



**LEGAL PROTECTION OF CHILDREN AND YOUNG
PEOPLE ORGANIC ACT 1/1996, DATED JANUARY 15,
WHICH PARTIALLY MODIFIES THE CIVIL CODE AND
THE CIVIL PROCEDURE ACT**

Edita

Ministerio de Justicia
Secretaría General Técnica

NIPO: 051-18-011-0

ISBN: 978-84-7787-482-9

Traducción

STARTUL, S.L.

Maquetación

Subdirección General de Documentación y Publicaciones
San Bernardo, 62
28015, Madrid

This is a translation of a text originally drafted in Spanish. It is an unofficial translation pursuant to the meaning of Section 1º) Article 6 of Royal Decree 2555/1977, of 27th August, approving the Regulation of the Office for the Interpretation of Languages of the Ministry of Foreign Affairs and Cooperation.

This translation coincides with the consolidated text extracted from the Official State Gazette which was last updated on July 23, 2015.

**LEGAL PROTECTION OF CHILDREN AND
YOUNG PEOPLE ORGANIC ACT 1/1996,
DATED JANUARY 15, WHICH PARTIALLY
MODIFIES THE CIVIL CODE AND
THE CIVIL PROCEDURE ACT**

**LEY ORGÁNICA 1/1996, DE 15 DE ENERO,
DE PROTECCIÓN JURÍDICA DEL MENOR, DE
MODIFICACIÓN PARCIAL DEL CÓDIGO CIVIL
Y DE LA LEY DE ENJUICIAMIENTO CIVIL**

Colección: Traducciones del Derecho Español

Ministerio de Justicia. Publicaciones

Catálogo de Publicaciones

Catálogo de publicaciones de la Administración General del Estado

**LEGAL PROTECTION OF CHILDREN AND YOUNG PEOPLE
ORGANIC ACT 1/1996, DATED JANUARY 15, WHICH PARTIALLY
MODIFIES THE CIVIL CODE AND THE CIVIL PROCEDURE ACT.**

JUAN CARLOS I

KING OF SPAIN

To all whom this Act shall be seen and understood,

be it known that: The Spanish Parliament has approved this Organic Act and I hereby enact the following Organic Act.

PREAMBLE

1

The 1978 Spanish Constitution, when listing the governing principles of the social and economic policy in Section III, Title I, touches upon, in the first place, to the Government authorities' obligation to ensure social, economic and legal protection of the family and, within it, especially that of children and young people.

This concern for giving children and young people an appropriate protection legal framework also reaches several International Treaties subscribed in recent years by Spain and, very particularly, the United Nations Convention on the Rights of the Child, dated November 20 1989, approved by Spain on November 30 1990, which ushers a new philosophy in regard to children and young people, based on a greater recognition of the role they play in society and the requirement for their greater visibility.

This necessity has been shared by other international bodies, such as the European Parliament whom, through Resolution A 3-0172/92, passed the European Charter of the Rights of the Child.

In line with the constitutional mandate and the general trend pointed out, in recent years a significant process to renovate our legal system in terms of children and young people has been carried out.

Parentage, Parental Responsibility and Marriage Economic Regime Act 11/1981, dated May 13, which did away with the distinction between legitimate and illegitimate parentage, put the father and the mother on the same level for the purposes of exercising parental responsibility, and introduced the determination of paternity.



After that and amongst others, Act 13/1983, dated October 24, about custody; Act 21/1987, dated November 11, by which certain articles of the Civil Code and the Civil Procedure Act are modified; Organic Act 5/1988, dated June 9, about exhibitionism and sexual enticement of children and young people; Organic Act 4/1992, dated June 5, about the reform of the Act governing competence of and procedure in Juvenile Courts; and Act 25/1994, dated July 12, by with Directive 89/552/EEC about the control of statutory and administrative legal dispositions of the Member States regarding the exercise of television broadcasting activities is incorporated into the Spanish legal system, have been enacted.

Out of the aforementioned Acts, 21/1987, dated November 11, is without a doubt the one to have introduced the most significant changes to the children and young people protection area.

As a result of this, the outdated abandonment concept was replaced by the legal entity of neglect, a change that has given rise to a significant speeding up of the children and young people protection procedures by enabling automatic assumption of their custody in cases of serious vulnerability by the relevant public entity.

Furthermore, it introduces the consideration of adoption as a full family integration element, the establishment of family placement as a new protection legal entity for children and young people, the generalisation of their best interest as the principle inspiring all actions related to them, both administrative and judicial; and the increase of powers held by the prosecuting authority concerning children and young people, as well as their corresponding obligations.

Nevertheless, and despite the unquestionable progress that this Act entailed and the significant innovations introduced by it, its application has gradually made apparent certain loopholes, and the period lapsed since its enactment has given rise to new needs and demands in society.

A number of institutions, both public and private -both parliamentary chambers, the Ombudsman, the Attorney General and several associations in connection with children and young people- have echoed these demands, communicating the Government the need to adapt the legal system to the reality of our current society.

2

This Act aims to be the first answer to such demands, addressing a thorough reform of the conventional children and young people protection legal institutions laid down in the Civil Code.

Accordingly -and although the very core of the Act is naturally formed by the amendment of the corresponding rules of said Code-, its contents transcend the boundaries of the former to build a broad legal framework for protection connecting all Government authorities, specifically children and young people-related institutions, parents and relatives and citizens in general.

Social and cultural transformations taken place in our society have given rise to a change in the children and young person social status and, consequently, a new approach has been given to building the structure for children's human rights.

This approach redefines the current structure for children's right to protection in Spain and most developed countries since the late twentieth century, and it essentially consists of the full recognition of the ownership of rights in children and young people, as well as an incremental ability to exercise them.

This trend is reflected on post-constitutional legislative development, children and young people's capacity as subjects of law being introduced. This way, the concept of "being heard where having sufficient judgement" has gradually reached the whole legal system in all concerned matters. Said concept introduces the evolutionary development dimension is introduced in the direct exercise of their rights.

Limitations that may stem from the evolutionary fact must be construed restrictively. Moreover, said limitations must be more focused on procedures, so that those that best suit the subject's age are adopted.

The legal system, and this Act in particular, is increasingly reflecting an understanding of people under legal age as active, participatory and creative individuals, with the ability to change their own personal and social environment, to take part in seeking and fulfilling their needs and fulfilling the needs of others.

Current scientific knowledge allows to conclude that there is no categorical difference between protection needs and needs related to the individual's autonomy, rather, the best way to socially and legally ensure children's protection is to promote their autonomy as individuals. This way, they will be able to gradually build a perception of control around their personal situation and their future prospect. This is the critical point in all current children and young people protection systems. This is, therefore, the challenge that all legal systems and under age people's promotion and protection mechanisms now face. This Act is based on the following understanding of the individual: the needs of children and young people as the central point for their rights and protection.

Title I starts by outlining a general recognition of the rights contained in the International Treaties Spain is part of, which must also be used as a mechanism for the interpretation of the various rules applicable to minors.

On the other hand, out of the ensemble of minors' rights, the need to put some of them into context, combining, on one side, the possibility of their being exercised under the necessary protection that, due to their age, minors deserve.

This way, with a view to reinforce assurance mechanisms provided in the Civil Protection of the Right to Honour, Individual and Family Privacy and Personal Image Organic Act 1/1982, dated May 5, the dissemination of data or images in relation to minors is prohibited in media where contrary to their interest, even with the minor's consent. This aims at protecting the minor, who could be the object of manipulations, by their own legal proxies or groups they are involved in included. This change completes active legitimization of the prosecuting authority.

Minors' right to participate has also been expressly included in the articles, referring to the right to be part of associations and promote children's and young people's associations, under certain requirements, completed by the right to participate in



public gatherings and peaceful demonstrations, provided their parents, legal custodian or guardians have so authorised.

This Act regulates the general action principles in social neglect, including the public entity's obligation to investigate the facts known to it in order to rectify the situation through the intervention of Social Services or, where appropriate, by assuming custody of the minor by an act of law.

Similarly, the obligation of any person identifying a situation of risk or potential neglect of a minor, to provide immediate help and inform the authority or its nearest agents of the fact is established. Specifically, the responsibility of citizens to inform the relevant public authorities of the minor's absence from their school, habitually or without justification, is also provided.

Amongst minor social neglect situation, the distinction between risk and neglect situations giving rise to a different degree of intervention by the public entity can be described as innovative. Whereas in risk situations, characterised by a prejudice to the minor failing to reach the necessary seriousness to justify their being separated from the family unit, said intervention is limited to trying to eliminate any risk factors within the family, in neglect situations, where the seriousness of the facts suggests removing the minor from the family, the intervention is specified in the form of the assumption by the public entity of the minor's custody and, accordingly, the derogation of parental responsibility or ordinary custody.

Throughout the Act there is an underlying concern based on the experience drawn from the application of Act 21/1987 to speed up and clarify administrative and legal procedures formalities affecting minors, so that they do not become helpless or unprotected at any time.

This is the reason why, on top of being established as a general principle -by which any action must fundamentally take the best interest of the child or young person into consideration and avoid any disruption of their school, social or work life-, it is determined that resolutions observing the presence of a situation of neglect must be notified to the parents, legal custodians or guardians, within forty eight hours, informing them, where possible, in person and in a clear and comprehensible manner, of the reasons giving rise to the Administration's intervention and potential effects of the decision taken.

Regarding the measures that Judges may adopt to avoid situations damaging for the children currently considered in the Civil Code, in its Article 158, these are extended to all minors and any situations exceeding the scope of the parent-child relationship, becoming applicable to those deriving from custodianship or guardianship, and the possibility for the Judge to adopt them as a precautionary measure at the beginning or in the course of any civil or criminal procedure is established.

Ultimately, the aim is to establish a principle of agility and immediacy in all procedures, both administrative and judicial, affecting minors, in order to avoid unnecessary damages that may derive from the lack of flexibility of such procedures.

Family placement, a legal entity introduced in Act 21/1987, deserves special mention. It can be constituted by the relevant public authority, the parents' consent concurring. Otherwise, it must be addressed to the Judge for them to be the person constituting the placement. Until now, the application of this precept has forced public authorities to admit minors into a centre, even where the extended family has expressed their intent to receive the minor in their home, due to the lack of willingness by the parents, with the resulting psychological and emotional damage that this entails for the children, who are unnecessarily deprived from staying within a family environment.

With a view to redressing this situation, this Act includes the possibility for the public authority to agree, in the interest of the minor, a temporary placement within their family. This can be agreed by the public authority if the parents fail to give their consent or oppose the placement, and shall survive while the necessary file is processed, as long as there is no judicial decision. By doing so, constitution of placement of any children about whom their parents have shown the utmost disregard is made easier.

Thus far, legislation considered placement as a temporary solution and, therefore, no distinctions were made regarding the various circumstances the minor could find themselves in by its regulation, always providing limited autonomy for the foster family to take care of the minor.

Many countries are currently considering whether minor protection legal institutions respond to the variety of neglect situations they can face. The answer is that both the diversification of legal institutions and the relaxation of professional practices are essential to a qualitative improvement in child protection systems. This Act takes this approach and makes family placements more flexible, as well as adjusting the relationship context between the foster family and the fostered minor, depending on the stability of the placement.

There are three types of placement, depending on its objective. Besides simple placement, where there is a situation of impermanence, in which the return of the minor to their family is relatively likely, the option to constitute it as permanent in those cases where age or other circumstances of the minor or their family would recommend greater stability, is introduced, thus extending the foster family's autonomy regarding functions derived from taking care of the minor, through the attribution of custody powers as may make the fulfilment of their obligations easier by a Judge. A pre-adoption placement modality appearing only in the preamble of Act 21/1987 and existing in other legislations is also expressly included. This Act provides for the possibility of establishing a pre-adoption period through the formalisation of a placement for such purposes, be it because the public authority has put a proposal for the adoption of a minor forward or because it is deemed necessary to establish an adjustment period to the family for the minor before forwarding said proposal to a Judge.

This way, shortcomings found in Article 173.1 of the Civil code are corrected by drawing a distinction between the various types of placement depending on whether the family situation is likely to improve and the return of the minor poses no risks for them, the circumstances recommend for it to be constituted permanently or it is advisable to constitute it on a pre-adoption basis. The opposite ends to be included in the formalisation document required by the Civil Code are also considered.



In regard to adoption, the Act introduces a compulsory requirement of adequacy of the adopters, which must be assessed by the public authority where it makes the proposal or, otherwise directly by the Judge. Such requirement, whereas not expressly provided in our positive law, is specifically made compulsory in the Convention on the Rights of the Child and the Hague Convention on children and young people's protection and cooperation in international adoption matters and was taken into consideration in practice for adoptive family selection procedures.

