

# **Law of Investigation on Children's Violations**

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## **Basis**

### **Article 1**

1. This Code, in compliance with article 54 national constitution and International Conventions protecting human rights and in particular the interests of children, dictates provisions indicating measures and procedures applicable to children in conflict with the law, children at risk, and children in need of care and protection and safeguarding their rights during investigation and trial.

## **Objectives**

### **Article 2**

1. Objectives of this Code are:
  1. Rehabilitating and re-educating children in conflict with law.
  2. Respecting the vital role of children in society construction and protecting their physical, moral, intellectual and social welfare.
  3. Specifying the responsibilities of parents, guardians or the legal representative with regards to children in their custody.
  4. Taking in consideration the Convention on the Rights of the Child during investigation and after trial.
  5. Hearing children's view or their legal representative during investigation and trial.
  6. Encouraging and supervising public welfare institutions and social services with the intention of preventing juvenile offences.
  7. Protecting children at risk and in need of care and protection.

**Treatment**  
**Article 3**

A child who is accused, has infringed the law, or has demonstrated irregular behavior, or is in need of supervision and protection, shall be treated in accordance with the provisions of this code.

**Terminologies**  
**Article 4**

The following terminologies have to be interpreted as follows:

1. Child: A person who has not completed the age of 18
2. Non-discerning child: A person who has not completed the age of 7
3. Discerning child: A person who has completed the age of 7 and has not completed the age of 12
4. Juvenile: A person who has completed the age of 12 and has not completed the age of 18
5. Confinement: is restricting freedom of accused child in the juvenile rehabilitation centers.
6. Home confinement: is detaining child at home, his placement in a private, public place or in one of the special social services institutions for a defined period of time.
7. Legal representatives: are parents, guardians, executors, relatives, attorney or legal guardian of a child.

**Not Responsible**  
**Article 5**

1. A person who has not completed the age of 12 is not criminally responsible.
2. If the crime mentioned in paragraph (1) of this article is a result of negligence on the part of parents and has caused material losses, the parents are obliged to compensate for the losses.

### **Age Determination**

#### **Article 6**

1. The age of a child during investigation and trial is determined on the basis of his/her citizenship ID Card.
2. In case a child has no ID Card or his/her physical appearance indicates an age different from that indicated in the ID Card, the opinion of forensic doctor shall be sought.
3. If the opinion of the forensic doctor or other doctors contradicts the background of the case and child's physical appearance, the issue of determining child's age shall be referred to a medical team of not less than three doctors.
4. Determining and fixing the child's age is based on the date the crime was committed.

### **Harsh punishment**

#### **Article 7**

Contemptuous and harsh punishment of child, even if for correction and rehabilitation purposes, is not allowed.

### **Advising minimum confinement duration**

#### **Article 8**

Confinement of a child is considered to be the last resort for rehabilitation and re-education of the child.

The court shall consider minimum possible duration for confinement based on the provisions of this code.

## **Chapter 2**

### **Detection and Investigation of Children's Crimes**

#### **Special Prosecutor**

##### **Article 9**

1. Detection of children offences is the responsibility of police while special juvenile prosecutor's office is responsible for assessment, investigation and prosecution of juvenile crimes. To this end, special juvenile prosecutor offices shall be established in the capital and provinces.
2. Juvenile prosecutor's office is composed of Director and professional and administrative members dealing with children's crimes according to the provisions of this code.
3. Professional members of the juvenile prosecutor's office in addition to meeting the criteria outlined in the relevant code shall also have the specific aptitude, professional training and special experience in juvenile matters
4. Juvenile prosecutor cannot initiate legal action directly against children who have committed crimes, unless a person or a source submits written complaint to the prosecutor.

#### **Circumstances for arrest**

##### **Article 10**

1. If there is grounded evidence of misdemeanour, felony, or crime, police has the authority to arrest a child under any one of the following circumstances:

- a. Risk of flight
  - b. Alteration of documents and evidence
  - c. Risk of repetition of a new crime
2. Handcuffs shall not be used for persons who have not completed 18 years of age, unless there is a risk of flight or if they pose imminent threat to themselves or to others.
3. The juvenile court has the authority, at the time of issuing pre-trial detention order, to consider other appropriate alternatives instead of detention.
4. Children in detention shall be kept separately from adults.

