

# Protection of Children in Difficulty under Romanian Law

**Ciprian Raul Romițan**

*PhD, Assistant Professor, "Romanian-American" University, Associate Partner SCA "Roș & Associates",  
Bucharest, Romania, ciprian.romitan@rvsa.ro*

**ABSTRACT:** At present, in Romania, the main form of child protection is the parental authority, but in some cases, it can also be done through state intervention through its specialized bodies by means of alternative protection measures (by guardianship and special protection measures). Where the minor is temporarily or definitively deprived of the protection of his or her parents or cannot be left in their care, in order to protect his or her interests, the law establishes some special protection measures. In Romania, the legislation on the protection and promotion of the child's rights provides for special protection measures, such as placement, emergency placement and specialized supervision. The study presents and analyzes legal regulations regarding the special protection of the child who is temporarily or permanently deprived of parental protection.

**KEYWORDS:** minor, parental authority, special protection, placement, emergency placement, specialized supervision

## Legal regulations

After the Revolution in December 1989, in Romania, a wide-ranging process of amending, supplementing and adopting new legislation in all areas of economic and social life, including the protection of the rights of the child, has commenced.

Thus, to begin with, on the basis of the Government Emergency Ordinance No. 26/1997 on the protection of the child in difficulty, republished (Official Gazette of Romania, Part I, No. 276 of 24 July 1998), a modern protection system was established by establishing 41 county Directorates for child protection, as well as in the six districts of Bucharest. At central level, the Department for the Protection of the Child has been established, which currently operates as the National Authority for the Rights of Persons with Disabilities, Children and Adoption, the central institution that coordinates and develops policies in this field. After several attempts, the Law no. 272/2004 on the protection and promotion of the rights of the child was adopted, republished (Official Gazette of Romania, Part I, no. 159 of 5 March 2014), a modern law based on the regulations contained in the UN Convention on the Rights of the Child (Adopted by the United Nations General Assembly on 20 November 1989 and ratified by Romania by Law No 18/1990, republished in the Official Gazette of Romania, Part I, No 109 of 28 September 1989); revised European Convention on the adoption of children (adopted at Strasbourg on 27 November 2008. Romania acceded to this Convention by Law No 138/2011, published in the Official Gazette of Romania, Part I, No 515 of 21 July 2011); the Convention on the protection of children and cooperation in matters of international adoption (Romania has ratified the Convention on the Protection of children and cooperation in matters of international adoption, concluded in the Hague on 29 May 1993, by Law No 84/1994, published in the Official Gazette of Romania, Part I, No 298 of 21 October 1994), as well as those enshrined in the Romanian Constitution (the Constitution was adopted at the meeting of the Constitutional Assembly on 21 November 1991, was published in the Romanian Official Gazette, Part I, No 233 of 21 November 1991 and entered into force following its approval by the national referendum of 8 December 1991. It was reviewed and republished in the Official Gazette of Romania, Part I, no. 767 of 31 October 2003).

At the same time, the Law 272/2004, republished, correlates the national legislation in the field of the protection of the rights of the child with the case law of the European Court of Justice which, in all its decisions, points out that for a minor, living with his/her parents is a part

of family life and placing the child in a social protection institution *is an interference in family life*. The Court also ruled that measures to place the child in social protection institutions should be *temporary*, and that measure may be suspended at any time (Bârsan 2005, 636).

Thus, at present in Romania, the legal framework regarding the respect, promotion and guarantee of the rights of the child is governed by the Law No 272/2004, republished, as subsequently amended and supplemented [Article 1(1)]. According to the provisions of Article 7 of the above mentioned normative act, in Romania, all rights provided by this law “*are guaranteed to all children without discrimination, regardless of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, material situation, degree and type of deficiency, birth-status or acquired status, difficulties in training and development or other of the child, of parents or other legal representatives or of any other distinction.*”

