



Republic of Moldova

The GOVERNMENT

DECISION No 1177
as of October 31, 2007

**on the setting up of the Commission for the Protection of the Child in Difficulty
and approval of the Framework Regulations on the activity of the Commission**

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In order to achieve the National Strategy and Plan of Actions on the Reform of the Residential Childcare System for 2007-2012, approved through the Government Decision No 784 as of July 9, 2007 (Official Monitor of the Republic of Moldova, 2007, No 103-106, art.823), as well as to develop alternative services for the protection, care and development of the child and family, the Government DECIDES:

1. To establish within the local public administration of the second level/Balti municipality, the Commission for the Protection of the Child in Difficulty, subordinated to the Rayon/Municipal Council.
2. To approve the Framework Regulations on the activity of the Commission for the Protection of the Child in Difficulty (annexed to the decision).
3. The profile commissions established at the rayon/municipal level are obliged to function in compliance with the Framework Regulations on the activity of the Commission for the Protection of the Child in Difficulty.

Prime-minister

Vasile TARLEV

Countersigned:

Minister of local

public administration

Minister of social protection,

family and child

Minister of education and youth

Minister of finance

Valentin Guznac

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Victor Tvircun

Mihail Pop

No 1177. Chisinau, October 31, 2007.

Approved
by the Government Decision No 1177
as of October 31, 2007

FRAMEWORK REGULATIONS
on the activity of the Commission for the Protection of the Child in Difficulty

I. Organisation of the activity of the Commission for the Protection of the Child in Difficulty
General provisions

1. The Commission for the Protection of the Child in Difficulty (hereafter – the Commission) shall be a body mandated to issue notification papers on the approval and monitoring of protection measures of the child in difficulty.

2. The Commission shall be set up within the public administration authority of the second level /Balti municipality and shall be subordinated to the Rayon/Municipal Council.

3. The Commission's activity shall be based on the Constitution of the Republic of Moldova, the Law No 338-XIII as of December 15, 1994 on the rights of the child, Family Code adopted by the Law No 1316-XIV as of October 26, 2000, UN Convention on the Rights of the Child and other normative acts related to the protection of children's rights, as well as on these Regulations.

Commission's Objectives

4. The Commission shall have the following objectives:

a) To safeguard and promote the child's welfare and the right to be brought up in a family environment, taking into account his/her best interests, in order to ensure him/her conditions for a harmonious development from the emotional, intellectual and physical points of view;

b) to ensure the best care form for each child in difficulty, with priority given to the family-type services. The placement in a residential institution shall be the last option.

5. To achieve its objectives, the Commission shall be responsible for:

a) Monitoring the compliance with appropriate regulations in any case recommendations to place the child in difficulty in the family, close to the family environment or residential type services, are made;

b) the placement of the child in the foster care family in compliance with the Regulations on the Foster Care Service. The Commission shall consider, in exceptional cases only, the reintegration cases of the child from the foster care services and residential care services in the birth or extended family;

c) informing the Rayon/Municipal Council on the need to develop new child protection services or to extend the existing ones;

d) monitoring of services delivered to children in difficulty;

e) the registration in a special register of NGOs delivering protection services to children in the respective administrative/territorial unit;

f) the reception of complaints concerning the protection of the child placed in different types of care services, consider them and readdress them if needed to the guardianship authority, monitor their solution;

g) filling in quarterly reports to the Rayon/Municipal Council and annual reports to the Ministry of Social Protection, Family and Child.

The establishment of the Commission

6. The establishment and membership of the Commission shall be approved through a decision of the Rayon/Municipal Council.

7. The Commission shall be made up of 8 members, including a responsible secretary of the Commission, and shall have the following membership:

a) two members to be appointed by the Rayon/Municipal Council, but they cannot be members of either the Social Assistance and Family Protection Section / Chisinau Child Protection Directorate or Education, Youth and Sport General Directorate;

b) two profile specialists (psychologist, psychiatrist, doctor or pedagogue);

c) two members delegated from the local NGOs. Where there are not NGOs in the rayon/municipality, two other independent members of the civil society shall substitute the NGO members;

d) two members recruited by open advertisement in the local media. The Rayon/Municipal Council shall subsequently organise the recruiting and selection procedures in compliance with pt.8 of these Framework Regulations.

8. Members of the Commission, apart from the independent ones, shall be persons with higher education and have at least 5 years of experience of working with children or children's issues. Members of the civil society shall be persons with higher education and competences in the social assistance field.