### **Notification of the arrest**

#### **Article 11**

1. Police are duty bound to report the arrest and place of detention of a child to child's legal representative and social services institutions within 24 hours from the time of arrest. If this information is not provided within the time limit, the police are obliged to provide written report explaining reasons for the delay to the relevant prosecutor's office. If the police fail to present logical reasons for the delay, the issue shall be prosecuted.
2. The legal representative can demand immediately after apprehension of a child, his/her release on bail. The police and prosecutor are duty bound to declare their decision on the release request within 24 hours. If the decision is not taken in the given time, the legal representative can complain to the higher prosecutor.
3. The prosecutor and judge have the authority to release a child on bail without monetary deposit, unless his/her situation requires detention.
4. The legal representative can request release of the child on bail or bail's extension during the course of investigation or trial. If the court does not deem detention of the child necessary, it can issue the child's release order without bail.

### **Detention place**

#### **Article 12**

The suspected and arrested child shall be detained in a special temporary location. The detention authority is obliged to provide access of the detained child to social,

educational, vocational, psychological and health services considering the age and gender requirements of the child.

### **Preparing first investigation report**

#### **Article 13**

1. Police is duty bound to organize papers containing all required information about the suspected child and disposition of the case within 24 hours from the time of discovery and submit them to the juvenile prosecutor's office for completion of investigation.
2. If preparation of papers containing all required information and disposition of the case is not possible within 24 hours, the juvenile prosecutor has the authority to extend the period for submission of the papers and required information up to 48 hours upon written request by the police. The prosecutor also has the authority to hand over the child to his/her legal representative.

### **Duration for completion of investigation**

#### **Article 14**

1. The juvenile prosecutor is obliged to complete the investigation within one week after receiving the file. If the investigation cannot be completed within the mentioned period, the prosecutor is obliged to request from the relevant court extension of this period to three weeks.

The juvenile court is obliged to announce its decision about detention or release within 24 hours.

1. Child, legal representative or child's attorney can complain to the court against order of pre-trial detention at any given time.

### **Duration for preparing the indictment**

#### **Article 15**

The juvenile prosecutor, after completing the investigation and collecting information mentioned under article 17 of this code, is obliged to complete the indictment in one week and submit it to the court officially. If completion of the indictment is not possible within the mentioned period, the prosecutor can request three weeks extension from relevant court provided that the child is not kept in detention.

### **Closing the file** **Article 16**

In the absence of facts and evidence that warrant prosecution, the prosecutor closes the file and notifies the victim and the one who has sustained property losses within one week. The one who has sustained property losses can submit his/her request for compensation of losses sustained to the relevant civil court within 30 days.

### **Information for preparing grounded reasons** **Article 17**

1. Juvenile prosecutor is obliged to take into consideration the following points while investigating crimes related to children for preparing grounded reasons:
  1. Age (day, month and year of birth)
  2. Degree of psychological development
  3. Character and aptitude
  4. Reasons and causes for committing crime
  5. Education level at the time of committing crime
  6. Circumstances and living environment at the time of committing crime
  7. Disgrace and intensity of crime
  8. Previous criminal record
  9. Behaviour while committing crime and thereafter

10. Type, proofs, means, intention, time and location of crime
  11. Level of danger caused to the victim of the crime
  12. Existence of accomplices, and those who encouraged the crime
  13. Other circumstances that can affect determining the punishment
2. Prosecutor, while investigating children's crimes and establishing their cases, is obliged to obtain information about them from police, parents, care takers, teachers, experts and any other person that has information about them.
  3. Prosecutor is obliged to keep the investigation documents and details confidential. Only the relevant courts and the child's attorney can have access to criminal records.