### **Introductory concepts on special protection of the child**

The protection of the minor is that “legal institution which includes all the rights and obligations granted or imposed by law on certain persons or bodies, for the purpose of raising, educating and training children according to the general interests of society” (Radescu, Radescu and Stoican 2017, 652-653). At present, in Romania, the main form of child protection is the parental authority, but in some cases, it can also be performed through state intervention through its specialized bodies, with the help of alternative protection measures (by guardianship and special protection measures). For the purposes of the above, Article 106(1) of the Civil Code (Law No 287/2009 on the Civil Code, published in the Official Gazette of Romania, Part I, No. 511 of 24 July 2009), stipulates that “the protection of the minor is carried out through the parents, by the establishment of the guardianship, by placement or, as appropriate, by other special protection measures specifically provided for by law”. We should specify from the start that for the purposes of the legislation on the protection of the rights of the child, as well as the Romanian Civil Code, *the child* means that “*person who is not 18 years old nor has acquired full capacity for exercise*” [Article 4 letter a) of Law No 272/2004, republished; Article 263(5) of the Civil Code].

According to the provisions of Article 54 of Law No 272/2004, republished, the special protection of the child shall mean “all measures, benefits and services intended for the care and development of the child temporarily or definitively deprived from the protection of his/her parents or of the child who, in order to protect his/her interests, cannot be left in their care”.

In Romania, according to the regulations of the above-mentioned normative acts, *the special protection measures of the child* are: placement, emergency placement and specialized supervision (Article 59 of Law no. 272/2004, republished).

*The benefits* to which the legal text refers may consist of *money* (provided by the state exceptionally to children whose parents are unable to provide adequate living conditions) or *in kind* (food, clothing, school supplies, sports equipment, etc.).

Law No 272/2004, republished, lists three types of services intended for the care and development of the child temporarily or permanently deprived from his/her parents, namely: day-to-day services, family-type services and residential-type services [Article 119(1)].

- day-to-day services are defined as “those services which ensure the maintenance, restoration and development of the capacities of the child and his or her parents in order to overcome situations which might lead to the separation of the child from his or her family” [article 120(1)];

- family-type services are “those services by which the child is raised and care for, at the home of a natural person or family, temporarily or permanently, separated from his/her parents, as a result of the establishment under the conditions of this Law of the placement measure” (Article 121);

- residential-type services are “those services by which the protection, child raising and care are provided separately, either temporarily or permanently, from his/her parents, as a result of the establishment under the conditions of this law of the placement measure” [article 123(1)]. We must point out that this category includes all services that provide hosting for more than 24 hours.

It follows from the interpretation of the text of the child definition as well as from Article 55(1) of the Law No 272/2004, republished that in Romania the child benefits from special protection until full exercise capacity is acquired. “*Full capacity of exercise*” means “*that part of the civil capacity consisting of the ability of the natural person to acquire/exercise rights and assume/execute obligations through the conclusion of civil legal acts personally and alone*” [Nicolae (coord.), Băcu, Ilie and Rizoiu 2016, 198]. In Romania, the full capacity of exercise of a natural person starts with the majority, i.e. *at the age of 18*. This rule is also laid down in Article 38 of the Romanian Civil Code.

However, Romanian law also provides for some exceptions to this rule. Thus, if the young person continues his or her studies, upon his/her request, expressed after acquiring the full capacity of exercise, special protection can be granted only once in each form of day education, throughout his or her further education, but it should be pointed out that the age of 26 should not be exceeded [Article 55(2) of the Law No 272/2004, republished].

Also, where the young person has acquired full capacity of exercise and has benefited from a special protection measure, but no longer continues his or her studies or is not able to return to his or her family, upon request, he/she may receive special protection for a period of two years. It should be noted that this right is lost if the young person has been offered a job and/or housing at least twice, and he/she refused or lost them for reasons attributable to him/her [Article 55(3) of the Law No 272/2004, republished].

### **Special child protection measures**

According to Article 57(1) of the Law No 272/2004, republished, the measures for special protection of the child are established and applied on the basis of an *individualized protection plan*. It shall be drawn up and reviewed according to the methodological norms drawn up and approved by the Ministry of Labor and Social Protection [paragraph 2].