The Act touches on international adoption regulation. In recent years, there has been a significant increase in foreign children adoption by Spanish adopters. At the time of drafting Act 21/1987, this phenomenon was not as commonplace and there were insufficient perspectives to tackle it in said reform. The Act draws a difference between the functions that must be directly performed by the public authorities and mediation functions that can be delegated to duly accredited private agencies. Moreover, it sets out the conditions and requirements for accrediting said agencies, of which the lack of a lucrative purposes by them is noteworthy.

Article 9.5 of the Civil Code is further amended, and the need for the adopters' adequacy in order to make adoptions formalised abroad effective in our country is established, thus complying with the commitment made at the time of signing the United Nations Convention on the Rights of the Child by which the Member States are under the obligation to ensure that boys and girls adopted in a different country benefit from the same rights in their adoption as national children would.

Lastly, this Act further tackles certain aspects of custody, and articles in the Civil Code requiring clarification where they affect minors are developed. In this manner, a minor's custody must lean towards the minor's integration in the custodian's family where possible. The presence of serious and persistent cohabitation issues is further introduced as a reason for removal, and the minor is heard during this process.

The prosecuting authority's intervention is reinforced throughout the text, continuing the trend started by Act 21/1987, broadening the action channels for this institution to which representing minors and incapacitated people lacking legal representation corresponds by its very charter.

Yet another matter dealt with in the Act is the admission of the minor into a psychiatric centre and that, for the purposes of being done with maximum assurances, as it involves a minor, is subject to prior court approval and to the rules in Article 211 of the Civil Code, with a mandatory report by the prosecuting authority, regarding the minor as a presumed incapacitated person for these purposes and not deeming valid the parents' consent for the admission to be construed as voluntary, except for emergency admission cases.



3

The Act aims to respect the constitutional and statutory distribution of competences between the State and the Autonomous Communities.

In this respect, this Act regulates aspects in connection with civil and procedural law and the Judicial Administration, for which it benefits from specific constitutional authorisation in sections 5, 6, and 8 of Article 149.1.

However, a final specific provision leaves out the competences of Autonomous Communities having their own Civil Law, Regional Law or Special Law, for which the Act is presented as an ancillary act with regard to the specific provisions in force in the former.

Similarly, when referring to administrative competences, it is specified that they should correspond to the Autonomous Communities and the cities of Ceuta and Melilla, pursuant to constitutional distribution of competences and those assumed by the former in their respective Statutes.

4

Lastly, amendments to a series of articles in the Civil Code are incorporated into the Act with a view to debugging errors in grammar and contents caused by successive partial reforms to the Code.

Outside of other reforms that affected the custody institution only tangentially, Act 13/1983, dated October 24, modified Title X of Volume I in the Civil Code, entitled "About custodianship, curatorship and guardianship of minors or incapacitated people", and improved the ordinary custody regime that the Civil Code already considered. Furthermore, Act 21/1987, dated November 11, reworded the articles regulating custody assumed by an act of law by public authorities, whose reform is currently tackled.

Coexistence of these two sides to the custodianship institution requires such an internal harmonisation of the Civil Code as the First Sect of Private Law of the General Codification Commission has covered through the amendment of the above-mentioned articles, which, after the 1983 reform, were inconsistent or difficult to apply effectively.

In this manner, and given the Act primarily aims at protecting children and young people through administrative custodianship, the amendment of further articles mostly in connection with this matter has been incorporated.



TITLE I

About the rights and responsibilities of children and young people

SECTION I

Scope and best interest of children and young people

Article 1. *Scope of application.*

This Act and the development dispositions herein are applicable to people under eighteen years of age within the Spanish territory, unless, by operation of the law applicable to them, they might have already reached the age of majority.

Article 2. *Best interest of children and young people*

1. Every child and young person has the right to have their best interested appreciated and considered as paramount in all actions and decisions concerning them, both in the public and the private sphere. For the application of this act and any other rules affecting them, as well as measures regarding minors adopted by public or private institutions, Courts and legislative bodies, their best interest shall prevail over any other legitimate interest that may simultaneously occur.

Limitations to minors' ability to act shall be construed restrictively and, at any rate, in their best interest always.

2. For the purposes of interpreting and applying the minor's best interest in each case, the following general criteria shall be taken into consideration, without prejudice to those established in the applicable specific legislation, as well as any others that may be deemed appropriate, given the specific circumstances surrounding each case:

- a) Protecting the minor's right to life, survival and development, as well as meeting their basic, including material, physical, educational, emotional, and affective.
- b) Taking into consideration the minor's wishes, feelings and opinions, as well as their right to gradually participate -depending on their age, maturity, development and personal growth- in the process to determine their best interest.
- c) Convenience for their life and development to take place in an adequate violence-free family environment. Permanence in their birth family shall be prioritised and maintenance of their family relations shall be met, provided this is possible and positive for the minor. Should any protection measure be agreed upon, family placement shall be prioritised above residential placement. Where the minor has been removed from their family unit, likelihood and convenience for

their return shall be assessed, taking the family's evolution from the time the protection measure was adopted into consideration and always putting the minor's interest and needs above those of the family.

d) Preserving the minor's identity, culture, religion, ideas, sexual preferences and identity, and language. Non-discrimination of the minor due to these or any other conditions whatsoever, including disability, thus ensuring the harmonious development of their personality.

3. These criteria shall be weighted taking the following general elements into consideration:

a) The minor's age and maturity.

b) The need to ensure their equality and non-discrimination due to special vulnerability, be it down to the lack of a family unit, having suffered abuse, being disabled, their sexual preferences and identity, their status as a refugee, asylum-seeker or ancillary protection seeker, belonging to an ethnic minority or any other relevant characteristic or circumstance.

c) The irreversible effect of the lapse of time in their development.

d) The need for stability in solutions adopted in order to promote effective integration and development of the minor within society, as well as to minimise the risk of any material or emotional changes that these may have in their personality and future development.

e) Preparing the transition into an adult independent life, in line with their abilities and personal circumstances.

f) Any other weighing elements that may be deemed relevant in a specific case, so long as they respect children and young people's rights.

The above elements shall be assessed as a whole, in accordance with the principles of necessity and proportion, so that the measure adopted in the minor's best interest is not restrictive and does not limit more rights than it protects.

4. In the event of any other legitimate interest coinciding with the minor's best interest, any measures responding to the latter and respecting the other legitimate interest concurring too shall be prioritised.

Where it is not possible to respect all concurring legitimate interest, the minor's best interest shall come above any other legitimate right that may simultaneously apply.

Decisions and measures adopted in the minor's best interest shall take into consideration the fundamental rights of any other people that may be affected, at any rate.

5. Any measure in the minor's best interest shall be adopted under the appropriate assurances of the process, and, specifically:

a) The minor's rights to be informed, heard and listened to, and to take part in the process in accordance with the current rules.



- b) Intervention of qualified or expert personnel in the process. Where necessary, said personnel shall have received sufficient training to determine the specific needs of disabled children. Any especially relevant decisions affecting the minor shall be accompanied by the chartered report of a multidisciplinary technical team specialising in the appropriate fields.
- c) Participation in the process to defend their interest of the minor's biological parents, tutors or legal representatives or a legal defender should there exist any conflicts or disputes with them, as well as the prosecuting authority.
- d) Adoption of a decision including in its grounds the criteria used, the elements applied for weighting the criteria against each other and any other present or future interest, and procedural guarantees observed.
- e) The existence of resources that allow for the review of a decision adopted that does not take the minor's best interest as a paramount consideration or where the very development of the minor or significant changes in their circumstance substantiating said decision make it necessary to review it. Children and young people shall have the right to free legal assistance in the cases provided by the law.

SECTION II

Children and young people's rights

Article 3. *Mention to International Bodies.*

Minors will benefit from the rights that the Constitution and International Treaties subscribed by Spain may entitle them to, especially those included in the United Nations Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, as well as all other rights granted by the legal system, with no discrimination on grounds of birth, nationality, race, sex, disability or illness, religion, language, culture, ideas or any other personal, family or social circumstance.

This Act, its developing rules and other legal dispositions in relation to children and young people shall be construed in accordance with International Treaties subscribed by Spain and, especially, pursuant to the United Nations Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

Government authorities shall guarantee respect for minors' rights and shall adapt their actions to this act and the above-mentioned international regulation.

Article 4. *The right to honour, privacy and personal image.*

1. Children and young people have the right to honour, individual and family privacy and personal image. This right also encompasses the inviolability of the family home and their correspondence, as well as secrecy of communications.

2. Information dissemination or use of images or names of minor in media that may imply an unlawful intrusion in their privacy, honour and reputation or be against their interests shall call for the intervention of the prosecuting authority, which shall call on the immediate precautionary and protection measures provided by law and request the corresponding compensation for damages caused.

3. Any use of the minor's image or name in the media that may lessen their honour or reputation or be against their interest, even where the minor or their legal guardians have consented to it, is deemed an unlawful intrusion in the minor's right to honour, individual and family privacy and personal image.

4. Subject to actions of which the minor's legal guardians are entitled to, it is the prosecuting authority's right to exercise them, and it may act ex-officio or upon request of the minor or any other interested natural or legal person or public entity.

5. Parents or custodians and Government authorities shall respect and protect these rights from potential third-party attacks.

Article 5. Right to information.

1. Children and young people have the right to seek, receive and utilise information appropriate to their development. Special emphasis shall be placed with digital and media literacy, adapted to each evolutionary stage, thus allowing minors to act securely and responsibly online and, specifically, to identify risk situations arising from the use of new information and communication technologies, as well as the tools and strategies to face and protect themselves from said risks.

2. Parents or custodians and Government authorities shall see to the information received by the minors being accurate, pluralistic and respectful of constitutional principles.

3. Public Administrations shall stimulate production and dissemination of informative and other types of materials aimed at minors, respecting the stated criteria, and shall at the same time make information and documentation services, libraries and other culture services more easily accessible to minors, including suitable awareness over the legal entertainment and culture offering on the Internet and the defence of intellectual property rights.

Specifically, they shall ensure that mass media, in their messages aimed at minors, promotes values of equality, solidarity, diversity and respect towards others, avoids images of violence, abuse in interpersonal relationship or reflecting a demeaning or sexist treatment or a discriminatory treatment of people with disabilities. Within the scope of self-regulation, competent authorities and bodies shall foster the creation and compliance supervision of codes of conduct with a view to safeguard the promotion of the values described above among mass media, limiting access to images and digital content that may be harmful to minors, in line with the provisions of the approved contents self-regulation codes. Accessibility of said materials and services, including technology-related materials and services, for disabled minors -with any required reasonable adjustments- shall be ensured.

Government authorities and service providers shall foster full enjoyment of audio-visual communication for disabled minors and the use of good practices in other to avoid any discrimination or negative impact for said people.

4. In order to ensure that publicity and messages addressed to minors or broadcast in media programming for them is not morally or physically harmful, it may be regulated by special rules.



5. Subject to other entitled persons, it is the prosecuting authority and the competent Public Administration's right, at any rate, to exercise any cessation or correction of illegal publicity in terms of children and young people's protection.

Article 6. Ideological freedom.

1. Children and young people have a right to ideological, conscience and worship freedom.

2. The exercise of rights emanating from this freedom is only under the limitations prescribed by law and respect for basic rights and freedoms of others.

3. Parents or custodians have the right and the obligation to cooperate in order for the minor to exercise said freedom, thus contributing to their comprehensive development.

Article 7. Right of participation, association and assembly.

1. Minors have a right to fully participate in their surrounding social, cultural, artistic and recreational lives, as well as to the gradual incorporation into an active citizenship.

Government authorities shall promote the formation of participation bodies for children and young people and social organisation for children and teenagers.

Accessibility to these environments and the provision of reasonable adjustments for disabled minors to be able to develop their social, cultural, artistic and recreational lives shall be ensured.

2. Minors have the right of association, which specifically includes:

a) The right to be part of youth associations and organisations of political parties and unions, in accordance with the Law and Statutes.

b) The right to promote children and youth associations and to register them in accordance with the Law. Minors may be part of the governing bodies of said associations.

For children and youth associations to be able to be civilly bound, they must have appointed a legal representative with full capacity, in accordance with the Statutes.

Where affiliation of a minor or their parents to an association hinders or harms the minor's comprehensive development, any interested party, natural or legal person, or public entity, may address the prosecuting authority to request the application of such protection legal measures as may be deemed necessary.

3. Minors have a right to participate in public assemblies and peaceful demonstrations convened under the terms set out by the Law.

They also have a right to promote and convene them with the express agreement of their parents, custodians or guardians under the same terms.

Article 8. Right to free expression.

1. Minors enjoy the right to free expression under the constitutional terms provided. Said free expression is also limited by the protection of privacy and the personal image of the minor stipulated in Article 4 of this Act.

