

In Defense of the Rights of Children and Adolescents

Performance Protocol of Migration Officials in Relation to Minors in Situations of Vulnerability



CRÉDITOS

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INTRODUCCIÓN

Since the approval of the Convention on the Rights of the Child in 1990, a greater recognition of Minors as subjects of rights has been made possible, and at the same time, the visualization of a series of social problems in which their rights are seriously violated.

The objective of this Protocol is to present / provide / facilitate to the officials of the General Directorate of Migration and Aliens the mechanisms of intervention for the protection of minors, based on the legal instruments from the national and international framework, also, through the systematization of rules and procedures to strengthen the approach of national and foreign minors in any circumstance they are in.

In various forums, the importance of migration officials as key actors in the migratory processes of origin, transit and destination of migrants has been highlighted, since there is a possibility that, as a result of their work, they may interact with unaccompanied minors and/or victims of trafficking or commercial sexual exploitation.

Aware of this, efforts have been made to maintain a constant flow of workshops and training on these issues; however, the need has been detected to generate a document that standardizes the procedures applied to date for the comprehensive care of minors and to guarantee their fundamental rights.

The preparation of this Protocol began in the second half of 2008 with the compilation of the legislation that would make up the Institutional, National and International legal framework, data and reports on the subject maintained by the Commission for Children of the Institution were analyzed, and meetings were held with the main actors to unify criteria on the application and best operational and administrative practices, which were to be harmonized and integrated into this protocol.

As a result of this effort, a practical document for its effective implementation was completed and validated by the Head Offices of: Regional Delegations (air, maritime and land), Regional Directorate, Institutional Planning Unit, Migration Police Management, Apprehension Centers Management, Migration Management and Legal Advisory Department.





1. Framework Referential

1.1. Regulations International

The principles outlined in the International Human Rights Normative Framework are applicable to adults as well as children and adolescents. Children are specifically mentioned in many of the human rights instruments, and these are special in that the norms must be modified or adapted specifically for the protection of the rights that apply specifically to children (Source: UNICEF website http://www.unicef.org/english/crc/index_understanding.html).

It is of utmost importance to know the international instruments for the defense and protection of the Human Rights of minors ratified by Costa Rica, which assume a superior position to the Political Constitution itself. Every time our country signs an international instrument, it is recognizing its content as a priority and has the obligation to respect these norms, in addition it must adapt or modify the internal legislation to avoid the existence of norms contrary to what is established in the international legislation.

For this reason, it is incumbent upon state institutions to take the necessary measures to comply with the commitments acquired at the international level, being the General Directorate of Migration and Alien Affairs a state entity, it is within its competencies to promote, protect and guarantee the fundamental rights of minors.

Among these instruments are:

1.1.1. Universal Declaration of Human Rights of the United Nations :

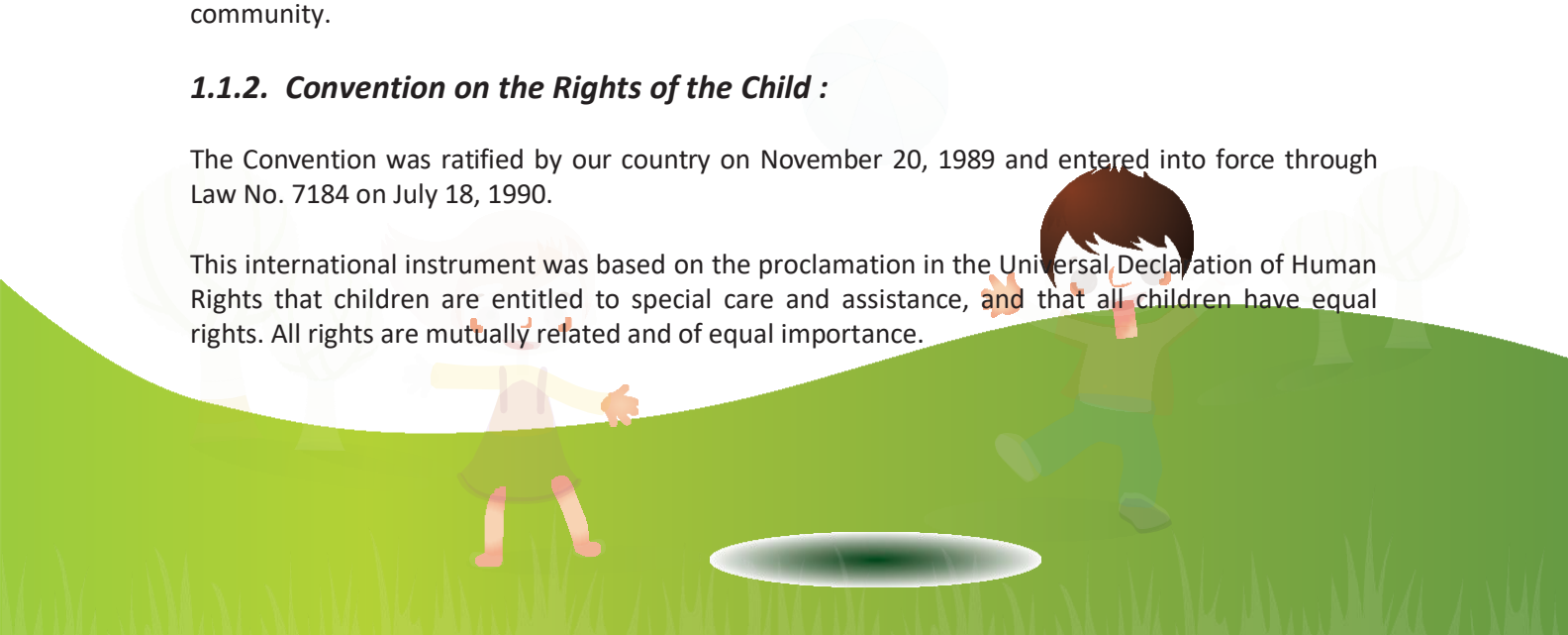
It was adopted by the United Nations General Assembly on December 10, 1948. This instrument describes, identifies and enumerates the precepts of equality necessary and indispensable for the peace and prosperity of world society.

Its importance is due to the fact that it is an instrument of protection for humanity and a standard of concepts and behavior to be followed, both at the individual and global level. The values, concepts and contents established in the Universal Declaration of Human Rights are mostly unknown by our community.

1.1.2. Convention on the Rights of the Child :

The Convention was ratified by our country on November 20, 1989 and entered into force through Law No. 7184 on July 18, 1990.

This international instrument was based on the proclamation in the Universal Declaration of Human Rights that children are entitled to special care and assistance, and that all children have equal rights. All rights are mutually related and of equal importance.



It brings together the human rights of children that were articulated in other international instruments. This Convention articulates the rights in a more complete way and provides a series of guiding principles that shape the fundamental concept we have of childhood. (Source: UNICEF website http://www.unicef.org/spanish/crc/index_understanding.html).

Its articles must be known and respected by the population of the ratifying countries, and it is essential that public officials of the Costa Rican State know and respect the principles and rights of children that the Convention seeks to protect and defend.

Regarding the immigration control carried out by officials of the General Directorate of Migration and Alien Affairs, it is important to know the instrument, highlighting the following articles:

Article 11 states that: "States Parties shall take measures to combat the illicit transfer and non-return of children abroad...". The final paragraph of the article stresses the importance of States Parties drafting and implementing bilateral and multilateral treaties and conventions in order to combat the irregular departure of minors from the country.

The final paragraph of article 11 is a preamble or reflects the motivation for our country to have ratified the conventions and protocols listed below.

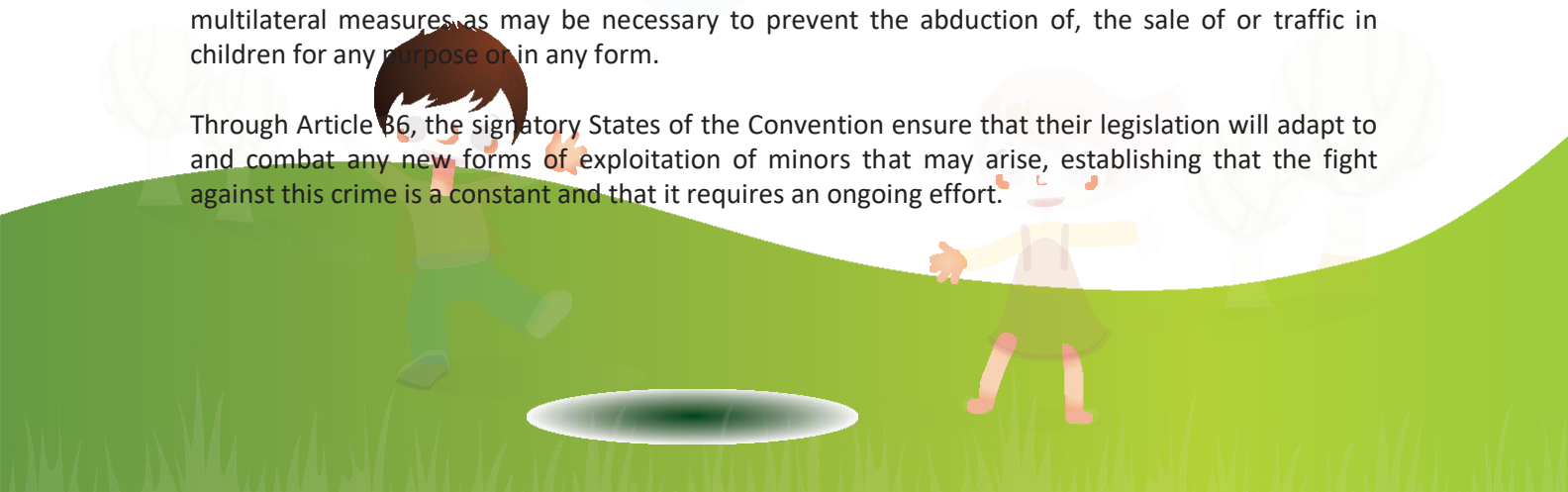
Article 22 stipulates that: "States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights...."

In Article 34, regarding the scope of combating all types of exploitation committed against minors, the Convention determines that: "States Parties undertake to protect the child (referring to children and adolescents) from all forms of sexual exploitation and sexual abuse. The purpose of this regulation is to prevent:

- a) Inciting or coercing a child to engage in any unlawful sexual activity.
- b) Exploitation of children in prostitution or other illegal sexual practices.
- c) Exploitation of the child in pornographic performances or materials."

Article 35 establishes the international obligation of States to take such national, bilateral and multilateral measures as may be necessary to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Through Article 36, the signatory States of the Convention ensure that their legislation will adapt to and combat any new forms of exploitation of minors that may arise, establishing that the fight against this crime is a constant and that it requires an ongoing effort.



The text of the article states that: "States Parties shall protect the child from all other forms of exploitation prejudicial to any aspect of his or her welfare. The text of the article states that: "States Parties shall protect the child from all other forms of exploitation prejudicial to any aspects of the child's welfare".

1.1.3. Inter-American Convention on International Traffic in Minors:

This Convention was ratified by Costa Rica through Law No. 14 of February 14, 2001 and in its first article it establishes that its objective is the "Prevention and Punishment of international trafficking in minors, determining the obligation of the States to adapt their civil and penal regulations to fulfill this task".

The Convention protects the fundamental rights of the minor, its focal point being to ensure the prompt return of the trafficked person to the State of his or her habitual residence or origin, it being understood that the final decision guarantees the best interests of the child or adolescent.

The Convention defines the term International Trafficking in Minors in Article 2, paragraph b) as: "the abduction, removal or retention, or attempted abduction, removal or retention, of a minor for unlawful purposes or by unlawful means".

1.1.4. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol 2001).

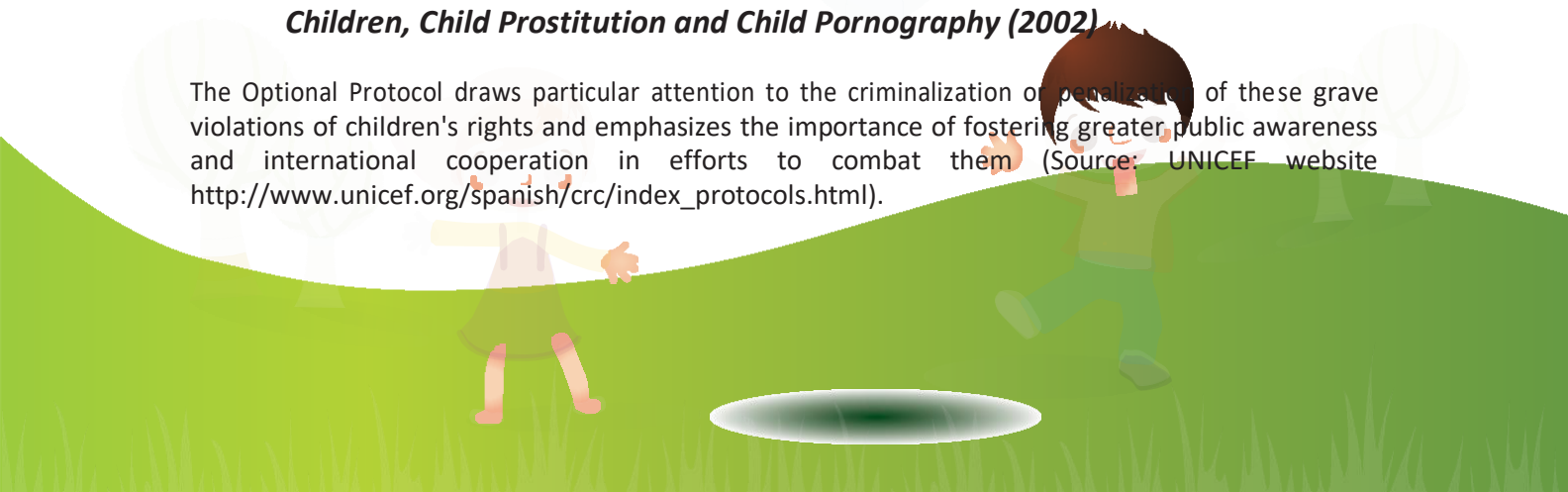
This protocol complements the United Nations Convention against Organized Crime, which has as its main purpose the promotion of international cooperation to prevent and combat transnational organized crime more effectively (art. 1). The Convention and its Protocols establish minimum standards that will serve as a framework for States Parties in the development of domestic legislation consistent both with national needs and with bilateral or multilateral agreements in which each State participates.

It is the most comprehensive, recent and universal instrument addressing all aspects of human trafficking.

The Protocol has three purposes (art. 2): the first is to prevent and combat trafficking in persons, especially women and children; the second is to protect and assist victims, with full respect for their human rights; and the third is to promote international cooperation to achieve these ends.

1.1.5. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2002)

The Optional Protocol draws particular attention to the criminalization or penalization of these grave violations of children's rights and emphasizes the importance of fostering greater public awareness and international cooperation in efforts to combat them (Source: UNICEF website http://www.unicef.org/spanish/crc/index_protocols.html).



The States signatories to the Protocol express their concern about the vulnerability of minors, particularly girls, to sexual exploitation.

1.2. Regulations National

By ratifying the International Conventions, Costa Rica assumes their content as law within our legal system. On the subject of Human Rights, the State acquires the obligation that all its actions will be framed within the path of the defense and protection of the elderly and minors, who live and transit in the country.

It is essential to emphasize that the Costa Rican State recognizes the superiority of human dignity over any situation that arises in daily actions, being fundamental the defense of the human being against any violation or exploitation.

Therefore, the purpose of this section is to provide information on national legislation that is directly related to the issue of children and adolescents, which must be taken into account so that the immigration function we perform is in accordance with the principles of international law and human rights.

1.2.1 Constitution Política

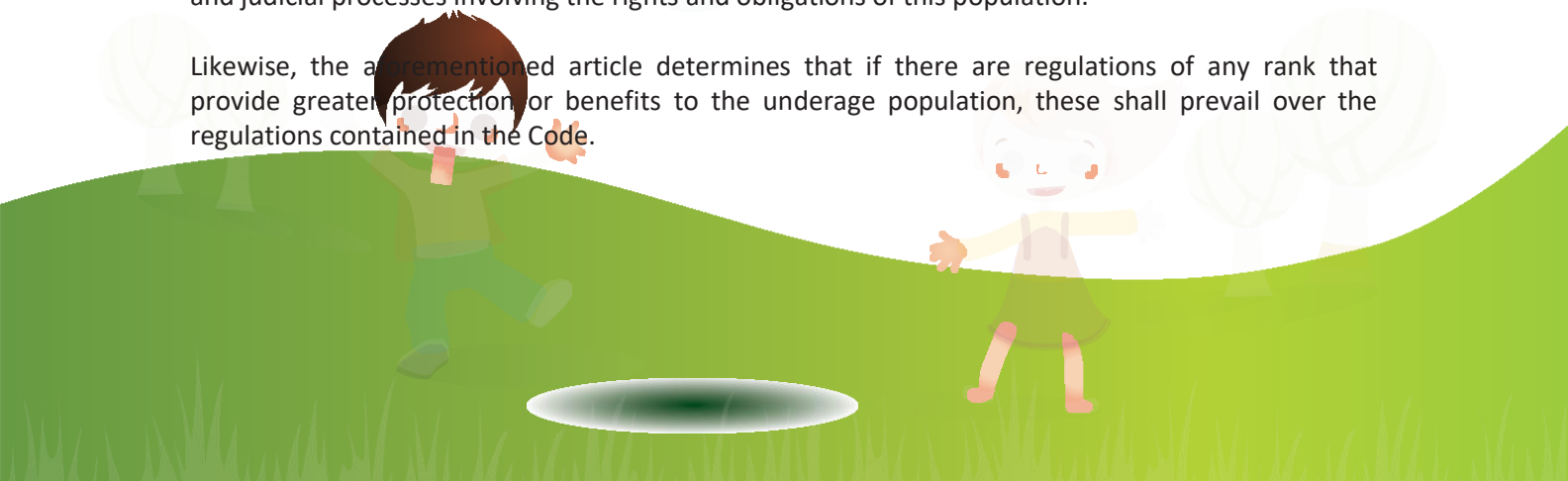
Article 51 of our Magna Carta establishes that: "The family, as a natural element and foundation of society, is entitled to the special protection of the State. Likewise, the mother, the child, the elderly and the sick and helpless shall have the right to such protection". Costa Rica through this article recognizes that our legislation is protective of the human rights of all family members, giving greater importance to people who may be more prone to vulnerabilization, including minors.

Article 55 of the Political Constitution establishes that the National Child Welfare Agency will be in charge of the protection of the mother and the minor with the collaboration of other State institutions, therefore the General Directorate of Immigration and Foreigners is obliged to attend and protect minors approached during the execution of our functions, coordinating with PANI.

Childhood and Adolescence

The Code came into force on February 6, 1998 and its objective, as stated in its first article, is to "constitute the minimum legal framework for the integral protection of the rights of minors. It establishes the fundamental principles of both social or community participation and administrative and judicial processes involving the rights and obligations of this population."

Likewise, the aforementioned article determines that if there are regulations of any rank that provide greater protection or benefits to the underage population, these shall prevail over the regulations contained in the Code.



Article 3 determines that the provisions of the Code are applicable to "...all minors, without distinction of any kind, regardless of ethnicity, culture, gender, language, religion, ideology, nationality or any other condition of their own, of their father, mother, legal representatives or persons in charge". This article contains the Principle of Non-Discrimination which applies to all situations that arise in the approach and care of minors.

In addition, the aforementioned article determines that all the rights and guarantees of children and adolescents are of **public interest and cannot be waived**.

Article 4 establishes that "It shall be a general obligation of the State to adopt administrative, legislative, budgetary and any other type of measures to guarantee the full effectiveness of the fundamental rights of minors", which is the basis for the actions taken by the Institution to empower civil servants in the protection of the rights of minors.

Article 5 stipulates the **Principle of the Best Interests of the Child**, which must guide all state actions and decisions affecting the population, establishing that this principle must be considered in all public or private actions concerning a person under eighteen years of age, guaranteeing respect for their rights in a healthy physical and mental environment, in order to ensure their full personal development.

In situations where the administration must make decisions involving the interests of minors, decisions should be made that least affect the fundamental rights of this part of the population and that provide the most benefits, under no circumstances should their rights be disrespected by relying on the actions of the state.

The **Best Interest** is the statement that should prevail and guide the execution of our functions in the presence of a minor, to determine this principle should be considered:

- a) Its condition as a subject of rights and responsibilities.
- b) Their age, degree of maturity, capacity for discernment and other personal conditions.
- c) The socioeconomic conditions in which it operates.
- d) The correspondence between individual and social interest.

As indicated in Article 4 of the State Policies, in the formulation and implementation of policies, access to public services and their provision, the best interests of minors shall always be kept in mind.

It should be kept in mind that any action or omission contrary to this principle constitutes a discriminatory act that violates the fundamental rights of this population.



Continuing with this topic, according to Article 7 of the Code, the General Directorate as a State institution that is part of the National System of Integral Protection must guarantee respect for the best interests of minors in any public or private decision. The article also determines that the Office of the Ombudsman of the Republic is the entity in charge of overseeing the effective compliance with the obligations assumed by the institutions since the entry into force of the Code.

Regarding the Control of Departures from the Country of Minors, Article 16, amended by Law 8487, states that "the General Directorate of Immigration and Alien Affairs shall be the institution in charge of granting exit permits to minors, Costa Ricans or foreigners, who are legally residing in the country, with the express authorization of those exercising parental authority or legal representation".

Regarding cases in which there is no agreement between those exercising parental authority or legal representation for the authorization of departure, the Code determines that the National Child Welfare Agency shall authorize the permit, applying the internal protocol developed by the Agency.

The General Directorate of Immigration and the National Children's Board shall regulate the form, conditions, requirements and procedures for granting such exit permits and their revocation. It is important to highlight that both the General Directorate of Immigration and the PANI have their respective Regulations for the Authorization of Exit Permits for Minors.

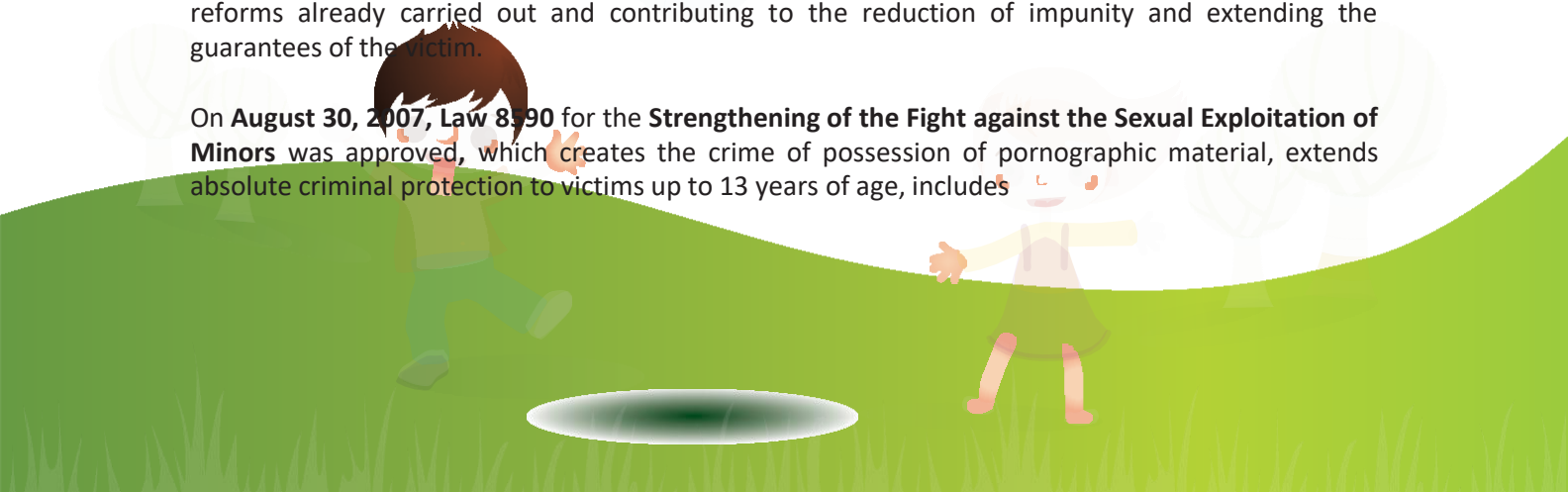
The aforementioned article establishes that without the permission to leave the country, the General Directorate of Immigration will not allow the exit of minors. Minors who have entered the country as non-residents will not require such authorization.

Strengthening the Fight against Sexual Exploitation of Minors:

In 1999, Costa Rica assumed its responsibility and carried out a legal reform through **Law 7899**, known as the Law against **Sexual Exploitation of Minors of August 1999, with the purpose of** criminally repressing harmful conducts that affect the human rights of children and adolescent victims of sexual exploitation. This law reformed the Sexual Crimes section of the Penal Code and one of its fundamental points is that for the first time the conduct of paying or promising to pay with money, economic advantages or of any other nature to persons under 18 years of age to perform sexual activities is repressed as a crime. Reforms were also made to criminal offenses that were obsolete and outdated due to the entry into force of the Code for Children and Adolescents and the development of the Doctrine of Integral Protection.

In 2003, a new project to reform the criminal law was promoted, with the aim of strengthening the reforms already carried out and contributing to the reduction of impunity and extending the guarantees of the victim.

On **August 30, 2007, Law 8390** for the **Strengthening of the Fight against the Sexual Exploitation of Minors** was approved, which creates the crime of possession of pornographic material, extends absolute criminal protection to victims up to 13 years of age, includes



In addition, articles of the Penal Code and the Code of Criminal Procedure were reformed in order to achieve aggravating circumstances (Source: Document prepared by the Subcommittee on Defense and Protection of Conacoes - 2007): Document prepared by the Defense and Protection Subcommittee of Conacoes - 2007).