The individualized plan of protection is defined in Article 4(e) of Law No 272/2004, republished as being, “the document by which the planning of services, benefits and special protection measures for the child is carried out on the basis of the psychosocial assessment of the child and his/her family, in order to integrate the child who has been separated from his/her family into a permanent stable family environment as soon as possible”.

The individualized plan of protection shall be drawn up by the General Directorate for Social Assistance and Child Protection, within the territory of which the child resides, *within 30 days of receipt of the request for a special protection measure* or *immediately* after the head of the General Directorate for Social Assistance and Child Protection ordered the placement as a matter of urgency (Drăghici 2013, 237-238). We should specify that these provisions are not applicable to the child for whom the guardianship was established. The guardianship institution intervenes when the parents can no longer assume the obligation to raise and educate the child (For developments, regarding the child’s guardianship, Ungureanu and Munteanu 2015, 360-376).

As regards special protection measures for the child aged 14, these are established only with *the consent of the minor*. Where the child refuses to give his or her consent, the protection measures shall be determined only by *the court* which, in duly justified circumstances, may overrule his or her refusal to give his or her consent to the proposed measure [Article 57(3) of Law No 272/2004, republished].

When setting the objectives of the individualized protection plan, priority will be given to the reintegration of the child into the family, and if this is not possible, the procedure for

domestic adoption will be opened. We must point out that the reintegration of the child into the family is established after the compulsory consultation of the parents and members of the extended family who could be found. In other words, it is necessary to check whether there is a family environment favorable to the child's reintegration into the family.

Where guardianship could not be established or placement with an extended family, a maternal assistant or another person or family could not be ordered, Article 58(6) of Law No 272/2004, republished, stipulates that the individualized protection plan may provide for the placement of the child in a residential-type service.

We must point out that, according to the provisions of Article 61 of the Law No 272/2004, republished, parents or child aged 14 may challenge in court the special protection measures established by this normative act, and receive free legal assistance.

### ***1. Placement of the child***

The placement of the child is a special protection measure, is of a temporary nature and, according to Article 60 of the Law No 272/2004, republished, is ordered with regard to: “*the child whose parents are dead, unknown, precluded from the exercise of parental rights or who have been charged with the prohibition of parental rights, banned, declared to court dead or missing when the guardianship could not be established; the child who, in order to protect his or her interests, cannot be left in the care of the parents for reasons not attributable to them; the child abused or neglected; the child found or the child left in health establishments; the child who committed a criminal law deed and who is not criminally liable*” (see Ghiță and Ponea 2005, 32).

Where applicable, the placement of the child is at: a person or family; a maternal assistant; a residential-type service licensed under the law. It should be pointed out that, according to Article 62(2) of the Law No 272/2004, republished, the person or family receiving a minor in placement *must have their domicile in Romania* and must *also present the moral guarantees and material conditions* in order to receive a child in placement. Also, as regards the child's domicile, the law establishes that this one will be at the person, family, maternal assistant or residential-type service for the entire duration of the placement (Article 63).

As regards the placement of a child under the age of 7, it may be available only to the *extended family, the substitute family* or to a *maternal assistant*. The placement of a child under the age of 7 in a residential-type service is prohibited [Article 64(1) of Law No 272/2004, republished]. However, by way of exception, where the child under the age of 7 has serious disabilities, placement in a residential-type service may be ordered.

“Extended family” means “relatives of the child up to and including 4th degree” [Article 4(c) of Law No 272/2004, republished] and the substitute family is defined as “persons other than those belonging to the extended family, including in-laws up to the fourth degree and maternal assistants ensuring the raising and care of the child, under the law” [Article 4(d) of Law No 272/2004, republished]. The professional maternal assistant is “the natural person, certified according to law, who provides, through his/her activity at his/her domicile the raising, care and education, necessary for the harmonious development of the children he/she receives in placement or in custody” (Article 1 of Government Decision No 679/2003 on the conditions for obtaining the attestation, the attestation procedures and the status of the professional maternal assistant, published in the Official Gazette of Romania, Part I, No 443 of 23 June 2003).

