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60(I) of 1995  
95(I) of 1995  
30(I) of 1997  
60(I) of 1997  
21(I) of 1998  
190(I) of 2002  
203(I) of 2004  
68(I) of 2008.

**THE PARENTS AND CHILDREN RELATIONS  
LAWS 1990 TO 2008**

*(English translation and consolidation)*

**Office of the Law Commissioner  
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### **NOTE FOR THE READER**

The publication at hand by the Office of the Law Commissioner is an English translation and consolidation of the Parents and Children Relations Laws 1990 to 2008 [i.e. Laws 216/1990, 60(I)/1995, 95(I)/1995, 30(I)/1997, 60(I)/1997, 21(I)/1998, 190(I)/2002, 203(I)/2004, 68(I)/2008].

However useful the English translation of the consolidated Laws is in practice, it does not replace the original texts of the Laws since only the texts published in the Official Gazette of the Republic are authentic.

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**THE PARENTS AND CHILDREN RELATIONS  
LAWS 1990 TO 2008**

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**ARRANGEMENT OF SECTIONS**

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216 of 1990  
60(I) of 1995  
95(I) of 1995  
30(I) of 1997  
60(I) of 1997  
21(I) of 1998  
190(I) of 2002  
203(I) of 2004  
68(I) of 2008.\*

**A LAW TO REGULATE THE RELATIONS OF PARENTS  
AND CHILDREN AND MATTERS OF MAINTENANCE**

The House of Representatives enacts as follows:

Short title.           **1.** This Law may be cited as the Parents and Children Relations Laws, 1990 to 2008.

Interpretation.       **2.** In this Law-  
  
                                  "approved investments" means-

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\* See Note at the end of the text.

- (a) Any debentures of which the capital or the interest has been guaranteed by the Government;
- (b) bonds, promissory notes, shares or other securities that have been issued under a special law or in relation to a loan that has been made by the Government;
- (c) bonds, promissory notes, shares or other securities of a public corporation or of a local authority, whose income is under the Government's supervision;
- (d) investments secured by mortgage or other charge of immovable property whose value exceeds by 1/5 the amount of the investment;
- (e) investments prescribed as approved investments by the Minister of Finance for the purposes of this Law by a relative order that may be published in the Official Gazette of the Republic;

"child" means a person who has not attained the age of eighteen years but does not include a married person who has not attained the said age;

"Court" means the family court established under the Family Courts Laws, 1990 to 2009;

2 of 95(I)of1995  
 2 of 30(I)of1997  
 2 of 60(I)of1997  
 2 of21(I)of1998.

23 of 1990  
 247 of 1990  
 231 of 1991  
 88(I) of 1994  
 33(I) of 1996  
 61(I) of 1997  
 26(I) of 1998  
 92(I) of 1998  
 46(I) of 1999  
 96(I) of 1999  
 58(I) of 2000  
 63(I) of 2006  
 69(I) of 2009.



“Director” means the Director of the Department of the Social Welfare Services or any officer of that Department authorized by him;

“guardian” means the person who is entrusted, pursuant to the provisions of this Law, with the exercise of parental responsibility in whole or in part.

## **PART I**

### **PARENTS AND CHILDREN RELATIONS**

Surname  
of the child.

**3.-(1) (a)** The parents may designate the surname of their child by their joint written declaration.

(b) The declaration provided for under subsection (1) shall be made before the registrar of the place of birth of the child within three months from the end of the month in which the child was born.

(2) The designated surname, common for all the children, may be either the surname of one of the parents or a combination of their surnames, but under no circumstances may include more than two surnames.

(3) If the parents omit to declare the surname of their child, in accordance with the provisions of subsection (1), the children shall have the surname of their father.

**4.-(1) (a)** A child born outside the marriage between his parents shall take the surname of his mother.

Surname of a  
child born outside  
the marriage  
between his  
parents.

(b) The spouse of the mother may, by a written declaration made before the registrar of the place of birth of the child, give to the child his surname, if the mother consents to it.

(2) In case of subsequent marriage between the parents of the child, the parents may designate his surname by their joint written declaration made before the registrar of the place of birth of the child within three months from the end of the month in which the marriage of the parents was celebrated, subject to the

provisions of subsection (2) of section 3.

(3) (a) In case of voluntary or judicial recognition of paternity, the parents of the child or one of them or his guardian shall have the right, within a period of six months from the completion of the paternity recognition, to add to the surname of the child, by a declaration made to the registrar of the place of birth of the child, the parental surname.