### **Referring the case of those above 18 to competent authorities**

#### **Article 18**

1. If, after commencement of the investigation or trial, the juvenile prosecutor or the juvenile court realizes that the age of the accused child was above 18 years while committing crime, they are obliged to refer the case to the relevant authorities.
2. If the accused does not agree with the provision under paragraph (1) of this article, he/she can appeal to higher authorities. Higher authorities shall refer the issue to medical team as per paragraph (3) of article (6) of this code, as a result of which the final decision will be postponed. If the accused is under detention, the medical team is obliged to give their opinion within one week.

### **Adopting temporary protective measures**

#### **Article 19**

1. Juvenile court upon request of the prosecutor or his/her legal representative can adopt temporary protective measures regarding the accused children with irregular behaviour.
2. Accused child suffering from mental illnesses shall be referred to mental institutions for treatment. Duration of his/her stay in the mental institution shall be decided by the judge as per the advice of the medical experts.

### **Surrendering the child to his/her legal representative**

#### **Article 20**

1. If a child with wisdom and intelligence, who has not completed 12 years of age, commits misdemeanour or felony, s/he shall not be detained for completion of investigations. The prosecutor can hand over the child for supervision to his/her legal representative or relatives respecting degree of their relationship, by obtaining guarantee from them.
2. To complete the investigation in case of children who have completed 12 years of age and have not completed 18 years of age and have committed misdemeanour, the child shall be surrendered to his/her parents, executors, legal representatives or relatives upon request of the relevant prosecutor and after the permission of the authorized court.
3. If children mentioned under paragraph (1) and (2) of this article do not have legal representatives or relatives, they shall be surrendered for supervision to the juvenile rehabilitation centers or any other educational or training institution.
4. If children who have completed 12 years of age and have not completed 18 years of age commit felony, they shall be sent to juvenile rehabilitation centers upon request of the relevant prosecutor and after permission of the authorized court for completion of investigation.
5. Juvenile prosecutor before making a legal decision about a child mentioned under paragraph (3) of this article is obliged to discuss the issue with juvenile rehabilitation centers or social services institutions.
6. Juvenile rehabilitation centers and social services institutions are duty bound to provide complete additional information about the living environment, attitude and behaviour of the child along with their suggestions in this regard to the relevant prosecutor's office and the court.

### **Advising and encouraging reconciliation**

#### **Article 21**

1. The prosecutor can invite directors of the juvenile rehabilitation centers and the social services institutions to advise and encourage the child's legal representative and the one who has incurred losses to settle the conflict which should not be illegal, provided that the child has not committed misdemeanour or felony. In other instances the prosecutor is obliged to complete the investigation as per provisions of article 15 of this code and transfer the file to the relevant court.

2. In case the legal representative of the child and the one who has incurred losses agrees to reconciliation and reparation the prosecutor can decide to close the file.

### **The right to have an attorney**

#### **Article 22**

1. In all stages of investigation and trial, the child shall have the right to a defence counsel and interpreter.

In case the parents or legal representative cannot afford a defence counsel or interpreter, the juvenile court shall appoint a defence counsel and interpreter on government costs.

1. The legal representative, defence counsel or the interpreter of the child has the right to be notified and participate in all stages of legal proceedings carried out by the prosecutor or the court.
2. Absence of child's legal representative during investigation can not stop the investigation process unless the prosecutor deems his/her presence necessary.

### **Assessing the complaint made by the legal representative**

#### **Article 23**

The legal representative of the child, after getting information about the proceeding of investigation, has the right to file a complaint to the higher prosecutor. The higher prosecutor is obliged to assess the complaint immediately and make necessary decision.

### **Collection of forms**

#### **Article 24**

1. The prosecutor is obliged to collect designated forms containing accurate information mentioned under article 17 of this code in order to complete the accused child's file.
2. If child has an accomplice above the age of 18, legal actions against the child shall be conducted separately according to the provisions of this code.