From the interpretation of Article 64(1) of Law No 272/2004, republished, we note the inconsistency of the Romanian legislator, which, by this legal text, places the maternal assistant outside the substitute family, in contradiction with the definition in art. 4(d) of the same normative act (Lupascu and Craciunescu 2021, 637).

When taking the measure of placement of a minor, priority will be given to placing the child, to the extended family or to the substitute family, to keeping the siblings together and to facilitating the exercise of the right of parents to visit and maintain contact with the child.

The power to order the placement measure of the child shall lie, depending on the situation of the minor concerned, either *with the commission for the child protection* or *with the court* as follows:

- *to the commission for child protection*, with the agreement of the normal parents, will order the placement of children who cannot be left in their care, but for reasons not attributable to them, as well as for minors who committed a criminal deed, but they are not held criminally liable [Article 65(1) of Law No 272/2004, republished];

- *to the court*, at the request of the general directorate for social assistance and child protection, in the case of children whose parents are dead, unknown, precluded from parental rights, banned, declared dead or missing, of neglected or abused children or those abandoned by the mother in health care establishments when the measure of emergency placement is replaced by placement, as well as children who cannot be left in the care of their parents for reasons beyond their control and to those who committed a criminal deed, for which they are not held liable, where there is no parental agreement to establish placement [Article 65(2)(a) - (b) of Law No 272/2004, republished].

If the measure of placement of the child is determined by the commission for child protection, according to the provisions of Article 66 of the Law No 272/2004, republished, the parental rights and obligations shall continue to be maintained by the parents throughout the placement. In cases where placement has been established by the court, these rights shall be exercised by the Director of the General Directorate for Social Assistance and Child Protection (Ungureanu and Toader 2019, 492; Barbu and Jora 2020, 166).

It should be noted that, according to the provisions of Article 66(4) of the Law no. 272/2004, republished, all the legal regulations relating to the rights of natural parents to consent to the adoption of the child are properly applied.

As regards the amount of the monthly contribution of the parents to the maintenance of the child, Article 67(1) of the Law stipulates that it will be determined either by the commission for child protection, or by the court which ordered the placement of the minor. The sums collected shall become income to the budget of the local administration from which the child comes (the establishment and payment of the monthly allowance for placement are regulated by order No 1733 of 19 August 2015 approving the procedure for establishing and paying the monthly allowance for placement of the minister for labor, family and social protection and the elderly, published in the Official Gazette of Romania, Part I, No 680 of 8 September 2015). Where the parents cannot contribute to the maintenance of their child, the court will oblige the parent who is able to work to provide between 20 and 40 hours per month for each child, within the administrative area in which he/she domiciles or resides [Article 67(2) of Law No 272/2004, republished].

The provisions of Article 67 of Law No 272/2004 on the protection and promotion of the rights of the child, republished, were the subject of the plea of non-constitutionality because it was considered to constitute an obstacle to the fulfillment of the main purpose, that of establishing the placement measure. Thus, by Civil case sentence No 8 of 11 January 2018, Vrancea County Court, Section I Civil matters, brought an action before the Constitutional Court and in motivating the plea of non-constitutionality, it considered that “*the text of law is not precisely enough and clear in order to be enforced and, thus, it is in contradiction with the provisions of art. 1 (5) of the Constitution, regarding the principle of legality, in its component related to the quality of law. The court also considered that the criticized legal provision did not meet the requirement of predictability of the law, as it goes beyond the purpose of the court being notified (that is to put in place special child protection measures), and remains without concrete effects due to the impossibility of enforcement*”. Having examined the plea of non-constitutionality of the said text, the Court rejected it as groundless and “*held that the minor’s*

*best interests comprise all his or her rights, including that of receiving maintenance from his or her parents, so that the establishment of this obligation on the part of his or her parents is necessary, at risk of the child being deprived of this right. It is also necessary to make responsible the parent in temporary impossibility to fulfill his or her parental rights and duties directly. As regards any delays that may be caused by the settlement of the question of the amount of the allowance, the court may order the disjointing of the claims in order to ensure the expediency”* (Constitutional Court, Decision No 163/2019, published in the Official Gazette of Romania, Part I, No 460 of 7 June 2019).