(b) If the declaration is made by both parents, they may designate the new surname of the child in accordance with subsection (1) of section 3 within six months from the completion of the voluntary or judicial recognition of paternity.

**5.-(1)** (a) The parental responsibility of the minor child ("parental responsibility") shall be a duty and a right of the parents who shall exercise it jointly.

(b) The parental responsibility shall include the designation of the name, the care of the person, the administration of the property and the representation of the child in every case or legal transaction concerning the person or his property.

Parental  
responsibility.

(2) In case where the parental responsibility terminates by reason of death, or declaration of disappearance, or absence of one of the parents, the parental responsibility shall be exercised exclusively by the other parent.

(3) In case one of the parents is unable to exercise parental responsibility due to practical reasons or because he is unable or of a limited legal capacity, the other parent shall exercise it by himself. However, a minor parent may also exercise care of the person of the child.

(4) In the event of death of both parents or in the event of death of one of the parents and if the other parent is unable to exercise parental responsibility due to real reasons or because he is unable or of a limited legal capacity, the nearest ascendants shall exercise parental responsibility jointly and the provisions of this Law concerning the exercise of parental responsibility by the two parents shall wholly apply as if it concerned the parents. If the nearest ascendants are not able due to any reason to exercise parental responsibility, the provisions of section 18 shall apply *mutatis mutandis*.

2 of 60(I)/1995.

Exercise of  
parental  
responsibility.

**6.-(1)** Every decision of the parents regarding the exercise of parental responsibility must aim at the interest of the child.

(2) (a) The decision of the Court must also aim at the interest of the child where, pursuant to the provisions of the law, the Court decides for the granting or for the manner of exercise of parental responsibility.

(b) The decision of the Court must also respect the equality between the parents and not discriminate on the basis of sex, language, religion, beliefs, nationality, ethnic or social origin or property.

(3) Depending on his maturity and the degree to which a child may understand, his opinion shall be requested and taken into consideration together with other criteria before any decision concerning parental responsibility is taken, if such decision relates to his interests.

**7.** If the parents disagree on the exercise of parental responsibility and the interest of the child requires that a decision be taken, the Court shall decide, upon an application by any of the parents.

Disagreement between the parents.

**8.** Each of the parents may also attempt by himself acts relating to parental responsibility, if they are usual acts of care of the person of the child or acts of un urgent character.

Acts of one parent.

**9.**-(1) The care of the child shall mainly include his upbringing and supervision, his education and training as well as the designation of his place of residence.

Care of the person.

(2) In the upbringing of the child, the parents shall empower him without discrimination as to sex, to develop his personality freely and with a social conscience.

**10.** The parents may, with a leave of the Court, use the property and the income derived from the property of the child, which they administer, for the support, education and the general needs of the child.

**11.** The parents may not make gifts from the property of the child.

Use of property and income for the child's needs.

**12.** The parents may not without a leave of the Court perform in the name of the child, the acts which are prohibited also for the guardian of the minor.

**13.**-(1) The parents in the exercise of parental responsibility shall have an obligation to exercise the same due diligence as they do for their own affairs.

Gifts.

(2) If the damage caused is due to a breach of obligation of one or both of the parents, the parents shall be jointly and personally liable.

Administration with leave.

**14.**-(1) In case of divorce or annulment of the marriage or void marriage and provided that both parents are alive, the exercise of parental responsibility shall be regulated by the Court.

Responsibility of the parents. (2) The exercise of parental responsibility may be assigned to one of the two parents or, if they agree, fixing at the same time the place of residence of the child, to both jointly.

Divorce or annulment of the marriage. (3) The Court may allocate the exercise of parental responsibility between the parents or to assign it to a third party. The Court, in its decision, shall take into consideration the bonds of the child with his parents and brothers, as well as any agreements of the parents concerning the care and the administration of the property of the child. The interest of the child shall always be a primary consideration.

**15.** The provisions of section 14 shall also apply in the case where there is an interruption of the cohabitation of the spouses.

**16.** The parental responsibility of the child who was born and remains a child outside the marriage between his parents shall belong to the mother. In case of judicial recognition of paternity the father shall also acquire parental responsibility.

**17.**-(1) The parent with whom the child does not reside reserves the right of personal communication with him.

(2) In case of disagreement as to the exercise of the right of personal communication is concerned, the Court shall decide.

(3) The Court shall, in its decision, take into consideration and apply mutatis mutandis the provisions of section 6.