### **Summoning the child**

#### **Article 25**

1. The accused child shall be summoned for investigation or trial through his/her legal representative. In case the legal representative fails to accompany the child, he/she shall be fined 500 Afghanis as per the order of the court.
2. If the child is detained in juvenile rehabilitation centers, he/she shall be summoned for completion of investigation, if needed, through these centers.
3. Legal representative, staff of the juvenile rehabilitation centers or other educational and training institutions are duty bound, if needed, to present the child that is under their supervision or detained to the court for completion of investigation.

## **Chapter 3**

### **The Procedure of Children's Trial**

### **Special court**

#### **Article 26**

1. Trial of juveniles' offences shall be conducted by juvenile court. To this end, primary juvenile courts shall be established in provincial capitals.
2. Primary juvenile courts comprise of a presiding judge, members and administrative staff.
3. The judges of juvenile court, in addition to meeting the criteria and qualifications stipulated in the law of jurisdiction and organization of courts, shall also have specific aptitude, professional training and special experience in children's trial.

## **Stages of Hearing**

### **Article 27**

1. To ensure justice in case of child offenders, legal proceedings shall be conducted in three levels; Primary Court, Appeal Court and Supreme Court.

## **Territorial jurisdiction**

### **Article 28**

1. The juvenile court shall conduct trials on crimes committed by children within its relevant areas of jurisdiction.
2. When the place where the crime has been committed is not determined, the case will be heard by the juvenile court of the area where the child is residing. If it is not possible to determine the child's place of residence, the case shall be heard by the juvenile court of the area where the child was arrested or detained.

## **Cases to be heard**

### **Article 29**

The juvenile court shall hear the following cases according to the provisions of this code:

1. Children's crimes
2. Children whose irregular behaviour cannot be corrected through parental care or care of those who have the right to guardian them or by adopting ordinary educational measures.
3. Cases of children at risk and in need of care and protection.

## **Time limits for issuing order**

### **Article 30**

1. Juvenile court shall study the file within three days of its receipt. In case defects are noticed in the file, the court shall return the file to the juvenile prosecutor for completion of investigation and resolving the defects. The prosecutor is obliged to notify the legal representative of the accused about the issue immediately.
2. The prosecutor is obliged to resolve the defects within one week and resend the file to the relevant court.
3. The juvenile court is obliged to issue its decision within 10 days from the receipt of the file.

### **Reporting the pending cases (unprocessed doesn't make sense)**

#### **Article 31**

The judicial board or judges in the juvenile court are duty bound to report the pending cases every 15 days to the head of the court with the reasons for the delay. The head of the court is obliged to take necessary measures in this regard as soon as possible.

### **Confidentiality of hearings**

#### **Article 32**

1. The juvenile court shall hear the cases behind closed doors but the decision shall be read publicly.
2. Publication of documents related to proceedings of children's trial including witnesses' testimonies and ideas of experts is not allowed in mass media.
3. Under no circumstances, revealing information about the child's personality or information that can result in identification of the child is not allowed.
4. Reports on court proceedings shall be recorded and kept.

### **Notification of the decision**

#### **Article 33**

1. The judges of juvenile court shall issue their decision after hearing the statements and reasons of the child, witnesses, legal representative, prosecutor, defence counsel, staff of social services institutions, views of experts, in the presence of the child
2. If the charges against the arrested child are not substantiated for the juvenile court, the court shall order the release of child. This order shall not stop the victim from claiming his rights. The juvenile prosecutor can appeal against the decision.
3. If the issues discussed during trial harms the child psychologically, the court can continue the hearing in the absence of the child, provided that the summary of the trial is communicated to him/her later.

### **Attending the hearing**

#### **Article 34**

1. The child, legal representative, defence counsel, legal aid, witnesses and members of the judiciary, those who have sustained property losses and the prosecutor can attend the hearings. If presence of legal representative is not to the child's interest, or if his presence can disturb the proceeding of the trial, the court can order his expulsion from the trial session.
2. The court can allow participation of professionals and experts in education and welfare of children for research and study purposes in the proceeding of the trial.
3. The court cannot prevent any one from providing testimonies that yield information about psychological development of the child, his/her personality and living environment in the court.

