nominated by him and has seven other members appointed by the Department of Social Welfare on the basis of their relevant professional expertise and experience.

11.11. There will be one unified register of foster parents for Kosovo that will be maintained by the Department of Social Welfare.

11.12. Prospective foster parents will be assessed by a Social Services Officer approved by the Department of Social Welfare for the purpose and their reports considered by the Child Placements Panel who will decide on their inclusion in the register.

11.13. Decisions in respect of placing individual children with foster parents will be taken by the Child Placements Panel after consideration of the child's needs and circumstances and the suitability of a prospective foster family to meet these.

11.14. A child only be placed in a family that shares his own family's ethnic, linguistic, cultural and religious background.

11.15. The Centre for Social Work in whose territory a fostered child is placed will arrange for a Social Services Officer to visit him at least once every month, in order to ensure that she or he is being adequately cared for and to offer the foster parents any advice or guidance they may require with regard to the care of the child.

11.16. All important decisions or consents concerning the health or welfare of a child in foster care will be made by the Centre for Social Work in whose territory the child is placed after, where possible, consulting with the child's natural parent or parents.

11.17. In the case of an unsuccessful or inappropriate placement, the Child Placements Panel can direct that a child be removed from the care of the foster parents.

11.18. Where foster parents are considered generally unsuitable for the task, they can be removed from the register by the Child Placements Panel.

11.19. If, while in foster care, a child is seriously injured or dies it will be the responsibility of the Ministry to initiate an investigation into the circumstances and take whatever steps are necessary subsequently.

11.20. The Department of Social Welfare is obliged to ensure that children in its care are adequately provided for materially. To this end it will provide appropriate allowances to foster parents for the care and maintenance of a child who is placed with them and, where necessary meet any necessary additional expenses, including medical fees.

11.21. The Department of Social Welfare shall, through the Child Placements Panel, be the sole authority in Kosovo responsible for drafting of the lists of prospective adoptive parents and placement of children with parents proposed by Centers for Social Work.

11.22. Any person or persons arranging an adoption outside the provisions of this Law or attempting to do so render themselves liable to prosecution under Articles 209 and 210 of the Criminal Code of Kosovo.

11.23. Any professional person who brings undue pressure to bear on a parent or parents to give their child up for adoption will be guilty of gross professional misconduct and will render themselves liable to prosecution under Article 160 of the Criminal Code of Kosovo.

11.24. The Child Placements Panel will maintain a register of persons whom it approves as adoptive parents following its consideration of assessments and enquiries made on its behalf by a designated Social Services Officer.

11.25. In order to safeguard the rights of children who may be the subject of applications to adopt from people resident outside of Kosovo, the Child Placements Panel has the following duties:

- a. ensure that there is compliance with the requirements of the Hague Convention on Private Law, Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption,
- b. establish and maintain collaborative arrangements with the relevant adoption authorities in potential recipient countries,
- c. establish the criteria for Inter-Country Adoption to be applied,

- d. facilitate the legal procedures necessary to complete Inter-Country Adoption as defined under the Hague Convention.

Services to Adults

Article 12

12.1. In cooperation with families, communities, non-Government organizations and other statutory bodied, a Municipality provides social care, counseling and, in exceptional circumstances, material assistance to people in need of social services residing in or, and in its territory, based on their assessed need for such services and the Municipality's ability to reasonably provide them.

12.2. The Ministry has overall responsible for the establishment and oversight of residential homes, sheltered accommodation and emergency shelters for people in need in Kosovo.

12.3. No Municipality or non-government organization is allowed to establish a residential facility for people in need without the permission of the Ministry.

12.4. Municipalities may provide financial or other assistance to people in need, or their caregivers, who wish to come together to form mutual support, self-help or self-advocacy groups.

12.5. Centres for Social Work with the consent of the individuals concerned will maintain a register of people in need of social services who are resident in their territory and who lack family or other community support and who have difficulty maintaining themselves, or are at risk of self-neglect, exploitation or abuse by others or of any other form of harm. The Centre for Social Work shall arrange for those people in need who are on this register to be visited on a regular basis by a responsible person, in order to monitor their safety and well being.

Protection of vulnerable Adults

Article 13

13.1. In cases where it comes to the attention of a Centre for Social Work that there is evidence that an adult is unable to care for themselves because of mental disability or is being neglected, exploited or abused by others and because of age, physical or mental infirmity or disability, fear of those harming them or other factor is vulnerable to the degree that they lack the capacity to act on their own behalf, the Director of a Centre for Social Work in whose territory they reside, or are found, must take all necessary steps to secure their safety without delay.

13.2. If there are reasonable grounds to suspect that the vulnerable person lacks the capacity to act on their own behalf and it is necessary to protect the adult from serious harm, the Director of the relevant Centre for Social Work must make application to the court for a Guardianship Order.

13.3. Before granting a Guardianship Order the judge must be satisfied that there are sufficient grounds to justify such a measure and that because of mental incapacity the subject of the application could not reasonably be expected to act on their own behalf.