2. Especially, minors' right to free expression reaches:

- a) Publication and dissemination of their opinions.
- b) Editing and producing of broadcast media.
- c) Access to grants set out for these purpose by Public Administrations.

3. Exercising this right may be subject to restrictions provided by the Law to ensure respect of the rights of others and protection of public safety, health, morals and order.

Article 9. *Right to be heard and listened to.*

1. Minors have the right to be heard and listened to without any discriminations on grounds of age, disabilities or any other circumstance, both within their family environment and in any administrative procedure, judicial proceeding or mediation process affecting them and leading to a decision impacting their personal, family or social environments, and their opinions will be duly taken into account, depending on their age and maturity. To that end, minors must receive information allowing them to exercise this right in a comprehensible language and accessible formats adapted to their circumstances.

In judicial proceedings and administrative procedures, appearance or hearings of minors shall be preferential and shall be conducted in an appropriate manner given their situation and evolutionary development -with the assistance, where necessary, of qualified professionals and experts-, taking care to preserve their privacy and using a language comprehensible to them, in accessible formats adapted to their circumstances, whereby they are informed both of the question being posed and of the repercussions of their opinion, subject to full compliance with the guarantees of the procedure.

2. Minors shall be guaranteed the ability to exercise this right by themselves or through the person they may appoint on their behalf provided they are mature enough. Maturity must be assessed by specialised personnel, taking into account both the minor's evolutionary development and their ability to understand and assess the specific issue at hand in each case. At any rate, they shall be deemed to be sufficiently mature at the age of twelve.

In order to ensure that minors are able to exercise this right by themselves, they shall have the assistance, where appropriate, of interpreters. Minors may express their opinion verbally or through non-verbal forms of communication.

Nevertheless, should this not be possible or in the minor's best interest, their opinion may be made known by their legal representatives, provided they have no interest that conflict with the minor's, or through other people that, due to their occupation or special relationship of trust with them, are able to deliver it objectively.

3. Where appearance of hearing of minors directly or through the person representing them is denied in administrative or judicial channels, the decision shall be motivated by the minor's best interest and communicated to the prosecuting authority, the minor and, where appropriate, their custodian, explicitly detailing any existing appeals against



the decision. In decisions on background, the results of the hearing with the minor and their assessment must be mentioned, where appropriate.

SECTION III

Duties of children and young people

Article 9 bis. *Duties of children and young people.*

1. Minors, in line with their age and maturity, must assume and comply with duties, obligations and responsibilities attached to and consequence of holding and exercising the rights given to them in all areas of daily life, including family, school and social areas.

2. Government authorities shall promote actions aimed at fostering knowledge and compliance with minors' duties and responsibilities on the basis of equality, non-discrimination and universal accessibility to be conducted.

Article 9 ter. *Duties related to the family.*

1. Minors must participate in the family life respecting their parents and siblings, as well as other relatives.

2. Minors must take part and joint responsibility for household care and carrying out domestic chores according to their age, level of personal independence and ability, regardless of their sex.

Article 9 quarter. *Duties related to the school.*

1. Minors must respect their education centre's coexistence rules, study during the compulsory education stages and have a positive attitude towards learning during the entire formative process.

2. Minors must respect the teaches and other staff in their education centres, as well as the rest of the schoolmates, avoiding conflict and bullying situations in any shape or form, including cyberbullying.

3. Knowledge that minors must have their rights and duties as citizens, including those created as a result of the use of information and communication technologies in the teaching environment, shall be implemented through the education system.

Article 9 quinquies. *Duties related to the social environment.*

1. Minors must respect people they are in contact with and the environment they move in.

2. Specifically, social duties include:

a) Respecting the dignity, integrity and privacy of all persons they are in contact with, regardless of their age, nationality, racial or ethnic background, faith, sex, sexual preference and identity, disabilities, physical or social characteristics or belonging to certain social groups, or any other personal or social circumstance.

b) Respecting the Law and rules applicable to them, as well as basic rights and freedoms of others and assuming a responsible and constructive attitude in society.

- c) Preserving and making good use of resources, facilities and equipment, whether public or private, street furniture and any others where their activities are carried out.
- d) Respecting and being aware of the natural environment and animals, and contributing towards their preservation within sustainable development.

SECTION IV

Measures and governing principles of administrative actions

Article 10. *Measures to facilitate the exercise of rights.*

1. Minors are entitled to receive information in an accessible format and suitable assistance from Public Administrations or through collaborating entities for the effective exercise of their rights and to ensure their observance.

2. In order to defend and ensure their rights, minors may:

- a) Seek protection and custody from the competent public body.
- b) Make the prosecuting authority aware of situations they regard as an attack of their rights so that the latter can take the appropriate actions.
- c) Rise their complaints to the ombudsman or before equivalent autonomous institutions. To that end, one of the ombudsman's deputies shall be permanently in charge of matters related to minors, thus facilitating access to the appropriate mechanisms adjusted to their needs and ensuring confidentiality.
- d) Request social resources available from Public Administrations.
- e) Request legal counselling and the appointment of a judicial defender, where appropriate, to start the necessary legal proceedings and administrative procedures to protect and defend their rights and interest. The prosecuting authority may, at any rate, advocate on behalf of children and young people's rights.
- f) File individual complaints with the Committee on the Rights of the Child, under the terms provided in the Convention on the Rights of the Child and its developing rules.

3. Foreign minors residing in Spain have a right to education, healthcare and basic social services and benefits, under the same terms as Spanish minors. Public Administrations shall look after particularly vulnerable groups such as unaccompanied foreign minors, those showing international protection needs, disabled minors and those who have experienced sexual abuse, sexual exploitation, child pornography or human trafficking, thus ensuring compliance with the rights provided by Act.

Government authorities, when planning and drafting public policies, shall aim to achieve full integration of foreign minors into the Spanish society, for as long as they may remain within the Spanish territory and under the terms set forth in Organic Act 4/2000, dated January 11, on the rights and freedoms of foreigners in Spain and their social inclusion.



4. Where a public body has taken on the custody of a foreign minor located in Spain, the Central State Administration shall provide them with documentation accrediting their situation and the residence authorisation, should they not have them already, alongside a custody certificate issued by said body as swiftly as possible, once the inability to return with their family or to their country of origin has been proven and under the dispositions of the current rules on immigration matters.

5. In regard to minors whose custody or guardianship is with the public bodies, recognition of their assured condition with reference to healthcare shall be done *ex officio*, prior production of the custody or guardianship certification issued by the public body, for the duration of the above.

Article 11. *Governing principles of administrative actions.*

1. Public Administrations shall provide the minors with suitable assistance for the exercise of their rights, including any support resources they may need.

Public Administrations, within their own scopes, shall put together comprehensive strategies aimed at childhood and teenage development and, especially, with reference to the rights listed in this Act. Minors shall have a right to access said services by themselves or through their parents, custodians, guardians or foster carers, whom shall in turn be under an obligation to use them in the minors' interest.

Compensatory policies aimed at correcting social inequality will be promoted. At any rate, the essential contents of the rights of children and young people may not be affected by the lack of basic social resources. Disabled minors and their families shall be granted such specialised social services as their disability may require.

Public Administrations must take into account minors needs in exercising their competences, especially in terms of control over food products, consumables, housing, education, healthcare, social services, culture, sports, events, mass media, transport, leisure time, play, free spaces and new technologies (ICTs).

Public Administrations shall take in particular consideration the appropriate regulation and monitoring of those spaces, centres and services where minors usually stay, in terms of physical and environmental conditions, health and hygiene, accessibility and universal design, and human resources, as well as their inclusive educational projects, participation of minors and any other conditions contributing to the fulfilment of their rights.

2. The following shall be the governing principles of actions by government authorities in relation to minors:

- a) Supremacy of their best interest.
- b) Staying with their family of origin unless this is not in their best interest, in which case, adoption of stable family protection measures shall be ensured and, in these cases, family placement will have priority over institutional placement.
- c) Their family and social inclusion.
- d) Prevention and early detection of any situations that may harm their personal development.



- e) Awareness about neglect situations in the population.
- f) Educational nature of all measures adopted.
- g) Fostering participation, volunteering and social solidarity.
- h) Objectivity, impartiality and legal certainty in actions of protection, ensuring a collective and multidisciplinary nature in adopting measures that affect minors.
- i) Protection against any form of violence, including physical and psychological abuse, demeaning and humiliating physical punishment, oversight or neglect, exploitation, violence through new technologies, sexual abuse, corruption, gender-based violence or within the family unit, medical, social or educational, including bullying, as well as human trafficking, female genital mutilation or any other form of abuse.
- j) Equal opportunities and non-discrimination based on any circumstance.
- k) Universal accessibility for disabled minors and reasonable adjustments, as well as their full and effective inclusion and participation.
- l) Free development of their personality in accordance with their sexual preferences and identity.
- m) Respect and appreciation for ethnic and cultural diversity.

3. Government authorities shall develop actions aimed at raising awareness, prevention, detection, notification, assistance, and any form of protection against violence towards children and teenagers through procedures ensuring liaison and collaboration between the various Administrations, collaborating entities and competent services, both public and private, in order to deliver comprehensive intervention.

4. Public entities shall have programmes and resources allocated to support and guidance of young people who reach legal age under placement and are therefore excluded from the protection system, placing special emphasis with those with disabilities.



TITLE II

Actions in social neglect situations in minors and protection institutions for minors

SECTION I

Actions in social neglect situations in minors

Article 12. *Protection interventions.*

1. Protection of minors by Government authorities shall be performed through prevention, detention and reparation of risk situations, by allocating the appropriate services and resources for these purposes, exercising the guardianship and, in cases of neglect declaration, assuming the custody by an act of law. In protection situations, at any rate, family measures must be prioritised over residential measures, as well as stable over temporary and agreed upon over imposed measures.

2. Government authorities shall ensure that parents, custodians, guardians or foster families adequately carry out their responsibilities and shall provide them with accessible prevention, counselling and accompanying services in all areas affecting the development of minors.

3. Where minors are under parental authority, custodianship, guardianship or placement with a victim of gender-based or domestic abuse, the intervention by Government authorities shall be aimed at granting the necessary support to obtain the minor's continuation with them, regardless of their age, as well as their protection, specialised attention and recovery.

4. Where the age of majority of a person cannot be determined, they shall be considered a minor for the purposes provided in this Act, while their age is determined. To that end, the public prosecutor must make a judgement of proportionality adequately weighing the reasons why the passport or equivalent document provided, where appropriate, is not deemed a reliable source. Conducting medical tests to determine the minor's age shall be subject to the principle of urgency, require prior informed consent of the affected party and be performed with respect for their dignity and without posing a risk for their health, and these cannot be applied indiscriminately, especially for invasive tests.

5. Any non-permanent protection measure adopted regarding children under the age of three shall be reviewed every three months, and, for children over that age, they shall be reviewed every six months. In permanent placements, review will take place every six months the first year and every twelve months from the second year onwards.

6. Furthermore, out of the various functions attributed by Law, the public entity shall submit a substantiating report on the situation of a specific minor to the prosecuting authority where the former has been in a temporary residential or family placement for a period exceeding two years, and the public entity must clarify the reasons why a more stable protection measure has not been adopted within that period.

7. Government authorities shall ensure the rights and obligations of disabled minors in terms of their custody, guardianship, adoption or similar institutions, protecting the minor's best interest to the fullest. Moreover, they shall ensure that disabled minors have the same rights regarding family life. In order to make these rights effective and to avoid their concealment, abandonment, neglect or separation, they shall see to providing information, services and general support to disabled minors and their families beforehand.

Article 13. *Citizens' obligations and duty of reserve.*

1. Any person or authority and, especially, those people that, given their occupation or role, may detect a situation of abuse, risk or potential neglect of the minor, must inform the authority or its nearest agents of said situation, without prejudice to giving the minor the immediate help they may require.

2. Any person or authority who becomes aware of a minor not being schooled or unjustified and frequent truancy during the compulsory term, must inform the relevant competent authorities of this, so that the necessary steps towards schooling the minor are taken.

3. Any authorities or people that, given their occupation or role, are aware of the case shall act with due reserve.

Any unnecessary intrusion in the minor's life shall be avoided in all interventions.

4. Any person that may have learned -through any source of information- about a fact which may potentially be an offence against sexual freedom and integrity, human trafficking or child exploitation shall be under an obligation to make the prosecuting authority aware of it, subject to the dispositions in the criminal procedure legislation.

5. In order to access certain occupations, professions and activities involving frequent contact with minors, it shall be required not to have been finally convicted for any offences against sexual freedom and integrity, including sexual assault or abuse, sexual harassment, exhibitionism and sexual enticement, children prostitution and sexual exploitation and grooming, as well as human trafficking. For these purposes, any person wanting to access said occupations, professions and activities must prove their situation by producing an exemption certificate issued by the Sex Offenders Register.