### **Adoption of decision**

#### **Article 35**

Depending on the situation, the court has the authority to adopt one of the following measures against the accused child:

1. Performing social services
2. Sending the child to special social services institutions.
3. Issuance of warning.
4. Postponement of trial.
5. Conditional suspension of punishment.
6. Home confinement.
7. Surrender of child to his/her parents or those who have the guardianship rights.
8. Sending the child to the juvenile rehabilitation centers for confinement

### **Consideration of information while adopting a decision**

#### **Article 36**

Judges in the juvenile court are duty bound to consider the provisions of article 17 of this code while issuing orders.

### **Taking written guarantee**

#### **Article 37**

1. In case the child is given to his/her legal representative upon the order of the court, he/she shall be responsible for monitoring the development and progress of the child and, the juvenile prosecutor takes a written guarantee in this regard.
2. In case the legal representative of the child does not perform his/her duties properly as per the guarantee mentioned under paragraph (1) of this article, the court has the authority to appoint another guardian for the child on a temporary basis.
3. Provisions of paragraph (1) and (2) of this article shall be nullified when the child completes his/her 18 years of age.

### **Referring the child to mental health institutions**

#### **Article 38**

If the child looks to have irregular behavior during the court proceeding, the prosecutor's office and the court can issue an order to refer the child to a mental health institution for diagnosis and treatment

## **Punishment**

### **Article 39**

1. The following shall be taken into consideration while deciding a sanction for the accused children:
  - a. The sanctions for children who have completed 12 years of age and have not completed 16 years of age cannot exceed one third of the maximum sentence stipulated in the Penal Code for those above 18 years of age for the same crime.
  - b. The sanctions for children who have completed 16 years of age and have not completed 18 years of age cannot exceed half of maximum sentence stipulated in the Penal Code for those above 18 years of age for the same crime.
  - c. Children cannot be convicted to continued imprisonment (life imprisonment) or death penalty
2. The time that the child spends in pre-trial detention will be deducted from his or her period of confinement.

## **Suspended and confirmed confinement**

### **Article 40**

1. If the duration of confinement of the child is not more than 2 years, the court can introduce the child for spending that specific period in one of the social services institutions. In addition to this, the court can order to one or more than one of the following obligations:
  - o - Periodical stay
  - o - Performance of specific tasks
  - o - Education and training
  - o - Movement restricted to specific locations/areas

- - Enrolment in an institution with social rehabilitation programs
  - - Obligation to apologize and to compensate the damage caused to the victim.
  - - Surrender of child to parents or someone who has the right of guardianship over him/her. In this case the court shall issue necessary instructions concerning the care of the child. If the legal representative does not perform the obligations, the court can transfer such supervision to other social services institutions.
  - - If the child is not corrected, issuance of warning for more severe sanctions compared to the original punishment.
- (2) If the child has committed a crime that its sanction is confinement for more than 2 year and less than 3 years, the court can order suspension of his confinement sentence. If the child during this period does not commit another offence, the sentence will be removed and regarded as abolished

The abolition order of the sentence shall be issued by the court that has ordered suspension of the sentence.

If a convicted child violates the condition of suspended sentence and commits a new crime, the court can introduce the child for supervision to one of the social services institutions to perform humanitarian services throughout the period of suspended sentence.

- (3) After the hearing of a case, the court has the authority to suspend the procedure of trial in order to further assess the child's personality. The trial is suspended for a period not exceeding one year for misdemeanours and three years for felony; in this case the child will be surrendered to one of the social services institutions for observation, treatment and support. The court has the authority to dispose additional obligations in its order with the aim of repairing consequences of the crime and encouraging reconciliation with the victim. Suspension of trial shall nullify if the conditions for the suspension are continuously violated.

### **Duration of suspended confinement**

#### **Article 41**

1. The court has the authority to probate its decision with or without obligation for one year in case of misdemeanour and for two years in case of felony.

2. Orders for provisional suspension cannot be issued in the absence of special educational programs and social services. Suspension order is issued before trial is concluded. The prosecutor can appeal within three days after the order is issued.