## **2. Emergency placement of the child**

Emergency placement of the child is a special protection measure of a temporary nature and is established in the case of the child abused, neglected or subjected to any form of violence, as well as in the case of the child found or left in health care units. The term “*child found*” means “*child not under the legal supervision of a person, whether it is a child who has fled the surveillance or a child who has simply been lost*” (Florian 2007, 142). As for the concept of “*child left in health care units*”, we appreciate, along with other authors (Florian 2007, 142), that the legislator is considering the child abandoned in a health care unit and whose identity is not known.

In law, according to Article 94(1) of Law No 272/2004, republished, “abuse of the child” means “any voluntary action by a person who is in a relationship of responsibility, trust or authority toward him/her, by which life, physical, mental, spiritual, moral or social development, physical or mental health of the child are endangered, and is classified as physical, emotional, psychological, sexual and economic abuse”. For example, it can be framed as abusive action toward the child: physical violence or threats from a parent to the child, economic exploitation of the minor or even the presence of the child in disputes between his or her parents. As an objective criterion, abuse of the child can be easily proven either by hearing the child or by presenting forensic certificates.

As regards the concept of “neglect of the child”, it is defined, in Article 94(2) of Law No 272/2004, republished, as the “omission, whether voluntary or involuntarily, of a person responsible for the raising, the care or education of the child to take any measure required to fulfill this responsibility, which endangers life, physical, mental, spiritual, moral or social development, the child’s physical integrity, physical or mental health and can take several forms: food, clothing, hygiene neglect, medical neglect, educational neglect, emotional neglect or leaving the child/family abandonment, which is the most serious form of neglect”. It follows from the interpretation of the text of that article that this is also an objective criterion, but, unlike abuse, a number of elements have to be proved in order to be held by the court, such as: the passivity of the child’s legal guardian to the legal obligations in respect of his or her raising, education, supervision or maintenance, consisting of the act of negligence itself; the consequence detrimental to the life, development, integrity or, where appropriate, the health of the minor concerned. This may consist of an adverse result, or it may only be an endangering, judging after the expression used by the normative text under consideration; the causal link between the act of omission which constitutes negligence and the subsequent damaging consequence described.

In a case in which three children have been requested by way of an interim injunction as a matter of urgency to be placed at a person, family, maternal assistant or residential-type service licensed under the law, the court noted that “*parents have demonstrated a clear lack of concern about the needs of children and a serious lack of responsibility toward minors, with the development of minors, their physical and mental health being endangered. The Court also found that the three minors are exposed to a risk situation, and considered that the request to establish an emergency placement measure was justified. The best interests of the children, as characterized by the provisions of Article 2(6) of Law No 272/ 2004, republished, presupposes*

*the fulfillment of the needs of physical, psychological development, education and health, security, supervision and belonging to a family.*” [Timisoara Court of Appeal, Section I Civil matters, Civil Decision No 38 of 11 March 2021, available at [www.rolii.ro](http://www.rolii.ro) (accessed at 01.11.2021)].

This special protection measure may also be provided for a child whose sole legal guardian or both have been detained, arrested, admitted or where, for any other reason, they cannot exercise their parental rights and obligations with regard to the child [Article 68(2) of Law No 272/2004, republished]. This placement measure may be carried out, as appropriate, at a person or family, a maternal assistant or as part of a residential-type service.