Interruption of cohabitation. **17A.**-(1) The ascendants shall have a right of personal communication with the child.

Children born outside the marriage between their parents. (2) No person shall have the right to obstruct the child's personal communication with his ascendants of any degree, unless there is a serious reason solely related to the safeguarding of the child's interest.

(3) The Court may regulate matters relating to the exercise or not of this right.

Personal communication. **18.**-(1) If the father or the mother violate the duties imposed on them for the exercise of the care of the person of the child or the administration of his property, or if they exercise such duty improperly, or if they are not in a position to respond to it, the Court may, if the other parent or the Director so requires, order any appropriate measure.

(2) The Court may remove the exercise of parental responsibility from one of the parents, wholly or partly, or assign it exclusively to the other or, if the prerequisites of subsection (1) exist in relation to him as well, assign the care of the

Child's personal communication with his ascendants. 2 of 190(I)/2002.

child wholly or partly to a guardian.

(3) The removal in whole or in part of the care of the person of the child from both parents and its assignment to a guardian shall be ordered by the Court only if other measures were not effective or it is considered that they are not sufficient to avert a danger for the physical, mental or spiritual health of the child.

(4) The Court shall decide the assignment to the guardian after an enquiry into his morals, living conditions and generally his suitability. The consent of the guardian shall be a prerequisite.

Consequences of bad exercise, removal of parental responsibility and assignment of it to a guardian.

(5) The assignment of the guardianship shall be made preferably to relatives.

(6) The Court shall define the extent of parental responsibility granted to the guardian and the terms of its exercise.

**19.**-(1) The Court may remove the exercise of parental responsibility or part of it from both parents for a serious reason, if they themselves so require and they indicate the person who consents to assume it.

(2) With the decision for the removal, the Court shall assign the exercise of parental responsibility to the person so indicated or other person, designating the manner of its exercise as well.

**20.** Where the circumstances have changed since the date of issue of the decision of the Court concerning parental responsibility, the Court may, on the application by one or both of the parents or the Director, adjust its decision to the new circumstances by revoking or amending the same.

**21.**-(1) The Court may, on the application of the other parent or the Director, remove the exercise of parental responsibility from any parent if he was convicted for an offence concerning the life, health or morals of the child.

(2) The Court may, in this case, by evaluating the circumstances, remove the exercise of parental responsibility from any parent and in respect of his other children, following an application of the other parent or the Director.

(3) In case of removal of parental responsibility in accordance with the above provisions, the provisions of section 18 shall apply.

**22.**-(1) The parental responsibility shall terminate in its entirety in respect of one of the parents, when he dies, or is declared disappeared and in respect of both parents, when the child attains the age of majority, or dies or is declared

Removal upon application by the parents.

disappeared.

(2) In case of termination of parental responsibility, the provisions of section 18 shall apply.

**23.**-(1) Where parental responsibility has terminated, the parents shall have the right to continue the acts concerning the care of the person or the administration of the property or the child until they shall be informed of its termination.

Change of circumstances.

(2) Third parties shall not be entitled to invoke this right of the parents if they know about the termination.

**24.**-(1) The minor shall be under guardianship when there is no parental responsibility and the Court shall decide the appointment of a guardian in accordance with sections 14,15,18,19 and 21.

Removal of parental responsibility for an offence.

(2) Each parent may apply to the Court for the appointment of a guardian for his child if he will exercise parental responsibility by himself because the other parent has died or has been declared disappeared or because the parental responsibility has been removed from him under the provisions of section 21.

**25.** The Court may require the guardian to give adequate security on any terms and conditions as it may impose upon him.

**26.**-(1) Subject to the provisions of this Law, the guardian may not without a leave of the Court-

(a) Dispose of, mortgage, charge, exchange, or in any other way alienate property of the minor;

(b) lease any of the immovable property of the minor for a term exceeding five years;

(c) proceed to a purchase of an immovable property on behalf of the minor;

(d) invest money belonging to the minor;

(e) settle suits or claims in favour or against the minor.

Termination of parental responsibility.

(2) Any disposal of the property in contravention of the provisions of this section may be declared by the Court to be void and the Court may, at the same time, make any order which is required for the restoration of the property of the minor.

Acts of parents after the termination

(3) The leave of the Court for the disposal of the property as provided for in subsection (1) shall not be granted unless the Court is satisfied that it is necessary

of parental responsibility.

in the interest of the child.

