

CHILD LABOR: INTERNATIONAL STANDARDS AND ALBANIAN LEGISLATION

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There can be no keener revelation of a society's soul than the way in which it treats its children

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ABSTRACT

Children's Rights are human rights. The law "On protection of the rights of the child" no. 10347/2010, defines the term children as every born person living until the age of 18 years.

Difficult living conditions because of extreme poverty is keeping away from school a considerable number of children worldwide, making them part in the labour market. This phenomenon is of great concern in our society too, which has been noted also by the international work structures and child protection.

Per the detailed study conducted by the International Labour Organization in our country shows that 7.7 percent of children aged 5 to 17 years are now part of the labour force, even in difficult sectors. Protecting the rights of children constitutes one of the most important social protection policies. At the bases of this policies, are reflected the basic principles of the Convention on the Rights of the Child, ratified by Albania in 1992.

This article will be focused on the identification of the current level of child labour in Albania as well as highlighting the international conventions and Albanian legislation on the protection of the rights of children, including child labour.

Based on this analysis we can conclude that Albania is ranked as one of the countries with the highest completion of the legal framework on the rights of children. As guidelines in this prolusion, had been the principles of the best interest of the child, non-discrimination, participation, survival and development. Despite the legal framework and the positive achievements there is still need for improvement of the current situation.

Keywords: *child, child labour, international conventions, Albanian legislation*

JEL Classification: *K31, K33, K38*

1. Introduction

Child labor is an urgent problem in the international plan and is closely linked to the economic difficulties of the developing countries (in which is part Albania), that are requiring a collaboration internationally. The Constitution of the Republic of Albania provides that every child has the right to be protected from violence, abuse, exploitation and use for work, especially under the minimum age for work, which could damage their health, morals, or endanger their life or normal development.

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Economic, social and political changes, population movement from rural to urban areas and emigration, entered the Albanian family into pressure. These political or non-Political reforms caused unemployment, especially among females and males aged 40 -50 years old. Most of them have families and children to maintain the number of whom in rural areas is higher compared to urban areas. Given these facts, the main causes of child labor are poverty, family tradition and lack of education in the difficult areas of the country.

From the observations, so far, children engaged in work, in Albania work as street salesman of cigarettes, lighters and other items, vendor through various vegetable shops or tableware, beggars within or outside of Albania, shoeshine boys, fishermen using various means, car washers, flower vendor and newspaper sellers etc.

2. What is child labor and the factors that cause children to work

Child labor is work that harms a child's welfare and education and prevents his or her development and future living standards. The ILO Convention on the minimum working age (C138) calls for minimum working age be set no lower than the end of compulsory schooling and in any case, not under 15 years of age (or 14 years in developing countries).

“Easy job” it may be permitted for children aged between 13 and 15 years old (or 12 and 14 years in developing countries). The Convention defines the easy job as work that: it is not likely to be harmful to their health or development, and not prejudice their attendance at school, their participation in vocational orientation and training programs approved by the competent authority, or does not affect their capacity to benefit from learning.

Focus on the worst forms of child labor

The ILO Convention on the minimum working age (C138) was approved unanimously by ILO delegates in 1999 and covers all children up to the age of 18. As the title shows, conventions related to certain types of work that children should not perform.

Article 3 defines these worst forms as: a) all forms of slavery or practices like slavery, such as the sale and trafficking of children, slavery to debt and bondage, and forced or compulsory labor, including forced recruitment or forced children into the armed forces. b) the use, procurement or offering of a child for prostitution, production of pornography or pornographic performances, c) the use, procurement or offering of a child for illicit activities, for the production and trafficking of drugs as defined in relevant international treaties, d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Hazardous child labor

Subparagraph (d) of Section 3 describes what is referred to as "hazardous child labor"

The hazardous child labor is work in dangerous conditions or unhealthy that may result in death or injury of a child (sometimes permanent damage) and / or his / her illness (often permanent illness) because of poor security and standards poor health and work organization.

There are many reasons that drive children into work, but the most important factor is poverty. Poor families put their children to work to increase their insufficient income. Poverty is both a cause and consequence of child labor. Poverty and child labor are the main components of "low economic equilibrium" level of family, community and country.

Supportive attitude towards child labor - Parents (teachers and society in general) can see child labor as part of their education, especially when education does not provide economic benefits for

young people. Parents can support child labor to keep children safe in some areas where children may be discriminated against or be subject to violence in schools.

Unfavorable family environment - families with one parent, headed ill or physically disabled, addiction to alcohol or drugs by the parents, parental incompetence and abuse of children put at great risk to engage in work children.