Article 14. *Immediate assistance.*

Public authorities and services shall be under an obligation to provide the necessary immediate assistance to any minor, to intervene within their scope of competence or to transfer to the competent body otherwise, and to inform the minor's legal guardians or, where appropriate, the public entity and the prosecuting authority, of the facts.



In their obligation to provide immediate assistance, the public entity may immediately take on the temporary guardianship of a minor stipulated in Article 172.4 of the Civil Code, which shall be communicated to the prosecuting authority, simultaneously proceeding to perform due diligence towards identifying the minor, investigating their circumstances and confirming, if applicable, the real situation of neglect.

Article 15. *Principle of cooperation.*

Any intervention will seek cooperation from the minor and their family and avoid intruding on their school, social or work lives where possible.

Article 16. *Assessment of the situation.*

Competent public entities in matters of minor protection shall be under an obligation to establish the situation reported to them and take the necessary measures to remedy it on the basis of the results of said action.

Article 17. *Interventions in risk situations.*

1. Any situation that, due to family, social or educational circumstances, deficiencies or conflicts, is harmful to the minor in their individual, family, social or educational development, their welfare or their rights, so that, without reaching the entity, intensity or continuation that may be justify its declaration as a neglect situation and the resulting assumption of the custody by the prosecuting authority, does require intervention by the competent public administration in order to eradicate, diminish or offset the difficulties or maladjustment affecting them, thus avoiding their neglect or social exclusion, without having to remove the minor from their family environment, is considered a risk situation. For these purposes, having a sibling declared in said risk situation, unless the family circumstances have changed substantially, is considered a risk indicator, amongst others. Concurring circumstances or material deficiencies shall be considered a risk indicator, but shall never result in the removal from the family unit.

2. Under any kind of risk situation, an intervention by the competent public administration must guarantee, at any rate, the minor's rights, and shall work towards reducing the risk indicators and the difficulty for them to have an impact on the personal, family and social situation the minor is in, and to take measures to protect them and preserve the family environment.

3. Intervention in risk situations is the responsibility of the competent public administration, in accordance with the dispositions in the applicable state and autonomous legislation, in collaboration with educational centres and social and health services and, where appropriate, the collaborating entities within the corresponding regional scope or otherwise.

4. Assessment of a risk situation shall entail the preparation and launch of a social intervention and family education project that must include the objective, actions, resources and estimated timelines, promoting protection factors for the minor, who shall remain in their family unit. Participation of parents, custodians, guardians or foster family shall be sought in preparing the project. In any case, their opinion shall be heard and taken into account when trying to agree on the project, which both parties will have to sign, to which end it shall be communicated in a comprehensible manner

and an accessible format. It shall also be communicated and discussed with the minor, should they be sufficiently mature and, at all events, from the age of twelve.

5. Parents, custodians, guardians or foster families, within their corresponding functions, shall actively cooperate, based on their ability, in the execution of measures included in said project. Lack of cooperation provided in it shall give rise to the declaration of a risk situation for the minor.

6. A risk situation shall be declared by the competent public administration pursuant to applicable state and autonomous legislation by way of a reasoned administrative ruling, after hearing the parents, custodians, guardians or foster family and the minor, should they be mature enough or, at all events, from the age of twelve. The administrative ruling shall include the measures leading to correcting the minor's risk situation, including those concerning duties in relation to parents, custodians, guardians or foster family. An appeal against the administrative ruling declaring the risk situation may be brought in accordance with the Civil Procedure Act.

7. Where the competent public administration may be carrying out an intervention faced with a risk situation for a minor and becomes aware of their transfer to the scope of another regional entity, the public administration of origin shall make it known to the target administration to the effect that, where appropriate, the latter can continue with the intervention carried out thus far, submitting all necessary information and documentation. Should the public administration of origin not know about the place of destination, it may request help from the law enforcement forces and agencies to proceed to investigate. Once the minor's location has been found out, the competent public entity will be informed of said region, which will continue the intervention.

8. In cases where the public administration responsible for evaluating the risk situation and intervening in it, deems that there is a situation of neglect that may require the removal of the minor from their family unit or where, once the set period in the intervention project or agreement has ended, the changes in the performance of guardianship duties ensuring the minor has the necessary moral and material assistance have not been achieved, it shall make the public entity aware of it for them to assess the adequacy of declaring a neglect situation, informing the prosecuting authority.

Where the public entity deems that declaring a neglect situation is not appropriate, despite the proposal in that sense prepared by the competent public administration to evaluate the risk situation, it shall make the public administration intervening in the risk situation and the prosecuting authority aware. The latter shall supervise the minor's situation, to which end it may gather the collaboration of education centres, social and healthcare services, and any others.

9. The competent public administration responsible for intervening in the risk situation shall take, in collaboration with the corresponding healthcare services, the appropriate prevention, intervention and follow-up measures, in situations of potential antenatal risk, for the purposes of avoiding a subsequent declaration of a situation of risk or neglect of the new born. For these purposes, the lack of physical care in the pregnant woman or abusive intake of potentially addicted substances, as well as any other



actions by the woman or actions by third parties tolerated by her, harming the normal development or may cause diseases or physical, mental or sensory abnormalities in the new born shall be considered an antenatal risk situation. Healthcare services and health professionals must inform the competent public administration and the prosecuting authority of this situation. After the birth, the intervention shall continue with the minor and their family unit so a risk or neglect situation of the minor can be declared for their appropriate protection, if necessary.

10. Refusal by the parents, custodians, guardians or foster family to give their consent regarding necessary medical treatments aimed at safeguarding a minor's life, physical or psychological integrity is a risk situation. In such cases, healthcare authorities shall immediately inform the judicial authority -either directly or through the prosecuting authority- of said situations so that the corresponding decision safeguarding the minor's best interest can be taken.

Article 18. *Interventions in neglect situations.*

1. Where the public entity has established that the minor is in a situation of neglect, it shall act in the way provided in Article 172 and following articles of the Civil Code, by taking on the custody of said minor by an act of law, taking the appropriate protection measures and making the prosecuting authority and, where appropriate, the Judge deciding on the ordinary custody, aware of it.

2. Pursuant to the provisions in Article 172 and following articles of the Civil Code, a neglect situation shall be that in fact caused by non-compliance or impossible or inadequate exercise of the protection duties set forth by the Law for minor guardianship, where these are deprived from the necessary moral or material assistance.

A situation of poverty in the parents, custodians or guardians shall not be included in the assessment of a neglect situation. Furthermore, minors shall under no circumstance be removed from their parents on the grounds of the minor, both parents or one of them being disabled.

Having a sibling declared in said situation, unless the family circumstances have changed substantially, is considered a neglect indicator, amongst others.

Specifically, it shall be understood there to be a neglect situation where one or more of the following situations, after being assessed and weighed in accordance with the principles of necessity and proportionality, are serious enough to pose a threat to the minor's physical or psychological integrity:

- a) The minor being abandoned, due to either the absence of those people obligated by law to exercise guardianship, or because said people are unwilling or unable to exercise it.
- b) During the voluntary guardianship period, either where the people legally responsible are able but unwilling to take on the minor's guardianship or where they are willing but are unable to do it, except for rare cases where voluntary guardianship is extended beyond the two-year term.

c) The minor's life, health or physical integrity being at risk. Specifically, where there is serious physical abuse, sexual abuse or gross negligence in complying with support and health obligations by a member of the family unit or by third parties with their consent; also, where the minor has been identified as a human trafficking victim and there is a conflict of interest with their parents, custodians or guardians; or where there is a continued use of potentially addictive substances or other addictive behaviours are repeatedly carried out by the minor with their parents, custodians or guardians knowing, consenting to or tolerating it. Said consent or toleration is understood to take place where the necessary efforts to alleviate these behaviours, such as requesting counselling or insufficient collaboration in the treatment once these behaviours become known, have not been made. There is also neglect where serious damage is caused to the new born due to antenatal abuse.

d) The risk for the minor's mental health, their moral integrity and personality development due to continued psychological abuse or serious and chronic lack of attention to their emotional or educational needs by their parents, custodians or guardians. Where said lack of attention is conditional to a serious mental disorder, frequent use of potentially addictive substances or other frequent addictive behaviours, the lack of treatment by the parents, custodians or guardians or the lack of sufficient cooperation during said treatment shall be seen as a neglect indicator.

e) Non-compliance or impossible or inadequate exercise of guardianship duties as a result of a serious decline in the family environment or living conditions, where it leads to circumstances or behaviours harmful to the minor's development and mental health.

f) Incitement to begging, offending or prostituting, or any other similarly serious or equivalent exploitation of minors.

g) The lack of schooling or reiterated and unjustified truancy and continued over tolerance or incitement to truancy during the compulsory schooling period.

h) Any other seriously harmful situation for the minor resulting from the non-compliance or the impossible or inadequate exercise of parental authority, custodianship or guardianship, whose consequences may not be avoided while the minor remains in their living environment.

3. Each public entity shall appoint the body to exercise custodianship according to their operational structures.

4. In cases of permanent residential transfer of a minor subject to a protection measure from the adopting Autonomous Community to another one, the latter shall take on said measure or the appropriate measure otherwise within a maximum period of three months from being informed by the former of said transfer. Notwithstanding the foregoing, where the minor's family of origin remains in the Autonomous Community of origin and reinsertion in the family is foreseeable in the short to medium term, the measure adopted shall remain in place and the public entity corresponding to the minor's place of residence will cooperate in monitoring their progress. Taking new protection measures shall also be unnecessary in cases of temporary transfer of a



minor to a residential centre located in a different Autonomous Community or where placement with a family residing in it is set up, prior agreement of both Autonomous Communities.

5. In all cases where a potential neglect situation in a Spanish minor located outside of the Spanish territory is detected, the public entity corresponding to the Autonomous Community where the minor's parents or tutors reside shall be responsible for their protection within Spain. Failing this, the public entity corresponding to the Autonomous Community where the minor or their relatives have the most ties shall be deemed competent for these purposes. Where, pursuant to said criteria, it may be impossible to establish jurisdiction, the public entity corresponding to the Autonomous Community where the minor or their relatives may have had their last known permanent residence shall be deemed in charge.

At any rate, should a minor located outside of Spain have been subject to a protection measure prior to their removal, the public entity holding their guardianship or custodianship shall be deemed competent for these purposes.

Any jurisdiction conflict that may arise must be resolved according to the principles of urgency and best interest of the minor, avoiding delays in decision-making that may cause them harm.

The Central State Administration shall be charged with moving the minor back to Spain. The corresponding Autonomous Community shall take on jurisdiction from the moment the minor sets foot in Spain.

6. In cases where protection measures taken in a foreign State have to be complied with in Spain, the provisions in Council Regulation (EC) No. 2201/2003, dated November 27 2003, concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000, or the European rule replacing this, shall be followed first. In cases nor regulated by European rules, International Treaties and Conventions in force in Spain, and, especially, the Hague Convention of 19 October 1996 on jurisdiction, applicable Law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children, or any Convention replacing this, shall be followed. In the absence of any international regulation, the Spanish domestic rules on the efficacy in Spain of protection measures for children shall be enforced.

Article 19. *Guardianship of minors.*

1. Besides guardianship of minors under custody due to being in a situation of neglect, the public entity must also take on guardianship under the terms provided in Article 172 bis of the Civil Code, when parents or custodians are unable to take care of a minor due to serious and temporary circumstances or where the Judge so decides in legally applicable cases.

2. Voluntary guardianship shall be for a maximum duration of two years, unless the minor's best interest exceptionally recommends the extension of the measure due to foreseeable family reinsertion in a short period of time.

In the above cases of voluntary guardianship, the family's commitment to undergo professional intervention, where appropriate, shall be required.

Article 19 bis. *Common provisions to guardianship and custodianship.*

1. Where the public entity has taken on the minor's custodianship or guardianship, it shall prepare a personalised protection plan setting out the objectives, estimated outcomes and term for the intervention measures to be taken with their family of origin, including, where applicable, the family reinsertion programme.

Regarding disabled minors, the public entity shall ensure the continuation of any support they may have been receiving or the adoption of any other support that best fits their needs.

2. Where the estimated outcome mentions a potential return to the family of origin, the public entity shall implement the family reinsertion programme, without prejudice to the dispositions in the regulation regarding unaccompanied foreign minors.

3. In order to agree on the return of the neglected minor to their family of origin, an objectively sufficient positive progress to restore family living in the latter, preservation of family ties, intent to perform parental responsibilities adequately must be previously established, as well as confirming that the minor's return to it poses no relevant risks to them through a technical report accordingly. When making a decision on their return in cases of family placement, the time lapsed and their insertion in the foster family and their environment, as well as the presence of emotional ties between them, must be taken into consideration.