9. The chairperson and deputy chairperson of the Commission shall be elected annually by the Commission's members who have the right to vote.

10. The responsible secretary of the Commission shall be a full-time position and does not have the right to vote.

11. The chairperson of the Commission shall be responsible for the organisation and fulfilment procedures of the Commission, in compliance with these Regulations.

12. The responsible secretary of the Commission shall:

a) supervise the compliance of the organisation and fulfilment procedures of the Commission's sittings;

b) communicate to all the Commission's members and interested persons the date, place and hour of the Commission's meetings, as well as the agenda;

c) introduce to the Commission the person or the case to be discussed at the meetings;

d) write the minutes of the meeting and other documents on the Commission's activities;

e) fulfil other tasks to ensure the good activity of the Commission.

The meetings of the Commission

13. The Commission shall convene monthly in ordinary meetings, and in extraordinary meetings when needed.

14. The Commission's meeting shall be legally set up in the presence of at least 5 members.

15. The Commission's meetings shall be chaired by its chairperson, and in his/her absence, by the deputy chairperson. Should the responsible secretary be absent, a Commission's member shall be elected to substitute the secretary's tasks during the meeting.

16. Meetings shall be chaired by the Commission's chairperson, or at the notification of the guardianship authority with regard to the recommendation to place a child in difficulty in the family-type services, close to the family environment services, or residential-type services, or at the reception by the Commission of the request on the approval of foster parents from the foster care service provider.

17. The information on the organisation of the meetings shall be in written form and shall

compulsorily include the agenda. The following bodies shall be invited to the meeting: guardianship authority, head of the Social Assistance and Family Protection Section / Chisinau Child Protection Directorate and specialists on families with children at risk issues. The meeting shall be held within 10 calendar days from the notification date.

18. The meetings of the Commission are not public. The Commission can allow other people but the informed ones to attend the meeting, if it considers their presence useful. The following persons / specialists can be invited to the meeting if needed: specialists from the Education, Youth and Sport General Directorate, specialist responsible for minors and manners from the Police Commissariat, social assistant or representative of the respective administrative-territorial unit.

19. The competent Commission to examine cases related to children recommended for placement in family-type, close to the family-type or residential-type services, is the Commission in which territorial area the child resides, was found or abandoned by the mother in sanitary units.

20. Whether the Commission has to confirm the Social Assistance and Family Protection's / Chisinau Child Protection Directorate's recommendation on the placement of a child, the responsible secretary of the Commission shall inform about the meetings the parents, the child, the person or the family who wants the child to be placed with, as well as any other person who may give information to the case.

21. Should the Commission convene in a meeting to approve applicants to the foster parent position, the responsible secretary of the Commission shall inform about it the applicants, as well as any other interested persons if needed.

22. The interested persons shall be informed about the meeting through registered mail, with notification of receipt, sent at least 5 working days prior to the meeting, or by courier at least 3 days prior to the meeting.

23. Documents confirming the reception of mails shall be registered in a register by the responsible secretary of the Commission.

24. The meetings of the Commission shall take place in especially arranged rooms to ensure confidentiality of data and information concerning the child and persons the child is placed with, and foster parents, as well as to ensure the confidentiality of the Commission's debates.

25. The meetings of the Commission shall undergo the following steps:

a) If it is about confirming recommendations on the placement of a child in family-type or residential-type services:

1) the responsible secretary of the Commission shall present the personal details of the child and persons attending the Commission's meetings;

2) the social assistant who has administrated the case shall present the comprehensive assessment report on the child's and family's situation, the individual care plan and grounded proposals to establish a protection measure;

3) the report mentioned in subpoint (ii) of this point shall include the child's opinion towards the proposed protection measure, along with data on the child's age, maturity degree and capacity to made and express an opinion;

4) the Commission shall hear the child, one of his/her parents, or legal representative (persons present to the Commission's meeting may be heard separately).

b) If it is about confirming the approval of a foster parent:

1) the responsible secretary of the Commission shall introduce the candidate for the approval as foster parent;

2) the social assistant who has administrated the case shall present the assessment report and recommendations before the Commission with the proposed terms and conditions of approval of the foster parent.

26. The notification paper of the Commission shall be voted by the majority of its members present to the meeting. In case of parity, the chairperson has the decisive vote.

27. Each member of the Commission has the right to express his/her separate opinion which shall be handed over to the Commission's chairperson and annexed to the file. The separate opinion shall not be announced and read in the meeting.

