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The protection of children with parents left for work abroad

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Abstract

Currently, given the current economic context of Romania, there is a growing tendency for parents to migrate abroad to find a job for improving living conditions. Thus, it was remarked that after this exodus, the children remain at home, without parental care, in the care of other persons. The authorities of the local and central public administration have the imperative to stop this phenomenon with particularly dangerous consequences for the whole society and last but not least, they have to take into account the fact that the size of the phenomenon remains unknown. A particularly important role in the situation of children whose parents are going to work abroad is the public social service which has the obligation to verify that the person who will take care in the absence of the parents meets cumulatively the conditions imposed by the legislation in force.

Keywords: child, parents, work abroad, central and local public authorities.

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A complex legal document, the Convention on the Rights of the Child defines the term "child" in Article 1, thus, "child means any human being under the age of 18 years, except where the law applicable to the child establishes the majority this age. "(Convention on the Rights of the Child). Also in the Preamble to the Convention on the Rights of the Child it is mentioned that: "... because of its lack of physical and intellectual maturity, the child needs protection and special care, and, in particular, of adequate legal protection, before and after birth. " (Convention on the Rights of the Child)

Considering the extent of the phenomenon of the "child with parents left to work abroad" in recent years it has determined the central public authorities, as well as the local ones with significant attributions in the special protection of the child, to give the matter a special interest, based on collaboration, but also on institutional cooperation. According to the data provided by the authorities responsible for the protection and promotion of the rights of the child, on September 30, 2014 there were about 83,000 children with at least one parent abroad working, which signals an alarm on the phenomenon.

Thus, at present, there are many situations in which parents, or in their absence the child raising tutor, go to work abroad, leaving the child in the care of other people and implicitly lacking it from the emotional affection necessary at a young age.

In order to ensure a favorable climate for the harmonious development of the child in society, the legislator regulated a procedure to be followed for the temporary delegation of parental authority to another person as long as they are at work abroad.

Thus, in accordance with Article 140 (1) of Law no. 272/2004 on the protection and promotion of the rights of the child, the parent who exercises the parental authority alone or where the child resides, who is about to leave for work abroad, has the obligation to notify this intention to the public social service at home, with minimum 40 days prior to leaving the country." The notification required by the legislation in force must include the following: the period during which the parent / parents / tutor will go to work abroad, the children who will remain in the care of other persons and not last but not least, the designation of the person in charge of raising and educating the child while his parents are going abroad.

Failure to comply with the obligation to notify the public service of social assistance by the parent or tutor who takes care of the child when leaving for work abroad is in accordance with Articles 142 and 143 of Law no. 272/2004 republished contravention and shall be sanctioned with a fine from 500 lei to 1000 lei. Confirmation of the designation of the person by the parents to exercise parental authority during their absence is done by the guardianship court in

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accordance with the legal provisions and the designated person must fulfill the following conditions cumulatively:

- to be part of the extended family, i.e. the relatives of the child up to the fourth degree;

The legislator provided such a condition, because the environment in which the child will live while his parents are abroad is known to him and not alien so that it is easier to adapt to the unforeseen situation.

- be at least 18 years of age.

Under this condition, the person entrusted with the child must be at least 18 years of age in order to be able to take the most important decisions relating to the raising and education of the child being cared for.

-to meet the material conditions and moral safeguards necessary to raise and care for a child.

Even if the parents who go to work abroad are the ones who provide material support to the child, the person designated with the temporary raising of the child has the obligation to prove that he meets the material conditions, which are vital for his normal development.

According to art. 105 para. 3 of the Law no. 272/2004 on the protection and promotion of the child's rights, "the court will order the temporary delegation of the parental authority to the child, during the absence of the parents, but not more than one year, to the designated person (...)". Thus, the legislation in force imposes a one-year limitation period, the period of time for which the parental rights and parental responsibilities are exercised, and the possibility of extending it in the situation where the parents do not return and the child remains without their care.

The public social assistance service at the child's home, through its representatives, has the task of performing the necessary assessments to ascertain whether the designated person meets the conditions imposed by the legislation in force in order to propose its confirmation by the competent court. Also, a very important role that the public social service has to offer is to ensure that the designated person is trained in the tasks related to raising and educating the child when being in a difficult situation.