4. Where family reinsertion is carried out, the public entity shall provide subsequent support monitoring to the minor's family.

5. For unaccompanied foreign minors, finding their family and restoring family living shall be attempted by launching the corresponding process, provided that said measure is deemed to be in their best interest and does not put the minor or their family in a situation of risk for their safety.

6. Pregnant children and young people subject to protection measures shall receive counselling and support suited to their situation. Their individual protection plan shall include said situation, as well as protection for the new born.

Article 20. *Family placement.*

1. Family placement, according to its purposes and regardless of the procedure it is agreed on, shall have all modalities included in the Civil Code and, due to the ties of the minor with the foster family, can take place within the minor's own extended family or an unconnected family.

Family with an unconnected family may be specialised, which is understood as placement taking place within a family where one of the members is qualified, experienced or has specific training to perform this role regarding minors with special needs or circumstances who is fully available and receives in return the corresponding financial compensation, which in no case shall represent an employment relation.



Specialised placement may be professionalised when, having all the above-mentioned qualification, experience and specific training requirements, there is an employment relation between the foster person or family with the public entity.

2. Family placement shall be settled down by decision of the public entity holding the custody or guardianship, prior assessment of the family suitability for the placement. Said assessment shall take into consideration the family situation and their educational ability, their capacity to adequately tend to needs of all kinds in the minor or minors concerned, the consistency of their motives with the nature and purposes of the placement depending on its modality, and the willingness to facilitate fulfilment of the individual care plan's objectives and, where applicable, the family reinsertion programme objectives, promoting the minor's relation with their family of origin. Visiting arrangements may take place in authorised family meeting points, where the minor's best interest and the right to privacy of both the placement and the origin family so recommends. Should the type of placement so dictate, adequacy of the age of the foster carers and the foster minor, as well as a previous relation between them shall be assessed, and any persons belonging to their extended family and showing suitable conditions for the placement shall be prioritised, unless otherwise recommended by the minor's interest.

3. The decision to formalise the family placement mentioned in the above section, agreed upon under the terms provided in the Civil Code, shall be accompanied by an attachment including the following information:

- a) The foster person or family's and the foster child or young person's identity.
- b) The necessary consents and hearings.
- c) The modality of placement, estimated duration for it, and its nature as placement with extended family or unconnected family due to ties between the minor and the foster family or person.
- d) The rights and duties of each party and, specifically:
 1. Visiting arrangements, accommodation, relation and communication with the family of origin, in cases of declaration of neglect, which can be modified by the public entity depending on the minor's best interest.
 2. The coverage systems for damages caused to the minor or that may be caused to third parties by the public entity.
 3. The acceptance of support, education and social and healthcare expenses by the foster family.
- e) The follow-up contents performed by the public entity, depending on the placement purposes, and a commitment to cooperate in said follow-up by the foster family.
- f) For disabled minors, the required support resources.
- g) Financial compensation, technical support and other support to be received by the foster family, if applicable.
- h) The review term for the measure.

The decision and its attachment shall be submitted to the prosecuting authority within one month.

Article 20 bis. *Rights and duties of foster families.*

1. Foster families shall have a right:

- a) To receive information around the nature and effects of the placement, as well as prior preparation, follow-up and specialised technical support during and at the end of said placement. Families fostering disabled minors shall be entitled to guidance, accompaniment and support suited to the minor's disabilities.
- b) To be heard by the public entity before it makes any decision affecting the minor, especially before modifying or temporarily suspend visiting arrangements or relation and communication with the family of origin.
- c) To be informed of the individual protection plan and protection measures related with the placement taken regarding the fostered minor, regular reviews and to obtain information on the minor's protection file which may be necessary to exercise their functions, except for matters concerning third party privacy and personal data protection.
- d) To be part of all processes opposing protection measures and declaration of neglect situation of the fostered minor and in all processing opposing concerning the formalised permanent family placement's custodianship functions.
- e) To cooperate with the public entity in action and follow-up plans set out for the placement.
- f) To have identity, healthcare and educational documents of the fostered minor.
- g) To exercise all guardianship inherent rights.
- h) To be respected by the fostered minor.
- i) To get the public entity's support in exercising their functions.
- j) To travel with the minor, as long as the public entity is informed and does not oppose to it.
- k) To receive financial compensation and other types of help as stipulated, where appropriate.
- l) To give the fostered minor the same conditions as biological or adopted children, for the purposes of making use of family rights and obligations for the duration of their coexistence.
- m) To keep connected with the minor once placement has ended, should the public entity deem it convenient for the minor's best interest and if the family of origin or, where appropriate, the adoptive or permanent placement family so consents, and where the minor shows sufficient maturity and, at all events, from the age of twelve.
- n) To have their personal data protected from the family of origin, in accordance with current legislation.



o) To formally raise claims or suggestions at the public entity, which must process them in less than 30 days and, should they request a hearing, to be heard before the end of said period of time.

p) The foster family shall have the same rights recognised by the Administration to other family units.

2. Foster families shall have the following duties:

a) To ensure the minor's well-being and best interest, to have them in their company, feed and educate them and provide for them comprehensive training within an effective environment. For disabled minors, they shall continue to provide any specialised support received by the minor thus far or adopt other support that best suits their needs.

b) To always hear the minor before making decisions affecting them, should they minor be mature enough and, at all events, from the age of twelve, without any exclusion on the grounds of disability, and to inform the public entity of any requests the minor may make within their level of maturity.

c) To ensure full participation of the minor in the family life.

d) To inform the public entity of any relevant event regarding the minor.

e) To respect and facilitate relations with the minor's family of origin, as far as possible for the foster families and in the context of visiting arrangements set out in favour of the former and of family reinsertion, where appropriate.

f) To actively cooperate with public entities in carrying out the individual intervention with the minor and monitoring the measure, observing the entity's indications and guidance.

g) To respect confidentiality of data related the minor's family and personal background.

h) To inform the public entity of any changes in the family situation regarding their details or circumstances taken into consideration as grounds for the placement.

i) To ensure the fostered minors' right to privacy and identity and to respect their personal image, as well as to ensure fulfilment of their basic rights.

j) To take part in proposed educational actions.

k) To cooperate in the transition of the minor's protection measure to reinsertion in their environment of origin, adoption, or any other kind of placement, or the environment established after adopting a more stable protection measure.

l) Foster families shall have such obligations regarding fostered minors as those provided by Law for holders of parental authority.

Article 21. Residential placement.

1. Regarding minors under residential placement, public entities and services and centres where these may be shall act according to the governing principles of this Act, with full respect to the rights of placed minors and have the following basic obligations:

- a) They shall ensure coverage of all daily life needs and grant minors' rights by adapting their general project to each minor's personal characteristics, through an individual social and educational project seeking the minor's well-being, physical, psychological, social and educational development, within the framework of the individualised protection plan defined by the public entity.
 - b) They shall have the individual protection plan for each minor clearly establishing the purpose of the admission, the objectives to be reached and the term for their fulfilment, within which the minor's preparation -both when arriving and leaving the centre- shall be planned.
 - c) They shall make all their decisions regarding residential placement of minors in the interest of the latter.
 - d) They shall foster coexistence and relations between siblings, where this is for the benefit of the minors' best interest, and shall seek residential stability of minors, as well as the placement to preferably take place in a centre located within the minor's province of origin.
 - e) They shall promote family relations and cooperation, to which end, the necessary resources to make return to their family of origin possible shall be planned, where this is deemed to be the minor's best interest.
 - f) They shall promote a comprehensive and inclusive education for minors, placing special emphasis on the needs of disabled minors, and shall see to their being prepared for a successful life, and especially to their schooling and training.
- In the case of young people aged between sixteen and eighteen, preparation for an independent life, guidance and labour integration shall be prioritised.
- g) They shall have internal operations and coexistence regulations in line with educational and protection needs, they shall have formulated a procedure to raise claims and complaints.
 - h) They shall distribute the medicines that minors require under prescription and medical supervision, where appropriate, pursuant to professional healthcare practices. For these purposes, medical records of each minor will be kept.
 - i) They shall regularly review individual protection plans in order to assess the adequacy of the residential resource to each minor's personal circumstances.
 - j) They shall promote outings on weekends and holiday periods for minors and their families of origin or, should this not be possible or convenient, with alternative families.
 - k) They shall promote normal inclusion of minors in services and entertainment, cultural and educational activities taking place in the community environment they are in.
 - l) They shall establish the appropriate coordination mechanisms with specialised social services to monitor and adjust protection measures.
 - m) They shall ensure preparation for independent life by promoting participation in all decisions affecting them, including the centre's management, autonomy and gradual acceptance of responsibilities.



n) They shall set out educational and supervisory measures ensuring the minor's personal data protection when accessing information and communication technologies and social media.

2. All residential placement centres providing services aimed at minors within the area of protection must always be administratively authorised by the public entity, whose authorisation system must comply with the provisions in Act 20/2013, dated December 9, regarding the guarantee of market unity. Moreover, quality and accessibility standards for each type of service must be in place.

The public entity shall regulate residential placement centres' operational system and enter the entities in their corresponding records, according to their dispositions and placing special emphasis on safety, hygiene, accessibility for disabled people, number, proportion and professional qualification of their staff, educational project, participation of minors in their inner workings and other conditions contributing to ensure their rights.

Furthermore, the public entity shall promote residential placement models with small groups of minors living in conditions similar to those within a family.

3. In order to assist minors' lives taking place within a family environment, family placement shall prevail over residential placement for all minors, especially for children under the age of six. Residential placement shall not be agreed upon for children under the age of three except for duly accredited cases of impossibility to adopt a family placement measure at the time or where said measure is not in the minor's best interest. Such a limitation to agree upon residential placement shall be applicable to children under the age of six in the shortest term possible. At any rate, and generally speaking, residential placement of the above-mentioned minors shall not exceed three months of duration.

4. For the purposes of ensuring protection of minors' rights, the public entity shall carry out inspection and supervision tasks at the centres and services every six months and at any times circumstances so require.

5. Additionally, the prosecuting authority shall supervise residential placement decisions adopted, as well as inspect all residential placement services and centres, analysing, amongst others, their individualised educational projects, the centre's educational project and its internal rules.

6. The competent public administration may take appropriate measures to secure coexistence at the centre, acting about any behaviours -which shall in no case attack minors' dignity- with educational measures. In serious coexistence disruption cases, leaving the placement centre may be limited. Said measures must be put in place immediately and in proportion to minors' behaviour, taking their personal situation, attitude and consequences of their behaviour into account.

7. Any measures imposed resulting from behaviours or attitudes attacking coexistence within the residence shall be immediately communicated to the minor's parents, custodians or legal guardians, as well as the prosecuting authority.

Article 21 bis. Duties of fostered children and young people.

1. The fostered child or young person, regardless of the placement modality they are in, shall have a right:

- a) To be heard under the terms of Article 9 and, where appropriate, to be part of the process opposing the protection measures and declaring their situation of neglect according to the applicable regulations, and depending on their age and maturity. To that end, they will have the right to be informed and notified of all decisions regarding settlement and end of placement.
- b) To be recognised as a beneficiary to the right of free legal aid when in a situation of neglect.
- c) To directly address the public entity and be informed of any relevant facts regarding their placement.
- d) To interact with their family of origin in the context of visiting, relation and communication arrangements set out by the public entity.
- e) To gradually learn about their social and family reality and their circumstances in order to enable their acceptance.
- f) To receive the necessary general information, services and support to make the rights of disabled minors effective well in advance.
- g) To make the prosecuting authority aware of any such claims or complaints about the circumstances of their placement as they see fit.
- h) To receive educational and psychotherapeutic support from the public entity that help them overcome root psychosocial disorders. This measure shall apply both in residential and family placements.
- i) To receive the necessary educational and psychotherapeutic support.
- j) To access their file and familiarise with details about their origin and biological relatives once they have reached majority of age.

2. In family placement cases, they shall also have the following rights:

- a) To fully participate in the foster family or person's family life.
- b) To keep in touch with the foster family after the end of the placement should the public entity deem it appropriate for their best interest and as long as the minor, being mature enough and, at all events, from the age of twelve, the foster family and the family of origin, or, where appropriate, the adoptive or permanent placement families so agree.
- c) To request information or ask for the end of the family placement, by themselves should they be mature enough.

3. In residential placement cases, they shall also have the following rights:

- a) To have their privacy respected and to keep their personal belongings provided they are not inadequate in the educational context.
- b) To participate in the preparation of activities programmed for the centre and their development.



- c) To be heard in case of complaints and to be informed about all attention and claim systems available to them, including their right to be heard by the public entity.