It should be stressed that throughout the duration of the emergency placement, *the exercise of parental rights is suspended de jure*, until the court decides whether this measure is maintained or replaced. Furthermore, according to the provisions of Article 68(5) of Law No 272/2004, republished, *“during the period of suspension, the parental rights and obligations concerning the child shall be exercised and fulfilled respectively by the person, family, the maternal assistant or the head of the residential-type service which received the child in emergency placement and those concerning the child’s property are exercised and carried out respectively by the director of the general directorate for social assistance and child protection”*.

In the situation of the child being abused, neglected or subjected to any form of violence, as well as in the case of the child found or abandoned in health care units, the measure of emergency placement shall be determined by the director of the general directorate for social assistance and child protection in the administrative/territorial unit where the child is located, unless opposition is received from representatives of legal persons, as well as natural persons caring for or providing protection for that child. In the event of opposition, the measure of emergency placement shall be established by the court according to Article 100 (3) of Law No 272/2004, republished, which provides that where the representatives of the general directorate for social assistance and child protection are prevented or refused to carry out legal checks on the situation of the child, the court shall be informed and an interim injunction is requested for the child to be placed as a matter of urgency to a family, a maternal assistant or a residential service licensed under the law. For example, in a particular case, the court held that, *“the essence of the request for emergency placement by means of an interim injunction is that the legal guardians of the minor should explicitly refuse that the minor should benefit from the placement measure, this being a special condition which must be met cumulatively with the others under ordinary law. In the present case, however, no evidence has been provided that the parents of the minor clearly refuse that the minor to be taken into the protection system. No evidence was submitted on the case-file showing the explicit opposition of legal guardians, statements of those or other means of proof that would unquestionably result in the refusal of the parents or in any way in preventing the authorities from making the necessary findings. Consequently, the court considered that the application was groundless and would order its rejection”* [ Bacau Court of Appeal, Section I Civil matters, Civil Decision No 271 of 2 April 2021, available at [www.rolii.ro](http://www.rolii.ro) (accessed at 03.11.2021)].

The law establishes that if an emergency placement is ordered by *the Director of the General directorate for social assistance and child protection*, it is obliged to bring the matter before the court within 5 days of the date on which it ordered this measure. Where it is found that the circumstances underlying the establishment of the emergency placement measure are no longer maintained, the Director of the *General directorate for social assistance and child protection* may, within 5 days of the finding, order the removal of the measure of emergency placement. Depending on the outcome of the analysis carried out in each case, the court may order either the cessation of the emergency placement and the reintegration of the child into his/her family or the replacement of the emergency placement by the guardianship or the placement measure. In other words, in order to decide on the replacement of the emergency placement by the placement measure, the court must verify whether the reasons which led to the

special protection measure remain. The court will also rule on the exercise of parental rights (Article 70 of Law No 272/2004, republished). Thus, for example, in a particular case, the parents of the C.C.D. minor asked the General directorate for social assistance and child protection Suceava to analyze the revocation of the placement measure and his/her reintegration into the family. The documents submitted to the file found that both the mother and father and the minor brother are clinically healthy, psychologically able to raise and care for the minor, behave without deviating from the rules of moral and social conduct. As a result, the general directorate immediately informed the court with a view to ceasing the placement measure. Following the analysis carried out, the court indicated that *“the best interest of the child is to be raised and educated with his/her parents or in his/her family, the placement being an exceptional and temporary measure. It therefore follows that the best interests of the child and the right of the child to have been raised by his/her parent, in relation to which he/she must develop a family life, should be taken into account, and the case-law of the European Court of Human Rights should also be used to this end, enshrined in the application of Article 8 of the Convention as regards the right to family life. Furthermore, from the producing of the entire evidence, the court found that the circumstances underlying the determination of the placement measure had changed and would therefore accept the application and order the cessation of the special placement protection measure ordered for the minor and his/her reintegration into his/her family. It will also award back the exercise of the parental rights and obligations regarding the person and property of the minor, to the parents of the child”* [Suceava District Court, Section I Civil matters, Civil sentence No 1404 of 15 July 2021, available on [www.rolii.ro](http://www.rolii.ro) (accessed on 03.11.2021)].