Lack of access to education - direct and indirect costs of education, is often too high for parents to allow attendance by children and / or schools are far away from their home.

Discrimination - minorities or certain communities have less access to education and to the labor market, and therefore it increases the chances that these children perform certain tasks at a young age. Moreover, the division of labor based on gender could force men and women to limit their job prospects to a certain degree that requires no education, but "job" practice of young people, including work at home.

3. The legal and institutional framework

3.1 International Standards

Albania is ranked as one of the countries with the highest completion of the legal framework on the rights of children; this includes obviously, the child labor. While it is well established the institutional structures that are needed to monitor and combat this phenomenon. Albanian legislation aligned with best European and international models.

-Convention of the United Nations "For the Rights of the Child", ratified by the Council of Ministers on 27 February 1992. In this convention is given the definition of what it meant by "child". The Convention defines the obligations to respect the rights of children, starting from the basic principle of "best interests of the child". This Convention and its additional protocols comprise a complete package of standards for the protection and welfare of children.

-European Social Charter, approved by Law nr.8960 dated 24.10.2002, recognizes and guarantees the right of children to benefit from social services. In employment it provides that minors under 18 years of age, which are activated in certain jobs, must undergo to regular medical checks and the employer must provide those of moral and physical hazards that may be encountered during operation. The Charter obliges states parties not to allow children to attend compulsory education, be activated in some work that hinder the full acquisition of such education.

3.1.1 ILO Conventions

Albania has ratified all eight core ILO labour Conventions. Albania has ratified ILO Convention No. 138 on the Minimum Age and Convention, No. 182 on the Worst Forms of Child Labour. However, exploitation of children at work is a severe problem in Albania. Child trafficking or child labour occur in extremely hazardous occupations in agriculture, construction, small shoe and clothing factories and the service sector and many children, many of them of Roma origin, work as shop vendors or beggars. Albania has ratified ILO Convention No. 29, the Forced Labour Convention and Convention No. 105 on the Abolition of Forced Labour. The law prohibits trafficking, forced and compulsory labour, including by children. However, trafficking for forced labour still takes place and it is reported that women and girls are trafficked for commercial sexual exploitation.

3.1.1.1 Child Labour

Albania ratified Convention No. 138 on the Minimum Age in 1998 and Convention No. 182 on the Worst Forms of Child Labour in 2001. The Albanian state provides nine years of tuition-free, compulsory for children aged 6 to 13. However, many children, especially in rural areas, leave school before the end of compulsory education to work with their families. Parents are required to pay for supplies, books and even heaters for some classrooms, making school prohibitively expensive for many families and leaving a growing population of vulnerable, unregistered children at risk of trafficking or exploitation. The law sets the minimum age of employment at 14 years and regulates the amount and type of labour that children under the age of 18 may perform. However, per section 100(2) of the Labour Code young persons from 16 years of age may be employed in difficult or hazardous work, under conditions determined by decree that limit working hours and may regulate working conditions. The ILO CEACR has expressed deep concern at the grave situation of children begging on the streets in Albania, who are particularly exposed to the worst forms of child labour.

3.1.1.2 Forced Labour

Albania ratified Convention No. 29, the Forced Labour Convention, in 1957 and Convention No. 105 on the Abolition of Forced Labour in 1997. The law prohibits forced or compulsory labour, including by children, or trafficking in persons for all purposes. However, the country was a source country for men, women, and children trafficked for the purposes of sexual exploitation and forced labour; including forced begging and agricultural work.

3.2 Albanian Legislation

Legislation in this area includes a wide range of normative acts, which aim to provide special protection to individuals that are categorized as "children". Enriched with several international instruments that set the standard for guaranteeing the "children's rights", this legislation represents a significant effort to uphold these rights. The following reflects a list of the most important acts in this regard, while preserving reasonable reserve, in the following listing does not represent an exhaustive enumeration of all legislation in this area.

- The Constitution of the Republic of Albania, approved by Law 8417 dated 21.10.1998, is the fundamental act that guarantees the protection of children's rights in general. In this act, children are a special category of individuals who enjoy protection and are guaranteed a series of rights. In certain provisions of the Constitution, the role and caring nature of the state appears in attributing a special care to those individuals who are most vulnerable, namely "children", thus affirming the right and a policy with positive effects.²

-Law nr.7850 dated 29.07.1994 "*Civil Code of the Republic of Albania*", provides equal opportunity to every natural person to have civil rights and obligations within the limits set by law, namely to have legal capacity. The child when born alive, enjoys legal capacity from the time of his conception.³ Per this code, legal capacity to act arises every person who has reached the age of 18 and who can make his / her actions to acquire rights and assume civil obligations.