1.3. Regulations Institutional

1.3.1 Immigration and Alien Law # 8487

The application of the Immigration and Foreigners Law regulates the entry and exit of Costa Ricans and foreigners to the territory of the Republic, as well as the permanence of foreigners in the country, without prejudice, as stated in article one, to the provisions of the Constitution, international treaties and agreements duly ratified and duly approved integration agreements.

As indicated in previous sections, the ratification of International Human Rights Conventions and Protocols obliges the Costa Rican State to carry out its functions within the framework of these rights, not being a requirement for their application that these rights are literally stated in the internal regulations of state institutions.

Immigration legislation covers both adults and minors, and as indicated above, decisions made in relation to SMEs must be based on their best interests.

Article 71 of the aforementioned law determines the power of the immigration authority to prevent the exit from the country of any person who does not comply with the legal requirements, and on the subject of interest, in its paragraph d) establishes that Costa Rican minors or persons who enjoy legal permanence as residents in the country and who do not carry the exit permit issued by the competent authority may not leave the country.

1.3.2 Regulations for the Authorization of Departure from the Country of the Minor Person

The Regulation entered into force on March 9, 2009, thus complying with the provisions of Article 16 of the Childhood and Adolescence Code, since it regulates, as indicated in previous sections, the procedure to be followed to authorize the exit from the country of a Costa Rican minor or foreigner with legal permanence in the country.

The Regulation is a guide for the correct action of the immigration officer at the time of issuing permits to leave the country, authorized by parents or legal representatives of minors, and also includes provisions related to the protection of the rights of children and adolescents, since it cross-cuts the institutional work through clear and defined procedures.

1.3.3. Repatriation Protocol for trafficked children and adolescents

The commitment contained in the Repatriation Protocol was assumed by the Institution when it was signed on October 25, 2006.



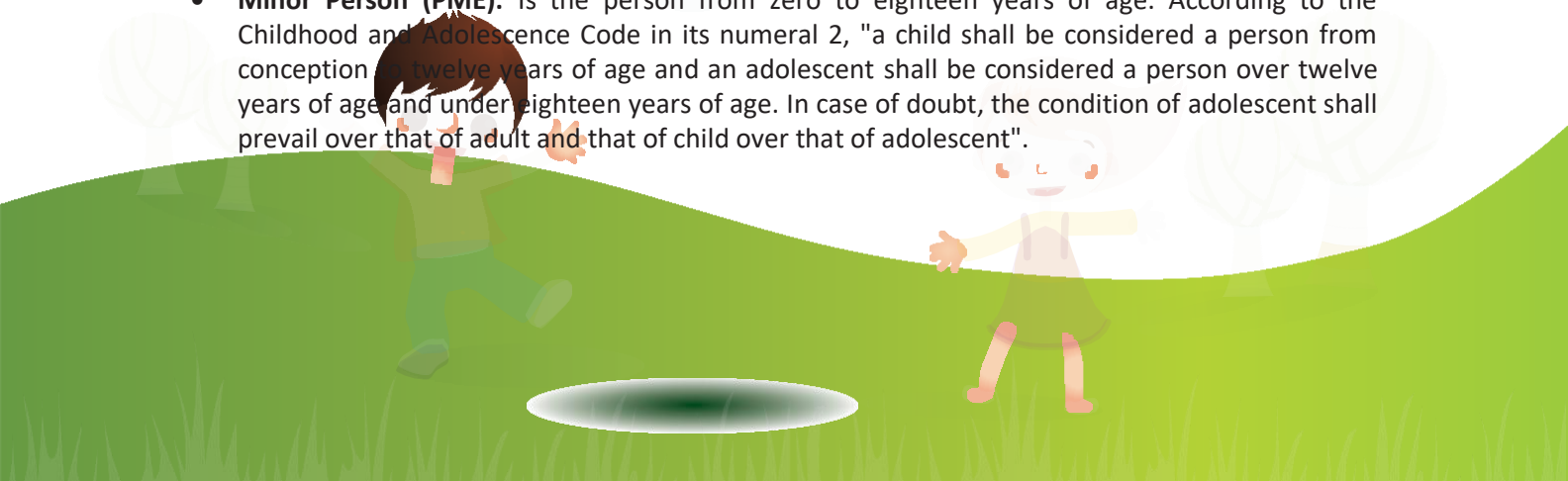
The protocol in question is an instrument used by the authorities to protect SMEs that are victims of the crime of trafficking in persons. Its objective is to provide a procedural guide to public and private institutions involved in repatriation and to define a route to follow in this process.

Through this protocol, each institution is aware of its role in the process of repatriating a minor victim of trafficking to his or her country of origin or habitual residence.

2. Theoretical Framework

2.1. Relevant Concepts:

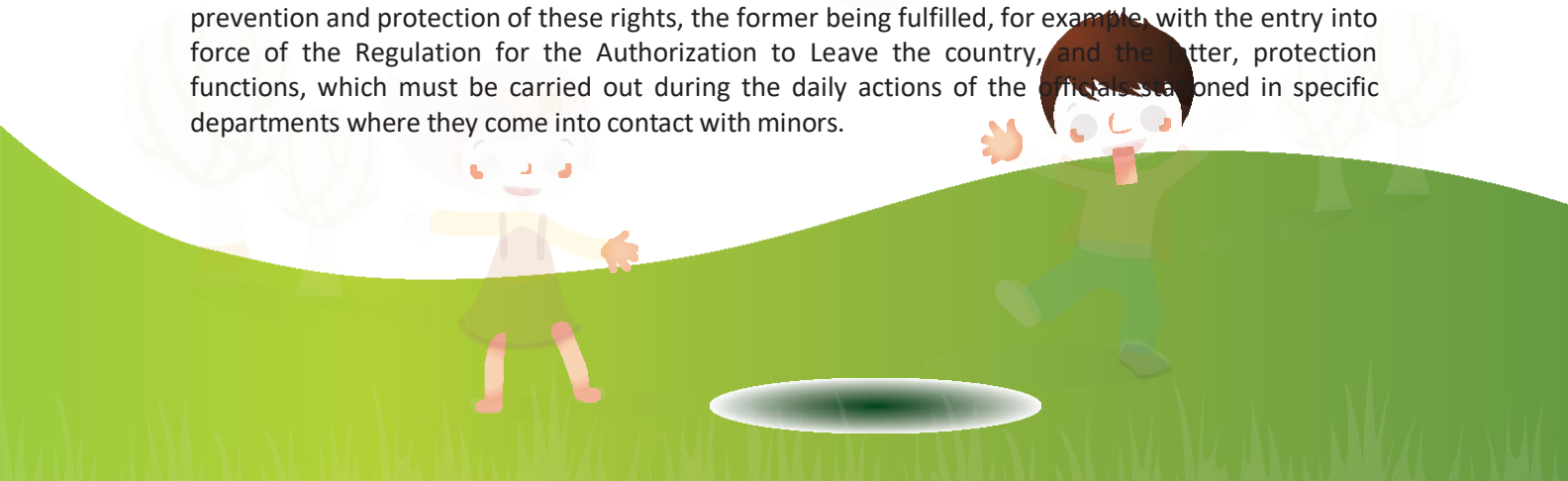
- **Approach:** First contact with the minor.
- **Human rights:** set of powers that recognize and protect the dignity and integrity of each individual without distinction, embodied in national, international and customary instruments.
- **Detection:** involves the identification of the underage person in a state of vulnerability. Active process aimed at confirming a suspicion and assessing a possible situation of human trafficking through the application of indicators. Includes referral to competent entities for identification and immediate attention if necessary.
- **Commercial Sexual Exploitation:** Occurs when a person or group of persons involve children and adolescents in sexual activities of any kind, to satisfy the interests and desires of others or themselves, in exchange for economic remuneration or other types of benefits or royalties. There are two main forms of sexual exploitation: 1) paid sexual relations (misnamed child prostitution), 2) pornography using minors. The first form is presented as sex tourism and trafficking in persons for the purpose of sexual exploitation.
- **Identification:** Process by which the presence of a human trafficking situation is confirmed and the protection of rights is initiated.
- **Best Interest:** Principle of the Paradigm of the Integral Protection of the Rights of Minors. According to article 5 of the Childhood and Adolescence Code: "Any public or private action concerning a person under eighteen years of age must consider his/her best interest, which guarantees the respect of his/her rights in a healthy physical and mental environment, in order to ensure his/her full personal development".
- **Minor Person (PME):** Is the person from zero to eighteen years of age. According to the Childhood and Adolescence Code in its numeral 2, "a child shall be considered a person from conception to twelve years of age and an adolescent shall be considered a person over twelve years of age and under eighteen years of age. In case of doubt, the condition of adolescent shall prevail over that of adult and that of child over that of adolescent".



- **Unaccompanied Minors:** Minors who have been separated from both parents or other relatives and are not in the care of a person of legal age who, by law or custom, is responsible for doing so.
- **Separated Minors:** are those separated from both parents or their former legal guardian or caretaker, but not necessarily from other relatives. This category, then, includes children accompanied by other adults in their family.
- **Reference:** To arrange for the minor to be under the protection of the governing body for children.
- **Refugee:** A person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, because of such fear, unwilling to avail himself/herself of the protection of that country.
- **Revictimization:** Revictimization, or making the minor person the victim again, in the judicial system occurs when he or she is required to submit to multiple interrogations and examinations that affect his or her dignity and sense of privacy.
- **Suspicion:** certain behaviors or indicators that something is occurring are present.
- **Illicit trafficking of persons:** Facilitation, conduction and transportation of a person in a State of which said person is not a national or permanent resident, to enter or leave the country, through places not authorized by the General Directorate, evading the established migratory controls or using false data or documents, in order to obtain, directly or indirectly, a financial or other material benefit. In addition, when lodging, hiding or concealing foreign persons who enter the country or stay illegally in it.
- **Trafficking in minors:** The recruitment and transfer of children and adolescents from one country to another (international) and from one region to another within the same country (national), with or without the consent of their family, with the possibility of deception or coercion, to be used as exotic or low-cost sexual merchandise.

2.2. *Institutional competences in relation to legislation on minors*

The officials of the General Directorate of Immigration, in accordance with the commitments acquired by the country on the subject of the human rights of minors, assume the functions of prevention and protection of these rights, the former being fulfilled, for example, with the entry into force of the Regulation for the Authorization to Leave the country, and the latter, protection functions, which must be carried out during the daily actions of the officials stationed in specific departments where they come into contact with minors.



In accordance with the issue of protection, specifically due to their functions, our officers at border posts, airports, immigration detention centers and in immigration control operations often make the first contact with unaccompanied minors, or possible victims of human trafficking or commercial sexual exploitation, which requires the accompaniment and protection required and established in the legislation on the matter.

Now, regarding the care provided to detected minors, the National Child Welfare Agency, as the governing body for children according to constitutional ordinance, must count on the collaboration of the institutions, especially those such as the General Directorate, which at the time of performing its functions, have easy access to places where minors in a state of vulnerability may be found.

Regarding the duty to report and alert in order to ensure due repression, if a public official in the exercise of his/her functions becomes aware of crimes committed against the human rights of minors, he/she has the obligation to report the cases to the relevant authorities, in accordance with Article 281 of the Code of Criminal Procedure and Articles 117 and 134 of the Code of Childhood and Adolescence.

3. *OPERATIONAL FIELD: Detection, Approach and Intervention of a minor person*

It should be kept in mind that all situations related to Minors are different, so it is not possible to establish a single procedure, the intervention of the immigration officer will depend on each situation, however, basic procedures can be established.

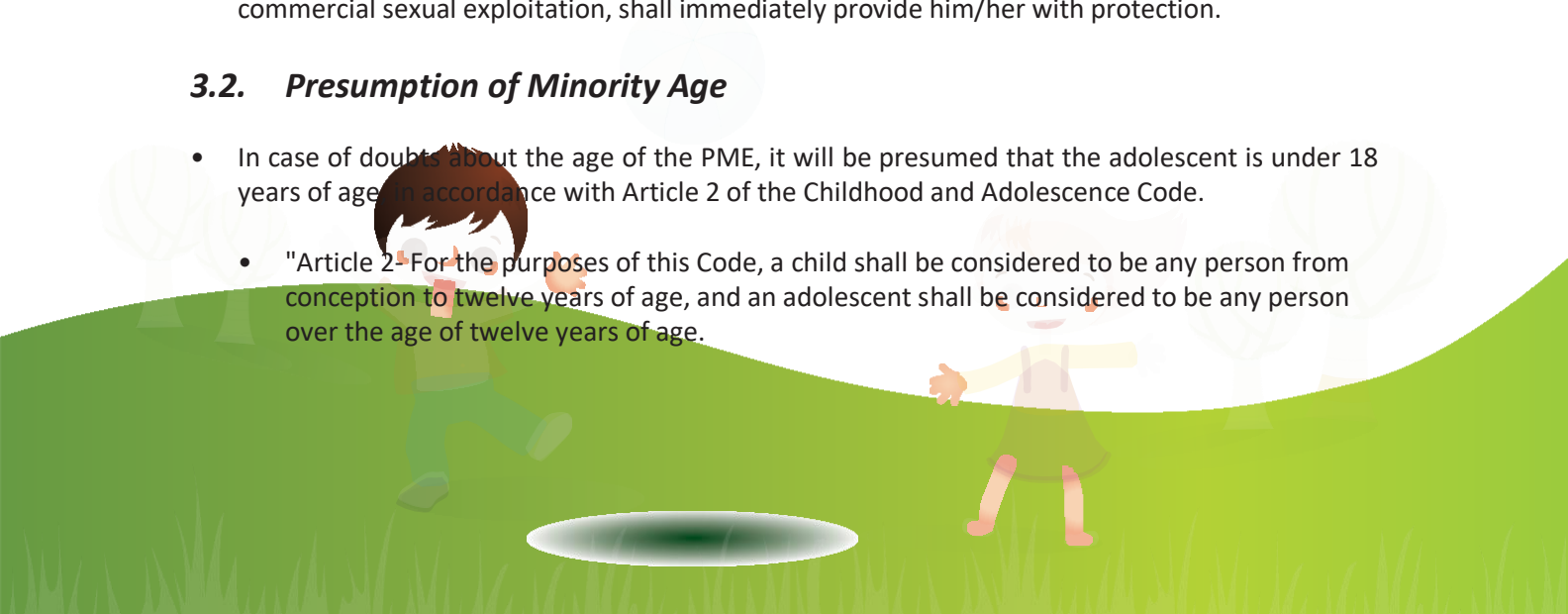
Regardless of whether the immigration work is carried out at an airport, a border post, an immigration detention center or during an immigration operation, the following protocol should be followed:

3.1. *Detection*

- Any immigration official who, in the course of his/her work, is alerted or detects an unaccompanied child or adolescent, or in a possible situation of human trafficking or commercial sexual exploitation, shall immediately provide him/her with protection.

3.2. *Presumption of Minority Age*

- In case of doubts about the age of the PME, it will be presumed that the adolescent is under 18 years of age, in accordance with Article 2 of the Childhood and Adolescence Code.
- "Article 2 For the purposes of this Code, a child shall be considered to be any person from conception to twelve years of age, and an adolescent shall be considered to be any person over the age of twelve years of age.



of twelve years of age and under eighteen years of age. When in doubt, the status of adolescent shall prevail over that of adult and that of child over that of adolescent."

3.3 Approach

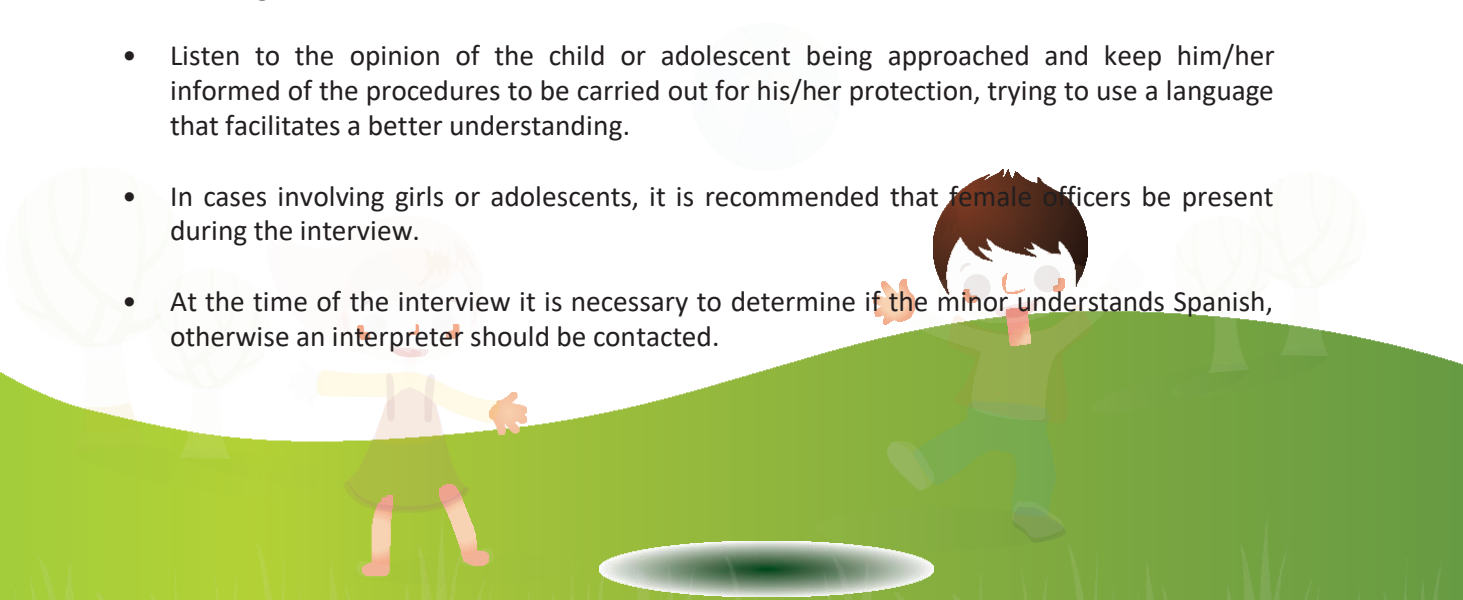
- During the approach, respect for the rights of the minor must be guaranteed at all times, as well as considering his or her best interests and systematically interpreting all of his or her rights and what best favors their fulfillment in any decision.

3.4 Protection

- The safety of the minor must be guaranteed by separating him/her from the situation of risk and keeping him/her under your protection, also covering the basic needs of food and clothing, until the PANI representatives are present.

3.5 Interview informative

- Aspects to consider in the interview, in which as much information as possible should be gathered about the child or adolescent, following the official guide prepared for this purpose.
 - Begin the interview by introducing yourself as a migration official in charge of protecting children and adolescents.
 - Keep in mind that the WEP may be frightened, distrustful, and it is not excluded that she may be under threat, which will make communication difficult and not very fluid. Remember that you are talking to a WEP in a possible risky situation.
 - Make sure that individuals are not detected in the vicinity coercing the PME; experience has shown that there are always people watching and controlling them pretending not to be seen.
 - Keep in mind that the information provided by the PME may provide some relevant information that may lead to the detection of anomalies regarding your admission or discharge.
 - Listen to the opinion of the child or adolescent being approached and keep him/her informed of the procedures to be carried out for his/her protection, trying to use a language that facilitates a better understanding.
 - In cases involving girls or adolescents, it is recommended that female officers be present during the interview.
 - At the time of the interview it is necessary to determine if the minor understands Spanish, otherwise an interpreter should be contacted.



3.6 Reference to the Patronato Nacional de la Childhood

Once the minor has been protected from any danger, the official must immediately contact the local office of the National Child Welfare Agency (Patronato Nacional de la Infancia) that corresponds to his/her jurisdiction, in order to refer the situation so that the PME receives the necessary protection and special attention. The corresponding report, developed according to the form for the registration and referral of cases, should be handed over at the same time.

If you are unable to contact any PANI official, you should immediately contact the **911 Emergency System**, which according to its **internal protocols** will provide containment and guidance on how to handle the situation in the protection of the child or adolescent, while communicating with the competent local PANI office so that a duly trained official can go to the place where the minor is located and initiate the process of special protection.

In the event that the PANI representatives have been contacted and they do not assume the case accordingly, they should send an official letter informing the Regional Director of Migration, who in turn will inform the Executive Presidency of PANI, generating the necessary channels to avoid future situations.

Under no circumstances may the immigration official delegate the communication of the case to PANI and its subsequent referral to officials of another public agency.

3.7. Registrations

A record should be kept of all cases handled involving a PME and of the reports submitted to PANI.

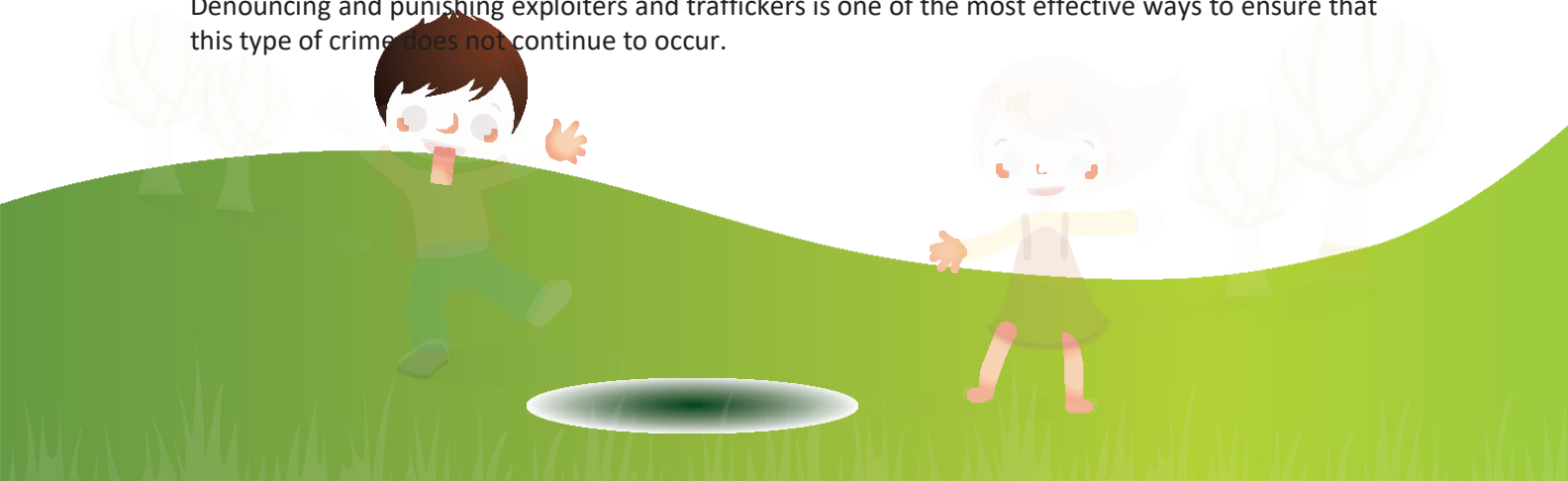
A monthly statistical record of all cases handled in your office must be sent to Institutional Planning.

3.8. Complaint

Report the situation criminally to the appropriate prosecutor's office or court, and keep a record with a copy of the complaints filed. Send a copy of the complaint to the Executive Presidency of PANI for the corresponding follow-up.

As indicated in section 2.2 of this protocol, public officials who, in the exercise of their duties, become aware of the commission of a crime, are obliged to file such a report.

Denouncing and punishing exploiters and traffickers is one of the most effective ways to ensure that this type of crime does not continue to occur.



It is important to clarify that if an immigration official is found to be an accomplice to a crime by keeping silent, allowing or facilitating the occurrence of illegal situations, he/she should be denounced for investigation and the corresponding sanctions should be imposed.

3.9. Coordination interinstitutional

At the request of the competent authority, the DGME will collaborate in the following procedures:

- Issuance of immigration document.
- Permission to Leave the Country.
- Preferential treatment at posts authorized for the international transit of persons.

It is common in border areas for **Costa Rican minors** to be detected by immigration authorities or border police of the neighboring country and referred to immigration authorities, or for foreign minors to be detected by law enforcement officials and referred to immigration authorities.

In both cases, the immigration officer must act in accordance with the provisions indicated in the following section 3.6. of this Protocol, it is understood to make the corresponding reference of the case to Pani.

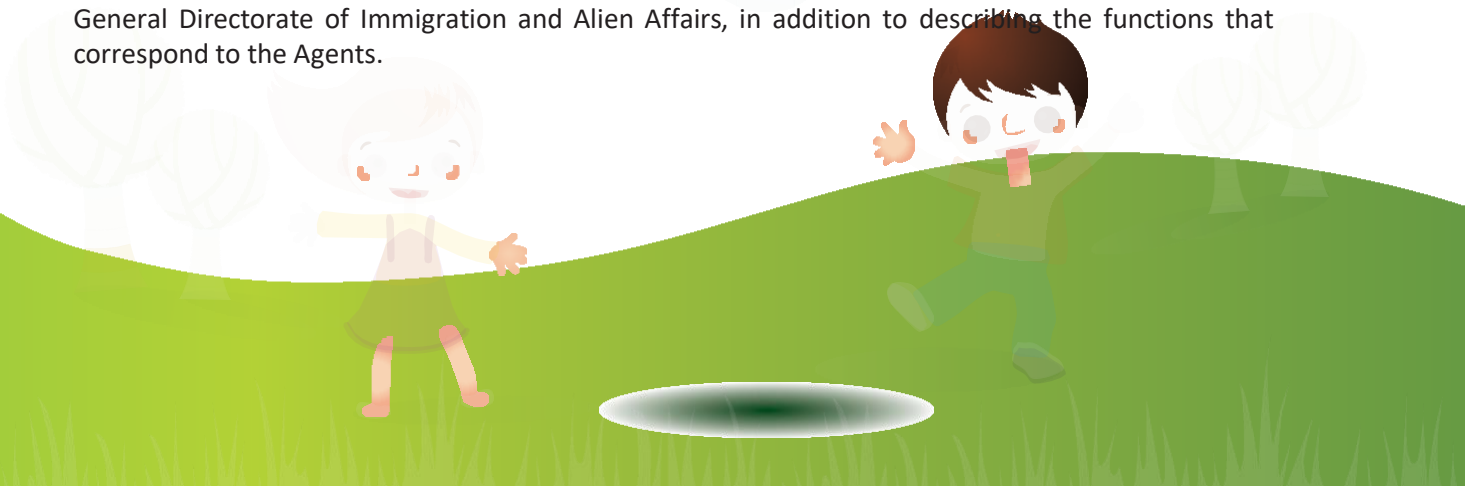
Likewise, when PANI so requires, the DGME will accompany the PME to the place determined by said agency, leaving a record of said accompaniment in the official registry.