Article 22. *Information for relatives.*

Any public entity having minors under their custodianship or guardianship must inform the parents, custodians or guardians about the situation of the former, where there are no court decisions prohibiting it.

Article 22 bis. *Programmes on preparation for an independent life.*

Public entities shall offer programmes on preparation for an independent life aimed at young people under a protection measure, particularly under residential placement, or in an especially vulnerable situation, from two years before reaching the majority of age and once they have reached it, whenever necessary, subject to committing to actively participate and benefit from them. Programmes shall foster a social and educational follow-up, accommodation, social and work inclusion, psychological support and financial support.

Article 22 ter. *Information system on childhood and adolescence protection.*

Autonomous Communities and the Central State Administration shall establish a shared information system that allows for an even knowledge of the childhood and adolescence protection situation in Spain and an offering system for placement and adoption, with disaggregated data by gender and disability, both for the purposes of following up specific protection measures and for statistical purposes. A Consolidated Register of Child Abuse shall be developed for the same purposes.

Article 22 quarter. *Personal data processing.*

1. To ensure compliance with the purposes provided in Section I of Title II of this Act, competent public administrations may proceed without the interested party's consent to gathering and processing the necessary data in order to evaluate the minor's situation, including data concerning them and their family or social environment.

Professionals, public and private entities, and, generally, any person shall provide the public administrations with any reports or background on the minors, their parents, custodians, guardians or foster families requested as necessary for these purposes, without requiring the affected party's consent.

2. Entities referred to in Article 13 may process any information essential to comply with the obligations set out in said article without the interested party's consent for the only purposes of making the competent public administration or the prosecuting authority aware of said information.

3. Data gathered by public administrations may solely and exclusively be used to take the protection measures set out in this Act, at all events subject to ensuring the minor's best interest, and may only be communicated to such public administrations as are responsible for making the corresponding decisions, to the prosecuting authority and judicial bodies.



4. Data may also be transferred to the prosecuting authority without the interested party's consent and the former shall process them in exercising the functions set out in this act and regulations applicable to it.

5. At any rate, processing of said data shall be subject to the Personal Data Protection Organic Act 15/1999, dated December 12, and its development dispositions, and the implementation of high level safety measures as provided in said act shall be enforceable.

Article 22 *quinquies*. *Impact of regulations on childhood and adolescence.*

The regulatory impact analysis report that must accompany preliminary acts and draft regulations shall include the impact of regulations on childhood and adolescence.

SECTION II

About custody

Article 23. *Custody registers.*

For the exercise of the supervisory function attributed to the governing authority in the Civil Code regarding a custody taken on by the public entity by an act of law, a Register of Custodies of Children and Young People shall be carried in each public prosecutor's office.

SECTION III

About adoption

Article 24. *Adoption of minors.*

National and international adoption shall adjust to the provisions in the applicable civil legislation.

SECTION IV

Protection centres specific to minors with behavioural issues

Article 25. *Residential placement in protection centres specific to minors with behavioural issues.*

1. Admissions, performances and interventions in protection centres specific to minors with behavioural issues who are dependent on public entities or private companies collaborating with them which are intended to use safety and freedom or basic rights restriction measures shall be subject to the dispositions provided in this section.

These centres -subject to international standards and quality control- shall be destined to residential placement of minors in a situation of guardianship or custodianship by the public entity and who have been diagnosed with behavioural issues, show frequent disruptive or dissocial behaviours, transgress social rules and the rights of other people, where so justified by their protection needs and determined by a specialised psychosocial assessment.



2. Residential placement in these centres shall be exclusively decided where intervention through other protection measures is not possible and shall aim to provide the minor with a suitable framework for their education, normalisation of their behaviour, family reinsertion where possible, and free and balanced development of their personality, within a structured context with specific programmes as part of an educational project. Therefore, admission of minors in these centres and safety measures applied shall be used as a last resort and have an educational nature always.

3. In voluntary guardianship cases provided in Article 19, the family's commitment to be subject to professional intervention shall be required.

4. These centres will have the right number of minors to assistance staff ratio in order to guarantee an individualised treatment for every minor.

5. In the case of disabled minors, specialised support they may have received prior to their placement shall continue or more suitable support shall be put in place, at any rate incorporating accessibility measures in the admission centres and actions carried out.

Article 26. *Admission to protection centres specific to minors with behavioural issues.*

1. The public entity holding a minor's custody or guardianship and the prosecuting authority shall be entitled to request court approval for admitting the minor to protection centres specific to minors with behavioural issues. Such an admission request must be reasoned and founded on psychosocial reports previously produced by personnel specialising in children and young people protection.

2. Minors showing mental illnesses or disorders requiring specific treatments from competent services for mental health and attention to people with disabilities may not be admitted to these centres.

3. In order to admit a minor in one of these centres, the public entity or prosecuting authority must previously obtain the corresponding court approval, at any rate ensuring that the minor is heard, in accordance with the provisions in Article 9. Said approval shall be granted after the application of the procedure regulated in Article 778 bis of the Civil Procedure Act 1/2000, dated January 7, and must resolve on the possibility of applying safety measures, as well as temporarily restricting any visiting, communications and outings arrangements that may be made.

Nevertheless, should a duly substantiated matter of urgency make it necessary to immediately process admission, the public entity or prosecuting authority may agree upon it prior to court approval, with an obligation to inform the competent Court of it as soon as possible and, at any rate, within twenty-four hours, for the purposes of proceeding to the corresponding endorsement, to which end they must provide any information available that justifies immediate admission. The Court shall decide within a maximum period of seventy-two hours from receiving said communication, and the admission shall become immediately void in the event it is not authorised.

4. Minors shall receive written information on their rights and duties, the centre's operating rules, general organisation matters, educational arrangements and the

means to raise requests, complaints and appeals upon their arrival in the centre. Said information shall be communicating in a way that guarantees its comprehension, based on the minor's age and circumstances.

5. Minors shall not stay at the centre longer than strictly necessary to tend to their specific needs. The end shall be agreed by the judicial body involved in the admission, ex-officio or on the motion of the public entity or the prosecuting authority. Such motion shall be grounded on a psychosocial report.

Article 27. Safety measures.

1. Safety measures shall be in the form of mechanical or physical containment of the minor, their seclusion or personal and material searches.

These measures shall have an educational purpose and answer to the principles of exceptional nature, necessity, proportionality, temporariness, and excess prohibition, shall be applied with the minimum intensity possible and for the strictly necessary duration, and shall be carried out with due respect to the minor's dignity, privacy and rights

2. Safety measures must be applied by minor protection specialised trained personnel. Said personnel may only use safety measures on children and young people as a last resort, in self-defence or in cases of attempted escaped, physical resistance to an order or risk of self-harm, harm to others of severe damages to the property.

3. It is the responsibility of the Centre Manager or the person to whom they may delegated to make decisions on safety measures, which must be reasoned and be immediately notified to the public entity and the prosecuting authority and which the minor, the prosecuting authority or the public entity may appeal before the judicial body responsible for the admission, who shall decide on the matter after receiving a report from the centre and hearing the minor and the prosecuting authority.

4. Safety measures applied must be entered in the Incident Log, which shall be supervised by the centre's management.

Article 28. Containment measures.

1. Containment measures may be verbal and emotional, physical or mechanical, depending on the circumstances surrounding them.

2. The personnel at the centres may only use physical or mechanical containment measures after attempting verbal and emotional containment, and, the situation permitting, without the use of physical force.

3. Physical containment may only consist of interposition between the minor and the person or object at risk, physical restriction of spaces and movements and, ultimately, physical restraint subject to a strict protocol.

4. Mechanical containment may only be acceptable in order to avoid a serious risk to the life or physical integrity of the minor or other people and provided reducing the level of stress or disturbance of the minor by other means is not possible. It must be carried out with authorised mechanical containment equipment subject to a strict protocol.



Article 29. Seclusion of the minor.

1. Secluding a minor by keeping them in a suitable space they cannot exit may only be used to prevent acts of violence, self-harm, harm to other minors residing in the centre, to its personnel or to other people, as well as severe damage to its facilities. It shall be applied sporadically at the required moment and, under no circumstances, as a disciplinary measure, and it shall preferably be completed in the minor's room, or, should this not be possible, in a similarly sized and habitable space.
2. Seclusion may not exceed six consecutive hours, without prejudice to the minor's right to rest. For the duration of the minor's stay in seclusion, they shall be either accompanied or supervised by an educator.

Article 30. Personal and material searches.

1. Personal and material searches shall be carried out with due respect to the person's dignity, privacy and basic rights.
2. Personal searches and body searches on minors shall be done by the essential personnel, which shall require at least two of the centre's professionals of the same sex as the minor. Where involving any body exposure, it shall be carried out at an appropriate place, with no other minors present and preserving the minor's privacy as much as possible.

Electronic means shall be preferred.

3. The centre's personnel may carry out a search in the minor's belongings and remove any objects of illegal sources, potentially harmful to them, to others or to the centre's facilities, and unauthorised for under aged users in their possession. Minors must be previously advised of any material searches that may not be carried out in their presence.

Article 31. Disciplinary regime.

1. These centre's disciplinary regime shall always be based on the its socio-educational project and each minor's individualised project, which the minor will be informed of.
2. The disciplinary procedure shall be used as a last resort, and conflict resolution and educational interaction restorative systems shall be prioritised. Restrictions equal or exceeding those provided in the legislation regulating minor's criminal liability may not be established.
3. Under no circumstance may measures contained in Articles 27 to 30 be used for disciplinary purposes.
4. Autonomous legislation on the disciplinary regime must suffice and adjust to the principles in the Constitution, this Act and Title IX of the Public Administrations' Regulations and Common Administrative Procedures Act 30/1992, dated November 26, thus ensuring legal assistance by an independent attorney for the minor, respecting minors' dignity and rights at all times, which they may in no case be deprived of.

Article 32. Supervision and control.

Regardless of centre inspections that the ombudsman, equivalent autonomous institutions and the prosecuting authority may carry out, the measure to admit a minor in the specific protection centre shall be reviewed at least quarterly by the public entity, which shall be under an obligation to submit, with the same frequency, the corresponding reasoned follow-up report including entries in the Incident Log to the competent judicial body authorising the admission and the prosecuting authority.

For the purposes of inspections and reports mentioned in the above paragraph, the Incident Log must observe the implementation of medium-level safety measures set forth in the current legislation in terms of personal data protection regarding the data assignee.

Article 33. Medication administration.

1. Medication administration to minors, where necessary for their health, must take place in accordance with professional healthcare practice, respecting dispositions on informed consent and under the terms and conditions provided in basic Act 41/2002, dated November 14, by with patient's autonomy and their rights and duties regarding clinical information and documentation are regulated.

2. In any case, prescribing medication subject to prescription, monitoring its correct administration and progress of the treatment must be done by an authorised medical practitioner. For these purposes, medical records of each minor will be kept.

Article 34. Visiting arrangements and exit permits.

1. Family and other related persons visitations may only be limited or discontinued in the minor's interest by the Centre Manager, with reason, where their educational treatment so recommends and under the terms of the admission court approval.

Visitation rights may not be limited by the implementation of disciplinary measures.

2. Managers at protection centres specific to minors with behavioural issues may limit or cancel outings of people admitted to them, always in the minor's best interest and with reason, where their educational treatment so recommends and under the terms of the admission court approval.

3. Measures restricting visiting arrangements and exit permits must be advised to the interested parties, the minor and the prosecuting authority, in accordance with applicable legislations.

Said measures may be appealed by the prosecuting authority and by the minor - whom is guaranteed to receive legal assistance from an independent attorney- before the judicial body responsible for the admission, who shall decide on the matter after receiving a report from the centre and hearing the interested parties, the minor and the prosecuting authority.

Article 35. Communications regime for minors.

1. Minors admitted to centres shall have a right to submit complaints confidentially to the prosecuting authority, the competent judicial authority, the ombudsman or



equivalent autonomous institutions. Said right may not be limited by the implementation of disciplinary measures.

2. Communications between minors with their families and other related persons shall be free and secret.

Communications may only be limited or discontinued by the Centre Manager in the minor's best interest and with reason, where their educational treatment so recommends and under the terms of the admission court approval. Restriction or discontinuance of the right to communication or to its secrecy shall be taken in accordance with applicable legislation and advised to the interested parties, the minor and the prosecuting authority, who may appeal before the judicial body responsible for the admission, who shall decide on the matter after receiving a report from the centre and hearing the interested parties, the minor and the prosecuting authority.



First additional provision.

Voluntary jurisdiction shall apply in actions that are taken:

1. To adopt measures provided in Article 158 of the Civil Code.
2. Against decisions declaring neglect, acceptance of custodianship by an act of law, and adequacy of adoption applicants.
3. For any other claims against decisions by public entities arising in relation to the exercise of their functions in terms of custodianship or guardianship of minors.