**Act of Appeal**  
**Article 42**

1. The convicted child, his legal representative or the prosecutor can contest the decision of the primary court by filing an appeal.
2. The competent source for filing an appeal is the office of the appeal court

Application for an appeal shall be submitted to the administrative office of the court that has issued the order or to the administrative office of the relevant appeal court within 21 days. This period is calculated as per the following circumstances:

- a. The Court has read out verdict and its reasons at the conclusion of the trial in presence of accused child or his defence counsel.
  - b. In case the court has not read out the reasons of the verdict with the verdict and re-announces it to the accused child and to his/her defence counsel, the date of the second notification will be considered as the beginning of the term
  - c. When in the same decision more than one child has been sentenced the date of the last notification is considered the beginning of the term for all sentenced.
1. In case of dissatisfaction, the child, his/her legal representative or prosecutor can contest the decision of the juvenile court by filing an appeal within 21 days from the date the verdict was read.
  2. The child cannot wave his/her right of appeal without the consent of his/her legal representative.
  3. If the child or his/her legal representative appeals against the issued decision of the court, the specified punishment in decision of the higher court cannot be more severe than the decision of the primary court.
  4. The child, his/her legal representative or the juvenile prosecutor can submit a recourse to the Supreme Court within 30 days against the sentence of the appeal court. The recourse shall be deposited with the secretary of the appeal court that has made the decision or with the secretary of the Supreme Court.

**Chapter 4**

## **The functions of Juvenile Correction and Rehabilitation Centers and Designated Social services**

### **Institutions**

#### **Reporting Article 43**

The juvenile correction and rehabilitation centers and designated social services institutions, while executing sentences on children in detention under their supervision, are duty bound to submit report to the prosecutor's office and the relevant court every three months or as requested otherwise. The prosecutor and special juvenile judge shall visit the place of detention at least once in a month.

#### **Supervising implementation of order Article 44**

The designated social services institutions are obliged to supervise the execution of detention sentence in the juvenile correction and rehabilitation centers as well as all other instructions issued by court in this regard. These institutions shall report to the court on the progress of child rehabilitation every three months or as requested by the judge.

#### **Review of rehabilitation program Article 45**

1. The legal representative, head of juvenile rehabilitation center or head of social services institution under whom the child is kept in detention, at any given time can request the juvenile court to review rehabilitation programmes or advise new arrangements

### **Visits in detention places**

#### **Article 46**

The legal representative has the right to visit the child in places of detention provided that the rules of those places are respected.

## **Chapter 5**

### **Code of Conduct for Children with Irregular Behaviours**

### **Presenting facts**

#### **Article 47**

1. When a child manifests irregular behaviour, the juvenile prosecutor, legal representative or social services institutions can report the facts about the issue to the court.
2. The juvenile court, taking into consideration the provisions of paragraph (1) of this article as well as relevant parts of the information mentioned under article (17) of this code, shall complete required information about the personality of the child and shall make one of the following decisions:
  - 1- Issue instructions for surrendering the child to one of the social services institutions.
  - 2- Issue instructions for his/her placement in one of the governmental educational or health institutions.

### **Court decision**

#### **Article 48**

1. The judicial board of juvenile court shall take the decisions under paragraph (2) of article 47 of this code in the presence of the child or his/her legal representative taking into consideration the opinion of the prosecutor in a closed session.
2. While the juvenile court makes a decision about placing the child in one of the social services institutions, details and arrangements for education, vocational training, employment, programs for free times and medical care of the child shall also be explained as part of the decision.
3. Social services institutions are duty bound to supervise the behaviours and conduct of the child and provide required facilities for reintegration of the child to a normal social life. For this, the institutions shall maintain regular contacts with child's family and shall submit periodical reports to the court on the child's rehabilitation progress and the execution of instructions recommended.
4. Social services institutions can submit there ideas and proposals regarding minor changes into the verdict of the court that would be useful for facilitating rehabilitation and reintegration of the child into the society.