28. The notification paper shall be signed by the chairperson of the meeting and other members present to the meeting, including by the member who has a separate opinion.

29. The Commission's outcome shall be communicated to the parents, the child, the person or the family, or the residential service the child has been placed with, the foster parent, the Social Assistance and Family Protection Section / Chisinau Child Protection Directorate, guardianship authorities, in the same day, or, within 3 days from the meeting.

30. The notification paper shall be registered in a register by the secretary of the Commission.

31. The Commission's notification paper and assessment report shall be sent to the guardianship authority for a final decision.

32. The Commission may recommend the placement of a child in another territorial-administrative unit but the one it functions in, if it is in the best interest of the child, with the agreement of the Commission from the territorial-administrative unit the child is referred to. In this case, the local public administration of the Commission recommending such a placement shall assume the financial responsibility for this placement.

33. In the situation stipulated in point 32 of these Regulations, the Commission competent to make the decision shall submit to the Commission which notification is required all the information it holds related to the solution of the case, as well as the reasons for such a recommendation.

34. The Commission whose notification is required is obliged to notify the other Commission about the issue of the notification paper within 15 days since it had received the request and the information stipulated in point 33. The demand may be rejected only if it is in the best interest of the child.

35. Should the term stipulated in point 43 fail to be observed, the Commission's positive notification shall be presumed.

36. The minutes of the meeting shall be taken by the responsible secretary of the Commission not later than 48 hours from the conclusion of the meeting.

37. The minutes shall be signed by the chairperson of the Commission and the responsible secretary.

II. The placement of the child in difficulty in family-type, close to the family environment, or residential-type services

Decision-making principles

38. The child protection responsible bodies shall take into account the following principles while making decisions concerning the protection of the child:

- a) the best interests of the child shall prevail;
- b) to ensure the child's right to be looked after by his parents;
- c) parents' responsibility to look after their children and to ensure them the physical, mental, spiritual, moral and social development;
- d) to ensure the up bringing of the child in a family environment for the fully and harmonious development of his/her personality;
- e) to ensure that the child is able to express his/her opinions concerning problems affecting him/her, and the fact that his opinions are taken into account, depending on his/her age and maturity;
- f) the priority of maintaining relations between siblings when it is not possible to keep them with their birth parents. Siblings should be placed together.

g) opportunities to continue the upbringing of the child in his/her ethnical, religious, cultural and linguistic environment;

h) the compulsoriness to benefit from protection and social assistance when a child is in difficulty.

i) the need to keep confident the information on the child and his/her family.

39. The bodies with responsibilities in the child protection field: guardianship authority, Commission for Minors, Medical-Psycho-Pedagogical Commission (in the case of a child with disabilities), Social Assistance and Family Protection Section/Chisinau Child Protection Directorate, shall take all the necessary decisions concerning the placement of a child in the family-type, close to a family environment services, or residential-type services only in compliance with these Regulations.

40. The bodies mentioned in point 39 of these Regulations shall take all the necessary measures within their jurisdiction in order to protect the child against any forms of violence, abandonment or neglect, maltreatment or exploitation.

The procedure and the decision-making process related to the placement of the child in difficulty

41. Should a statement be made about a child in difficulty and who needs protection or should the parent state that he/her cannot provide the child with the needed care, any body mentioned in point 39 of these Regulations that has received / registered the first statement, shall undertake the responsibility to re-address the referral to the Social Assistance Section / Chisinau Child Protection Directorate to carry out the first investigation.

42. The declaration can be made both verbally and in writing by any individual or juridical person, including by the child in person. Declarations made verbally shall be registered by the child protection responsible bodies, mentioned in point 39 of these Regulations, in a complaints register.

43. The guardianship authority shall be compulsorily informed of any declaration, which it shall register in a special register, keeping a nominal and full record of all declarations and complaints.

44. If the results of the first investigation show that there are reasons for concern of the child's health and life, the Social Assistance Section /Chisinau Child Protection Directorate shall pass on the case for a comprehensive analysis of the child and his/her family to the social assistant from the administrative-territorial unit the child and his/her family lives in. On the basis of this assessment, the social assistant shall develop the individual plan for the child. Any assessment of this kind must be carried out by a qualified social assistant in the field.