In the above-mentioned procedure, appeals shall be accepted for one of the purposes only at all events.

Proceedings through regular legal course shall always be exempt.

Second additional provision.

In order to enter adoptions formalised abroad in the Spanish Register, the Registrar shall assess the concurrence of requirements in Article 9.5 of the Civil Code.

Third additional provision.

Except for declarations of incapacitation and prodigality, all other legal actions provided in Titles IX and X of Volume I of the Civil Code shall adjust to the procedure provided for voluntary jurisdiction, with the following specifications:

1. Both the Judge and the prosecuting authority shall act ex officio in the interest of the minor or incapacitated person, taking and proposing such measures, diligences and tests as they see fit. They shall make up for private persons' passiveness and advise them of their rights and the way to remedy any deficiencies in their applications.
2. The intervention of an attorney or solicitor shall not be necessary.
3. Opposition by any interested party shall be covered in the same proceeding, rather than turning it into a contested procedure.

Single transitional provision.

Procedures beginning prior to this Act coming into force shall be governed by the former regulation.

Single repealing provision.

The Decree dated July 2 1948 by which the consolidated text of the Legislation on Protection of Children and Young People and any rules opposing to this Act are hereby revoked.

First final provision.

Article 9.4 of the Civil Code should read as follows:

“The nature and contents of parentage, including adoption parentage, and the parent-child relationship shall be governed by the child's personal Law, and, should it be impossible to determine it, it shall be governed by their habitual residence”.

**Second final provision.**

The third, fourth and fifth paragraphs of Article 9.5 of the Civil Code should read as follows:

“For the purposes of formalising adoptions, Spanish Consuls shall have the same powers as the Judge, provided the adopter is Spanish and the adopted child or young person resides in the consular district. The public entity corresponding to the last place of residence of the adopter in Spain shall prepare the previous proposal. In the event the adopter has not had a place of residence in Spain in the last two years, the previous proposal shall not be necessary, but the Consul may obtain sufficient reports to assess the adequacy from the authorities in their place of residence.

In adoptions formalised by a competent foreign authority, the adopted child or young person's Law shall govern in terms of capacity and consents required. Consents required by said Law may be provided to an authority in the country where formalisation started, or, subsequently, to any other competent authority. Where appropriate, in order to adopt a Spanish minor, consent of the public entity corresponding to their last place of residence in Spain shall be required.

Any adoption formalised abroad by a Spanish adopter shall not be recognised as such in Spain if its effects do not match those provided by the Spanish legislation. Neither shall it be recognised as long as the competent public entity has not declared the adopter's adequacy, should the latter be Spanish and registered as a Spanish resident at the time of the adoption”.

Third final provision.

Article 149 of the Civil Code should read as follows:

“The person under an obligation to provide food may choose to meet this either by paying the set child support or by receiving and maintaining the person entitled them in their own home.

Said choice shall not be possible if it goes against the cohabitation situation established for the child support payer in the applicable rules or by court decision. It may also be rejected where there is a fair reason or harms the younger support recipient's interest”.

Forth final provision.

Article 158 of the Civil Code should read as follows:

“The Judge, ex officio or at the request of the child, any relative or the prosecuting authority, shall resolve:

1. The appropriate measures to ensure food provision and cover the child's future needs, in case of their parents failing to comply with this obligation.
2. The appropriate dispositions to avoid any harmful disruptions for children in case of change in the holder of guardianship authority.
3. Generally, any other dispositions they may deem necessary, aiming to put the minor out of harm or to prevent any damages to them.



All the above measures must be taken within any civil or criminal proceeding, as well as in a voluntary jurisdiction procedure”.

Fifth final provision.

Article 172 of the Civil Code shall be phrased in the following way:

“1. Public entities within the corresponding region to which protection of any minors is assigned, when establishing that a minor is in a situation of neglect, holds their custody by an act of Law and must take any necessary protection measures for their guardianship, making the prosecuting authority aware of it and legally advising the parents, custodians or guardians within forty-eight hours. Where possible, at the time of notice, they shall be informed in person, clearly and comprehensibly of the reasons giving raise to the Administration’s intervention and any potential effects of the decision made.

A neglect situation shall be that in fact caused by non-compliance or impossible or inadequate exercise of the protection duties set forth by the Law for minor guardianship, where these are deprived from the necessary moral or material assistance.

Acceptance of custody given to the public entity entails the cessation of parental authority or ordinary custody. Nevertheless, any equity instruments executed by the parents or custodians on behalf of the minor which benefit the latter shall remain valid.

2. Where severe circumstances prevent parents or custodians from taking care of the minor, they may request the competent public entity to accept their guardianship for as long as it may be necessary.

Guardianship hand-over shall be registered in writing, putting on the record that the parents or custodians have been informed of the responsibilities they still hold regarding their child, as well as the way in which said guardianship shall be implemented by the Administration.

Any subsequent variation on the way it is implemented shall have a base and be informed to them and the prosecuting authority.

Additionally, the public entity shall accept guardianship when a Judge so resolves in cases where it is legally appropriate.

3. Guardianship accepted at the request of parents or custodians or as a custodianship function by an act of Law shall be done through family or residential placement. Family placement shall be done by the person or persons chosen by the public entity. Residential placement shall be done by the Manager of the centre receiving the minor.

4. The minor’s best interest shall always be sought and reinsertion in their own family and guardianship of their siblings by the same institution or person, unless contrary to said interest, shall always be attempted.

5. Should any serious cohabitation issues arise between the minor and the person or persons charged with their guardianship, either the former or an interested party may request its removal.



6. Resolutions deeming neglect or declaring acceptance of guardianship by an act of Law may be appealed before the civil jurisdiction without making a prior administrative claim”.

Sixth final provision.

Article 173 of the Civil Code should read as follows:

“1. Family placement generates full participation in the family life by the minor and imposes on the receiving person the obligations to look after them, have them in their company, providing food, education and a comprehensive education. Said placement may be done by the person or persons replacing the minor’s family unit or by the person in charge of the acting home.

2. Placement shall be settled in writing with the public entity’s consent -regardless of their having the custody or guardianship or not-, as well as the consent of people receiving the minor and the latter, from the age of twelve. Parents not deprived from parental authority or the custodian, where known, must also give or have given their consent, unless in case of the temporary family placement referred to in point 3 of this Article.

The above-mentioned family placement settlement document shall include the following information:

1. The necessary consents.
2. Modality of placement and its estimated duration.
3. The rights and duties of each party and, specifically:
 - a) The frequency of visiting by the fostered minor’s family.
 - b) The coverage systems for damages caused to the minor or that may be caused to third parties by the public entity.
 - c) Acceptance of living, education and healthcare expenses.
4. The follow-up contents performed by the public entity, depending on the placement purposes, and a commitment to cooperate in said follow-up by the foster family.
5. Financial compensation to be received by the foster person, where appropriate.
6. Should the foster persons act in a professional capacity or the placement take place in an acting home, this shall be expressly noted.
7. Report on the assistance services for the minors.

Said document shall be submitted to the prosecuting authority.

3. Should the parents or custodian fail to consent or oppose to it, placement may only be agreed by the Judge, in the minor’s interest, in accordance with the procedures in the Civil Procedure Act. The public entity’s proposal shall include the same information mentioned in the above number.

Nevertheless, the public entity may agree a temporary family placement in the minor’s interest, which shall survive until a court decision has been made.

Once due diligence has been completed and the file has been closed, the public entity must file the proposal with the Judge immediately and, at any rate, within a maximum of fifteen days.

4. The minor's placement shall end:

1. By court ruling.
2. By the decision of the foster family prior notification to the public entity.
3. At the request of their custodian or parents with parental authority claiming their company.
4. By decision of the public entity holding the minor's custody or guardianship, where deemed necessary in order to safeguard their interest and after hearing the foster family.

A cessation court decision shall be necessary where placement was mandated by the Judge.

5. All placement settlement and cessation actions shall be executed with due reserve".

Seventh final provision.

A new Article 173 bis that reads as follows will be introduced to the Civil Code:

"Article 173 bis.

Family placement may be in the following modalities, depending on its purpose:

1. Simple family placement, which must be temporary, the minor's situation anticipating their reinsertion in their own family or while a more stable protection measure is taken.
2. Permanent family placement, where the minor's age or other circumstances of the minor or their family so recommend, as per communication of child assistance services. In this case, the public entity may request for the Judge to give the foster family any custodianship powers that may facilitate their responsibilities being carried out, at any rate on the basis of the minor's best interest.
3. Pre-adoption family placement, to be settled by the public entity once it has raised proposal to adopt the minor -as per communication of childcare services- with the judicial authority, provided the foster family shows the necessary requirements for adoption, has been selected and has consented to the adoption before the public entity, and as long as the minor is in the correct legal situation to be adopted.

Furthermore, the public entity may settle a pre-adoption family placement if it deems it necessary to set a period for the minor to adjust to the family, prior to filing the adoption proposal. Said period shall be as short as possible and, at all events, may not exceed one year".

**Eighth final provision.**

Article 174.2 of the Civil Code shall be phrased in the following way:

“2. To that end, the public entity shall give immediate notice of new admissions of minors and submit a copy of administrative decisions and settlement documents regarding the formation, amendment or cessation of custodianships, guardianships and placements. Similarly, it shall account for any news of interest in the minor’s circumstances.

The public prosecutor must check the minor’s situation at least half-yearly and shall seek any protection measures they deem necessary with the Judge”.

Ninth final provision.

Article 175.1 of the Civil Code shall be phrased in the following way:

“1. Adoption requires for the adopter to be over the age of twenty-five. In adoption by two spouses, one of them having reached said age shall suffice. At any rate, the adopter must be at least fourteen years older than the adopted minor”.

Tenth final provision.

Article 176 of the Civil Code shall be phrased in the following way:

“1. Adoption is formalised by court decision, which shall always take into account the adopted minor’s interest and the adequacy of the adopter(s) to exercise parental authority.

2. In order to open an adoption file a positive proposal from the public entity on behalf of the adopter(s) said entity may have declared adequate to exercise parental authority shall be necessary. Adequacy declaration may be prior to the proposal.

Nevertheless, no proposal shall be necessary where the adopted minor shows any of the following circumstances:

1. Being an orphan related to the adopter by third degree of kinship or affiliation.
2. Being the child of the adopter’s partner.
3. Having been legally fostered under a pre-adoptive placement for over a year or having been under their custody for said period of time.
4. Being of legal age or an emancipated minor.

3. In the first three cases in the above section, adoption may be formalised, including in the event of the adopter’s death, should they have previously given their consent before a Judge. In these cases, the effects of the court decision shall go back to the date of said consent being given”.

Eleventh final provision.

Article 177 of the Civil Code shall be phrased in the following way:

1. The adopter(s) and the adopted child over the age of twelve must consent to the adoption before a Judge.



2. The following must positively consent to the adoption as per the provisions in the Civil Procedure Act:

1. The adopter's spouse, except for where there is an absolute decree of legal separation or unequivocally established factual separation by mutual agreement.
2. The adopted minor's parents, should the former not be emancipated, and unless the latter have been previously deprived of parental authority by final judgement or are involved in a legal case to be. Said situation may only be assessed in an adversarial judicial proceeding, which may be processed as per the provisions in Article 1.827 of the Civil Procedure Act.

Agreement shall not be necessary where those required to give it are incapable of doing so, which incapability and its reasons shall be included in the court decision settling the adoption.

The mother's agreement may not be given until thirty days have passed from the birth.

3. The following must be simply heard by the Judge:

1. Parents who have not been deprived from parental authority, where their agreement is not necessary for the adoption.
2. The custodian and, where appropriate, the guardian(s).
3. The adopted minor under the age of twelve, should they show sufficient sense.
4. The public entity, in order to communicate the adopter's adequacy, where the adopted minor has been legally adopted by them for over a year.

Twelfth final provision.

The first paragraph of Article 211 of the Civil Code should read as follows:

"In cases of psychiatric disorders, the intermediary for a person incapable of deciding for themselves, even under parental authority, shall require court approval. This shall be prior to their commitment, unless a matter of urgency may make the immediate adoption of the measure necessary, which shall be communicated to the Judge as soon as possible and, at any rate, within twenty-four hours. In any case, commitment of minors shall be at a mental health facility suited to their age and following a report by child assistance services.

It is declared contrary to the constitution, with the effects provided in the legal basis 6, by Judgement of the Constitutional Court 131/2010, dated December 2. Ref. BOE-A-2011-273. (Official State Journal).

Thirteenth final provision.