In order to verify the child's situation, in the first six months, the representatives of the Social Welfare Service make visits once every two months to the designated person's home with the child's raising and education in good conditions. Following these visits, and depending on the report, the authorities can take certain measures as follows:

- If there are suspicions that there are situations of abuse, neglect or ill-treatment, the General Directorate for Social Welfare and Child Protection should be notified immediately, being the main provider of social services in the protection of child's rights;

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●If it is found that the child is attending certain groups with inclinations towards criminal activities, the Public Service for Social Assistance has the imperative obligation to request the support of the General Directorate of Social Assistance and Child Protection, and also to ask for the police assistance to be taken measures with celerity;

● If the emotional state is affected, the representatives of the Public Service of Social Assistance also have the task of resorting to a psychologist who intervenes for a quick reintegration;

● If your child's health is endangered, one should call a doctor immediately to improve his medical condition.

In the situation when the child is left alone, without protection and care, during the departure of parents to work abroad, different situations can occur in which the child is abused by the main actors in his life. According to Mark Belsey (1996), forms of abuse can generally be classified into four broad categories:

a) "Physical abuse is represented by intentional acts of physical violence, or the non-prevention of such acts directed against the child, which affect the physical integrity of the child;

b) Emotional abuse is the serious effect on the emotional and behavioral development of the child caused by its being subject to persistent and severe forms of emotional abuse or abandonment;

c) Sexual abuse is the use of children and adolescents in sexual activities where their degree of development does not allow them to understand and to give informed consent, or to violate the social interdictions of family roles;

d) Leaving the child without care and protection is a serious and persistent child neglect form (e.g. by exposure to any kind of danger, including cold or starvation) that has the effect of seriously damaging the child's health or development.

"The darkest pages of criminal statistics include domestic violence against children and women." (Patrignani & Ville, 1998)

In the specialty literature (Balahur, 2001) it was appreciated that children were victims of abuse or who witnessed domestic violence, they have a higher risk and a higher likelihood of acting aggressively in the family, as well as outside.

The person who has been appointed to take care of raising and educating the child during the absence of the parents has, in accordance with Article 2 (5) of the H.G. 691/2015: "[...] the obligation to make available to the public social assistance service all the data and information it holds about the address where the parents can be contacted abroad and to prove that they are in contact with them. "

The legislation in force has imposed on the Public Social Welfare Service the legal obligation to request various information from the educational units operating within their territorial administrative area regarding the situation of the children:

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- children with both parents abroad;

-children whose supporting parent is abroad;

- one-parent children left abroad;

- children returning to the country after a stay abroad with parents longer than one year. At the same time, Article 108 of Law no. 272/2004 on the protection and promotion of children's rights stipulates that: "The Public social assistance service and the County center of resources and educational assistance have the obligation to develop specialized counseling services for the child who returned to the country after a period of stay abroad with parents longer than one year."

From those mentioned above one can be easily notice the obligation of the institutions at central and local level, whether or not they have specific attributions in the child's protection to contribute to identifying the risk situations in which the child is present and to participate in its social reintegration.

Given the increase in the number of cases of parents going to work abroad, seeking for better living, and leaving children in the care of their relatives or neighbors, it has led the local public administration authorities to initiate a series of information campaigns to raise awareness of the risks involved in their departure, even for a short period of time, but also informing them of their obligations in the situation in which they intend to leave abroad.

In accordance with Article 107 of the Law no. 272/2004 on the protection and promotion of the rights of the child: "The procedure of monitoring the way of raising and taking care of the child with parents left for work abroad, as well as the services they can benefit from, shall be established by Government decision, at the proposal of the Ministry of Labor, Family, Social Protection and the Elderly, in cooperation with the Ministry of Regional Development and Public Administration."

Conclusions

By giving more attention to the situation of children with parents working abroad, there is a significant reduction in the risk of child abandonment and exploitation by foreigners who take advantage of their lack of parental care.

It was also found that at the level of the educational institutions there is no clear procedure in the situation when the child with parents working abroad has a low interest in school, manifested by numerous actions, namely lack of motivation from the classes, very small grades after testing, abusive behavior towards other children. Educational institutions play an active role only when they encounter a case of school dropout, where they request support from the General Directorate for Social Welfare and Child Protection or from the social care departments within the mayoralties.

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The legislator provided a certain procedure if the child was temporarily without parental care and also imposed a certain degree of rigor in designating a person to keep the place of the parents in order to completely eliminate the risks to which the child may be subjected.

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