45. While carrying out such assessments, the social assistant shall:

a) Interview the child

b) Ensure that the child is able to express his or her views and that such views are taken into consideration in accordance with his/her age and maturity;

c) Give due consideration to the need to involve relevant specialists (pediatrician, psychologist, psycho-pedagogue, neuro-psychiatrist, etc);

d) Determine whether, in the event that the child cannot remain with his or her birth parent, there are members of the extended family – child's relatives up to the 4th kinship level inclusive, or family friends the child is attached to, willing to care for the child.

46. If the results of the complex assessment show that in order to protect and promote the child's health and wellbeing it is necessary to provide him/her with family support and community-based services, the Social Assistance Section / Chisinau Child Protection Directorate shall make sure that these services are available for the child and his/her family.

The minimum requirements needed

to separate the child from his birth family

47. No child shall be separated from the birth parent or placed in another environment unless:

- a) such a placement is necessary to protect the child from suffering significant harm;
- b) the comprehensive assessment indicates that such a placement will meet the paramount interests and needs of the child.

48. Poor material conditions shall not, of themselves, be a sufficient reason for placing the child away or removing the child from the family.

49. Where the child is at immediate risk of suffering significant harm, the guardianship authority may remove the child from his/her parents on an emergency basis without having their consent. Where there is resistance, the police inspectorate shall support the guardianship authority. In such cases, the prosecutor shall be informed within 24 hours. The guardianship authority shall comply with the Article 71 of the Family Code and with these Regulations.

50. Whether there is an emergency case the guardianship authority may place the child in any protection form (placement) for a period not longer than 72 hours.

51. Whether the child is taken from parents in line with point 50 of these Regulations, the guardianship authority shall immediately inform about the case the Social Assistance Section / Chisinau Child Protection Directorate, which shall refer the case for a complex assessment of the child and family (in compliance with point 44 of these Regulations) to the social assistant responsible for the case from the administrative-territorial unit the child and his/her family lives in. The respective social assistance, on the basis of the assessment results, shall develop the individual protection plan of the child.

Individual care plan of the child in difficulty

52. The social assistant from the administrative-territorial unit the child and his/her family lives in has the obligation to develop the individual care plan immediately after being referred the case from the Social Assistance and Family Protection Section / Chisinau Child Protection Directorate after the reception of the comprehensive assessment request or after the Guardianship Authority has decided the emergency placement of the child.

53. While developing the individual care plan priority should be given to the child's keeping or reintegration in the family, or if it is not possible, to place him /her in the extended family or family friends. The plan's objectives shall be set up only after the consultation with the child, parents and identified members of the extended family. The day care services that could support the child to stay in his/her birth or extended family or family friends shall be considered and recommended.

54. The individual care plan may consider the placement of the child in a residential-type service only when the guardianship / trusteeship could not be established or he/she could not be placed with the extended family, family friends, foster care, family-type home, temporary placement centre, under the conditions of these Regulations and other normative acts in the field.

55. If the Social Assistance Section / Chisinau Child Protection Directorate concludes that the child can be kept or reintegrated in his/her birth or extended family or family friends, the Social Assistance Section / Chisinau Child Protection Directorate shall continue acting in line with the individual care plan, making the appropriate decisions in agreement with the guardianship authority.

56. If the Social Assistance Section / Chisinau Child Protection Directorate concludes that the child is to be placed in a family-type service or close to the family type, then the Social Assistance Section / Chisinau Child Protection Directorate shall certify in written form the need to place the child in a certain family-type service.

57. If the Social Assistance Section / Chisinau Child Protection Directorate concludes that the child needs to be placed in a residential-type service, the Social Assistance Section / Chisinau Child Protection Directorate shall certify in written form, indicating the reasons:

- a) the available family and community-based services cannot ensure the child's protection and wellbeing, and their lack will predispose the child to significant harm;
- b) the reintegration of the child in his/her birth family or his placement with his/her extended family or family friends was not possible, or is not in the child's best interests;
- c) the placement of the child in foster care, family-type home, temporary placement centre or maternal centre was not possible or is not in the child's best interests.

58. The certificate shall be signed by the social assistant and the head of Social Assistance Section / Chisinau Child Protection Directorate sent to the guardianship authority.

59. If the Social Assistance Section / Child Protection Directorate submits a certificate in line with points 56, 57 and 58 of these Regulations, the guardianship authority shall inform the Commission's chairperson within 24 hours about the needed to convene the Commission in a meeting.

60. The Commission's meeting shall take place not later than 10 calendar days from the date the certificate mentioned in point 59 of these Regulations was received.