**27.**-(1) Notwithstanding the provisions of section 26, the guardian may invest the property of the minor in approved investments.

(2) The guardian may not make gifts from the property of the minor.

Guardianship of a child.

**28.** The guardian shall have the right to claim any expenses necessary for the guardianship.

**29.** The office of the guardian shall be without pay. The Court may, according to the circumstances, and upon application of the guardian, fix remuneration proportionate to the property and the labour that the guardianship entails.

**30.**-(1) The guardian shall, after the termination of the guardianship, be obliged to deliver the property to the beneficiary and to report for the entire administration.

(2) The guardian shall, within twelve months from the date of his appointment, submit accounts to the Court for the administration of the property and, thereafter and until the completion of the guardianship, submit such periodical accounts, as the registrar of the Court may order.

Provision of security and imposition of terms.

Leave of Court for the administration of the child's property.

(3) Where an account is filed in Court in accordance with this section, the registrar of the Court shall examine in detail the account and, if he thinks that because of irregular, unproved or unjustified entries or otherwise the said account is not complete and proper, may give a written notice to the guardian so that he rectifies the defects within a time-limit that the registrar deems reasonable for this purpose; if the guardian omits to rectify the defects within the said time-limit, it shall be considered that he has omitted to file an account within the meaning of subsection (1).

(4) The Court may, on its own motion, appoint a competent person for the examination of the accounts that have been filed in accordance with this section, if they are complicated or voluminous and the person that has been appointed may receive reasonable remuneration from the property prescribed by the Court. The said person shall submit his report for the accounts to the registrar of the Court within the time-limit prescribed by the Court and the registrar may take any measures, as if he had examined the accounts himself.

(5) The Court may, on good cause, shorten or extend the time-limit for the filing of the accounts.

(6) If a guardian, in case he has been given an extension of time for the filing of the accounts, omits to file the accounts within the time limit that has been extended, it shall be considered that he has omitted to file an account within the

meaning of subsection (1).

Approved  
investments  
and gifts.

(7) The guardian who omits to file his accounts in accordance with the provisions of this section shall be subject to a fine not exceeding one thousand, seven hundred and eight euros.\*\*

(8) The registrar of the Court shall have a duty to report to the Court the fact that the guardian has omitted to file his accounts as required by this section.

Expenses  
of guardian.

(9) The accounts shall be open for inspection by any person who satisfies the registrar that he has an interest in the guardianship.

Remuneration  
of guardian.

**31.** The guardian may, by a decision of the Court, be discharged from his duties.

**32.** The provisions for the guardianship of minors shall also apply to the guardianship of minor children born outside the marriage between their parents.

Report of  
guardian.

## **PART II MAINTENANCE**

**33.-** (1) The parents shall have an obligation to maintain their minor child jointly, each one of them, according to his abilities.

(2) The obligation of the parents by virtue of subsection (1) may continue after the age of majority of the child, by a decision and a relevant arrangement of the Court, where special circumstances so require, as in case of incapacity or disability of the child or during his military service at the National Guard or during his studies at an educational institution or a technical school.

(3) The minor child shall be entitled to maintenance from his parents irrespective of whether he has property.

**34.** The child who has reached the age of majority shall have an obligation to maintain his parents, provided the parents are not able to maintain themselves from their property or income or from a job which is appropriate to the age, health condition and other living conditions thereof.

**35.** If the conditions of section 34 concur, the parents shall have a right of maintenance against a child from the income of a property they have given to that child.

**36.** (1) The Court may, on the application of the parent or the beneficiary or the

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\*\*P.I. 312/2007 issued pursuant to section 9(1) of the Adoption of the Euro Law, 2007 (L.33 (I) of 2007, as amended).



Director, regulate the matter of maintenance in accordance with the provisions of this Law.

**37.**-(1) The maintenance shall be prescribed according to the needs of the beneficiary, as they result from his living conditions and the financial possibilities that exist for the maintenance of a person.

(2) The maintenance shall include all that is necessary for the maintenance and welfare of the beneficiary and, in addition, as the case may be, the expenses for his education in general.

(3) Where the parent against whom a maintenance order has been issued receives a 13<sup>th</sup> or and 14<sup>th</sup> salary or the Court deems just, the maintenance order may include a corresponding additional 13<sup>th</sup> or and 14<sup>th</sup> payment, as the Court may determine.

**38.**-(1) Where since the issue of the decision which determines the maintenance, its terms have been altered, the Court may amend its decision or and order the termination of the maintenance.