4. ADMINISTRATIVE FIELD: Role of Administrative Officials and Migration Agents Abroad

As specified in the introductory part of this protocol, the important role of Migration and Alien Affairs officials in the fight against the eradication of trafficking and/or commercial sexual exploitation of children and adolescents has been highlighted in various forums. They are also key actors in the promotion and defense of the fundamental rights of minors.

Law 8487 establishes the functions of the General Directorate of Immigration and Alien Affairs, specifically in Article 13, each of these functions is listed.

Likewise, Articles 21 and 22 of this law define the consular representatives of Costa Rica as Immigration Agents abroad and are obliged to abide by and comply with the provisions of the General Directorate of Immigration and Alien Affairs, in addition to describing the functions that correspond to the Agents.



4.1. Migratory Services and Alien Affairs

The General Directorate is made up of different Management and Sub-processes, Regional and Sectorial offices, as well as the Immigration Police, in order to comply with the provisions of Article 13 of the General Law on Immigration and Foreigners.

4.1.1. Migratory Services

Within the migratory services we can mention:

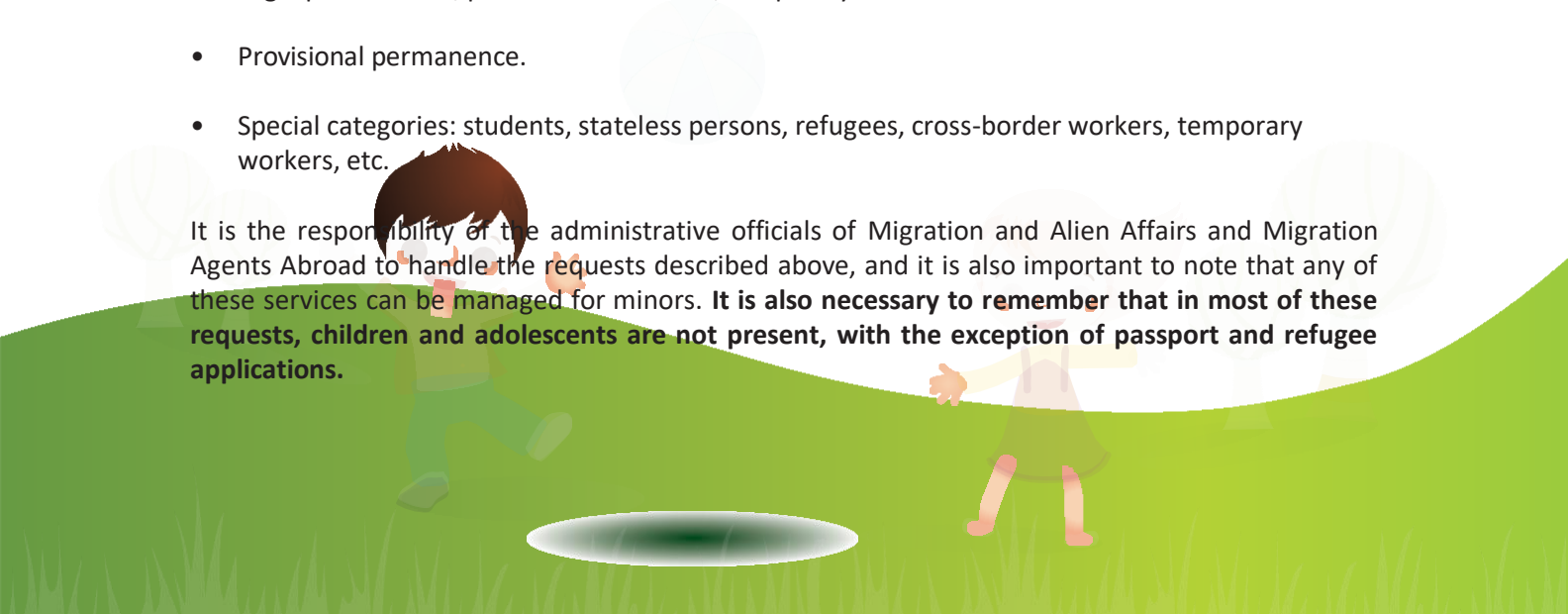
- Passport Applications.
- Passport Revalidations.
- Exit Permits, Alerts, Revocations and Modification of accompanying persons of minors of age.
- Exit and re-entry visas.
- Travel Documents, Identity and Travel Documents, for foreigners.
- Individual and collective safeguards.
- Neighborhood Permits, etc.

4.1.2 Services of Foreigners

With regard to immigration services, the following may be mentioned:

- Entry visas.
- Rejections.
- Legal permanence, permanent residents, temporary residents.
- Provisional permanence.
- Special categories: students, stateless persons, refugees, cross-border workers, temporary workers, etc.

It is the responsibility of the administrative officials of Migration and Alien Affairs and Migration Agents Abroad to handle the requests described above, and it is also important to note that any of these services can be managed for minors. **It is also necessary to remember that in most of these requests, children and adolescents are not present, with the exception of passport and refugee applications.**



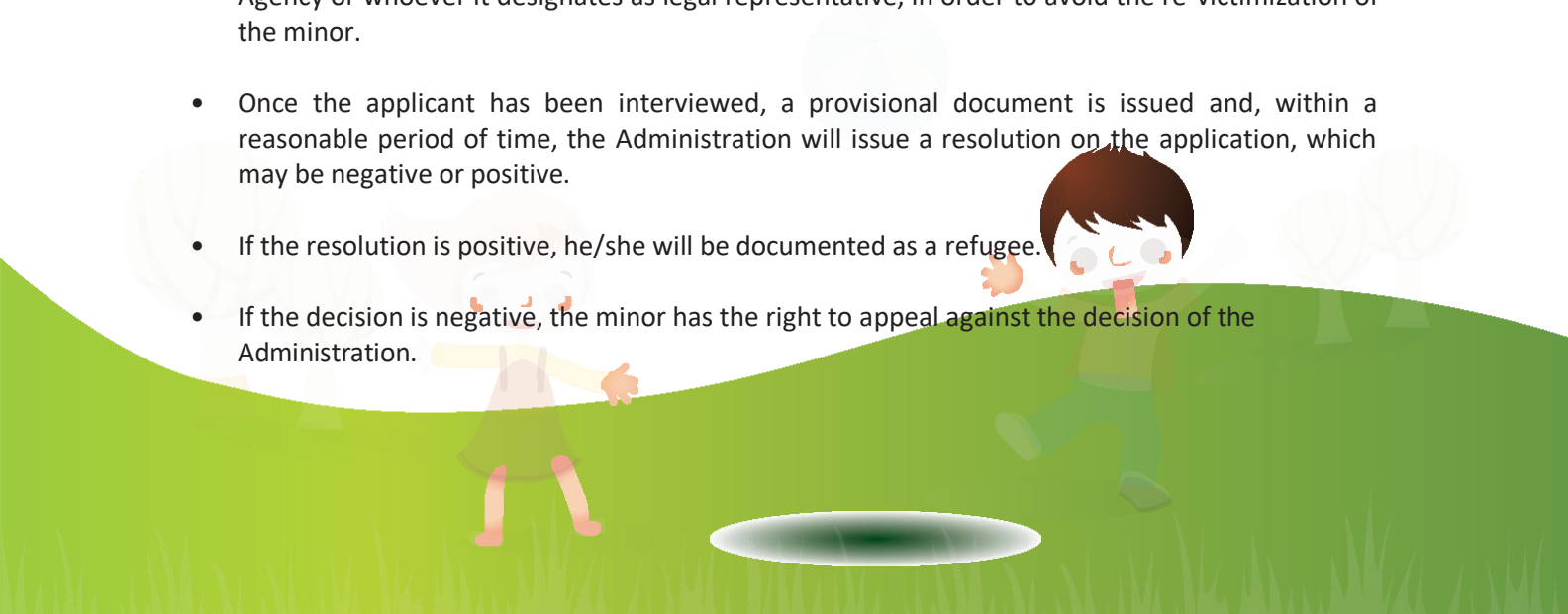
4.1.2.1 Minors Applicants for Refugee Status Refugee status

Minor refugee claimants may apply under two conditions:

- Accompanied
- Unaccompanied

In both cases the following procedure should be applied:

- The Immigration Officer must investigate where the parents are located, with whom they are traveling, verify the existence of documents supporting legal authority (parental authority over the minor).
- The Patronato Nacional de la Infancia is notified of the situation of the minor.
- A file is created with all the documentation.
- If possible, a photograph will be taken of the minor and his/her companions, if any. This photograph should be handled with strict confidentiality.
- Once the representatives of the Patronato Nacional de la Infancia go to the Migration Offices, they proceed to formally hand over the minor. In this act, the Pani will be informed of the date on which the PME must be presented to the Subprocess of Technical Evaluation of the Alien Management.
- Once the minor has been handed over to the National Child Welfare Agency, each office must follow up on the PME in a timely manner. To this end, it must verify the day on which the minor must report to the Alien Management, whether he or she actually showed up, who and in what physical and mental condition he or she showed up.
- The minor must be interviewed by a professional psychologist in accordance with his or her cognitive and volitional capacity, once the request has been made by the National Child Welfare Agency or whoever it designates as legal representative, in order to avoid the re-victimization of the minor.
- Once the applicant has been interviewed, a provisional document is issued and, within a reasonable period of time, the Administration will issue a resolution on the application, which may be negative or positive.
- If the resolution is positive, he/she will be documented as a refugee.
- If the decision is negative, the minor has the right to appeal against the decision of the Administration.



- It is clarified that even if the minor is documented, the work of the minor must be subject to the regulations governing child labor.
- The Patronato Nacional de la Infancia must guarantee that the PME will be provided with access to health, education, food and a decent roof over their heads.

4.2. Actions that correspond to administrative staff members

Considering what is stated in point 4.1., the administrative officials of Migration and Alien Affairs and Migration Agents Abroad, through their functions, can carry out the following actions from the perspective of prevention, detection and protection of the human rights of minors:

4.2.1 Prevention

In the preventive area, we can include all the activities carried out by the administrative functions of the civil servant, aimed at preventing the violation of the human rights of children and adolescents.

To this end, two basic lines of action can be developed:

4.2.1.1. Dissemination of Costa Rica's efforts to combat this problem

The policies, legislation and programs that Costa Rica has in place to combat trafficking and/or commercial sexual exploitation of minors should be known in order to inform users who come to the different Immigration and Alien services.

On multiple occasions, some foreign media have published reports or news referring to the situation of commercial sexual exploitation in Costa Rica, in which allusion has been made to an alleged "tolerance or impunity of these situations". These types of reports have not only damaged our image internationally, but have also had the indirect effect of promoting visits to the country by foreigners interested in sexually exploiting minors.

The General Directorate of Migration and Alien Affairs is responsible for the following actions:

- To paste posters alluding to the right to the protection of children and adolescents.
- Distribute leaflets or informational brochures warning domestic and foreign adults of the existing penalties for those who sexually exploit a minor.

It is also important to point out that consular offices are visited by a large number of nationals and foreigners who come to request various immigration procedures or information about the country.



information, with legends warning that in Costa Rica, human trafficking and commercial sexual exploitation of children and adolescents is a crime punishable by imprisonment.

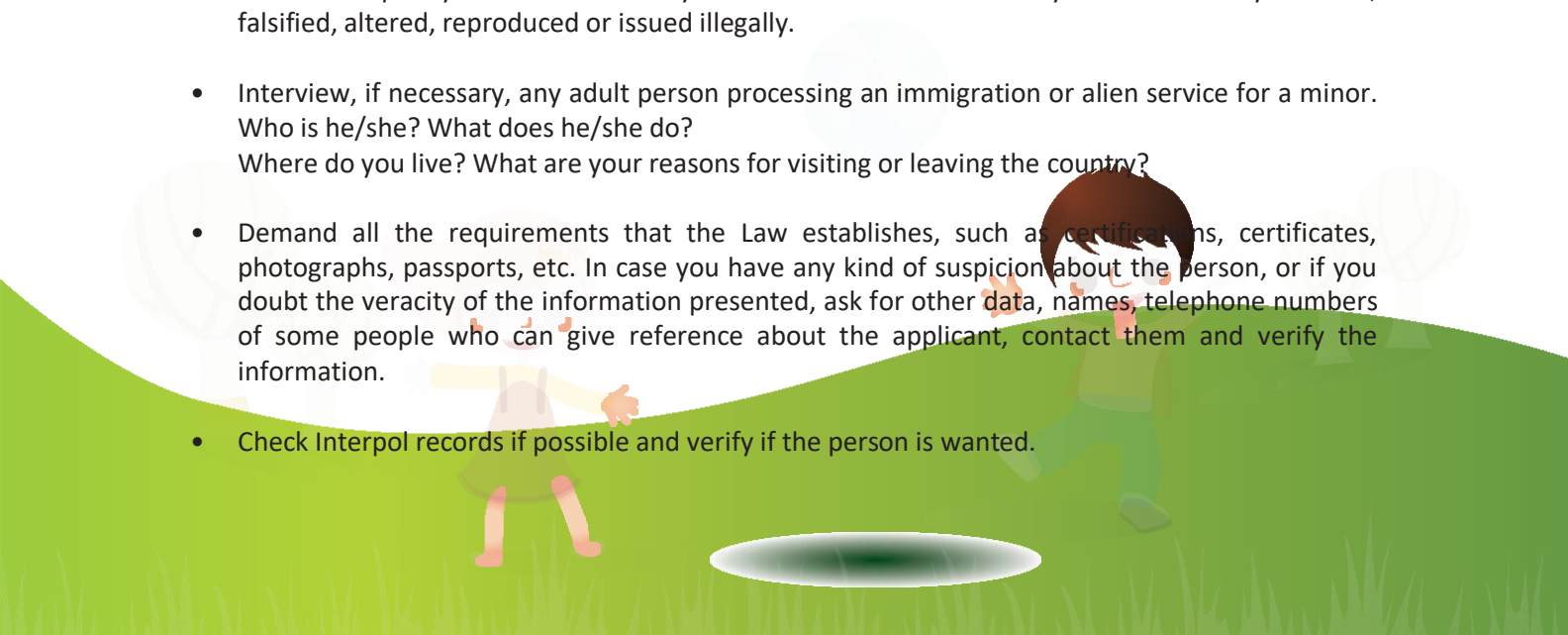
4.2.1.1.1. Incorporation of some controls in the Immigration and Alien services.

Both at the General Directorate of Immigration and Alien Affairs and at the Costa Rican consulates abroad, multiple procedures are carried out as detailed in point 4.1 of this protocol.

The completion and results of this series of procedures are subject to the presentation of the requirements and to the administrative discretion of the officials. What does this mean? It means that you have the power to approve or deny the procedure, request the required documentation and follow the established procedures, as well as to draft the response to be given to the user.

For this reason, at the time of knowing a Migratory procedure of a minor, **it is indispensable** to follow the steps that are enunciated below:

- Keep a vigilant attitude and remember that people who exploit children and adolescents do not have a profile that allows us to identify them easily, but can be of any nationality, profession or social condition.
- Remember that through an effective control of immigration and immigration procedures, we are not harming the human rights of foreign and national adults, but rather we are defending the image of Costa Rica and most importantly, we are protecting the children and adolescents who will be transferred to or from our country or who live in it.
- Review all records and information systems of entry and exit of the adult national or foreign person, who manages an immigration process of a minor, to prevent the entry or exit of pimps, exploiters, traffickers and traffickers.
- Verify the records of missing children and adolescents, in order to make it possible for these children and adolescents to be found.
- Ensure the quality of travel or identity documents issued so that they cannot be easily misused, falsified, altered, reproduced or issued illegally.
- Interview, if necessary, any adult person processing an immigration or alien service for a minor. Who is he/she? What does he/she do?
Where do you live? What are your reasons for visiting or leaving the country?
- Demand all the requirements that the Law establishes, such as certifications, certificates, photographs, passports, etc. In case you have any kind of suspicion about the person, or if you doubt the veracity of the information presented, ask for other data, names, telephone numbers of some people who can give reference about the applicant, contact them and verify the information.
- Check Interpol records if possible and verify if the person is wanted.



4.2.2. Detection

The actions carried out by migration and immigration officials will be aimed at detecting possible situations of sexual exploitation and human trafficking (suspicion), guaranteeing the protection of underage victims and the criminal denunciation of exploiters or traffickers.

Within the process of detecting a situation of sexual exploitation or trafficking in persons, administrative officials, as well as migration agents abroad, must collaborate with the initial phase of suspicion and identification, in order to file a criminal complaint and refer the minor to an institution specializing in children and adolescents that can evaluate him/her and thus confirm the suspicion (detection).

4.2.3. Criminal Complaint

The complaint may be filed by any person who has been a victim or witness of a crime, but in the case of public officials who, in the exercise of their duties, become aware of the commission of a crime, such complaint becomes mandatory.

If a sexual exploiter or trafficker is identified, he/she should immediately file the respective complaint, as indicated in section 3.8 of this protocol, and send a copy of said complaint to the Executive Presidency of PANI for the corresponding follow-up.

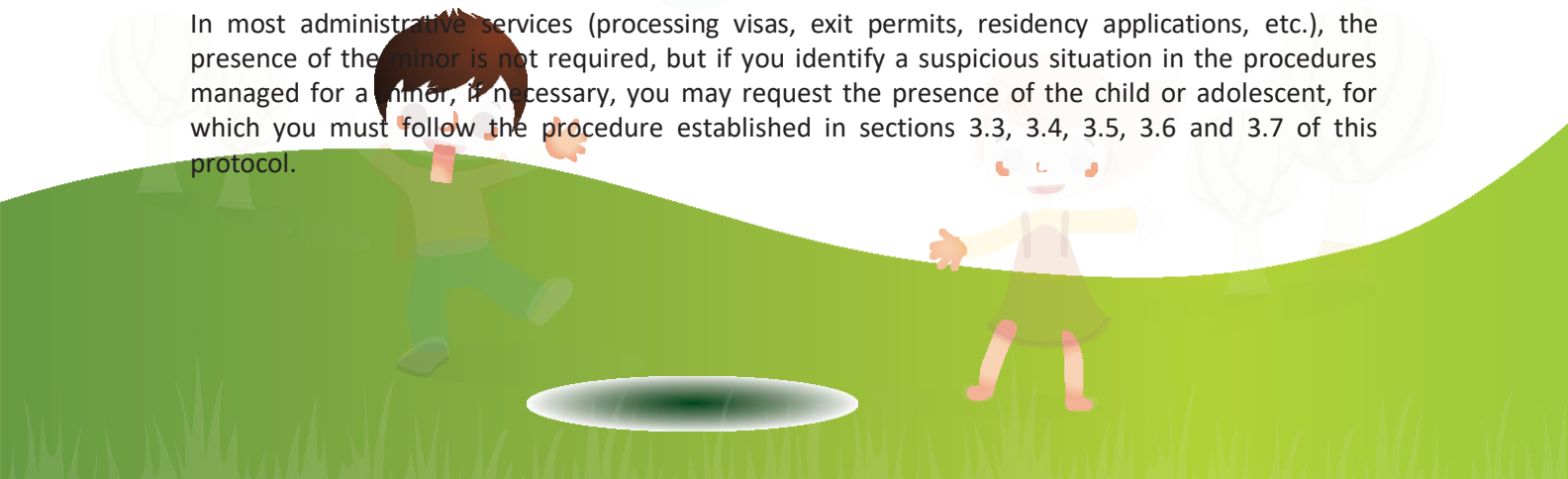
Denouncing and punishing exploiters and traffickers is one of the most effective ways to ensure that this type of crime does not continue to occur.

It is important to clarify that if an immigration official is found to be an accomplice to a crime by keeping silent, allowing or facilitating the occurrence of illegal situations, he/she should be denounced for investigation and the corresponding sanctions should be imposed.

4.2.4 Protection

All minors have the right to be protected by the State against any form of abuse and/or sexual exploitation and, at the same time, that its officials guarantee access to this protection. For this reason, if in the exercise of your functions, you identify that a national or foreign child or adolescent is being sexually exploited or is a victim of trafficking for these purposes, you are obliged to ensure that a leading institution for children and adolescents takes on the case and protects him/her, for which you must proceed in accordance with the provisions of point 3.6 of this protocol.

In most administrative services (processing visas, exit permits, residency applications, etc.), the presence of the minor is not required, but if you identify a suspicious situation in the procedures managed for a minor, if necessary, you may request the presence of the child or adolescent, for which you must follow the procedure established in sections 3.3, 3.4, 3.5, 3.6 and 3.7 of this protocol.



In the case of passport applications, refugee applications or other procedures where a minor is present and you detect a suspicious situation, you should inquire further and, if necessary, interview the minor, following the procedures set out in sections 3.3, 3.4, 3.5, 3.6 and 3.7 of this protocol.

4.2.5. Some considerations for Migration Agents at Exterior

If the minor is a Costa Rican victim and his or her family is in Costa Rica:

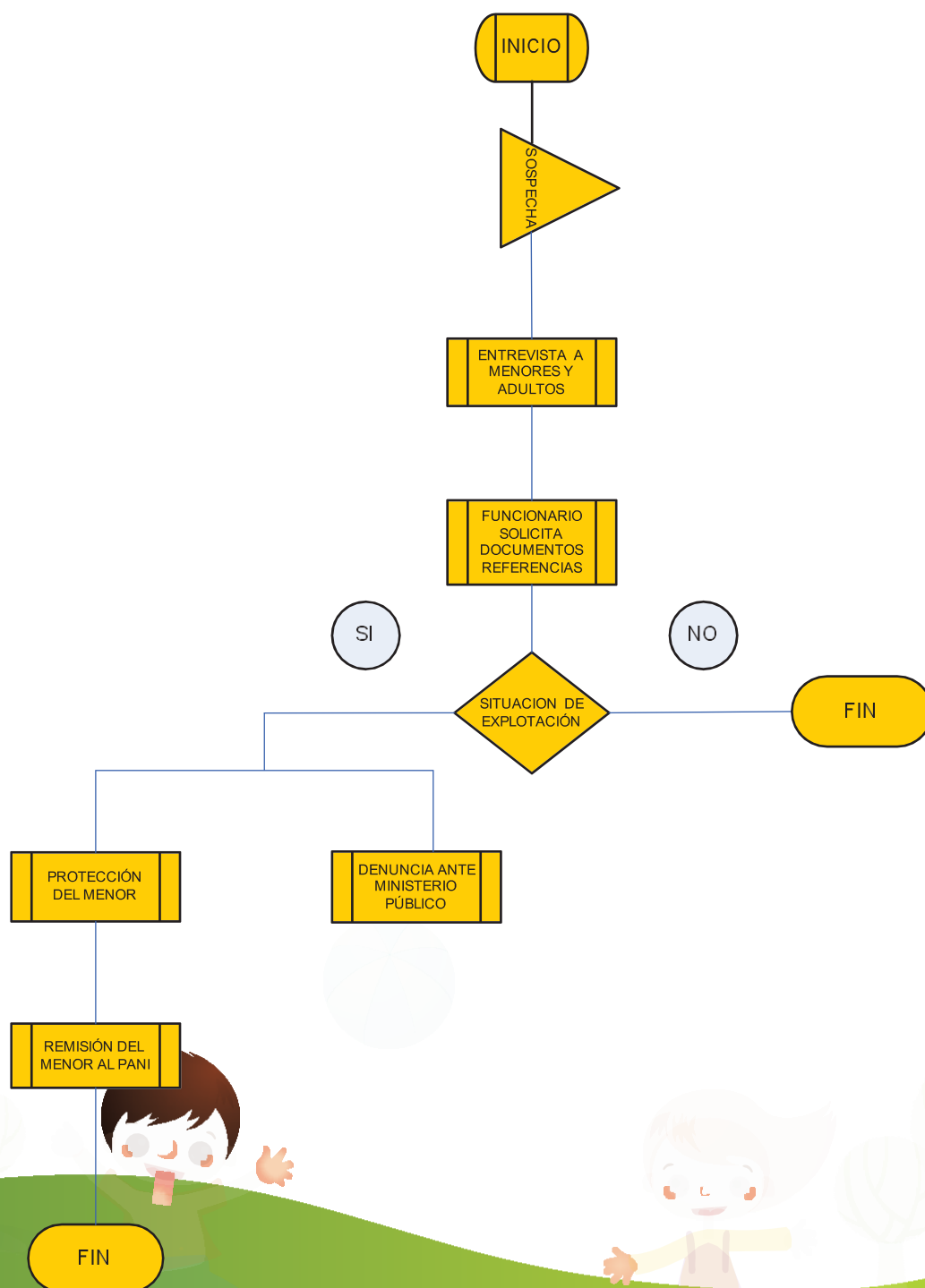
- Communicate the situation to the Human Rights Area of the Ministry of Foreign Affairs and Worship, where you can be informed about the procedures to follow, according to the particularities of the case.
- Contact the Migration offices in the country where you are and in Costa Rica, in case it is necessary to coordinate the repatriation of the minor and the necessary documentation to carry it out.
- If the minor lacks the proper documentation, the necessary travel documents and authorizations must be issued so that he/she can be repatriated.
- Inform the Patronato Nacional de la Infancia in Costa Rica, so that they can investigate the family situation of the child or adolescent and follow up on the case, once the minor is in the country.
- While the repatriation is being processed, you can coordinate a temporary shelter for the minor with the children and adolescents' institution in the country where you are.