²In Article 54 of the Constitution states that:

1. Children, the young, pregnant women and new mothers have the right to special protection of the state.
2. Children born out of wedlock have the same rights as children born in wedlock.
3. Any child has the right to be protected from violence, abuse, exploitation and use for labor, particularly in the minimum age for child labor, which can harm health or morals, or endanger their life or normal development.

³See Article 2 of the Law nr.7850 dated 29.07.1994 "*Civil Code of the Republic of Albania*".

Legal capacity is given the limited minors (children) who have reached the age of 14, who based on prior consent of the legal representatives can obtain income from their work, to deposit and dispose of them freely.⁴

- Law 7961 dated 12.07.1995 "*Labor Code of the Republic of Albania*". This code provides special protection measures for minors (children), from any work that is likely, be dangerous to their health, damage morale, or interferes with the child's education. The minimum working age is defined 16 years.⁵ For employees under the age of 18 are prohibited night work and acceptance in the job is done only after a complete medical exam, which recognizes as able-bodied, whose expenses are covered by the employer (Article 103). Duration of daily work, employees below the age of 18, is not more than 6 hours a day, 8 hours, which is the normal working time (Article 78). If the employer recruits a worker who has not reached the minimum for working age, the Labor Code provides for sanctions, namely breach of this provision is punishable by a fine up to fifty times of the minimum monthly wage (determined by decision of the Council of Ministers). Pursuant to the Labor Code is adopted decision of Council of Ministers no. 384, dated 20.05.1996, "On the Protection of Minors at Work," which defines the working conditions, the light and difficult jobs, holidays, etc. Per this decision, the working conditions of employees under the age of 18 must be such as not to endanger the health or physical, psychological, moral and social development or to interfere with his education. Minors aged 14 to 16 years of age may work only during school holidays, provided they are employed to do light work inspectorate has issued a work authorization for the employer. At least once a year, minors aged of 14-16 should perform a resting period of 4 weeks free from any school activity and any kind of work. For children aged 16-18 years, who are hired to work difficult or dangerous, notified the labor inspectorate, which controls the enforcement of the criteria of their employment, and whether harm the child's health or not. Duration of work per child can not be more than 8 hours a day and 40 hours a week. The duration of annual holidays is at least 4 weeks. In the case of recruitment of minors up to the age of 18, to participate in cultural, artistic, sports, publicity or be subject to a prior authorization issued by the Labor Inspectorate. Furthermore, per the law "On State Labor Inspectorate", the Inspectorate has the right to inspect regularly the employment of women and children. These rights are applied to all employers, employees, self-employed persons and members of their families, who have businesses in the Republic of Albania, regardless of their nationality.

Regarding weekly rest, for any period of seven days, minors under 18 years old are entitled to a minimum period of two consecutive days, which included Sunday. Minors under 18 years benefit, in the case when the age works longer than 4 hours and a half, a break of at least 30 uninterrupted minutes.

- Law No. 7895 dated 27.01.1995 "*The Criminal Code of the Republic of Albania*", which provides 14 years of age as the age when an individual criminal responsibility⁶, while at the age of 16 individual actions which are contrary to the law, are punishable. Punishment given in judicial decisions with imprisonment for minors should not exceed half the sentence prescribed by law for that offense⁷, and there are times when the court may depart from the imprisonment of

⁴See Article 7 of the Law nr.7850 dated 29.07.1994 "*Civil Code of the Republic of Albania*".

⁵They can be employed minors from the age of 14-16 years, during school holidays in light work that does not harm.

⁶See Article 12 of the Criminal Code.

⁷ Ibid. article 51

minors ordering placing them in "educational institutions"⁸. Physical or psychological abuse by a legal guardian, exploitation of children through the act of begging, or his obligation to work, to earn income or to perform actions that damage its development, is classified in the code as a criminal offense special⁹. In January 2008, the Criminal Code was amended to include parents' exploitation of children for begging as a separate criminal offence because previously, the exploitation of children in the streets of Albania occurred due to the lack of a national mechanism for the protection of children, the poor enforcement of the right to education for all children and the insignificant punishment of child exploiters.