### **Provision of facilities**

#### **Article 49**

1. The social services institution is obliged to provide required facilities for child's contact with his/her family and society.
2. The social services institution is duty bound to supervise execution of instructions recommended by the court about the child and submit monthly reports and/or whenever requested to the juvenile court.

### **Adjustment of verdict**

#### **Article 50**

To safeguard the interests of the child regarding his/her education and reintegration into society, the court has the authority to amend its judgement whenever required.

## **Child care expenses**

### **Article 51**

Expenses of the child while in the social services or education and health institutions shall be covered by his/her legal representative. These expenses shall be born by the State if the legal representative cannot afford the expenses.

## **Chapter 6**

### **Procedures for assistance to children in need of care and protection**

## **Child in need of care and protection**

### **Article 52**

1. A child in need of care and protection is a person:
  - a. Whose physical, psychological, emotional health and security are at risk
  - b. Whose interests and education conditions facilities are jeopardized
  - c. Who has been abused by elders or a person having authority over him/her
  - d. Who has been abandoned by the parents
2. The juvenile court can make necessary decisions about the provisions of paragraph (1) of this article, at the request of the child, his/her legal representative, the prosecutor and/or any competent authority.

## **Hearing statements**

### **Article 53**

1. The juvenile court shall hear the child's statements, unless the hearing is harmful to the psychological and physical wellbeing of the child as per his/her age, health and/or intellectual faculties.
2. The juvenile court shall hear the statements of the child's legal representative and give them due consideration
3. The legal representative can request the court to obtain the views of professionals and experts about a child who is sexually, physically or psychologically abused.
4. The juvenile court can summon professionals and experts to provide information on the condition of the child

### **Supervising execution of court decisions**

#### **Article 54**

The social services institutions are duty bound to follow the instructions issued by the juvenile courts and submit monthly reports to the relevant courts on the child's rehabilitation progress.

### **Adopting assistance and rehabilitation measures**

#### **Article 55**

1. Juvenile court has the authority to adopt one of the following supportive rehabilitative measures regarding the child described under paragraph (1) of article 53 of this code:
  1. The child remains in his/her current environment. In this case, the court shall appoint a legal guardian for the child so that he/she can send the child to the educational institutions, if ordered by the court.
  2. The child remains in his/her current environment provided that he/she pays regular attends the health, educational or vocational training institutions.
  3. The child is separated from his/her current environment and kept under supervision of his/her legal guardian so that he/she can send the child to

the health, educational or vocational training institutions, if ordered by the court.

2. The health, educational and vocational training institutions, and the legal representative of the child mentioned under paragraph (1) of this article are duty bound to supervise the behaviour and conduct of the child and submit written reports to the court on the child's rehabilitation progress.
3. Under circumstances specified under paragraph (1) and (2) of this article, the legal representative is duty bound to keep the child till further order of the court regarding dismissal of guardianship or separation of the child from his/her current location.
4. Under the circumstances specified under part (3) of paragraph (1) of this article, the legal representative is duty bound to keep the child till further order of the court regarding withdrawal of guardianship and/or child's return to his/her family is issued.
5. The child, in line with the provisions of paragraph (1) of this article can request the juvenile court at any given time for meeting his/her family and legal representative.

### **Reviewing the measures adopted**

#### **Article 57**

1. The juvenile court has the authority to review, whenever needed, the measures taken under paragraph (1) of article 55, taking into consideration the attitude, conduct and conditions for the child's rehabilitation.
2. The juvenile court has the authority to review, every six months, the measures taken under paragraph (1) of article 56 at the request of parents, legal representative or the social services institutions.

## **Chapter 7 Guardianship**

### **Legal guardian**

#### **Article 57**

1. Parents are considered as legal guardians of a child who has not completed 18 years of age.
2. In case a child has no legal representative, the court shall appoint a guardian for the child
3. The territorial jurisdiction for appointing a legal guardian is the place where the child resides or the place where the child is present at the time the proceeding is commenced.