We must take into account that any decision or procedure affecting a minor must consider his or her best interests, that is, what is in his or her best interest. Likewise, the procedures must be carried out as soon as possible.

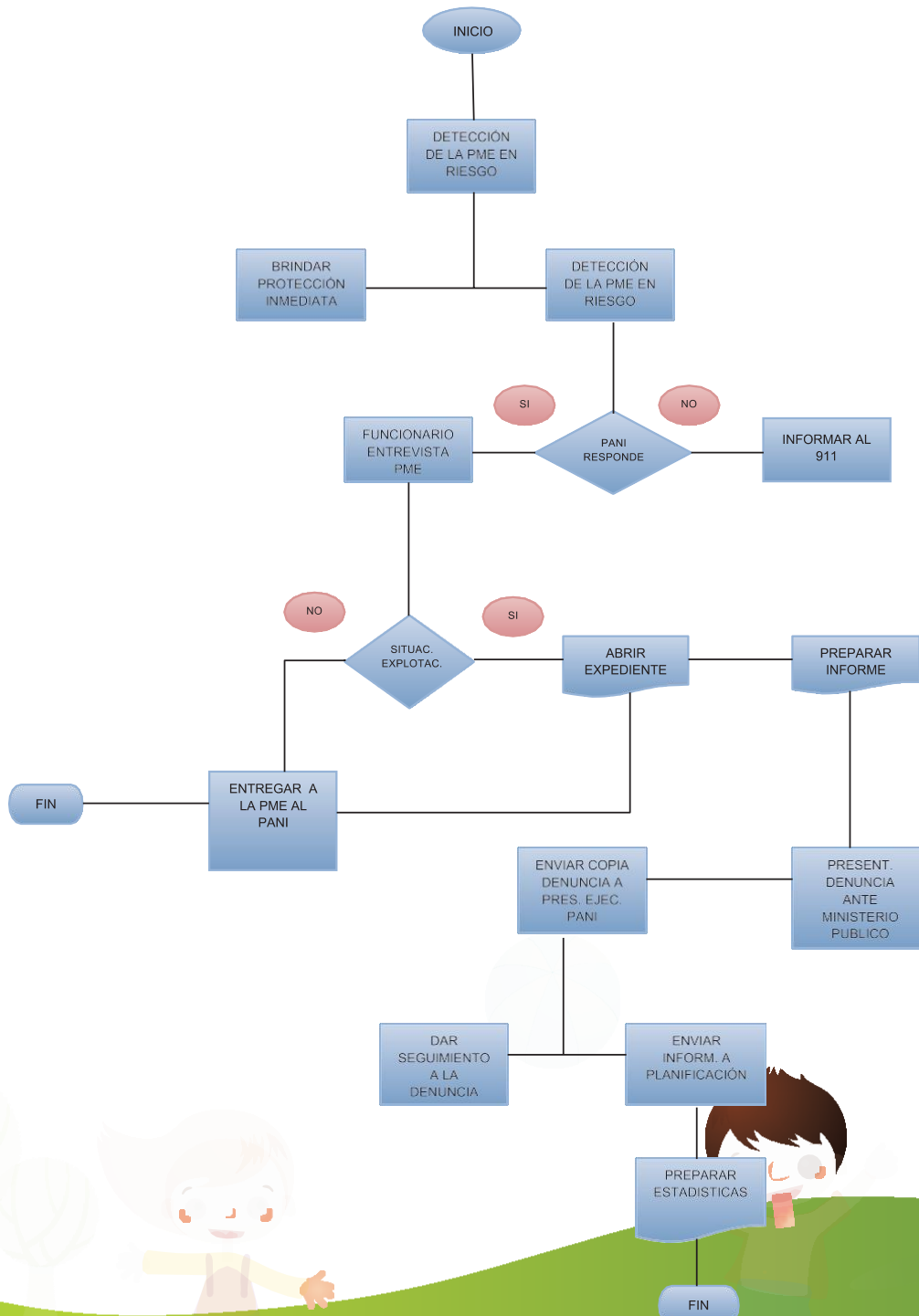


5. Flowcharts

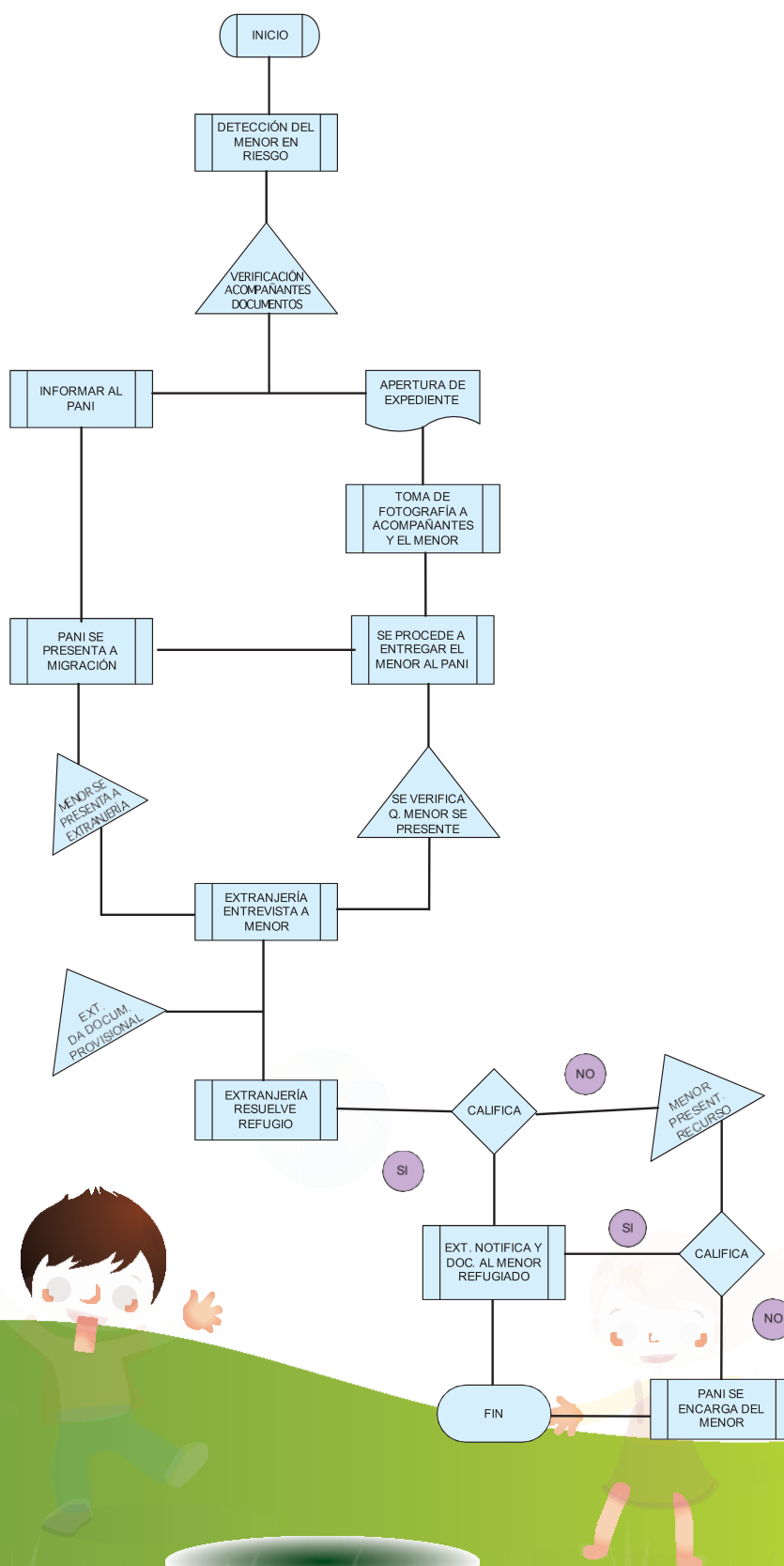
Administrative Process for the Care of Minors in State of Vulnerability



**Detection of Minors at Risk in the Migration Control Process
for Their Due Attention (Unaccompanied, Victims of Trafficking and Commercial Sexual Exploitation)**




Refugee Status Review Process for a Refugee Status of a Minor at Risk



6. Official form for Informational Interview of Minor Person

Interview No. _____

INFORMATIONAL INTERVIEW ON MINORS AT RISK		
NAME	FIRST SURNAME	SECOND SURNAME
NATIONALITY:		DATE OF BIRTH OR APPROXIMATE AGE:
SEX: <input type="radio"/> FEMALE <input type="radio"/> MALE		
FATHER'S FULL NAME:		NATIONALITY:
MOTHER'S FULL NAME:		NATIONALITY:
COUNTRY OF ORIGIN:		PLACE WHERE YOU LIVE:
IS THE FIRST ENTRY INTO THE COUNTRY: <input type="radio"/> YES <input type="radio"/> NO	MODE OF ENTRY TO COSTA RICA:	
TYPE OF PASSPORT:	VALIDITY OF THE PASSPORT:	PASSPORT NUMBER:
FULL NAME AND RELATIONSHIP OF ACCOMPANYING PERSONS:		



WHAT MEANS OF TRANSPORTATION WAS USED TO ENTER THE COUNTRY:

☐ BUS

☐ PRIVATE VEHICLE

☐ TAXI

☐ PLANE

☐ BOAT

☐ RENTED VEHICLE

OTHER SPECIFY: _____

REASONS FOR WHICH HE LEFT HIS COUNTRY:

WHY THEY CHOSE COSTA RICA:

PLACE TO GO IN COSTA RICA:

FULL NAME OF THE PERSON WAITING FOR YOU AND THE RELATIONSHIP:

**OFFICIAL
USE**

**SUBMISSION OF
REQUIREMENTS**

DATE OF THE INTERVIEW:

LOCATION:

NAME OF INTERVIEWER:

INTERVIEW LANGUAGE:

INTERPRETER WAS PROVIDED:

☐ YES

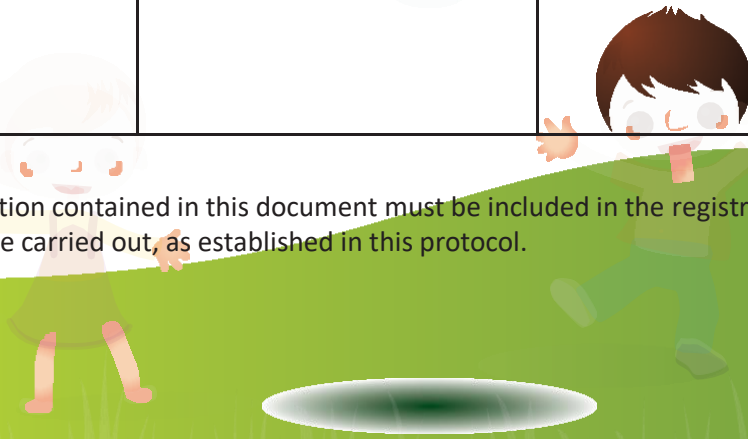
☐ NO

NAME OF THE INTERPRETER:

**Protocol for Action by Migration Officials and Officials in Relation to Minors
in Situations of Vulnerability**

DATE ON WHICH THE MINOR WAS FOUND:	PLACE WHERE THE MINOR WAS FOUND:	
CONDITIONS IN WHICH IT WAS FOUND:		
DOCUMENTS IT CARRIES:		
REMARKS:		
<div style="background-color: black; color: white; padding: 2px 5px; display: inline-block;">DATA IF THE CASE WAS REFERRED:</div>		
REFERENCE TYPE: <div style="display: flex; justify-content: space-around; margin-top: 10px;"><input type="radio"/> NGO<input type="radio"/> INTERNATIONAL ORGANIZATION<input type="radio"/></div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"><input type="radio"/> NEIGHBORING COUNTRY COUNTERPART.<input type="radio"/></div> <div style="margin-top: 5px;">OTHER: _____</div>		
NAME OF THE REFERRING PERSON:	INSTITUTION:	ADDRESS:

NOTE: All the information contained in this document must be included in the registration and reference reports to be carried out, as established in this protocol.



7. Official form for registration and referral cases

Report No. _____

REPORT ON REGISTRATION AND REFERRAL OF CASES OF MINORS DETECTED AND ATTENDED TO		
MIGRATION OFFICE:		
DATA OF THE MINOR		
APPLICANT'S NAME:	FIRST SURNAME:	SECOND SURNAME:
DATE OF BIRTH:	PLACE OF BIRTH:	AGE OF THE MINOR:
SEX: <input type="radio"/> FEMALE <input type="radio"/> MALE		NATIONALITY:
IN THE CASE OF FOREIGN MINORS:		
IMMIGRATION STATUS: <input type="radio"/> REGULAR <input type="radio"/> IRREGULAR		PLACE OF ENTRY TO COSTA RICA:
DATE OF ENTRY TO COSTA RICA:	(Specify if by bus, cab, private car, airplane, shipping vessel, third party facility or other means)	
WHERE HE HAS REMAINED IN COSTA RICA:	HAS PERSONAL TIES IN COSTA RICA: <input type="radio"/> YES <input type="radio"/> NO	

INDICATE WHO THESE LINKS ARE (WRITE DOWN NAMES)

GENERAL INFORMATION:

ACTIVITY IN WHICH THE SME
IS ENGAGED IN COSTA RICA:

PLACE OF RESIDENCE:

PHYSICAL AND EMOTIONAL
HEALTH:

HOW PME WAS DETECTED :

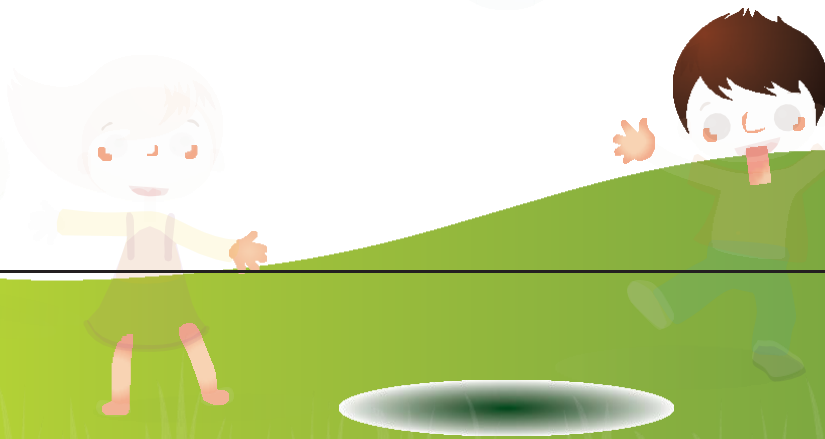
☐ REPORTED ON YOUR OWN TO THE OFFICE. Indicate the date: _____

☐ WAS TAKEN BY ANOTHER POLICE FORCE Indicate which one. Full Name of Officer

☐ WAS DETECTED IN A MIGRATORY OPERATION. where and when: _____

☐ WAS TAUGHT BY A THIRD PARTY. Indicate who and when. _____

If the detection was in an operation, indicate whether the operation was in: farm, brothel, massage parlor, hotels, bars, factories, homes, fishing boats or tourist boats, etc. In both cases indicate: Where the underage person was, what he/she was doing, who he/she was with. Include the first-person account of the alleged victim, indicating the purpose and condition of life in the country; it is important to record everything the person says. Record the names of possible traffickers, pimps, exploiters or traffickers, in this case record all information that the underage persons refer about the people who helped in their transfer to Costa Rica or have lodged them in their home or business and how that contact was made. Include the names of the persons accompanying or waiting for the minor, as well as their addresses if known. Record the name and qualities of the persons holding the passports or documents of the detected underage persons (if that is the case), as well as any other details they wish to include. You may use as many additional sheets as necessary. If you presented yourself to the office, please specify the conditions under which you presented yourself and everything you reported.



NAME OF THE OFFICERS WHO PARTICIPATED IN THE OPERATION:

NAME OF PERSON MAKING THE REPORT	SIGNATURE	DATE
		

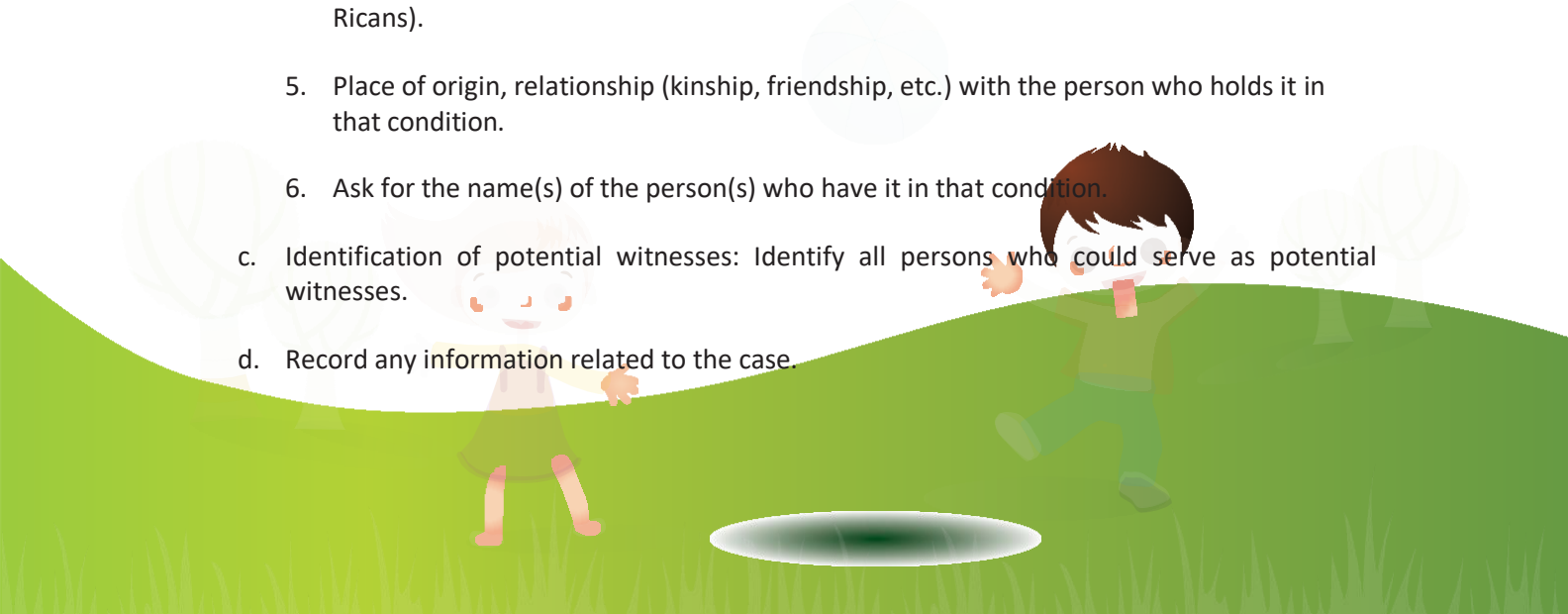
8. Guide for the submission of complaints

PRELIMINARY CONSIDERATIONS

1. Keep in mind that the work of Migration personnel is related to the identification of victims.
2. It is necessary to self-evaluate in order not to allow stereotypes and social prejudices to influence the way in which the victim is approached.
3. Provide humane, respectful, sensitive treatment, avoid comments that may make the victim feel bad.
4. Upon suspicion of a crime, it must be reported **within 6 hours at most**, to the prosecutor on duty or available in the respective jurisdiction, who will receive the functional direction (See Protocol of Proceedings between the Judiciary and the Directorate of Immigration). The PANI must also be notified when the victim is a minor.

OF THE PREPARATION OF THE REPORT:

- a. Take into account what is established in the section **"Minimum Requirements that the report submitted to the Judicial Authority must contain"** contained in the Protocol of Actions between the Judiciary and the Immigration Directorate.
- b. Include the victim's identification data, for this it is necessary to collect information from the victim such as:
 1. Place where the facts occur: name of the place, as well as any other information or reference that serves to locate the place of the facts.
 2. Name and age of victim (look for or ask for identification documents)
 3. Parent's name
 4. If in the educational system, name of the institution, grade and name of a teacher (especially in cases of commercial sexual exploitation and human trafficking of Costa Ricans).
 5. Place of origin, relationship (kinship, friendship, etc.) with the person who holds it in that condition.
 6. Ask for the name(s) of the person(s) who have it in that condition.
- c. Identification of potential witnesses: Identify all persons who could serve as potential witnesses.
- d. Record any information related to the case.



GENERAL RECOMMENDATIONS



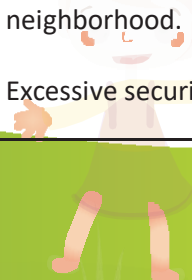
- It should be clear that the function of the immigration police is not to receive complaints, but to collect and record all this information, which should be inserted in a "police report", which should have a clear and simple format.
- They should not interrogate about the details of the facts, that work corresponds to the PROSECUTOR, if it is necessary to record all the information provided by the victim spontaneously.
- Delve into information related to their identification and that of the traffickers or exploiters.

9. Commercial Sexual Exploitation Indicators

- An adult person applies for an immigration or alien status for a child or adolescent, with whom he/she has no family or kinship relationship.
- False documents of the minor or adult are presented.
- The child or adolescent is fearful, distressed or disoriented, in the company of a person who is indifferent to what is happening to him/her.
- The minor is pregnant, has a blow or injury, comes from a poor family, has run away from home, has been excluded from the educational system, works or wanders in the street, uses drugs, reports having suffered abuse, among others.

10. Human Trafficking Indicators

Type of trafficking: Sexual exploitation

Where is it detected?	Who detects?	Indicators of suspicion
Center for the Apprehension of Aliens in Irregular Status 	Center Staff 	On site: Houses and premises with suspicious activity Houses with unusual movement of people in a dwelling house and with little communication with the neighborhood. Excessive security at the premises 

Health Care Centers	CCSS: Medical staff, ATAPs, EBAIS, hospitals Private Physicians Emergency services (Red Cross)	Presence of minors in bars or nightclubs accompanied by adults, generally men. Persons from outside the community associated with commercial sex activities or sexual exploitation Foreign persons who do not carry documents
Communities	Neighborhood Organizations Boards for the Protection of Children and Adolescents (PANI presided) Guardianship Committees National Management Development of the Communities (DINADECO) Police	Persons who do not carry documents but are advised by lawyers or others Persons under custody or permanently accompanied by People with restricted transit and/or in a restricted range of mobilization. Individuals with accounts inconsistent with the activities they are supposed to perform Concentration of women or people of similar ages in the same place.
Operations	Police	Groups of people organized or transferred by third parties.
Costa Rican Consulates in abroad Consulates in Costa Rica	Consular staff	Persons coming from other countries or localities, in sexual exploitation. In person:
Casinos	Audit Unit of casinos	The person comes from a place outside the community and performs activities associated with commercial sex activities, and may be a national or foreigner.
Modeling agencies	Authorities	

Private homes, sometimes called "Clandestinas".	ATAPs	<p>Minors in commercial sexual exploitation, coming from another country or locality. Presents any sexually transmitted infection (STI) or sexual lesions.</p> <p>The person is a foreigner and does not carry an identity document or carries an altered identity document. It can also be a person who does not carry identity documents, but is advised by lawyers or others.</p> <p>The person is constantly guarded, watched or has restricted transit.</p> <p>The person seems afraid to provide information or gives an account that is incongruent with the activities it is supposed to perform.</p>
Bars, night clubs, Hotels, Massage Rooms	Premises personnel Authorities	<p>Minors in commercial sexual exploitation. Presence of pregnancy and/or STIs in minors.</p> <p>In the case of minors in a situation of commercial sexual exploitation, male victims are often people who have been victims of commercial sexual exploitation.</p> <p>are in non-heterosexual sexual diversity (homosexual or transgender).</p>
<p>General: Public Force, Migration (airport, border, transportation), ICT, Municipal Police, OIJ</p> <p>International Organizations IOM, UNHCR (ACAI), UNICEF, NGOs</p>		

Type of trafficking: Labor exploitation

Where is it detected?	Who detects?	Indicators of suspicion
Farms	Ministry of Labor (Labor Inspection) Ministry of Agriculture and Livestock	<p>On site:</p> <p>The workplace is isolated from the community, in a hidden location with limited public access.</p> <p>Only one person has the workers' identity documents.</p> <p>The site has security measures that appear to be excessive, such as disproportionate perimeter controls, high walls, among others.</p> <p>The place is an agricultural area (with many banana and pineapple plantations), orange groves, melon orchards) that require workers of both sexes.</p>
Restaurants Trade	<p>Migration</p> <p>Ministry of Labor</p> <p>Municipality (Patents)</p> <p>CCSS (Insurance)</p> <p>Ministry of Health</p> <p>Migration Police</p> <p>Chamber of Industry and Trade</p>	<p>People have been recruited through private contractors, so there is little control over their working conditions.</p> <p>Individuals receive all or part of their salary by means other than money.</p> <p>Workers are transferred at unusual hours, for example, transfers during the night.</p> <p>People working on site do not have contact with the public, for example in restaurants.</p>

Vessels (fishing or other)	Ministry of Health Ministry of Labor Port Authority Coast Guard Air Safety Section Public Audit Unit of Casinos	<p>The records of the Costa Rican Social Security Fund (CCSS) do not coincide with the situation observed.</p> <p>Children under 15 working</p> <p>People are forced to perform risky work activities.</p> <p>Advertisements for recruiting people under suspicious conditions appear in the newspaper, and sometimes the same telephone number for different work activities.</p>
Police checkpoints	Transit Law Enforcement Prosecutor's Office	<p>The person is offered to leave the country with highly favorable working conditions, but which appear suspicious.</p> <p>In the workplace there are occupational accidents.</p> <p>Corruption situations or irregular procedures in the public service are identified.</p> <p>In person:</p>
Private transportation	Personalities Authorities	<p>The person speaks a language different from that of the country in which he/she is located.</p> <p>The person does not carry an identity document, or carries an altered identity document.</p>
Community	Neighborhood Organizations National Directorate Development of the Communities (DINADECO) Police	<p>The person comes from a different location than the workplace.</p>

Private homes	Health Officials (ATAPs)	<p>The person shows a deteriorated state of health and/or a physical appearance that could indicate exploitative conditions, e.g. damaged clothing, poor hygiene conditions, etc.</p> <p>Vulnerable groups (e.g. indigenous groups with seasonal migration, undocumented migrants or migrants with up-to-date documents)</p> <p>The person is a woman or girl exploited in domestic labor, which may sometimes include sexual servitude.</p>
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General: All public authorities with knowledge of the situation. All police forces. Communities: Migration police, judicial police, OIJ, community police, NGOs working for the rights of migrants, international organizations (UNHCR, IOM) Red Cross.