61. The guardianship authority's final decision shall be issued only on the basis of the positive notification of the Commission.

62. While giving the notification, the Commission's members shall:

- a) act in line with points 38, 47 and 48 of these Regulations;
- b) take into account the evidence brought to the sitting;
- c) consider whether the Social Assistance Section / Chisinau Child Protection Directorate in recommending the placement of the child in family-type services, close to the family environment, or residential-type services has fully complied with the provisions of these Regulations.

63. The Commission shall base its notification on the placement of the child in the family-type services or close to the family environment stipulated in point 56 of these Regulations, with respect to these Regulations and other legislative and normative acts in the field.

64. Should the Commission conclude that provisions of these Regulations have been fully complied with and is in the best interest of the child to be placed in a residential-type service, then the Commission shall issue indicate the issues to be taken into account while developing and implementing the individual care plan within the residential-type service.

65. If the Commission considers that the provisions of these Regulations were not followed or is not in the best interest of the child to be placed in a family-type service, close to the family environment, or residential-type service, depending on the case, the Commission shall reject the recommendations made in this regard and send the case back to the Social Assistance Section / Chisinau Child Protection Directorate for re-assessment and collection of additional evidence. The Commission's decision shall include the number of days given to the Social Assistance Section / Chisinau Child Protection Directorate for re-assessment. The guardianship authority shall be informed about the results of the assessment.

66. The Commission shall inform the Rayon/Municipal Council of the need to develop new services or to extend the existing ones.

Admission to residential-type services

67. The Ministry of Education and Youth, Ministry of Health, Ministry of Social Protection, Family and Child shall not allow any child to be placed in a residential-type service until it is not submitted the following acts:

- a) a copy of the comprehensive assessment of the child and family and the individual care plan;
- b) a copy of the Commission's motivated positive notification.

68. If the permission of the relevant ministry is not required for placing the child in a residential-type service, the director of the residential service shall receive the child in the institution only when documents mentioned in point 67 letters a) and b) are submitted or in line with points 49 and 50 of

these Regulations.

Revising the placement

69. The Social Assistance Section / Chisinau Child Protection Directorate shall revise the placement of the child in the residential-type services at not more than three months from the placement, then as necessary, but not less than once in a six-month time.

70. While making the revision, the Social Assistance Section / Chisinau Child Protection Directorate shall:

- a) collect the information it finds necessary to revise whether the placement in the residential-type service continues to meet the child's needs and is in the best interest of the child;
- b) examine the individual care plan of the child,
- c) take into consideration the opinions of the:
 - 1) family, person or body with whom the child has been placed before the residential-type care;
 - 2) child placed in the residential-type care (depending on the age and maturity of the child);
 - 3) any other person from the residential-type service who holds relevant information about the child.

71. At the end of the revision, which shall take not more than 10 calendar days, the Social Assistance Section / Chisinau Child Protection Directorate shall compile a report stipulating the following:

- a) the reasons the child continues staying in the residential-type service;
- b) individual care plan of the child if he/she is to be reintegrated or placed in another protection form by the residential-type service.

72. The report shall be referred to the guardianship authority and the Commission within 3 days after revision.

The reception and solution of complaints related to the protection of the child in difficulty

73. Complaints related to the protection of the child in difficulty shall be considered by the guardianship authority.

74. Complaints received from other respective bodies shall be re-addressed, according to the competence, to the guardianship authority or to the Commission.

75. The guardianship authority is obliged to investigate all complaints and to report upon the results of investigations to the Commission.

76. The guardianship authority and the Commission shall present to the child and to other interested parties the results of the investigations and appropriate recommendations.

77. The members of the Commission shall have access to any type of child care services.

78. Complaints received orally or in written form during the visits, as well as other complaints submitted to the Commission from a child placed in care or other persons referring to the child in care, shall be handed over for investigation and consideration to the guardianship authority or shall be investigated by the Commission itself, if complaints are against the guardianship authority, or the examination of complaint would not be impartial and would not satisfy the best interest of the child.

79. Complaints may be made anonymously. The identity of a complainant shall not be released, unless the complainant agrees.

Final provisions

80. The Commission shall be a consultative body, acting on voluntary basis.

81. The Rayon/Municipal Councils shall provide commissions with premises for their activity.

82. The Rayon/Municipal Councils, in agreement with the Ministry of Social Protection, Family and Child, shall organise for the members of the Commission initial training courses and continuous training courses.