(2) Notwithstanding the provisions of subsection (1), the amount of maintenance shall increase automatically by ten per centum (10%) every twenty-four months:

Provided that, the Court may, on the application of the parent liable for maintenance, order that the automatic increase shall not become operative and/or that the amount thereof be reduced. In case of submission of such an application the payment of any increase shall be suspended:

Provided further that, the judgment of the Court by virtue of this subsection shall be given within three months from the filing of the application and may have retrospective effect as from the date on which the automatic increase would have become operative by virtue of this subsection.

Discharge from guardianship.

Guardianship of children born outside the marriage between their parents.

**38A.**-(1) (a) The Court may, at issuing a maintenance order or at any time subsequently, on the application of the parent or the beneficiary or the Director, issue in addition a deduction from earnings order in accordance with the provisions of the Civil Procedure Law.

(b) The order referred to in paragraph (a) shall be addressed and served personally on the parent liable for maintenance and also on his employer.

(c) For the purposes of this subsection the term <employer> includes an employer of the public and also of the private sector.

Obligation for

(2) (a) The Court may, at issuing a maintenance order or at any time subsequently,

maintenance. on the application of the parent or the beneficiary or the Director, issue in addition an order for an automatic monthly withdrawal from the liable parent's bank account for the benefit of the beneficiary:  
2 of 203(I)/2004.

Obligation  
for the  
maintenance  
of parents.

Maintenance  
of parents  
from gift's  
income.

Regulation  
by the Court.

Measure and  
contents of  
maintenance.

2 of 68(I)/2008\*.

Alteration  
of terms.

3(a)of  
68(I)/2008. \*

3 (b) of  
68(I)/2008\*.

Order for  
deduction  
from earnings /  
for withdrawal  
from a bank  
account.  
4 of 68(I)/2008.\*  
Cap. 6.  
11 of 1965  
161 of 1989  
228 of 1989  
51(I) of  
1999  
134(I) of 1999  
58(I) of 2003  
66(I) of 2004  
138(I) of 2006.

Provided that, for the purposes of this subsection, Parts VIII and IX of the Civil Procedure Law shall apply, *mutatis mutandis*.

(b) The order referred to in paragraph (a) shall be addressed to the parent liable for maintenance and to the banking institution mentioned in the order.

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\* See Note at the end of the text.

\*See Note at the end of the text

(c) For the purposes of this subsection the term <banking institution> also includes a co-operative credit society.

Termination  
of maintenance  
obligation.

**39.** The claim for maintenance shall cease upon the death of the beneficiary or the person who is responsible, unless it concerns past time or instalments due at the time of death.

**40.** The maintenance orders made under the provisions of this Law may be executed as a penalty in accordance with the provisions of the Criminal Procedure Law or any other law repealing or amending the same.

Execution.

Cap 155.

93 of 1972  
2 of 1975  
12 of 1975  
41 of 1978  
162 of 1989  
142 of 1991  
9 of 1992  
10(I) of 1996  
89(I) of 1997  
54(I) of 1998  
96(I) of 1998  
14(I) of 2001  
185(I) of 2003  
219(I) of 2004  
57(I) of 2007  
9(I) of 2009.

Transitional  
provisions.

**41\*.** All cases pending on the date of the entry into force of this Law, shall be continued and shall be tried, irrespective of the provisions of this Law, by the court before which they are pending.

Rules of Court.

**42.** The Supreme Court may make Rules of Court for the better carrying into effect of this Law.

Repeal.  
Cap.277.

**43.** The Guardianship of Infants and Prodigals Law shall be repealed to the extent that it relates to minors.

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\* Section 41 forms part of the principal law (L. 216/1990) which came into force on 30.11.1990 (Official Gazette, Supplement I, No. 2559, dated 30.11.90) which is, therefore, the operative date.

### **NOTE**

The following observations do not form part of the principal law and they cannot be included in the consolidated text of the Law as a part thereof. However, in view of the fact that they affect the application of the Law, it was considered expedient to include them in this Note:

1. The Parents and Children Relations (Amendment) Law, 2008 (L. 68(I)/2008), published in the Official Gazette of the Republic, Supplement I(I), dated 25.7.2008, contains the following provision:

5. The provisions of this Law shall apply as from the date of the entry into force of this Law and in relation to orders made prior to the date of the entry into force of this Law".

“Transitional provisions.

(I)/2008 came into force upon publication, i.e. on 25.7.2008.