In another case, the object of which was to replace the special protection measure of the emergency placement of a minor by the alternative family-type placement, the court found that *“the mother of the children left the legal domicile without maintaining relations with the family members, she does not have a realistic perception of her responsibilities as a parent. The father is known to be a person consuming alcoholic beverages, with poor relations in the wider family and in the community. The court also found that the mother was not aware of her role in bringing up and educating children, which was confirmed by leaving legal domicile without specifying the residing domicile and without maintaining relations with the family members. The assessment of parental abilities of adults highlights the following aspects: emotional indifference, cold and distant attitudes, with an unrealistic perception of children's needs, intolerance to frustrations and lack of affection, rigid educational principles, parental immaturity, leaving legal domicile on the part of the mother, perverse behavior maintained by both parents in the context of psycho-behavioral instability and alcohol consumption. It follows, therefore, that the minor is still in difficulty and is deprived of parental protection, so he/she must continue to benefit from the placement measure. Listened to by the court, the minor said she wanted to stay in the Center, agreeing to the placement measure. Thus, the court will order the replacement of the special protection measure of the emergency placement for the BFC child by the placement at the alternative protection service of family type within the Community service complex “N.R.C.” Barlad, with the parental rights and obligations to be exercised and fulfilled by the Director of the General Directorate for Social assistance and Child Protection Vaslui”* [Vaslui Law court, Civil sentence No 526 of 2 July 2020, available online on <https://www.avocati.info/jurisprudenta/> (accessed on 03.11.2021)).

### **3. Specialized supervision**

From the beginning we should mention that, as it has also been shown in the specialized literature (Bodoasca, Drăgici and Murgu 2020, 740), the special protection measure of the child should not be confused with the educational measure of the surveillance, provided for by Article 115(1) of the Romanian Penal Code (Law No 286/2009 on the Penal Code,



published in the Official Gazette of Romania, Part I, No. 510 of 24 July 2009, as subsequently amended and supplemented).

This measure shall be ordered in respect of the minor who committed a criminal deed and shall not be held criminally liable, either by the commission for the child protection, where there is no agreement of the parents or legal representative, or by the court in the absence of their agreement.

The measure of specialized supervision is *temporary* and consists of keeping the minor within his/her family, provided that it fulfills certain obligations: the pursuit of medical treatment, psychotherapy, prohibition to connect with certain persons, prohibition to attend certain places, child to attend school courses, child to attend some day-care services, etc.

According to the provisions of Article 72(1) of the Law No 272/2004, republished, the General directorate for social assistance and child protection *is required to verify on a quarterly basis* the circumstances which led to the establishment of special protection measures ordered by the commission for child protection or by the court. If it is found that those circumstances have changed, the matter shall be referred immediately to the child protection commission or, as the case may be, to the court with a view to amending or, as the case may be, bringing the measure to an end. Parents or other legal representative of the child as well as the child have the right to make the complaint [Article 72(2) to (3) of Law No 272/2004, republished].

On cessation of special protection measures by reintegrating the child into his/her family, the public social assistance service at home or, where appropriate, the residence of parents, shall be obliged to follow the development of the child, and how they exercise their rights and fulfill their obligations with regard to the minor. To this end, reports will be drawn up on a monthly basis for a minimum period of 6 months.

### **Court of competent jurisdiction**

All cases provided for by the Law no. 272/2004, republished, with subsequent amendments and supplements, in connection with the establishment of special protection measures of the child, *fall within the competence of the county court*. The county court for minors and family will deal with all the cases that fall within the jurisdiction of the county court in this field (unfortunately, in Romania, by the date of the study, only one specialized court has been established and operates in this field, namely: Braşov minors and family county court).

Territorially, jurisdiction shall lie with the county court of the place of residence of the child, and if the minor has no known domicile, jurisdiction shall lie with the county court in whose circumscription he/she was found.