13.4. Such an order specify the steps that the Director of the Centre for Social Work is empowered to take in order to safeguard the health, safety and well being of the person in respect of whom the Order is being made. The powers that are available to the court are:

- a. Supervision of the living circumstances of the vulnerable adult by a professional designated by the Department of Social Welfare for the purpose, while remaining in their own home,
- b. Direction to the Department of Social Welfare to place an adult who is lacking the mental capacity to care for themselves in a suitable residential facility,
- c. Direction to third parties that they desist from having contact with the vulnerable adult, who is the subject of the Order,
- d. Specifying the length of time the Order will be in force before lapsing or being reviewed by the court

13.5. In no circumstances will the person who is the subject of a Guardianship Order be detained in a penal establishment.

13.6. If necessary, the courts can direct the Kosovo Police Service to assist the Centre for Social Work in the execution of a Guardianship Order.

13.7. The Director of the Centre for Social Work takes all necessary steps to ensure that the conditions of the Guardianship Order are met.

13.8. The Director of the Centre for Social Work makes application for the revocation of a Guardianship Order as soon as the requirement for it no longer exists. The Department of Social Welfare must review it at least annually and the court must review it at least every three years, if no application for revocation is made in the interim.

13.9. Where there is a reasonable concern of immediate danger of serious harm to the health, safety or well-being of a vulnerable adult and there is evidence that they lack the capacity to act on their own behalf, a Social Services Officer of the Centre for Social Work, approved for this purpose to act on behalf of the Department of Social Welfare, may at their own discretion make application to the Court for an Emergency Protection Order.

13.10. Before granting an Emergency Protection Order a judge must be satisfied that there is sufficient prima facie evidence to justify such a measure and there are reasonable grounds to believe that, because of mental or physical incapacity, fear, threat or other significant reason the subject of the application could not reasonably be expected to act on their own behalf.

13.11. The effect of an Emergency Protection Order will be to permit the applicant Social Services Officer of the Centre for Social Work, on behalf of the Department of Social Welfare, to enter any premises and have the subject of the Order brought to a place of safety where they can be protected from harm and their medical, social and psychological needs assessed. The judge making the emergency Order may direct that the police or a medical practitioner or both accompany the Social Services Officer of the Centre for Social Work to assist in the execution of the Emergency Order. It will be an offence under the Kosovo Criminal Code for any person or persons to obstruct a Social Services Officer in the execution of an Emergency Protection Order.

13.12. The duration of an Emergency Protection Order is seven days, after which it must be discharged or the matter brought before the court for further consideration.

13.13. A vulnerable adult who is the subject of an Emergency Protection Order and who has the mental capacity to exercise their judgment is free to refuse to go to a place of safety or to leave the place of safety to which they have been brought at any time and the Order will automatically be discharged upon their doing so.

Expert Advice to the Courts Article 14

14.1. In cases where a Court is dealing with children in criminal or civil proceedings, including but not limited to juvenile justice hearings and child custody cases, or in cases where the welfare of a vulnerable adult is involved, the Court may request the relevant Centre for Social Work to conduct inquiries and to provide an expert assessment of the social circumstances of the person in question and to make recommendations for their future well being.

14.2. Upon receipt of such a request from the Court, the relevant Centre for Social Work Director will cause such inquiries to be made by a Social Services Officer approved for the purpose and furnish the Court with reports accordingly. Such reports must be submitted to the Court no later than twenty-one days of the request being made, unless otherwise specified in the request.

14.3. The Court makes no final disposal in a case for which such a report is required until it has given due consideration to its content and recommendations.

Other provisions Article 15

15.1. All verbal, written and electronic communications concerning the provision of Social and Family Services between an individual or a family receiving such services and a Social and Family Services professional will be treated as being in confidence. Such information will be shared with others only in so far as is necessary to provide the service, or to protect the safety of a vulnerable adult or child at risk of harm or if there is an overriding public interest or at the direction of a Court.

15.2. Any Social and Family Services professional who negligently, willfully or maliciously shares information concerning a case with unauthorized third parties, will be guilty of gross professional misconduct and may be liable to prosecution under Article 189 of the Criminal Code of Kosovo.

15.3. Any person, or the representative of any person, who believes that they have been unfairly or unlawfully discriminated against or have for other reasons been denied appropriate Social or Family Services will have a right to complain.

15.4. In circumstances where an individual or a family are dissatisfied with the decision of a SSO in respect of the provision of social and family services, or the refusal to provide such services or the quality of services provided they could request that the Director of the relevant CSW review their case.

15.5. The Director of the CSW upon the receipt of such a request reviews the case and provides a resume of their findings to the complainant in writing within seven days.

15.6. If the complainant is dissatisfied with the response of the Director, they can formally appeal to the Department.

15.7. For the purposes of adjudicating on complaints relating to Social and Family Services the Department of Social Welfare establishes a Complaints Commission.

15.8. The Complaints Commission will be chaired by the Director of DSW, or his nominee, and will have four additional members, a Director of a CSW not associated with the complaint, a representative from the relevant municipality and two other independent members appointed by the Department.

15.9. Within thirty days of receipt of a complaint, the Complaints Commission considers the complaint, reviews relevant documentation and interview witnesses as appropriate. It will convey its decisions to the parties to the complaint in writing.

15.10. If a complainant is dissatisfied with the decision of the Complaints Commission he can make an appeal to the Supreme Court.

15.11. The Ministry of Labor and Social Welfare shall issue, regulations, procedures, guidance and other sub-legal acts relating to the provision of the Social and Family Services that are the subject of this Law.

Final Provisions Article 16

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-17
21 April 2005

President of the Assembly

Academic Nexhat Daci