Type of trafficking: Organ harvesting

Where is it detected?	Who detects?	Indicators of suspicion
Hospitals	Medical staff	<p>Missing persons (children, adolescents and adults)</p> <p>Removal of organs or tissues.</p>
Forensic Medicine	Police, OIJ, Prosecutor's Offices, INTERPOL	
Private Medical Centers	Personnel, Authorities	



Type of trafficking: Irregular adoption

Where is it detected?	Who detects?	Indicators of suspicion
School	Staff	<p>Altered or forged documents</p> <p>Underage person traveling with strangers</p> <p>Adoptions that do not go through official channels</p> <p>The delivery occurs in a private place The delivery is not recorded</p> <p>Pregnant women with altered documents</p>
Civil Registry	Civil servants	
Family Courts	Judges	
Children's and Family Courts	Department of Psychology and Social Work	
Adolescence	Office of Victim Assistance	
Consulates	Consular staff	
Women's Offices	Staff	
Private Medical Centers	Personalities Authorities	
Hospitals	Medical Staff Social Work Office	
Borders	Migration	
Hotels	Staff	



Private attorneys	Authorities	
Special protection alternatives from PANI or other NGOs	PANI	
Community	Education System, CEN, EBAIS	

General: PANI, Police

Type of trafficking: Marriage or servitude

Where is it detected?	Who detects?	Indicators of suspicion
Private homes	ATAPS, EBAIS	<p>Marriage with persons unknown, or in situations of total or partial deception.</p> <p>The survivor-victim does not know details of the marriage</p> <p>Easement relationship in the marriage</p> <p>Announcements of marriages with people in other countries</p>
Public Institutions	<p>Civil Registry</p> <p>Migration</p> <p>CCSS</p>	

***Type of trafficking: Military/other exploitative purposes: Begging,
Criminal activities, etc.***

Where is it detected?	Who detects?	Indicators of suspicion
Urban streets Organizations International Organizations	Childhood and Adolescence and Family Courts PANI Police NGOs	Minors in conflict with the law Adults who induce minors to commit a crime Elderly persons, or persons with special needs forced into begging Persons required to participate in military activities

* Source: Model of Care for Victims of Human Trafficking



Code of Childhood and Adolescence





Childhood and Adolescence Code

Title I

Directive Provisions

Sole Chapter

Article 1°- **Objective.** This Code shall constitute the minimum legal framework for the comprehensive protection of the rights of minors. It establishes the fundamental principles of both social or community participation and administrative and judicial processes involving the rights and obligations of this population.

The norms of any rank that provide them with greater protection or benefits shall prevail over the provisions of this Code.

Article 2 - **Definition.** For the purposes of this Code, a child shall be considered any person from conception to twelve years of age, and an adolescent shall be considered any person over twelve years of age and under eighteen years of age. In case of doubt, the condition of adolescent shall prevail over that of adult and that of child over that of adolescent.

Article 3°- **Scope of application.** The provisions of this Code shall apply to all minors, without any distinction whatsoever, regardless of ethnicity, culture, gender, language, religion, ideology, nationality or any other condition of their own, of their father, mother, legal representatives or persons in charge.

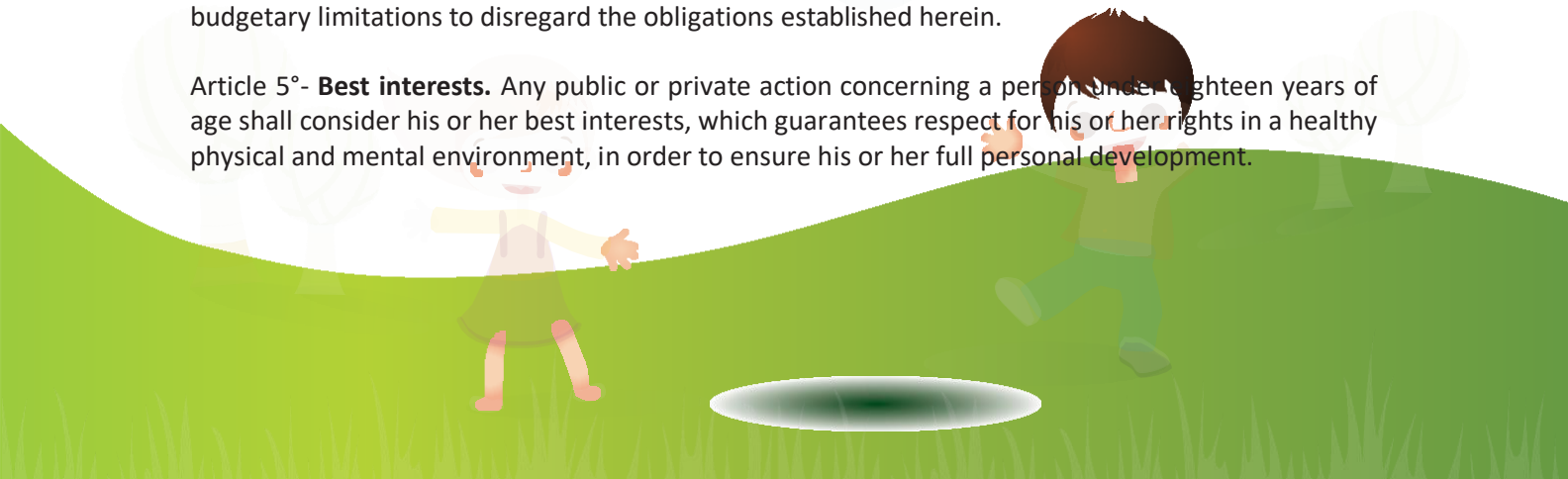
The rights and guarantees of this group are of public interest, unwaivable and non-transferable.

Article 4°- **State policies.** It shall be a general obligation of the State to adopt administrative, legislative, budgetary and any other type of measures to guarantee the full effectiveness of the fundamental rights of minors.

In the formulation and implementation of policies, access to public services and their provision, the best interests of these people shall always be kept in mind. Any action or omission contrary to this principle constitutes a discriminatory act that violates the fundamental rights of this population.

In accordance with the special protection regime that the Political Constitution, the Convention on the Rights of the Child, this Code and related laws guarantee to minors, the State may not allege budgetary limitations to disregard the obligations established herein.

Article 5°- **Best interests.** Any public or private action concerning a person under eighteen years of age shall consider his or her best interests, which guarantees respect for his or her rights in a healthy physical and mental environment, in order to ensure his or her full personal development.



The best interest determination shall consider:

- a) Its condition as a subject of rights and responsibilities.
- b) Their age, degree of maturity, capacity for discernment and other personal conditions.
- c) The socioeconomic conditions in which it operates.
- d) The correspondence between individual and social interest.

Article 6°- **Socio-cultural environment.** The judicial or other administrative authorities that take any decision concerning a minor, when assessing the situation in which he/she finds himself/herself, shall take into account, in addition to the provisions of the previous articles, the uses and customs of the socio-cultural environment in which he/she habitually develops, provided that they do not contravene morality, the law and human rights.

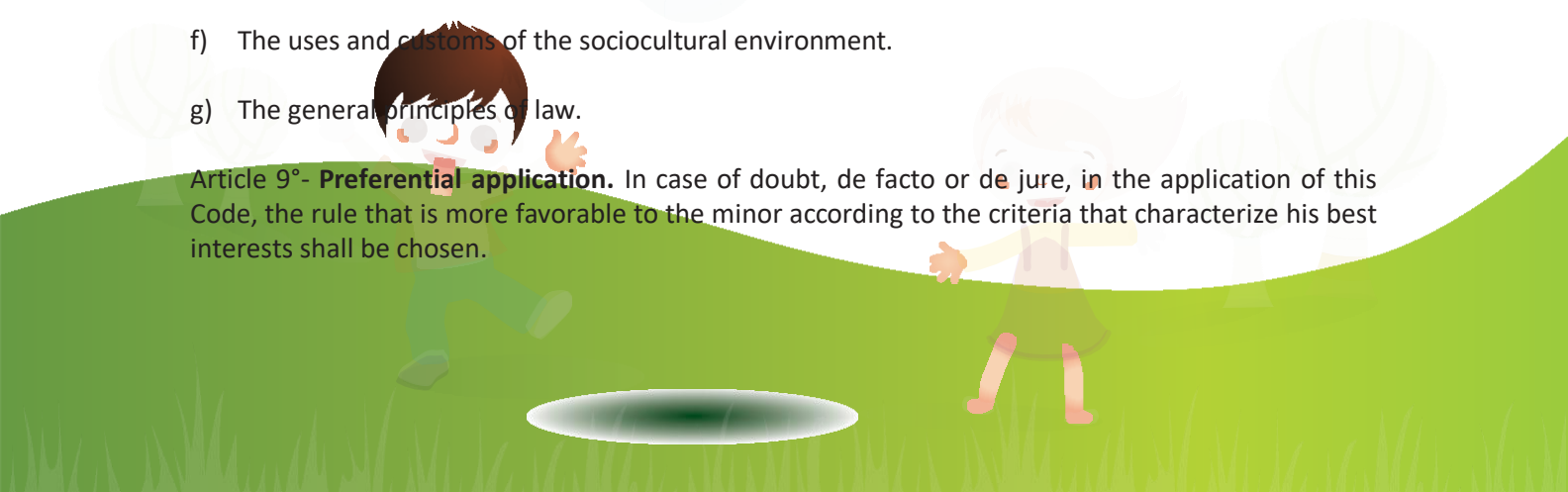
Article 7°- **Integral development.** The obligation to procure the integral development of the minor corresponds, primarily, to the parents or guardians.

The institutions that make up the National System for the Integral Protection of Children and Adolescents, regulated in Title IV of this Code, shall guarantee respect for the best interests of these persons in all public or private decisions. The Office of the Ombudsman of the Inhabitants of the Republic will watch over the effective fulfillment of these obligations.

Article 8 - **Hierarchy of norms.** The norms of this Code shall be applied and interpreted in accordance with the Political Constitution, the Convention on the Rights of the Child and other normative sources of the law of children and adolescents, according to the following hierarchy:

- a) The Political Constitution.
- b) The Convention on the Rights of the Child.
- c) Other international treaties and conventions on the subject.
- d) The guiding principles of this Code.
- e) The Family Code and related laws.
- f) The uses and customs of the sociocultural environment.
- g) The general principles of law.

Article 9°- **Preferential application.** In case of doubt, *de facto* or *de jure*, in the application of this Code, the rule that is more favorable to the minor according to the criteria that characterize his best interests shall be chosen.



Title II

Rights and Obligations

Chapter I

Fundamental Rights and Freedoms

Article 10°- **Enjoyment of rights.** The minor shall be a subject of rights; he/she enjoys all those inherent to the human person and the specific ones related to his/her development, except for political rights in accordance with the Political Constitution of the Republic.

However, it must comply with the correlative obligations enshrined in the legal system.

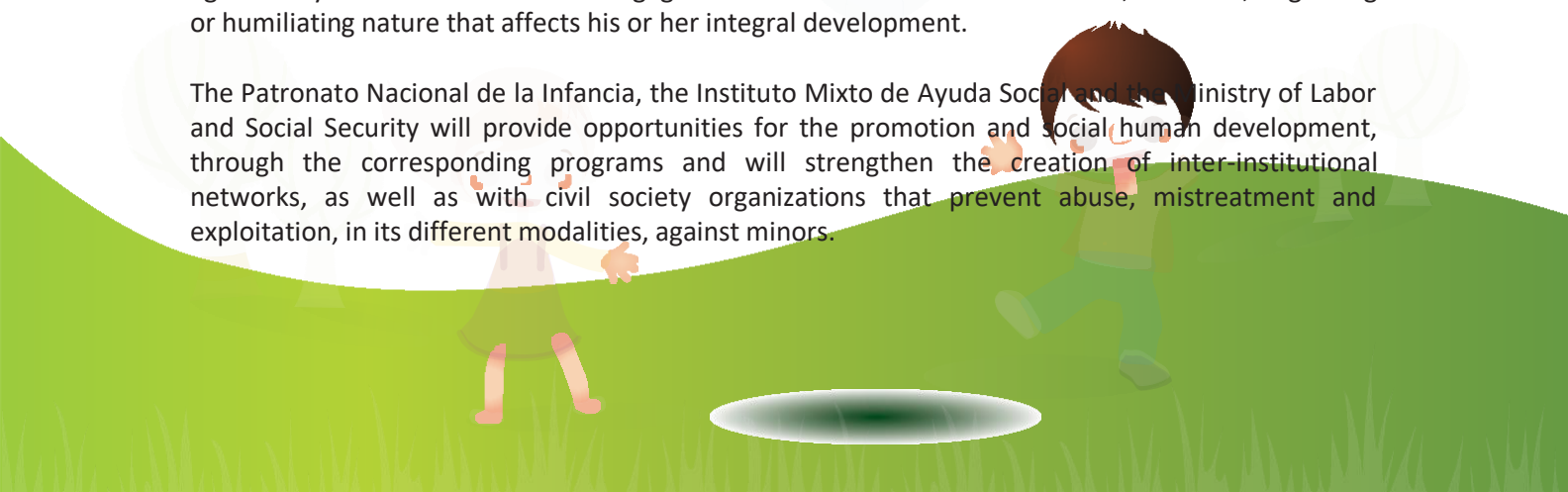
Article 11°- **Duties.** In the exercise of freedoms and rights, minors shall be obliged to respect the restrictions established by law, morality and public order. In particular, they must comply with the following duties:

- a) To honor the homeland and its symbols.
- b) Respect the rights and guarantees of others.
- c) Honor, respect and obey their parents, representatives or guardians, provided that their orders do not violate their rights and guarantees or contravene the legal system.
- d) Actively exercise their rights and defend them.
- e) Fulfill their educational obligations.
- f) Respect diversity of conscience, thought, religion and culture.
- g) Preserve the environment.

Article 12°- **Right to life.** Minors have the right to life from the very moment of conception. The State shall guarantee and protect this right, with economic and social policies that ensure dignified conditions for gestation, birth and integral development.

Article 13°- **Right to state protection.** The minor shall have the right to be protected by the State against any form of intentional or negligent abandonment or abuse of a cruel, inhuman, degrading or humiliating nature that affects his or her integral development.

The Patronato Nacional de la Infancia, the Instituto Mixto de Ayuda Social and the Ministry of Labor and Social Security will provide opportunities for the promotion and social human development, through the corresponding programs and will strengthen the creation of inter-institutional networks, as well as with civil society organizations that prevent abuse, mistreatment and exploitation, in its different modalities, against minors.



Article 14°- **Right to liberty.** Minors shall have the right to liberty. This right includes the possibility of:

- a) To have their own ideas, beliefs and religious worship and to exercise it under the guidance of their parents or guardians, according to the evolution of their faculties and with the limitations and guarantees enshrined in the legal system.
- b) To express their opinion in the areas of their daily lives, especially in the family, community and school; also as users of all public services and, subject to the limitations of the law, in all judicial and administrative proceedings that may affect their rights.

Article 15°- **Right to free transit.** All minors shall have the right to remain in the country, transit through public places and community spaces and recreate without restrictions other than those set forth in this Code and any other legal provision, such as those derived from the exercise of parental authority and the school obligations of students.

Article 16.-The General Directorate of Immigration and Alien Affairs shall grant permission to leave the country to minors, Costa Ricans or foreigners, who enjoy a legal permanence in the country, prior express authorization of those exercising parental authority or legal representation. When there is no authorization from those exercising parental authority or legal representation, the Patronato Nacional de la Infancia must authorize the exit permit. These authorizations may be revoked at any time by the person who has granted it. The Executive Power or the Patronato Nacional de la Infancia, as the case may be, shall regulate the form, conditions, requirements and procedures to grant the referred exit permits and to revoke them.

Without the exit permit, the General Directorate of Immigration will not be able to allow the exit of minors. Minors authorized to remain in the country as non-residents shall not require such authorization to leave the country.

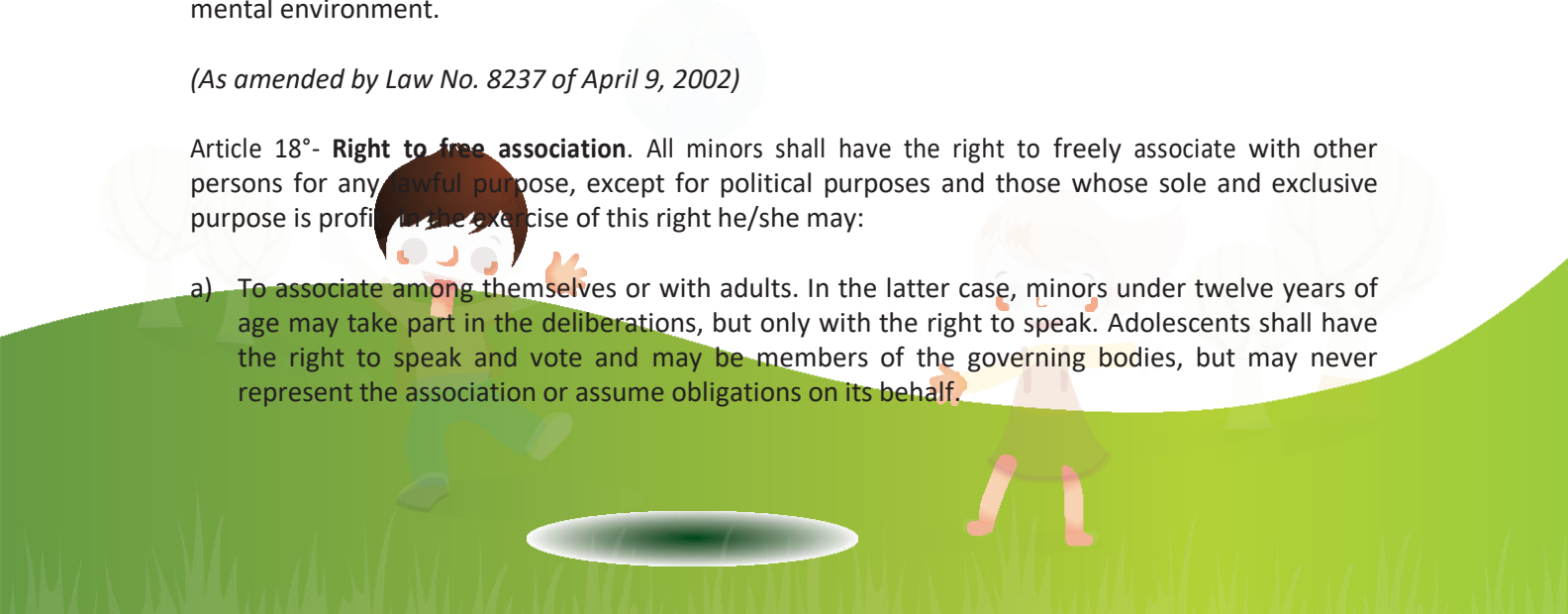
(As amended by Article 263 of Law No. 8487 of November 22, 2005)

Article 17.-**Right to the protection of the self-interest of minors of foreign nationality.** For the purposes of entry and stay of foreign minors, the application of current immigration legislation shall be assessed by the competent administrative authorities, to safeguard the interests of this group, in order to ensure conditions that ensure respect for their rights in a healthy physical, social and mental environment.

(As amended by Law No. 8237 of April 9, 2002)

Article 18°- **Right to free association.** All minors shall have the right to freely associate with other persons for any lawful purpose, except for political purposes and those whose sole and exclusive purpose is profit. In the exercise of this right he/she may:

- a) To associate among themselves or with adults. In the latter case, minors under twelve years of age may take part in the deliberations, but only with the right to speak. Adolescents shall have the right to speak and vote and may be members of the governing bodies, but may never represent the association or assume obligations on its behalf.



- b) By themselves, adolescents over fifteen years of age may constitute, register and record associations such as those authorized in this article and perform acts strictly related to their purposes.

In them, they will have voice and vote and may be members of the governing bodies. In order for these associations to be able to bind themselves patrimonially, they must appoint a legal representative with full civil capacity, who will assume the liability that may arise from such acts.

Article 19°- Right to protection in the face of serious danger. Minors shall have the right to seek refuge, assistance and guidance when the threat to their rights entails serious danger to their physical or spiritual health; likewise, to obtain, in accordance with the law, adequate and timely assistance and protection from the competent institutions.

Article 20°- Right to information. Minors shall have the right to obtain information, regardless of its source and mode of expression, especially that which promotes their social, spiritual and emotional well-being, as well as their physical and mental health.

The exercise of this right shall be carried out in a responsible manner and under the guidance of parents, guardians or educators.

Article 21°- Duty of the media. The social function of the mass media is to collaborate in the education of minors, disseminating information of social and cultural interest. To this end, they shall try to meet the information needs of this group and promote the dissemination of their rights, duties and guarantees.

The Council for Childhood and Adolescence, regulated in Title IV of this Code, shall grant each year an award for the outstanding social media and communicator during the period for their assistance to the function mentioned in the preceding paragraph. The award shall consist of a cash sum equal to that corresponding to the Joaquín García Monge Award, accompanied by an allusive plaque.

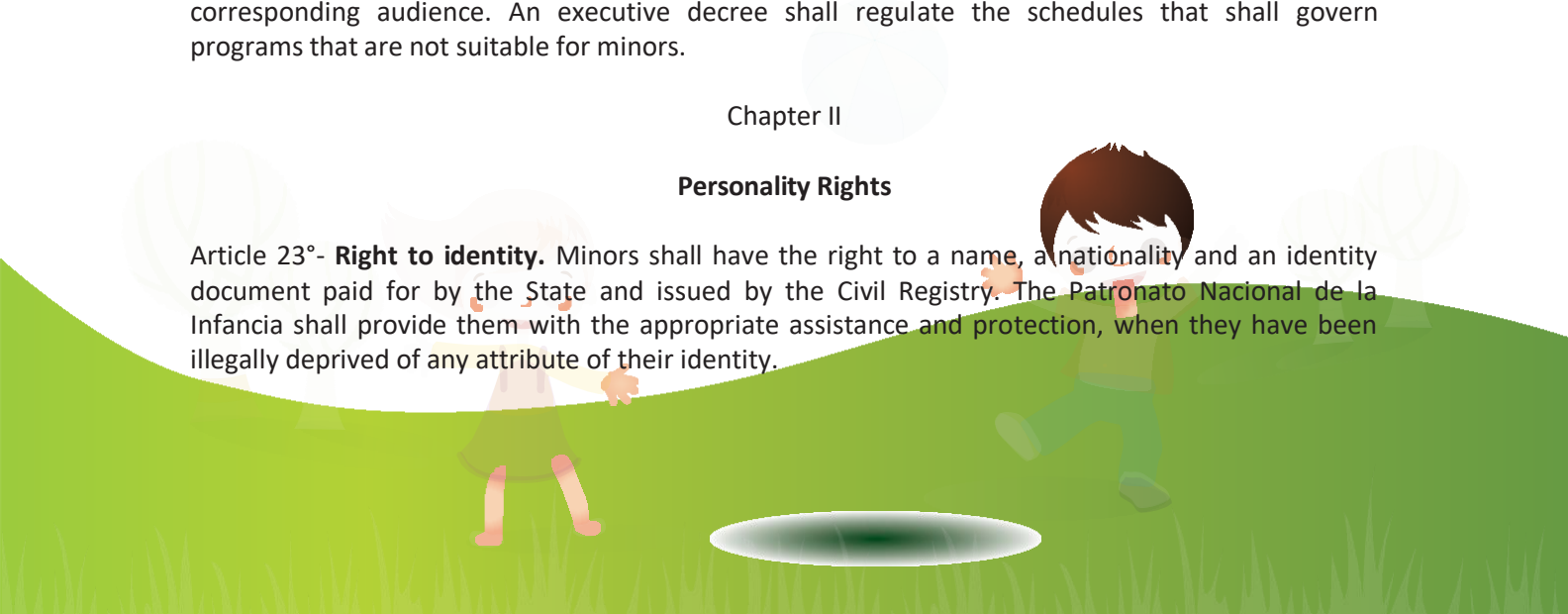
Article 22°- Restricted messages. The mass media shall refrain from disseminating messages that violate the rights of minors or that are detrimental to their physical, mental or social development.

Programs, advertising and other messages broadcast on radio and television shall be adjusted to the corresponding audience. An executive decree shall regulate the schedules that shall govern programs that are not suitable for minors.

Chapter II

Personality Rights

Article 23°- Right to identity. Minors shall have the right to a name, a nationality and an identity document paid for by the State and issued by the Civil Registry. The Patronato Nacional de la Infancia shall provide them with the appropriate assistance and protection, when they have been illegally deprived of any attribute of their identity.



Article 24°- **Right to integrity.** Minors shall have the right to respect for their physical, psychological and moral integrity. This right includes the protection of their image, identity, autonomy, thought, dignity and values.

Article 24 bis.- Right to discipline without physical punishment or humiliating treatment.