### **Application for guardianship**

#### **Article 58**

1. A person interested in the welfare of a child may submit a guardianship petition to the relevant court along with the following information:
  - 1- Surname and full address;
  - 2- Name, age, child's residing place and address
  - 3- Type of relationship to the child;
  - 4- Surname and address of ancestors, descendants and kin relatives of the child;
  - 5- Justifications for competence to be the child's guardian;
  - 6- Type and scope of guardianship.
2. The juvenile court shall send the petition for guardianship mentioned under paragraph (1) of this article to the social services institutions for necessary investigations and provision of information. The social services institutions are obliged to report their finding to the court.
3. The Juvenile court shall make decision about the appointment of a child's guardian in presence of the child, his/her parents, the applicant and representative of social services institutions.

### **Authority of the guardian**

#### **Article 59**

1. A person, who has been appointed as the child's guardian, has the authority to take care of child until the renewed decision of the court.
2. A child's guardian has all the authorities and responsibilities of the child's parents, with the exception of the child's maintenance and liabilities to a third party.

## **Responsibility of the guardian**

### **Article 60**

A guardian has all of the following authorities and responsibilities in addition to those specified in the civil law:

- 1- Taking care of the child's moveable and non-moveable private property as much as possible, and adopting required protective measures in this regard.
- 2- Shall not sell the moveable and non-moveable property of the child, unless decided by the court.
- 3- May receive money payable for the child's support to the parents, guardian, or legal representative of the child, provided that the legal guardian spends the money and/or assistance in kind only to fulfil the current needs of the child such as food, education or his/her protection, and saves the remaining amount for the future of the child.
- 4- Shall not use the child's money or property for personal purposes unless it is approved by the court in return for his/her services.
- 5- Taking legal actions against those who are obliged to fulfil legal and social welfare commitments concerning the child.
- 6- Take legal actions for provision of educational, social and any other activities of the child
- 7- Inform the court of changes in the address within 14 days.
- 8- Report to the juvenile court on the child's behaviours, conduct and rehabilitation progress with full details every three months. The report should contain psychological and medical development of the child.

## **Assessment of guardianship**

### **Article 61**

1. The court shall review the issue of legal guardianship for children under 12 years of age once in a month, and for those above 12 years of age once every three months.
2. The court shall consider the following while reviewing the legal guardianship of children mentioned under paragraph (1) of this article:
  - a. Provision of facilities for social welfare of the child
  - b. Need for continuation of guardianship

- c. Willingness and competence of the legal guardian for keeping up provision of facilities for social welfare of the child
  - d. Impacts of continuation of guardianship on social welfare of the child by the guardian
  - e. Other factors considered by the court regarding guardianship
3. The social services institutions are obliged to conduct assessments regarding the provisions of paragraph (2) of this article as per the instructions of the court and submit their reports to the relevant court.
4. The juvenile court can adopt a decision as to continuation or revocation of guardianship after completion of assessments mentioned under paragraph (2) and (3) of this article.

### **Revocation of guardianship**

#### **Article 62**

If the parent or parents fully observe the instructions of the court regarding replacement of guardianship, the court has the authority to revoke the guardianship and order return of the child to one or both parents six months before termination of the guardianship.

## **Chapter 8 Final Provisions**

### **Execution of order**

#### **Article 63**

The final and definite verdicts of the courts concerning children are executable. Any person who directly or indirectly disobeys the orders, or obstructs execution of the orders or interferes in their legal proceedings will be punished as per the provisions of law.

**Observing provisions of other laws enforced**  
**Article 64**

Should there be cases that are not provided for by this code, the case shall be dealt with as per provisions of laws enforced.

**Temporary defence counsel**  
**Article 65**

Since there are not sufficient defence counsels at present in the country, the suspected or accused child can refer to educated people who have knowledge of legal issues.

To this end, the president of each court shall prepare list of qualified people that are introduced through the ministry of justice in the capital and through administrative division of governor's office in the provinces to the appeal courts.

**Date of enforcement**  
**Article 66**

This law comes into force on the date it is published in the official Gazette, and any existing laws contradiction the provision of this code are abrogated.

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