Article 216 of the Civil Code shall have a second paragraph reading as follows:

"Measures and provisions stipulated in Article 158 of this Code may also be agreed by the Judge, ex officio or at the request of any interested parties, in any of law or fact custodianship or guardianship of minors and incapacitated people, as far as their interest so requires".

**Fourteenth final provision.**

Article 234 of the Civil Code shall have a last paragraph reading as follows:

“Insertion in the custodian’s family life is deemed beneficial to the minor”.

Fifteenth final provision.

Article 247 of the Civil Code should read as follows:

“Those who incur in a legal incapacity case after being referred or act inappropriately in carrying out custodianship due to lack of compliance with duties corresponding to the role or to noticeable incompetence in their exercise, or should serious and frequent coexistence issues arise, shall be removed from custodianship”.

Sixteenth final provision.

Article 248 of the Civil Code should read as follows:

“The Judge, ex officio or at the request of the prosecuting authority, the minor under guardianship or any other interested party, shall order for the custodian to be removed after hearing them, should they appear when summoned. Additionally, the minor under guardianship shall be heard should they have enough sense”.

Seventeenth final provision.

A second paragraph is added to Article 260 of the Civil Code with the following wording:

“Nevertheless, the public entity taking on the minor’s guardianship by an act of Law or carrying it out by court decision shall not need give securities”.

Eighteenth final provision.

1. The Articles of the Civil Code listed below shall read as follows:

Second paragraph of Article 166:

“Parents must gather court approval to reject an inheritance or legacy referred to the child. Should the Judge refuse the application, inheritance may only be accepted with benefit of inventory”.

Second paragraph of Article 185:

“Precepts regulating exercise of guardianship and cases of incapacity, removal and plea by custodians shall apply to the absentee’s dative representatives, as far as they adjust to its special representation”.

Article 271:

“The custodian needs court approval:

1. To commit the minor under custody in a mental health institution, education centre or special education centre.
2. To dispose of or encumber property, business or industrial establishments, previous objects and property values belonging to minor or incapacitated people, to execute

contracts or performs disposal actions subject to registration. Sale of the right to preferential subscription of shares is exempted.

3. To waive rights, as well as to settle or submit matters in which the minor under custody is an interested party to arbitration.

4. To accept any inheritance without benefit of inventory, or to reject it or any donations.

5. To incur extraordinary expense in the assets.

6. To file a claim on behalf of minors under custody, except for urgent matters or those involving small amounts.

7. To transfer assets by lease for a period exceeding six years.

8. To give and take money on loan.

9. To dispose of the assets or rights of the minor under custody free of charge.

10. To transfer credits that the minor under custody may hold against them to third parties or to purchase third-party credits against the minor under custody for a value”.

Article 272:

“Inheritance distribution or division of commonly-owned goods by the custodian shall not require court approval, but they shall require judicial approval once implemented”.

Article 273:

“Before authorising or approving any of the actions included in the two previous articles, the Judge shall hear the prosecuting authority and the minor under custody, should they be over the age of twelve or if it is deemed appropriate, and they shall gather any reports requested or deemed appropriate”.

Article 300:

“In a voluntary jurisdiction procedure, the Judge shall appoint the person they deem most appropriate for this role as defender, either ex officio or at the request of the prosecuting authority, the minor or any person with capacity to stand trial”.

Article 753:

“A testamentary disposition in favour of the testator’s guardian or executor shall not be effective either, except for where done after the accounts have been definitely approved or, in case these do not have to be rendered, after termination of guardianship or curatorship.

However, dispositions made in favour of a guardian or executor being the testator’s ancestor, descendant, brother, sister or spouse, shall be valid”.

Article 996:

“Should the decision to incapacitate due to medical conditions or physical or psychological shortcomings not dispose otherwise, the person under curatorship may accept the inheritance purely and simply or with benefit of inventory with the executor’s assistance”.



Third paragraph of Article 1057:

“The provisions in this article and the preceding article shall be observed albeit there may be any coheirs subject to parental authority or custodianship, or curatorship by prodigality or medical conditions or physical or psychological shortcomings; but the accountant and distributor must make inventory of the inheritance assets mentioning any legal representatives or executors said people may have in these cases”.

Article 1329:

“A non-emancipated minor who is eligible to marry under the Law may enter matrimonial capitulations, but they shall need the parents’ or custodians’ participation and agreement, except for where it is limited to concluding the separation or participation arrangements”.

Article 1330:

“The judicially incapacitated person may only enter matrimonial capitulations with the assistance of their parents, custodian or executor”.

No.1 of Article 1459:

“Any persons acting in a tutelary capacity, the assets of the person(s) under their guardianship or protection”.

No.3 of Article 1700:

“Due to death, bankruptcy, incapacitation or declaration of prodigality of any of the partners, and in the case provided in Article 1.699”.

No.3 of Article 1732:

“Due to death, incapacitation, declaration of prodigality, liquidation or bankruptcy of the principal or chief executive”.

2. The following Articles of the Civil Code are modified:

In Articles 108, 823 and 980, the words “full”, “full”, and “fully”, respectively, are deleted.

In Articles 323 and 324, the words “custodian” and “custodians” are respectively replaced by “executor” and “executors”.

The third paragraph of Article 163 is cut out:

In the first paragraph of Article 171, the words “custodianship shall not be formed, but” are deleted”.

At the end of the last paragraph of this Article 171, the sentence “or curatorship, as appropriate” is added”.

No.1 of Article 234 is replaced by the following:

“To the spouse cohabiting with the minor under custody”.

In Article 852, “and 5” is replaced by “, 5 and 6”.

In Article 855, “and 6” is replaced by “, 5 and 6”; “169” is replaced by “170”, and the last paragraph is deleted.

The second paragraph in Article 992 is deleted and in its third paragraph, now the second, the word “too” is deleted.

A second paragraph is added to Article 1.060 with the following wording:

“The judicial defender appointed to represent a minor or incapacitated person in a distribution process must obtain the Judge’s approval, should they have not resolved otherwise when making the appointment”.

No.2 of Article 1.263 is replaced by the following:

“The incapacitated persons”.

In No. 1 of Article 1.219, the words “without judicial authorisation” replace “without authorisation by the family council”.

In Article 1.338, the words “the minor” are replaced by “the non-emancipated minor”.

In No. 1 of Article 1.393, the words “declared as absent” are replaced by “declared as prodigal, absent”.

Nineteenth final provision.

The Civil Procedure Act is amended in the following terms:

1. The current Articles 1910 and 1918 of the Civil Procedure Act shall become part of the Third Section of Title IV of Volume III entitled “Temporary measures related with family children”.

2. The Second Section of Title IV of Volume III shall be called “Measures related to the return of minors in cases of international abduction” and shall include Articles 1901 to 1909 -both included- with the following contents:

Article 1901

In cases of return of a minor subject to wrongful removal or retention where an international convention applies, the provisions in this Section shall be followed.

Article 1902

The Judge of first instance within whose judicial district the minor subject to wrongful removal or retention is shall be made competent in the case.

Any person, institution or body holding the right to custody of the minor, the central Spanish authority in charge of enforcing duties imposed by the corresponding convention and, in representation of the latter, the person appointed by said authority may seek the procedure.

Actions shall be exercised with the prosecuting authority’s intervention and the interested parties may act under the direction of a counsel.

Conduction of the proceeding shall be taken in preference and take place within six weeks of the date when reinsertion was requested before a Judge.



Article 1903

At the request of the person seeking the procedure or the prosecuting authority, the Judge may take the temporary custody measure provided in the following Section of this Act and any other assurance measure they see fit.

Article 1904

Once the file has been sought through a request accompanied by the required documentation under the corresponding international convention and within twenty-four hours, the Judge shall issue a resolution to demand the person having removed or retained the minor to appear at the court with the minor on a date which shall be decided upon and that may not exceed the three days after it, under penalty of law, and to express:

- a) Whether they voluntarily accept returning the minor with the person, institution or body holding the right to custody; or, otherwise,
- b) They oppose the return by reason of there being any of the causes set forth in the corresponding convention whose text was attached to the request.

Article 1905

Should the requested person not appear at the court, the Judge shall then have available the procedure in default, summoning the interested parties and the prosecuting authority to appear within the following five days at the latest and issuing any temporary measures regarding the minor they deem appropriate.

In the appearance, the requesting party, the prosecuting authority and, where appropriate, the minor separately on their return. The Judge shall resolve by judicial decree whether or not the minor must be returned, taking the minor's interest and the terms of the corresponding convention into account, within the two following days from the date of the appearance.

Article 1906

Should the requested person appear at the court and accept voluntary return of the minor, a record shall be made and the Judge shall agree by decree to concluding the proceeding and returning the minor to the person, institution or body holding the right to custody of the minor, as well as the appropriate matters on costs and expenses.

Article 1907

Should the requested person express their opposition to returning the minor in the first appearance under the protection of causes set forth in the corresponding convention, the provisions in Article 1817 of this Act shall not apply, and the opposition shall be seen before the same Judge by verbal legal procedures. To this end:

- a) All interested parties and the prosecuting authority shall be summoned to the same appearance to explain anything they may deem relevant and, where appropriate, for tests to be run at a subsequent appearance held in accordance with the provisions in Article 730 and related articles of this Act within a non-renewable period of five days from the first appearance.

b) Additionally, after the first appearance, the Judge shall hear, where appropriate, the minor separately on their return and may gather any reports they see fit.

Article 1908

Once appearance has been held and, where appropriate, the relevant tests have been run within the following six days, the Judge shall decide by decree within the following three days, resolving whether or not to proceed to the minor's return, according to their interest and the terms of the convention. Only an appellate procedure can be sought against said decree to one effect, which shall be resolved in a non-renewable twenty-day period.

Article 1909

Should the Judge resolve to return the minor, the decree shall determine the person having removed or retained the minor to pay for the proceeding costs as well as any expenses incurred by the requesting party, including travel expenses and any expenses derived from returning the minor to their country of normal residence prior to removal, which shall be made effective through the procedures stipulated in Article 928 and any related articles in this Act.

In any other cases, the proceeding costs shall be declared *ex officio*".

Twentieth final provision.

The prosecuting authority shall ensure that, on opening a proceeding on claims against decisions by public entities arising in relation to the exercise of their functions in terms of custodianship or guardianship of minors, all actions and incidents affecting the same minor are resolved in the same file. For these purposes, it shall seek the relevant actions provided in procedural legislation before the jurisdictional bodies.

Twenty-first final provision.

1. Sections 3 and 4 of Article 5; section 1 of Article 7; letter c) of section 2 of Article 8; letter a), b), and d) of sections 1 and 2 of Article 10; section 2 of Articles 11, 12, 13, 15, 16, 17, 18, sections 1, 2, and 3 of Article 21, and Article 22 are supplementary legislation to that enacted by the Autonomous Communities with jurisdiction in social assistance matters.

2. Section 3 of Article 10, section 4 of Article 21, Article 23, the first, second, and third additional provisions, the single transitional provision, and the nineteenth and twentieth final provisions are enacted pursuant to the provisions in Article 149.1.2., 5. and 6. of the Constitution.

3. The remaining non-organic precepts of the Act, as well as any reviewed contents of the Civil Code in it, are enacted pursuant to the provisions in Article 149.1.8. of the Constitution and shall be applied subject to regulations enacted by the Autonomous Communities with jurisdiction in matters of Civil Law, Regional Law or Special Law.

**Twenty-second final provision.**

The public entities mentioned in this Act are appointed by the Autonomous Communities and the cities of Ceuta and Melilla, in accordance with their corresponding organisational rules.

Twenty-third final provision.

Article 1; sections 3 and 4 of Article 5; section 1 of Article 7, paragraph c of section 2 of Article 8; 9 bis; 9 ter; 9 quater; 9 quinquies; paragraphs a, b, d, and f of sections 1 and 2, and sections 3, 4 and 5 of Article 10; Articles 11, 12, 13, 14, 15, 16, 17, 18, 19, 19 bis, 20, 20 bis, 21, 21 bis, 22, 22 bis, 22 ter, 22 quater, 22 quinquies, 23 and 24; the first, second and third additional provisions; the transitional provision; the repealing provision; and from the first to the twenty-first and the twenty-fourth final provisions will be considered common law.

All precepts listed in the above paragraph shall be applied according to the provisions of the twenty-first final provision.

Twenty-fourth final provision.

This Act shall enter into force on the thirtieth day following its publication in the “Official State Journal”.

Therefore,

I order all the Spaniards, private citizens and authorities to abide and enforce this Organic Act.

Madrid, January 15, 1996.

JUAN CARLOS R.

The President or the Spanish Government,

FELIPE GONZÁLEZ MÁRQUEZ



GOBIERNO
DE ESPAÑA

MINISTERIO
DE JUSTICIA