Children and adolescents have the right to receive guidance, education, care and discipline from their mother, father or those responsible for their care and upbringing, as well as from the caretakers and personnel of educational, health, care, juvenile penal or any other type of centers, without in any way authorizing the use of corporal punishment or humiliating treatment.

The Patronato Nacional de la Infancia will coordinate, with the different instances of the National System of Integral Protection and non-governmental organizations, the promotion and execution of public policies that include formative programs and projects for the exercise of a parental authority respectful of the physical integrity and dignity of minors. Likewise, it will encourage children and adolescents to respect their fathers, mothers and foster parents.

The Patronato Nacional de la Infancia shall ensure that the different instances of the National System of Integral Protection incorporate, in their institutional plans, the programs and projects mentioned in this article, and shall inform the Consejo Nacional de la Niñez y la Adolescencia (National Council for Children and Adolescents) about their compliance.

(So added by Article 1 of Law No. 8654 of August 1, 2008)

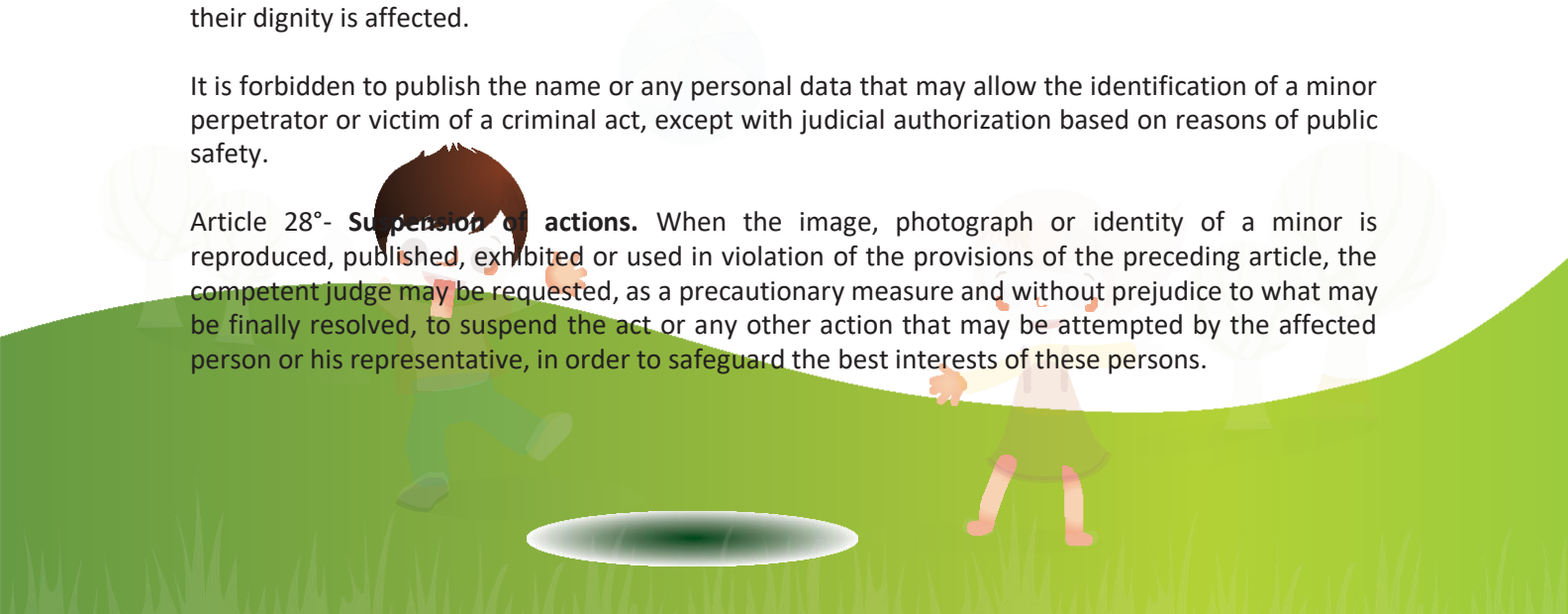
Article 25°- **Right to privacy.** Minors shall have the right not to be subject to interference in their private life, family, home and correspondence, without prejudice to the rights and duties inherent to parental authority.

Article 26°- **Right to honor.** Minors shall have the right to be protected in their honor and reputation. The Patronato Nacional de la Infancia will give the necessary advice to defend it.

Article 27°- **Right to image.** It is forbidden to publish, reproduce, exhibit, sell or use, in any form, images or photographs of minors to illustrate information regarding actions or omissions attributed to them that are criminal in nature or contravene or are contrary to morals or good customs; likewise, when in any way they have participated or have been witnesses or victims of such events, if their dignity is affected.

It is forbidden to publish the name or any personal data that may allow the identification of a minor perpetrator or victim of a criminal act, except with judicial authorization based on reasons of public safety.

Article 28°- **Suspension of actions.** When the image, photograph or identity of a minor is reproduced, published, exhibited or used in violation of the provisions of the preceding article, the competent judge may be requested, as a precautionary measure and without prejudice to what may be finally resolved, to suspend the act or any other action that may be attempted by the affected person or his representative, in order to safeguard the best interests of these persons.



Chapter III

Right to Family Life and the Right to Support

Article 29°- **Integral right.** The father, the mother or the person in charge are obliged to watch over the physical, intellectual, moral, spiritual and social development of their children under eighteen years of age.

Article 30°- **Right to family life.** Minors shall have the right to know their father and mother; likewise, to grow and develop by their side and be cared for by them. They shall have the right to remain in their home from which they may not be expelled or prevented from returning to it, unless a judicial decision so establishes.

Article 31°- **Right to education at home.** Minors shall have the right to grow up and be educated in the bosom of a family; they shall always be assured family and community coexistence. When the fulfillment of this right is endangered for socioeconomic, educational and environmental reasons, the competent public institutions shall provide the opportunities required to overcome family problems, as well as training and job orientation for parents, in accordance with the following postulates:

- a) The Instituto Mixto de Ayuda Social will provide the required comprehensive assistance and opportunities for the promotion and development of the family, incorporating it in processes of participation and training to facilitate the insertion of fathers and mothers in the labor market, through programs that contribute to the creation of micro-enterprises or others.

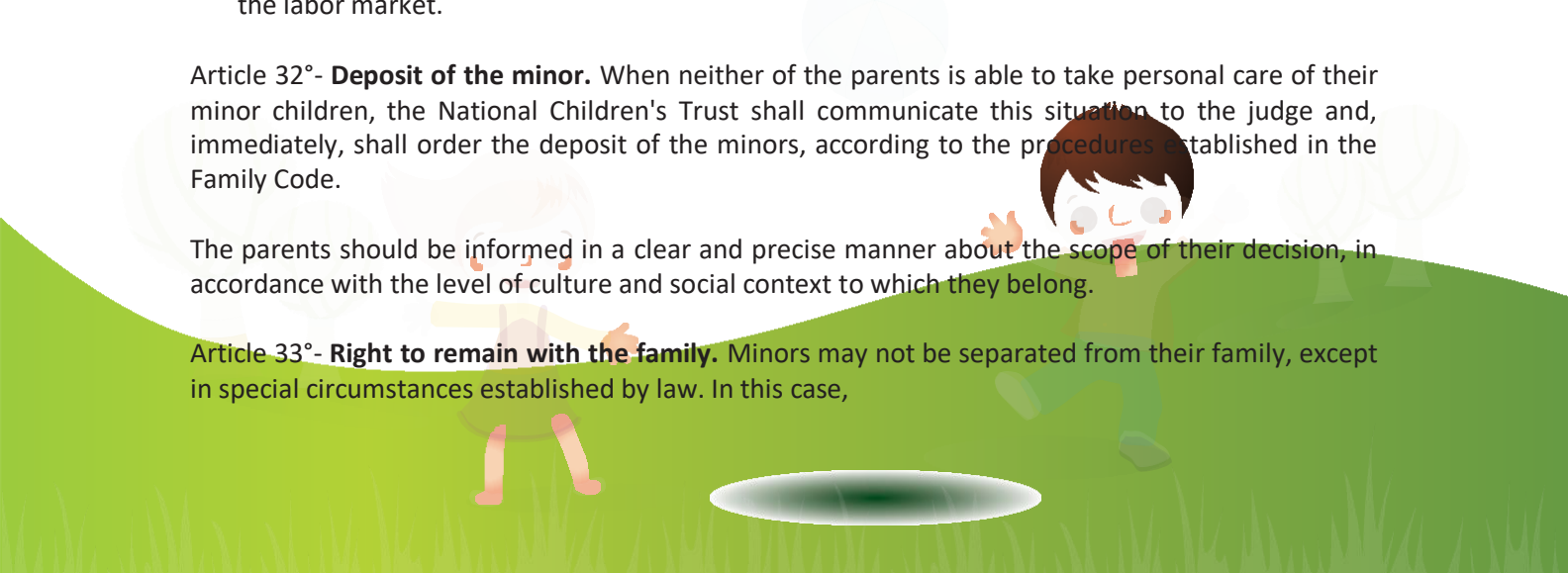
This is provided that they are committed to respecting the rights of their children, especially by maintaining them in the formal education system as well as in health programs, and that they do not register cases of systematic mistreatment, abuse or exploitation.

- b) The Patronato Nacional de la Infancia, the Instituto Mixto de Ayuda Social and the Ministry of Labor and Social Security will be responsible for guaranteeing working mothers access to comprehensive care programs for the care of their children during childhood.
- c) The National Apprenticeship Institute will offer job training activities and the Ministry of Labor and Social Security will orient the parents mentioned in this article, for their early insertion in the labor market.

Article 32°- **Deposit of the minor.** When neither of the parents is able to take personal care of their minor children, the National Children's Trust shall communicate this situation to the judge and, immediately, shall order the deposit of the minors, according to the procedures established in the Family Code.

The parents should be informed in a clear and precise manner about the scope of their decision, in accordance with the level of culture and social context to which they belong.

Article 33°- **Right to remain with the family.** Minors may not be separated from their family, except in special circumstances established by law. In this case,



shall be entitled to free protection and technical assistance from the Patronato Nacional de la Infancia.

Article 34°- **Separation of the minor.** The measure of protection tending to temporarily remove the minor from the family bosom will only be applied when the conduct that originated it is attributable to someone who lives with him/her and there is no other alternative.

When the conduct motivating the measure originates from a crime of injury or one against sexual freedom attributable to someone who lives with the minor person harmed, the local office of the National Children's Trust or other public or private institution or person who is aware of these facts, shall request the judicial authority to order the accused to leave the home, according to the Code of Criminal Procedures and the protection measures contemplated in Article 3 of the Law against Domestic Violence, No. 7586, of April 10, 1996.

If there is no alternative to removing the child from the home for temporary placement, first consideration should be given to the extended family or persons with whom the child maintains emotional ties.

Once these resources are exhausted, they will be placed in programs to be promoted by the Patronato Nacional de la Infancia.

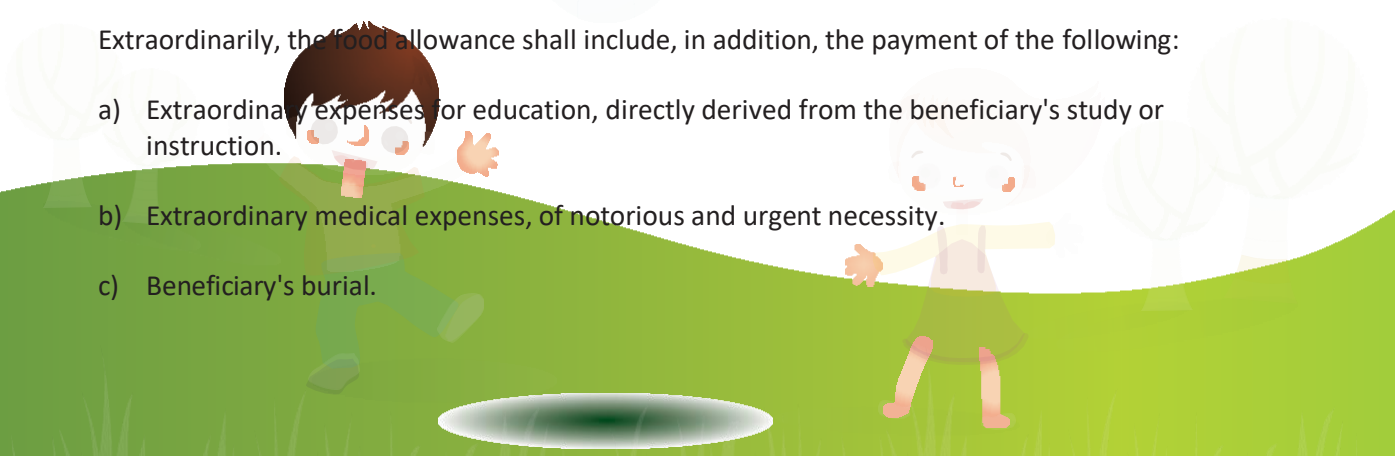
The child shall always be informed, in a manner appropriate to his or her stage of development, of the reasons justifying the application of the precautionary measure and his or her opinion shall be heard.

Article 35°- **Right to contact with the family circle.** Minors who do not live with their family have the right to have contact with their family and affective circle, taking into account their personal interest in this decision. Their refusal to receive a visit should be considered and will oblige the custodian to request the local office of the National Children's Trust to investigate the situation. The suspension of this right should be discussed in court.

Article 36°- **Causes for definitive separation.** The causes that give rise to the definitive separation of a minor person from his/her family are those provided for in the Family Code, as grounds for loss or suspension of parental authority. The suspension or termination of the powers and duties conferred by parental authority can only be decreed by a judge.

Article 37°- **Right to maintenance.** The right to receive alimony is guaranteed under the terms provided for in the Family Code and related laws.

Extraordinarily, the food allowance shall include, in addition, the payment of the following:

- 
- a) Extraordinary expenses for education, directly derived from the beneficiary's study or instruction.
 - b) Extraordinary medical expenses, of notorious and urgent necessity.
 - c) Beneficiary's burial.

- d) Collection of prenatal and lactation allowance.
- e) Expenses for therapy or specialized care in cases of sexual abuse or domestic violence.

Article 38 - Supplementary Subsidy. If the preferential obligor is absent, temporarily unable or de facto unable to comply with the duty to provide food to a minor or a pregnant woman, the State shall provide food by means of the incorporation of these families to processes of social promotion and human development, through inter-institutional programs in which, according to their particular situation, shall intervene, according to their particular situation, the Joint Institute of Social Assistance, the National Children's Trust, the Costa Rican Social Security Fund, the Ministry of Labor and Social Security, the Ministry of Health or any other necessary to ensure comprehensive treatment to the family with the support of organized civil society networks established for this purpose. Pregnant women shall be entitled to the subsidy only during the prenatal and breastfeeding period.

When maintenance is claimed in court and it is found that one of these circumstances occurs, the judge will manage the subsidy before the Instituto Mixto de Ayuda Social (Joint Institute of Social Assistance).

Article 39° - Agreements on alimony. The agreements on alimony agreed between the parties shall have the character of an enforceable judgment, provided that they are approved before the competent judicial authority. The amount collected may be deducted directly from the salary or according to the forms established by law.

When the maintenance agreement is breached, the interested party shall go to the competent authority and request the enforcement of the agreement without the need to bring the maintenance proceeding. The request for enforcement may be verbal.

Article 40° - Claim for maintenance. Minors shall have access to the competent judicial authority to claim maintenance, either personally or through an interested person. The request made before said authority shall be sufficient to initiate the corresponding process.

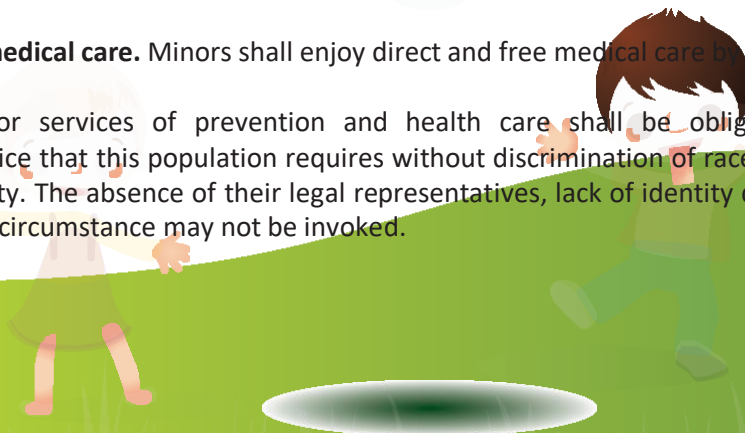
Before proceeding with the lawsuit, the judge will call to the process the legal representative of the minor who has initiated the process or, failing that, the National Child Welfare Agency, to assume this representation. If there is a conflicting interest between the minor and his or her representatives, the judge will proceed to appoint a guardian.

Chapter IV

Right to Health

Article 41° - Right to medical care. Minors shall enjoy direct and free medical care by the State.

The public centers or services of prevention and health care shall be obliged to provide, immediately, the service that this population requires without discrimination of race, gender, social condition or nationality. The absence of their legal representatives, lack of identity documents, lack of quota or any other circumstance may not be invoked.



Article 42°- **Right to social security.** Minors shall have the right to social security. When they are not covered by other regimes, they shall enjoy this right on behalf of the State. For this purpose, the Costa Rican Social Security Fund shall adopt the respective measures.

Article 43°- **Vaccination.** Minors shall be vaccinated against the diseases determined by the health authorities. The Costa Rican Social Security Fund shall be obligated to provide and apply the vaccinations.

For medical reasons, exceptions to vaccinations will be authorized only by the corresponding health personnel.

The father, mother, legal representatives or persons in charge shall be responsible for ensuring that the compulsory vaccination of minors in their care is carried out in a timely manner.

Article 44°- **Competencies of the Ministry of Health.** The Ministry of Health shall ensure the right to the enjoyment of the highest level of health, access to services for the prevention and treatment of diseases, as well as the rehabilitation of the health of minors.

For this purpose, the Ministry of Health shall have the following competencies:

- a) To ensure comprehensive care for this group, seeking the active participation of the family and the community.
- b) To guarantee access to quality health care services, specialized in children and adolescents.
- c) Guarantee the creation and development of comprehensive care and education programs for minors, including programs on sexual and reproductive health.
- d) Promote, by the most appropriate means, permanent preventive policies against abuse and violence in the family, community, social, educational and work environments.
- e) Promote breastfeeding in public and private hospitals and widely publicize its advantages.
- f) Adopt measures to ensure the development of minors in an environment that is conducive to their development.
healthy environment.
- g) Guarantee comprehensive treatment programs for adolescent girls regarding prenatal, perinatal, postnatal and psychological control.
- h) Promote, by the most appropriate means, permanent preventive policies against drug use and create specialized centers to care for and treat underage addicts and those suffering from



Article 45° - **Medical controls.** It shall be the obligation of fathers and mothers, legal representatives or persons in charge, to comply with the instructions and medical controls prescribed to ensure the health of minors under their care; in addition, they shall be responsible for the correct use of the food they receive as a nutritional supplement to the diet.

Article 46 - **Refusal of consent.** If the father, mother, legal representatives or persons in charge deny, for any reason, their consent for the hospitalization, treatment or urgent surgical intervention of their children, the health professional is authorized to take immediate action to protect their life or physical and emotional integrity, under the terms of article 144 of the Family Code.

Article 47° - **Permanence in health centers.** Hospitals and clinics, public or private, shall provide the necessary conditions for the permanence of the father, mother, legal representative or guardian, when the minor is hospitalized and this measure is not contrary to his or her interest.

Article 48° - **Committee for the study of the assaulted child.** Hospitals, clinics and health centers, public or private, shall be obliged to create a committee for the study of assaulted children. Its composition and operation shall be subject to the regulations issued by the Executive Power. Likewise, public health centers must immediately evaluate any minor who is presumed to be a victim of abuse or mistreatment.

This committee will evaluate the results, carry out the pertinent investigations and recommend the actions to be taken to safeguard the child's integrity.

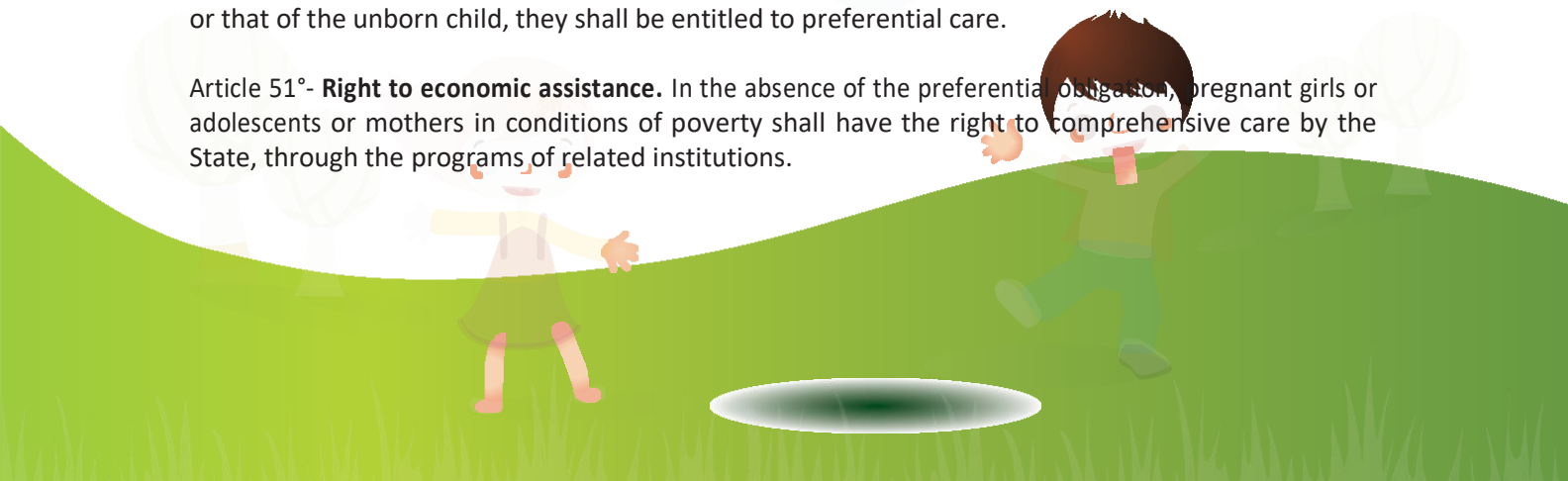
Article 49° - **Reporting of mistreatment or abuse.** The directors and personnel in charge of health centers, public or private, where minors are taken for care, shall be obliged to report to the Public Prosecutor's Office any reasonable suspicion of mistreatment or abuse committed against them.

The authorities and personnel of educational centers, day care centers or any other place where these persons stay, are attended or any service is rendered to these persons shall have the same obligation.

Article 50° - **Services for pregnant women.** The public health centers shall provide the pregnant girl or adolescent with maternal and infant information services, medical control during pregnancy for her and the unborn child, medical care during childbirth and, if necessary, food to supplement her diet and that of the child during the breastfeeding period.

Pregnant girls or adolescents shall have the right to receive dignified and respectful treatment in health services, particularly in medical or hospital care. In special situations of danger to their health or that of the unborn child, they shall be entitled to preferential care.

Article 51° - **Right to economic assistance.** In the absence of the preferential obligation, pregnant girls or adolescents or mothers in conditions of poverty shall have the right to comprehensive care by the State, through the programs of related institutions.



During the prenatal and breastfeeding period, they shall be entitled to an economic subsidy granted by the Instituto Mixto de Ayuda Social; as stipulated for these cases, it shall correspond to the minimum salary of the budget law in force at the time the subsidy is granted. In order to enjoy this benefit, they must participate in the training programs developed by the competent institutions for such purpose.

The transfer of resources must respond to an integral action and not merely a welfare action, in order to guarantee the person's human and social development.

Article 52° - Guarantee for breastfeeding. Official and private institutions, as well as employers shall guarantee to underage mothers the adequate conditions for breastfeeding. Failure to comply with this rule shall be sanctioned as an infraction to the labor legislation, according to the provisions of article 611 and following of the Labor Code.

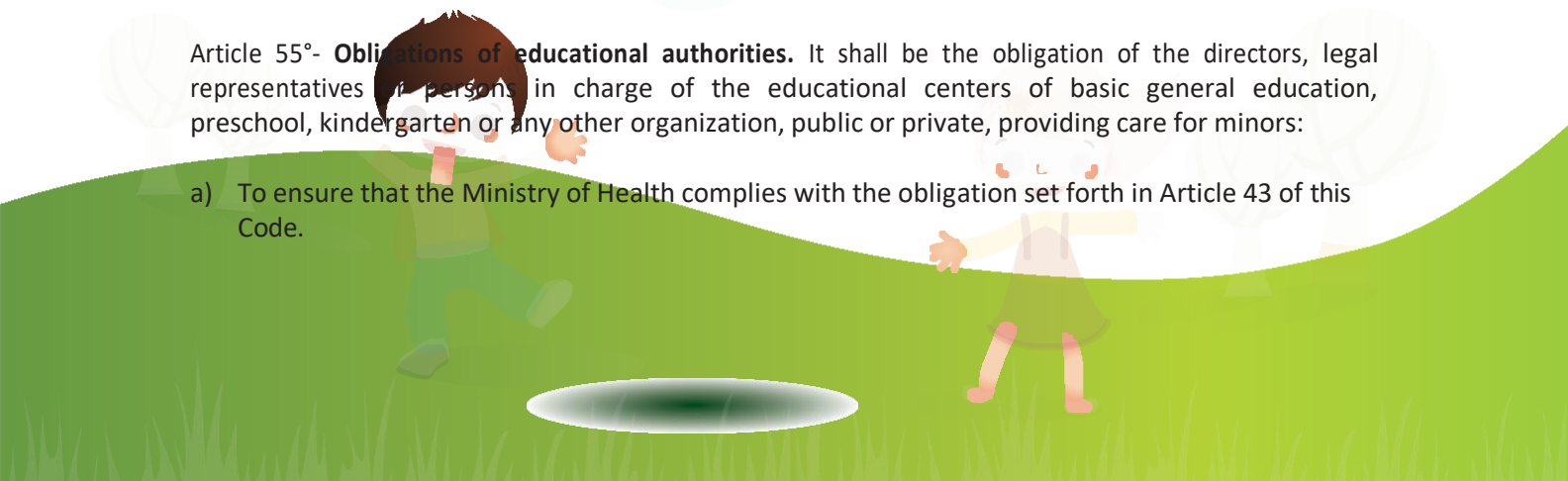
Article 53° - Right to treatment against AIDS. Unless medical criteria to the contrary, the Costa Rican Social Security Fund shall guarantee to the mother carrier of the HIV virus (AIDS) the existing medical treatment, in order to avoid the infection of the unborn child. Likewise, every minor carrier of the HIV virus or sick with AIDS shall have the right to receive medical and psychological assistance from the Fund and, in general, the treatment that will allow him/her to lessen his/her suffering and alleviate, as far as possible, the complications produced by this disease.