- Law No. 9062 dated 8.05.2003 "*Family Code of the Republic of Albania*", establishes the legal regime of family relations, relations among family members, place the kids occupied, regulating institutes of parental responsibility, adoption and guardianship. This code sanction the important principle of "the best interests of the child", which serves as the cornerstone, requiring the family to content and especially the rights of children. Putting everything on the children is already a postulate of the Family Code.

- Law no.10347 dated 4.11.2010 "*On protection of children's rights*". This law defines the rights and protection that every child enjoys, the responsible mechanisms that guarantee the implementation of effective protection of these rights, and special care for the child.

- Law No. 69/2012 dated 21.06.2012 "*On pre-university education system in the Republic of Albania*". This law stipulates that university education system has meant the formation of everyone, to meet the challenges of the future, be accountable for the family, society and nation. In the activity of the institutions of the system, it is the primary interest of the students, as well as protects and promotes human rights and freedoms in general and children's rights in particular¹⁰.

- Decision of the Council of Ministers No. 265 dated 12.04.2012 "*On the establishment and functioning of the mechanism of the coordination between national authorities responsible for referring cases of children at risk, as well as ways of proceeding*" This decision creates a mechanism working for a variety of structures mainly at local level, to identify, refer and intervene in cases of children at risk.

3.3 Institutional Framework

Protection of children's rights has an extensive overhaul and institutional. These institutions from their preliminary assessment falls easily advisory character look, recommendatory or coordination of most of them and there is no guarantee of specific tasks for the prohibition of child labor. Based on the law no. 10347 "*On Protection of Children's Rights*" the institutional mechanisms for the protection of children's rights, in line with the scope of the exercise of their activity, are organized at central and local levels.

Institutions at the central level:

- National Council for Protection of Child Rights is an advisory ad hoc body established by order of the Prime Minister, with the proposal of the minister in charge of children's rights protection. This body established chaired by the minister who coordinates the issues of child rights protection and has these powers to coordinate national policies to guarantee the rights and child protection in all areas, particularly in justice, social, educational, health and culture; propose to the minister in charge of protecting the rights of the child the key state programs for the rights of

⁸ Ibid. article 52.

⁹ Ibid. article 124/b

¹⁰ See points 1 and 2 of Article 6 of Law No. 69/2012 dated 21.06.2012 "On pre-university education system in the Republic of Albania.

the child protection and guidance of state policies for improving the situation of their treatment; Assess the concrete situation of respect for children's rights in Albania, issued guidance and provided specific recommendations to the State Agency for the Protection of the Rights of the Child and other national authorities responsible in the relevant areas; Analyzes the implementation of state policies and national and regional programs for child protection; Recommends services and programs that are specifically targeted to children and their families, especially those who need emergency protection; Makes proposals and recommendations to improve legislation in the field of child rights protection.

- State Agency for Protection of Child Rights. its mission is to monitor the implementation of Law no. 10 347 dated 4.11.2010 "On Protection of Children's Rights", as well as to ensure, in cooperation with other responsible state authorities and non-profit organizations working in the field of children's rights, the effective implementation of protection of rights children and special care for them.

Institutions at the local level:

-Unit for the Rights of the Child on the county council operates within the administrative structure of the county council and performs the following functions: Monitors and evaluates the realization of children's rights in its jurisdiction; It identifies and coordinates with State Agency for Protection of Child Rights, referral of cases of violations, abuse or abuse of children's rights; cooperate with Child Protection Unit of the municipality / identification, analysis and referral of children at risk, in county territory.

- Unit for child protection in the municipality / commune functions within the administrative structures municipality / commune as a separate unit or a unit charged structures with social issues and has the task to evaluate and monitor the ongoing situation of the children's families risk, until the child is considered "not at risk". Also, this unit is responsible for the identification, protection and referral of children at risk, to help the community awareness on issues related to children's rights, to serve as an information center, where children and families in the municipality / commune. They can be informed or referred to other support services, per their needs and to report periodically to the State Agency for protection of child Rights statistical data that has worked to protect the child in the territory / municipality and information about child protection.

4. Conclusions

Albania has ratified international instruments, which are part of the internal legal system and directly applicable. Although our internal legislation is in line with European and international standards, child labor in the country remains a complex issue. Currently in Albania lacks a unified national database system that can enable identification of cases of child labor and information on generalities or other data on their economic and social situation. No periodic reports on child labor, factors, psychological and social impact to identify the level of the spread of this phenomenon and the latest trends. The state should be to improve the situation of children in Albania, through the establishment of a national reporting system, increasing the level of social assistance provided to families in need as well as reviewing the legal framework aimed at increasing the penalties in the case of child exploitation.

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