### **Conclusions**

Our analysis shows that, in Romania, there is a legal framework regarding the respect, promotion and guarantee of the rights of the child. In this respect, the main legislative act in this area, the Law no. 272/2004, republished, contains a series of regulations on the rights of the child which are guaranteed to all, without discrimination, regardless of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, material situation, degree and type of deficiency, birth-status or acquired status, difficulties in training and development or other of the child, of parents or other legal representatives or of any other distinction.

Placement is one of the most commonly used forms of child protection and is ordered in the vast majority of cases. Placement is a special protection measure, has a temporary character and is ordered under the terms of Law No 272/2004, republished, to a person or family, to a maternal assistant or a residential-type service licensed under the law.

## References

- Bacău Court of Appeal, Section I Civil matters, Civil decision no. 271 of April 2, 2021, available at [www.rolii.ro](http://www.rolii.ro) (accessed on 03.11.2021).
- Bârsan, Corneliu. 2005. *The European Convention on Human Rights: Comment on articles*, vol. I, *Rights and Freedoms*. Bucharest: All Beck Publishing House.
- Bodoaşcă, Teodor, Drăghici, Teodora and Murgu, Andrei. 2020. *Dreptul familiei [Family law]*, 4th edition, revised and supplemented Cluj Napoca: Risoprint Publishing House.
- Ciochină Barbu, Ion and Jora, Cristian. 2020. *Drept civil. Familia [Civil law. Family]*, 3rd edition, revised and supplemented. Bucharest: Pro Universitaria Publishing House.
- Constitutional Court, Decision no. 163/2019, published in the Official Gazette of Romania, Part I, nr. 460 of June 07, 2019.
- Drăghici, Andreea. 2013. *Protecția juridică a drepturilor copilului [Legal protection of children's rights]. University course*. Bucharest: Universul Juridic Publishing House.
- Florian, Emese. 2007. *Protecția drepturilor copilului [The protection of children's rights]*, 2nd edition. Bucharest: C.H. Beck Printing House.
- Ghiță, Oana and Calotă-Ponea, Adina. 2005. “Considerații privind măsurile speciale de protecție a copilului aflat în dificultate [Considerations on special measures for the protection of children in difficulty]”, in *Jurnalul de Studii Juridice [Journal for Legal Studies]* 1-2:23-32.
- Lupașcu, Dan and Crăciunescu Cristiana Mihaela. 2021. *Dreptul familiei [Family law]*, 3rd edition, amended and updated. Bucharest: Universul Juridic Publishing House.
- Nicolae Marian (coord.), Băcu, Vasile Ilie, George-Alexandru and Rizoiu, Radu. 2016. *Drept civil. Persoanele [Civil law. Persons]*. Bucharest: Universul Juridic Publishing House.
- Rădescu, Dumitru, Rădescu, Elena and Stoican, Georgeta. 2017. *Dicționar de drept civil și proceduri civile [Dictionary of Civil Law and Civil Procedure]*, 2nd edition. Bucharest: C. H. Beck Publishing House.
- Suceava County Court, Section I Civil matters, Civil sentence no.1404 of July 15, 2021, available at [www.rolii.ro](http://www.rolii.ro) (accessed on 03.11.2021).
- Timișoara Court of Appeal, Section I Civil matters, Civil decision no. 38 of March 11, 2021, available at [www.rolii.ro](http://www.rolii.ro) (accessed on 01.11.2021).
- Ungureanu, Carmen Tamara and Toader, Ionuț Alexandru. 2019. *Drept civil. Partea generală. Persoanele [Civil law. The general part. Persons]*, 4th edition, revised and supplemented. Bucharest: Hamangiu Printing House.
- Ungureanu, Ovidiu and Munteanu, Cornelia. 2015. *Drept civil. Persoanele în reglementarea noului Cod civil [Civil law. Persons in the regulation of the new Civil Code]*, 3rd edition, revised and supplemented. Bucharest: Hamangiu Printing House.
- Vaslui district court, Civil sentence no. 526 of July 2, 2020, available at [www.rolii.ro](http://www.rolii.ro) (accessed on 03.11.2021).