Article 54° - Duties of the health centers. The health centers, public and private, shall have the following duties:

- a) Keep up-to-date records of the admission and discharge of minors, showing the treatment and medical care provided.
- b) Allow the newborn to have immediate contact and accommodation with its mother from the time of birth. the birth.
- c) To identify the person born alive or the deceased before or after birth, by means of statistical controls and the impression of the mother's fingerprints and plantar prints of the newborn, without prejudice to other forms indicated by the competent authority.
- d) Obtain, immediately or no later than eight days after birth, a health card for the newborn, through the Costa Rican Social Security Fund or the corresponding health center. The card will contain a summary of the health history of each one from birth to adolescence and will serve to identify her in health and educational institutions, both public and private.

Article 55° - Obligations of educational authorities. It shall be the obligation of the directors, legal representatives or persons in charge of the educational centers of basic general education, preschool, kindergarten or any other organization, public or private, providing care for minors:

- a) To ensure that the Ministry of Health complies with the obligation set forth in Article 43 of this Code.



- b) Communicate to parents or guardians that the child requires medical, dental or psychological examinations.
- c) To implement preventive, sexual and reproductive health education programs formulated by the Ministry of Health.

Failure to comply with these obligations will be sanctioned as serious misconduct for the purposes of the respective disciplinary regime.

Chapter V

Right to Education

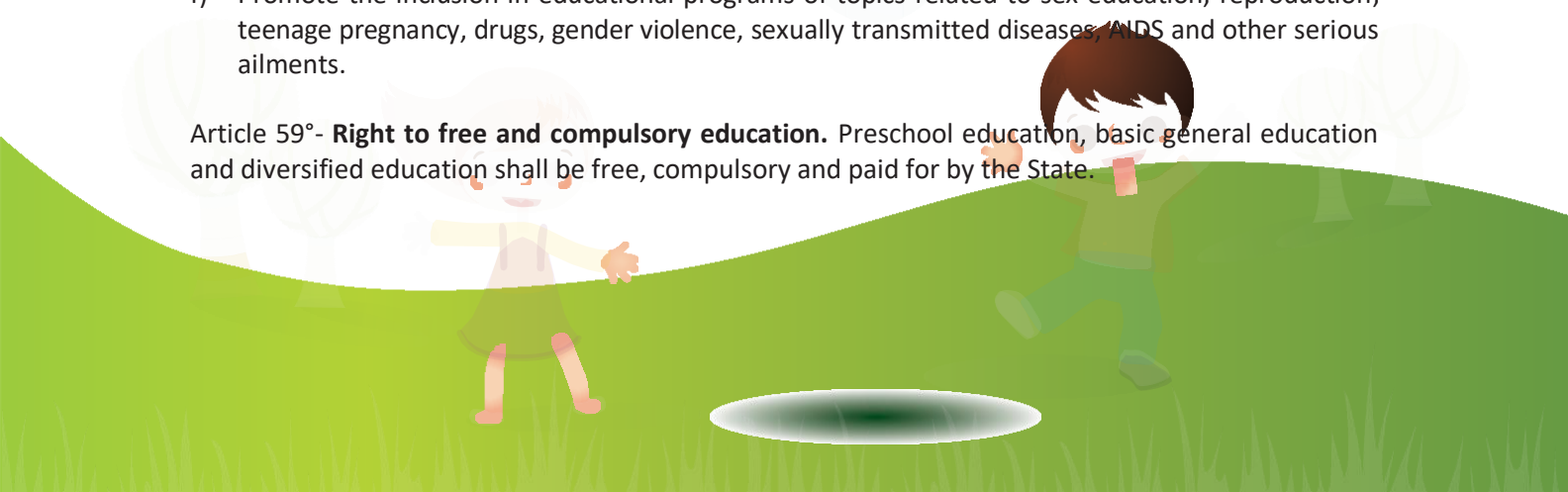
Article 56°- **Right to the development of potentialities.** Minors shall have the right to receive education oriented towards the development of their potential. The preparation offered shall be directed towards the full exercise of citizenship and shall inculcate respect for human rights, cultural values and care for the natural environment, within a framework of peace and solidarity.

Article 57°- **Permanence in the educational system.** The Ministry of Public Education shall guarantee the permanence of minors in the educational system and provide them with the necessary support to achieve it.

Article 58°- **National policies.** In the design of national educational policies, the State shall:

- a) Guarantee quality education and equal opportunities for minors.
- b) To foster the highest levels of scientific and technological knowledge, artistic and cultural expression, and ethical and moral values.
- c) Promote early access to technical training, once the second cycle of secondary school has been completed. basic general education.
- d) Promote and disseminate the rights of minors.
- e) Stimulate at all levels the development of autonomous, critical and creative thinking, respecting the initiative and individual characteristics of the students.
- f) Promote the inclusion in educational programs of topics related to sex education, reproduction, teenage pregnancy, drugs, gender violence, sexually transmitted diseases, AIDS and other serious ailments.

Article 59°- **Right to free and compulsory education.** Preschool education, basic general education and diversified education shall be free, compulsory and paid for by the State.



Access to compulsory and free education shall be a fundamental right. The lack of governmental action to facilitate and guarantee it shall constitute a violation of the law and shall entail liability on the part of the competent authority.

Article 60- **Educational principles.** The Ministry of Public Education shall take the necessary measures to give effect to the right of minors, based on the following principles:

- a) Equal conditions for access and permanence in educational centers throughout the country, regardless of geographic particularities, distances and production and harvest cycles, especially in rural areas.
- b) Respect for the rights of students, especially those of organization, participation, association and opinion, the latter particularly with respect to the quality of the education they receive.
- c) Respect for due process, through agile and effective procedures to hear challenges to evaluation criteria, corrective actions, disciplinary sanctions or any other form in which the student considers his or her rights have been violated.
- d) Respect for the cultural, ethnic, artistic and historical values proper to the social context of this group, guaranteeing freedom of creation and access to the sources of cultures.

Article 61°- **Right to technical publication.** Persons over fifteen years of age who work shall have the right to education appropriate to their working conditions and skills. The National Apprenticeship Institute shall design technical training programs, especially aimed at this population.

Article 62°- **Right to special education.** Persons with a higher than normal intellectual potential or with some degree of disability shall have the right to receive special attention in educational centers, in order to adapt teaching methods to their particular needs.

Article 63°- **Dissemination of rights and guarantees.** The authorities of the educational centers shall disseminate among teachers, students and administrative personnel, the rights and guarantees of minors.

Article 64°- **Participation in the educational process.** It shall be the obligation of the parents or guardians to enroll minors in the corresponding educational center, require regular attendance and actively participate in the educational process.

Article 65- **Duties of the Ministry of Public Education.** It shall be incumbent upon the Ministry of Public Education to take a census of minors attending primary or secondary school, to have suitable mechanisms to ensure their daily presence in educational establishments and to prevent dropouts.



Article 66°- **Complaints to the Ministry of Public Education.** Without prejudice to other obligations in the field of Criminal Law, the competent authorities of public or private preschool, general, basic and diversified education establishments, in addition to what by their competence corresponds to them, in order to apply the necessary measures, shall be obliged to communicate to the Ministry of Public Education the following:

- a) Cases of physical or emotional mistreatment, sexual abuse or corrupt treatment, involving students as victims or perpetrators, or those committed to the detriment of the teaching or administrative staff.
- b) Drug addiction cases.
- c) Repetition of unjustified absences and dropping out of school, when the remedies available to avoid dropping out have been exhausted.
- d) The levels of repetition due to failure and a diagnosis of its possible causes.

The educational system shall establish its own mechanisms to respond, in a timely and effective manner, to the problems that originate the aforementioned cases.

Article 67- **Disciplinary proceedings.** Once the complaint is filed for the assumption contemplated in paragraph a) of the previous article, whether by the minor, his/her parents or representative, the authorities or the persons in charge of education, the Ministry of Public Education shall immediately initiate disciplinary proceedings and shall adopt the precautionary measures it deems necessary in the interest of the person affected, including the removal of the person denounced from his/her post while the investigation is being processed and until the respective decision is adopted.

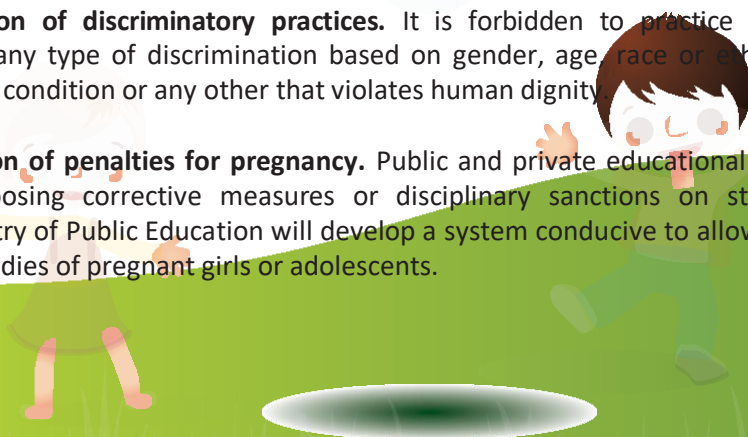
Article 68°- **Application of corrective measures.** All corrective measures adopted in educational centers shall be applied respecting the dignity of minors, who shall be guaranteed the opportunity to be heard beforehand.

Corrective measures may only be imposed for conduct that has been clearly defined in advance in the school's rules and regulations, provided that due process is observed and the student's legal representatives and counsel are summoned.

Whoever is affected by the application of a corrective measure shall have the right to appeal to the established higher instances.

Article 69°- **Prohibition of discriminatory practices.** It is forbidden to practice or promote, in educational centers, any type of discrimination based on gender, age, race or ethnic or national origin, socioeconomic condition or any other that violates human dignity.

Article 70°- **Prohibition of penalties for pregnancy.** Public and private educational institutions are prohibited from imposing corrective measures or disciplinary sanctions on students due to pregnancy. The Ministry of Public Education will develop a system conducive to allow the continuity and the end of the studies of pregnant girls or adolescents.



Article 71°- **Associations.** In every basic or diversified education center, an association of parents may be constituted to facilitate the solution of individual and collective problems of minors; likewise, to promote actions tending to the improvement of their integral formation and the participation in activities that involve the associates in the responsible development of the upbringing, the care of minors, the improvement of the community and the educational process. Students may also become members for the purposes indicated in this paragraph.

Article 72°- **Duties of the students.** It shall be the duty of minors who are in the educational system:

- a) Regularly attend lessons.
- b) Respect and obey their teachers and superiors.
- c) Comply with the legal and regulatory provisions of the system.
- d) Actively participate in the educational process. To this end, they will comply with the academic and disciplinary requirements set forth, in a responsible and dedicated manner, taking full advantage of the opportunities offered.
- e) To provide, the students of diversified education, a service to their community for at least eight hours per month, through programs that each educational center develops for this purpose, according to the guidelines issued by the Ministry of Public Education. This service will be a requirement to qualify for the title of bachelor in secondary education.

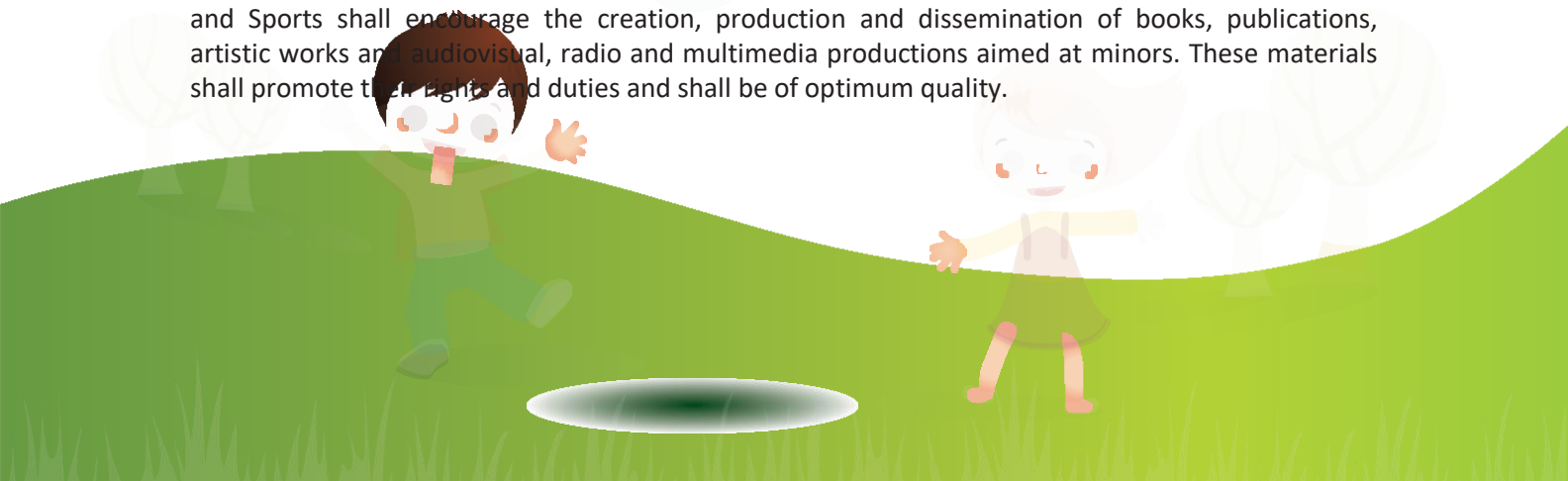
Chapter VI

Right to Culture, Recreation and Sports

Article 73- **Cultural and recreational rights.** Minors shall have the right to play and participate in recreational, sports and cultural activities that allow them to occupy their free time profitably and contribute to their integral human development, with the only restrictions established by law. It is up to parents, guardians or representatives to give them the opportunities to exercise these rights.

The National Council of Public Entertainment and other competent authorities shall ensure that cultural, sports, recreational or other activities, whether public or private, offered to this population are in accordance with their maturity and promote their full development.

Article 74°- **Ministerial work.** The Ministry of Public Education and the Ministry of Culture, Youth and Sports shall encourage the creation, production and dissemination of books, publications, artistic works and audiovisual, radio and multimedia productions aimed at minors. These materials shall promote their rights and duties and shall be of optimum quality.



Article 75°- **Recreational and cultural infrastructure.** The Ministry of Culture, Youth and Sports and the municipal corporations shall establish the necessary policies and execute the pertinent actions to provide minors with adequate spaces at the community and national level, which allow them to exercise their recreational and cultural rights.

Sports fields, gymnasiums and adequate official infrastructure for the practice of sports or recreational activities will be available to this group under conditions of full equality, in accordance with the regulations to be issued.

Article 76°- **Use of private facilities.** As far as possible, private educational entities shall provide their facilities for the healthy recreation of minors in their community.

The Ministry of Culture, Youth and Sports and the Ministry of Public Education shall create the appropriate incentives for private entities that collaborate with the effective compliance of this provision.

Article 77°- **Access to information services.** The Ministry of Culture, Youth and Sports and the Ministry of Public Education shall guarantee access to minors to public documentation services, libraries and the like, through the implementation of programs and the installation of adequate infrastructure.

Chapter VII

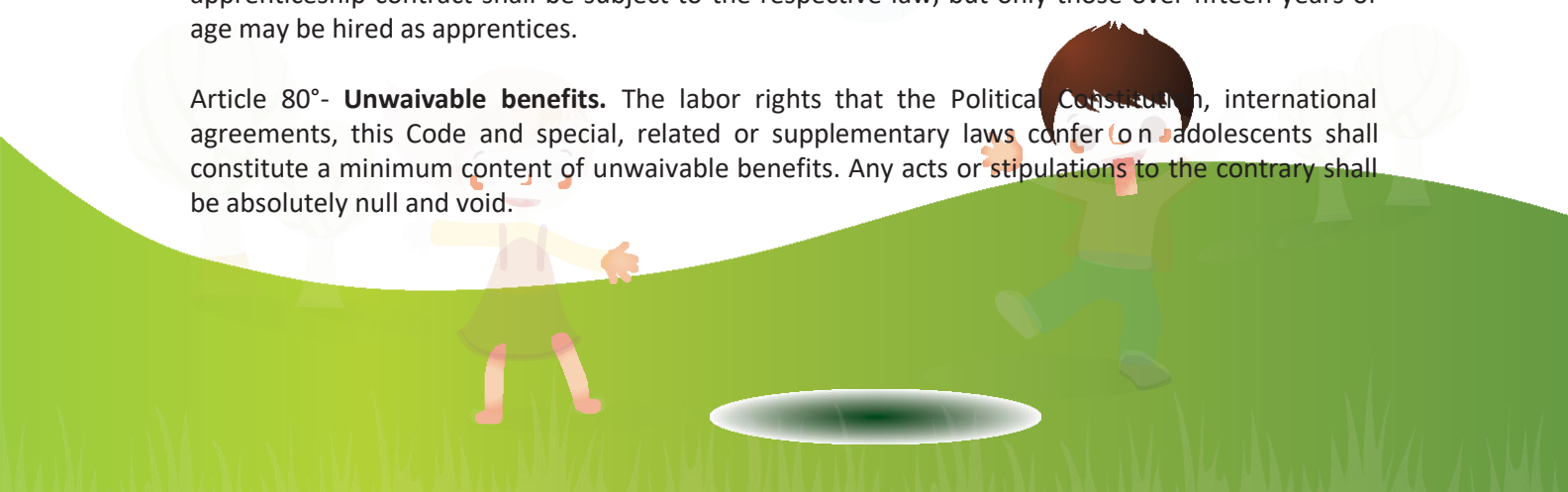
Special Regime for the Protection of Adolescent Workers

Article 78- **Right to work.** The State shall recognize the right of adolescents over fifteen years of age to work with the restrictions imposed by this Code, international conventions and the law. This right may be limited only when the work activity involves risk, danger to development, physical, mental and emotional health or when it disturbs regular school attendance.

Article 79°- **Equal rights.** All adolescents shall be equal before the law and shall enjoy the same protection and guarantees as adults, in addition to the special protection recognized by this Code. They shall enjoy full equality of opportunity, remuneration and treatment in employment and occupation.

No distinction, exclusion or preference may be made between workers or groups of workers based on age, race, color, sex, religious or political creed, physical, social or economic condition. The apprenticeship contract shall be subject to the respective law, but only those over fifteen years of age may be hired as apprentices.

Article 80°- **Unwaivable benefits.** The labor rights that the Political Constitution, international agreements, this Code and special, related or supplementary laws confer on adolescents shall constitute a minimum content of unwaivable benefits. Any acts or stipulations to the contrary shall be absolutely null and void.



Article 81- **Labor policies.** The Ministry of Labor and Social Security shall be in charge of dictating policies for the work of adolescent persons. Said policies shall:

- a) Create alternative mechanisms to support the families of adolescent workers, which may be offered through the National Program to Support Micro and Small Businesses and other programs that may be created.
- b) To avoid early insertion of adolescents into the labor market.
- c) Stimulate the learning of trades that guarantee the training of adolescents to join the labor market.

Article 82°- **Institutional coordination.** The protection of adolescent workers shall be the responsibility of the Ministry of Labor and Social Security, which shall coordinate its work with the health and education services, the National Apprenticeship Institute, the National Children's Trust, non-governmental organizations and labor unions, to the extent that their objectives so permit.

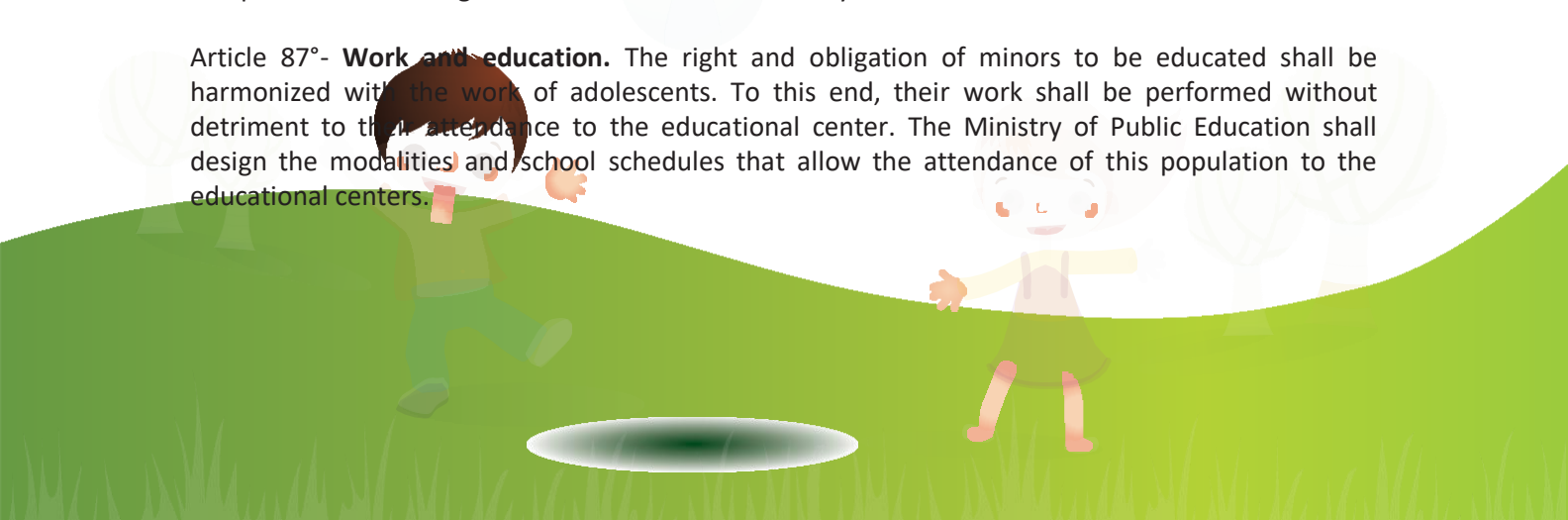
Article 83- **Regulation of labor contracts.** The Ministry of Labor and Social Security shall ensure the protection and fulfillment of the labor rights of adolescents. In order to fulfill its purposes, it shall regulate everything related to their hiring, especially the type of work allowed and the necessary working conditions. These regulations shall be issued in coordination and consultation with labor and business associations, governmental and non-governmental institutions responsible for the protection of adolescent workers, as well as with the groups they form to defend their rights.

Article 84°- **Family work.** Adolescent persons who work on their own account, in the formal or informal sector, at home or in family work shall also be protected by this Code. For the purposes of this article, family work shall be understood as work performed by them, as an indispensable contribution to the operation of the family business.

Article 85°- **Validity of the labor relationship.** The employment relationship or the employment contract entered into between the employer and the adolescent worker shall be deemed fully valid as of fifteen years of age.

Article 86°- **Legal capacity in labor matters.** Adolescents, from the age of fifteen, are recognized as having full individual and collective labor capacity to enter into acts and contracts related to their labor and economic activity and to sue, before the administrative and judicial authorities, for compliance with the legal norms related to their activity.

Article 87°- **Work and education.** The right and obligation of minors to be educated shall be harmonized with the work of adolescents. To this end, their work shall be performed without detriment to their attendance to the educational center. The Ministry of Public Education shall design the modalities and school schedules that allow the attendance of this population to the educational centers.



The authorities of the educational centers shall ensure that the work does not affect school attendance and performance. They must inform the National Directorate and General Labor Inspectorate of the Ministry of Labor and Social Security of any irregular situation in the working conditions of students.

Article 88°- **Study facilities.** Employers who hire adolescents shall be obliged to grant them the facilities that make their work compatible with their regular attendance to the educational center.

Article 89°- **Right to training.** Adolescent workers shall have the right to training appropriate to their condition as developing persons.

Article 90°- **Notification of dismissal.** The employer shall notify the dismissal with employer's liability of an adolescent worker to the National Directorate and General Labor Inspection of the Ministry of Labor and Social Security within the notice period, in order to provide the affected person with the necessary advice about the compensation rights arising from the dismissal.

Article 91- **Dismissal with just cause.** Before dismissing an adolescent worker for just cause, the employer must obtain authorization from the National Labor Directorate and General Labor Inspection Office, offering the evidence it deems pertinent. This Office will verify the existence of the alleged cause, within a maximum term of eight working days. For this purpose, it shall hear the adolescent and receive the evidence deemed necessary.

If the Management disallows the dismissal, the employer may appeal the decision before the Superior Labor Court. While the matter is being resolved in court, the dismissal may not be executed.

Failure to comply with this provision shall render the employer liable and the minor may request satisfaction of his or her compensation rights or reinstatement.

Article 92°- **Labor prohibition.** The work of persons under fifteen years of age shall be prohibited. Whoever by any means finds that one of them is working, in violation of this prohibition, shall inform the National Child Welfare Agency of this fact, in order to adopt the appropriate measures so that this person ceases his or her work activities and reincorporates into the educational system.

When the Board of Trustees determines that the work activities of minors originate from family needs of a socioeconomic nature, it shall take the appropriate measures before the competent entities mentioned in Article 31 of this Code to provide the necessary assistance to the family nucleus.

Article 93°- **Prohibition of discrimination against pregnant and breastfeeding women.** It shall be prohibited to terminate or discriminate against pregnant or nursing teenagers, in accordance with the provisions of the Labor Code.

Article 94°- **Prohibited work for adolescents.** Adolescents are prohibited from working in mines and quarries, unhealthy and dangerous places, alcoholic beverage outlets, activities in which their own safety or that of other persons is subject to the responsibility of a minor.



age; also, where it is required to work with dangerous machinery, polluting substances and excessive noise.

Article 95° - **Working day.** The work of adolescents may not exceed six hours a day or thirty-six hours a week.

Night work by adolescents is prohibited. This type of work shall be understood as work performed between 7:00 p.m. and 7:00 a.m. the following day, except for the mixed workday, which may not exceed 10:00 p.m.

Article 96 - **Self-employment.** The provisions of the two previous articles also apply to self-employment of adolescents.

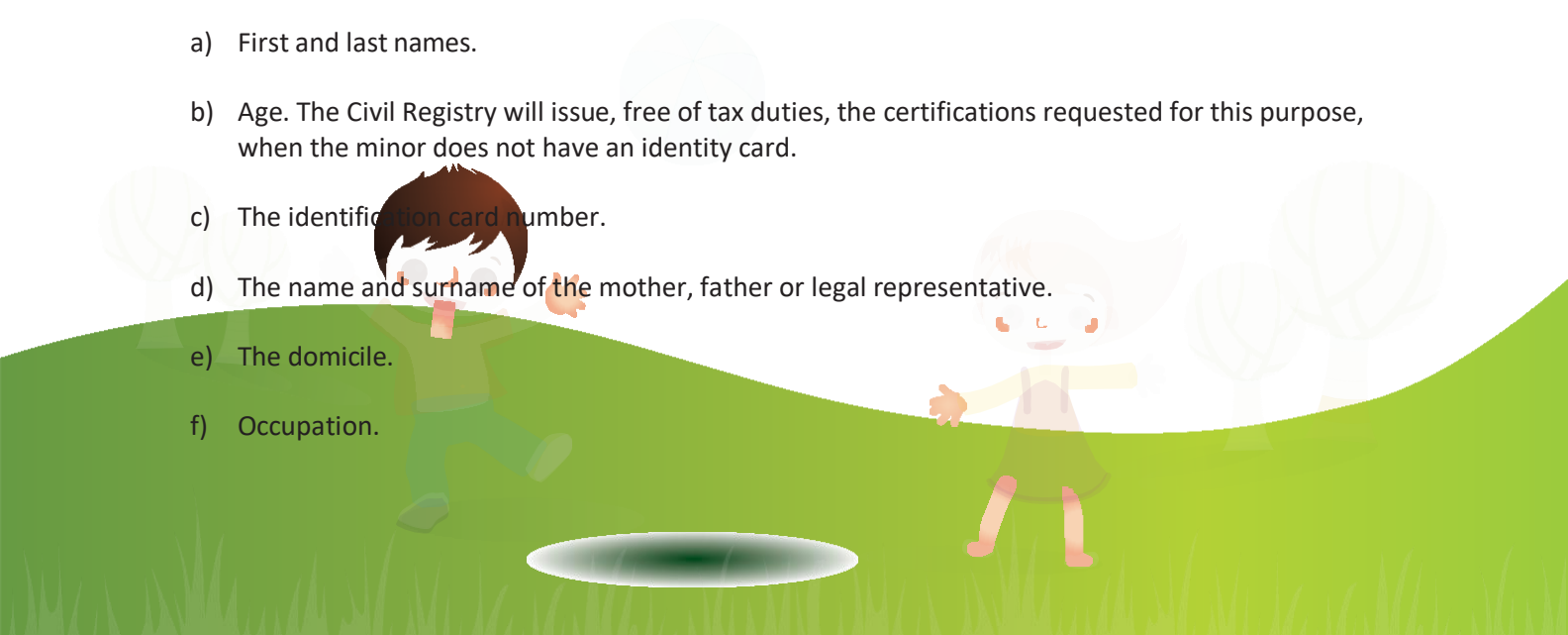
The Patronato Nacional de la Infancia shall ensure compliance with this provision. The municipalities shall take an annual census of self-employed minors in their jurisdiction and shall forward it to the Patronato for matters within its competence.

Article 97° - **Monitoring of work.** The Ministry of Labor and Social Security shall monitor the work of adolescents. Through the officials of the National Directorate and General Labor Inspection, it shall periodically visit the companies to determine if they employ minors and if they comply with the norms to protect them. In particular, it will monitor that:

- a) The work performed is not prohibited or restricted for adolescents, according to this Code and the regulations to be issued.
- b) The work does not disrupt regular school attendance.
- c) The working conditions do not harm or endanger the physical or mental health of the person. adolescent.

Article 98- **Registration requirements.** For the purposes of the preceding article, every employer who employs the services of adolescents over fifteen years of age, shall keep a record containing the following data of the minor:

- a) First and last names.
- b) Age. The Civil Registry will issue, free of tax duties, the certifications requested for this purpose, when the minor does not have an identity card.
- c) The identification card number.
- d) The name and surname of the mother, father or legal representative.
- e) The domicile.
- f) Occupation.



- g) The work schedule, specifying the number of working hours.
- h) Remuneration.
- i) Proof of completion of basic general education, or of the level of education and the name of the educational center.
- j) If the underage person performs the work for the purpose of vocational training or if there is an apprenticeship contract.
- k) The occupational risk policy number.
- l) The policyholder number.

Article 99°- **Right to insurance.** Adolescents who work as employees shall be entitled to social security and insurance for occupational hazards, in accordance with the provisions of the Labor Code and related laws.

Article 100°- **Insurance for occupational risks.** Adolescent persons engaged in independent and self-employment are entitled to insurance for occupational hazards, subsidized by the National Insurance Institute, according to the regulations to be issued in this regard.

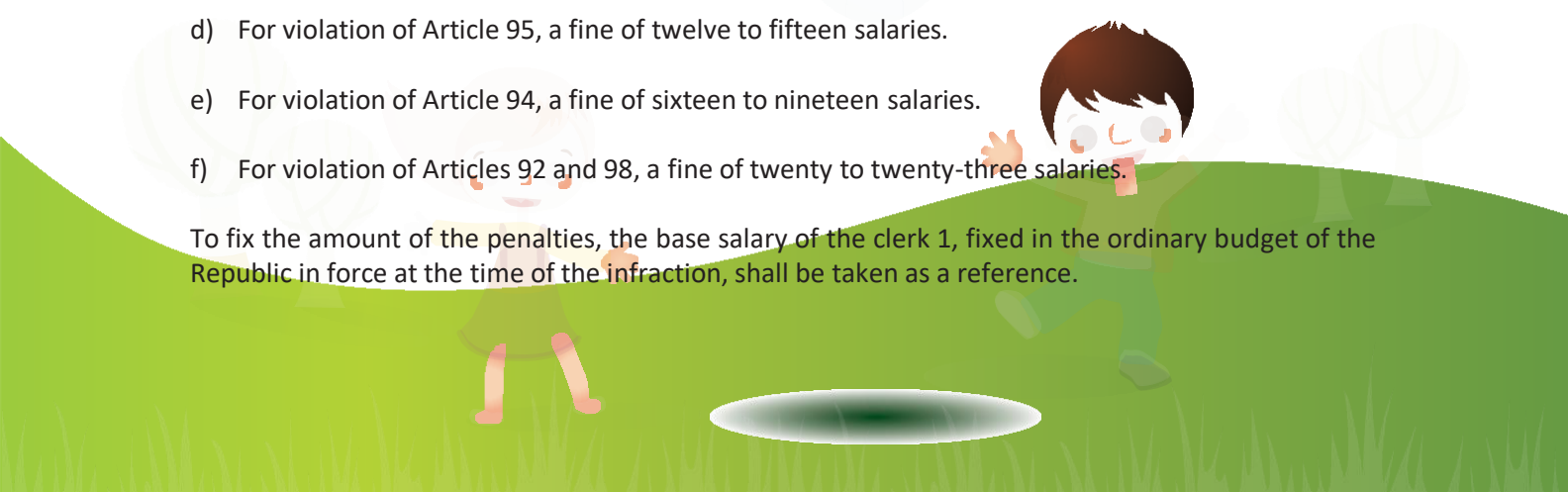
(NOTE: This article was regulated by Executive Decree No. 28192 of October 4, 1999).

Article 101°- **Penalties.** Violations, by action or omission, of the provisions contained in Articles 88, 90, 91, 92, 93, 94, 95 and 98, incurred by the employer shall constitute serious misconduct and shall be sanctioned in accordance with Articles 611, 613, 614 and 615 of the Labor Code, amended by Law No. 7360 of November 12, 1993.

The following penalties shall be applied to natural or legal persons convicted of having committed the offenses set forth in the preceding paragraph:

- a) For violation of Article 88, a fine of one to three salaries.
- b) For violation of Article 90, a fine of four to seven salaries.
- c) For violation of Articles 91 and 93, a fine of eight to eleven salaries.
- d) For violation of Article 95, a fine of twelve to fifteen salaries.
- e) For violation of Article 94, a fine of sixteen to nineteen salaries.
- f) For violation of Articles 92 and 98, a fine of twenty to twenty-three salaries.

To fix the amount of the penalties, the base salary of the clerk 1, fixed in the ordinary budget of the Republic in force at the time of the infraction, shall be taken as a reference.



Article 102°- **Prevention of sanction.** In the case of refusal to grant reports, notices, applications, permits, permits, verifications or documents required under this Code and the labor and social security laws, so that the labor authorities may exercise the control entrusted to them by said provisions, those responsible shall be sanctioned with the fine included in paragraph a) of the table of sanctions of the preceding article, under prevention with a term of thirty days.

Article 103°- **Destination of fines.** The fines collected shall be used in the following manner:

- a) Fifty percent (50%) will be allocated to the National Directorate and General Labor Inspection of the Ministry of Labor and Social Security.
- b) Ten percent (10%) to the Occupational Health Council.
- c) Ten percent (10%) to the Adolescent Clinic of the Costa Rican Social Security Fund.
- d) Ten percent (10%) to the National Learning Institute.
- e) Ten percent (10%) to the Fund for Children and Adolescents.
- f) Ten percent (10%) to the National Steering Committee for the Eradication of Child Labor.

The fines shall be paid in any of the banks of the National Banking System to the order of the Central Bank of Costa Rica, as collecting entity, in an account indicated for such purpose by said Bank. The amount will be included in the national budget of the Republic in favor of the Ministry of Labor and Social Security, which, in turn, will distribute it in the indicated percentages among the indicated entities.

The Ministry of Labor and Social Security shall report annually to the Ombudsman's Office on compliance with this provision.

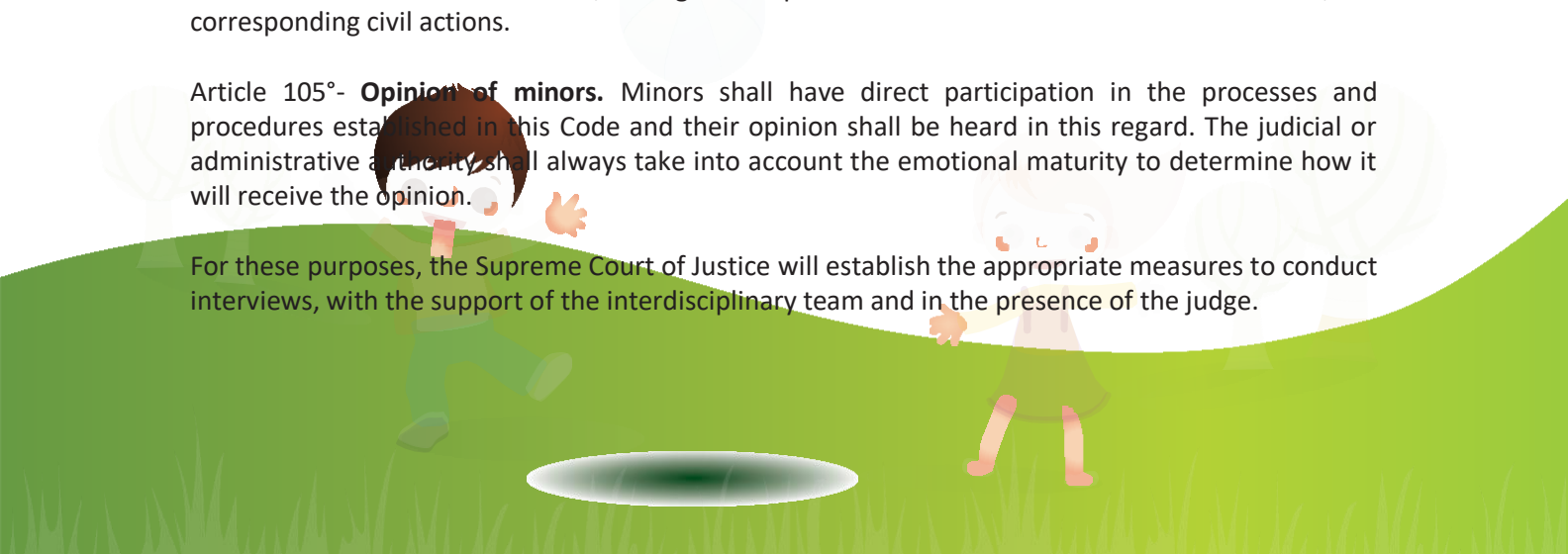
Chapter VIII

Right of Access to Justice

Article 104°- **Right to denounce.** Minors are guaranteed the right to denounce an action committed to their detriment and to exercise, through the representative of the Public Prosecutor's Office, the corresponding civil actions.

Article 105°- **Opinion of minors.** Minors shall have direct participation in the processes and procedures established in this Code and their opinion shall be heard in this regard. The judicial or administrative authority shall always take into account the emotional maturity to determine how it will receive the opinion.

For these purposes, the Supreme Court of Justice will establish the appropriate measures to conduct interviews, with the support of the interdisciplinary team and in the presence of the judge.



Article 106°- **Exemption from payment.** Legal actions brought by a minor or his or her representative shall be exempt from the payment of costs and fiscal species of all kinds.

Article 107°- **Rights in proceedings.** In any process or proceeding in which material provisions of this Code are discussed, minors shall have the right to the following:

- a) To be heard in their language and to have their opinion and versions considered in the resolution that be dictated.
- b) Have a translator or interpreter available and select one when necessary.
- c) Attend hearings in the company of a social worker, psychologist or other similar professional or a person you trust.
- d) Receive from the judge clear and precise information on the meaning of each of the proceedings that take place in his presence, as well as the content and reasons for each decision.
- e) That all procedures are carried out without delay, in simple and precise terms.
- f) The justification and determination of the protection measure ordered. In the resolution establishing the protection measure, the judicial or administrative authority shall explain to the minor, in accordance with his age and maturity, the reason why such measure was selected.
- g) Not to be placed in any public or private institution except by declaration of the competent authority, after all other placement options have been exhausted. The protective measure of shelter, issued by the local offices of the National Child Welfare Agency, is not affected.
- h) Discretion and confidentiality of the proceedings.
- i) To challenge judicial and administrative decisions, in accordance with the provisions of this Code.

Title III

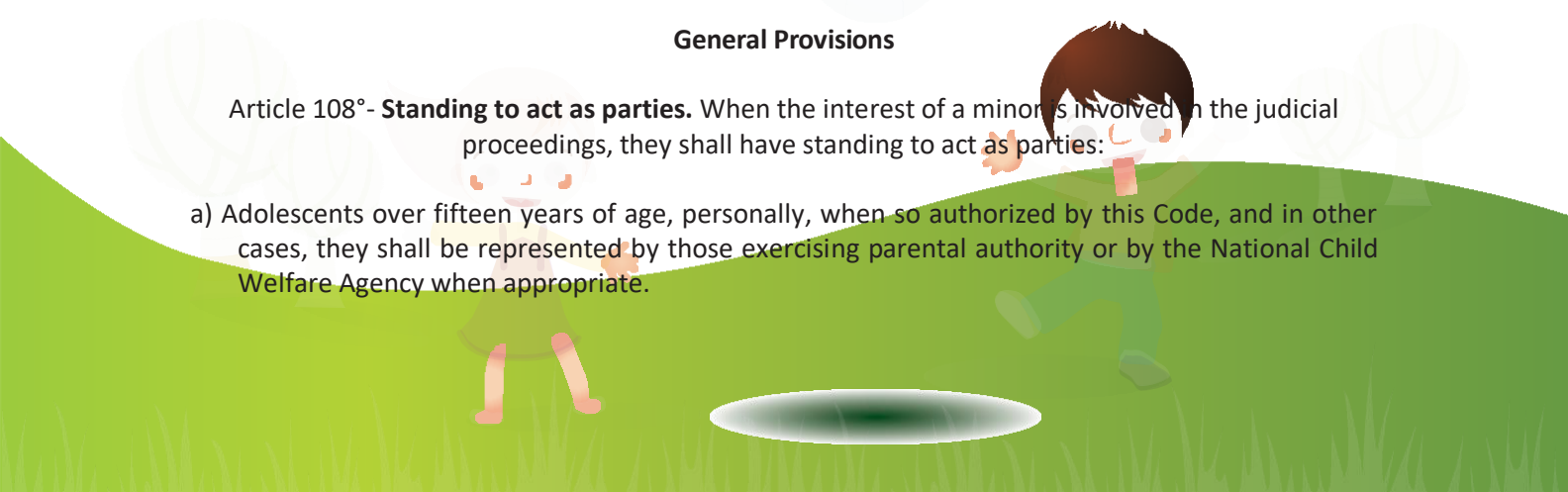
Procedural Guarantees

Chapter I

General Provisions

Article 108°- **Standing to act as parties.** When the interest of a minor is involved in the judicial proceedings, they shall have standing to act as parties:

- a) Adolescents over fifteen years of age, personally, when so authorized by this Code, and in other cases, they shall be represented by those exercising parental authority or by the National Child Welfare Agency when appropriate.



- b) Legally constituted social organizations acting in the protection of minors, when they participate in the defense of those they represent and there is a legitimate interest. Likewise, these organizations may act as coadjutants to protect the rights of their beneficiaries in the compliance of this Code.

Article 109°- Guardianship of the Office of the Attorney General of the Republic.

(ANNULLED by the Constitutional Chamber through resolution 9274-99 of 16 hours of November 24, 1999).

Article 110°- Intervention of the Office of the Attorney General of the Republic.

(ANNULLED by the Constitutional Chamber through resolution 9274-99 of 16 hours of November 24, 1999).

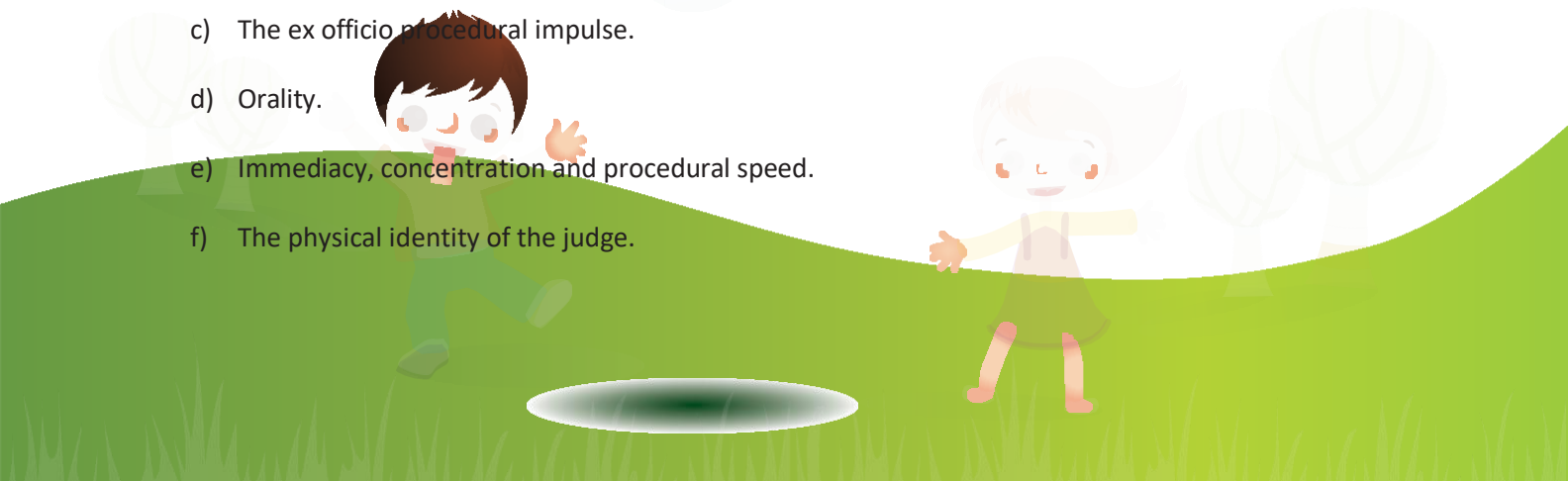
Article 111°- Representation of the National Child Welfare Agency. In judicial processes and administrative proceedings in which the interest of a minor is involved, the National Child Welfare Agency shall represent the interests of the minor when his or her interests are in conflict with those of those exercising parental authority. In all other cases, the Patronato will participate as an intervener.

Article 112°- Interpretation of norms. When interpreting and integrating the procedural norms established in this title, the judicial or administrative authority shall be oriented towards compliance with the best interests of the child and the other protective principles enshrined in the Political Constitution, the Convention on the Rights of the Child, the other international treaties related to the matter, the regulations enshrined in this Code and the Code of Civil Procedure; the latter, when it does not contravene the principles established in this law.

For the best determination of the best interests of the child, the authority shall have the support and consultation of an interdisciplinary team.

Article 113- Interpretation of this Code. The following shall be guiding principles for interpreting the procedural rules of this Code:

- a) The expansion of the judge's powers in the conduct of the process.
- b) The absence of procedural ritualism.
- c) The ex officio procedural impulse.
- d) Orality.
- e) Immediacy, concentration and procedural speed.
- f) The physical identity of the judge.



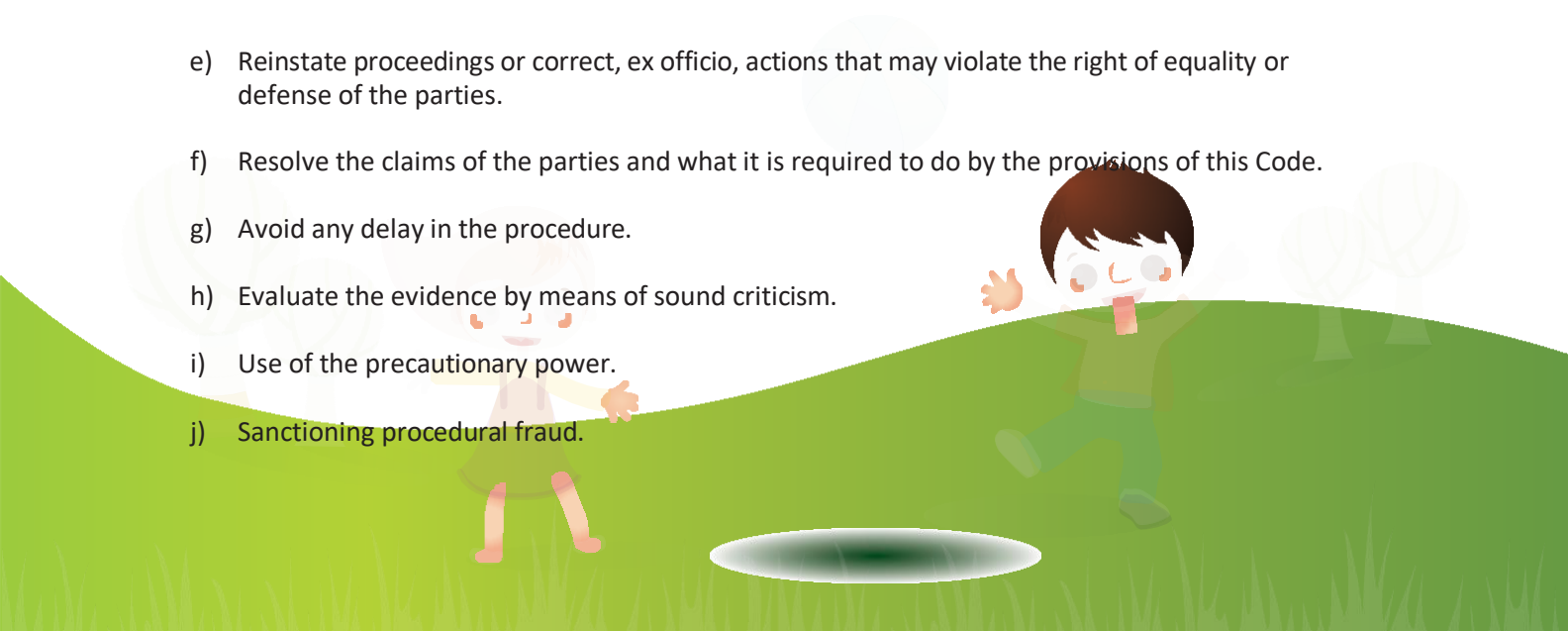
- g) The search for the real truth.
- h) The breadth of the means of proof.

Article 114- **Guarantees in proceedings.** In the processes and procedures in which the rights of minors are discussed, the State shall guarantee them:

- a) **Free of charge:** the State shall provide all minors with free technical defense and legal representation.
- b) **Publicity:** All proceedings conducted under the application of this Code shall be oral and public. The reservation of the hearing may be decreed ex officio or at the request of a party, when deemed appropriate by the nature of the process, considering the best interests of the minor and the nature of the act.
- c) **Equality:** the Public Administration and the judge must guarantee the equality of the parties and ensure their procedural balance and the right of defense.
- e) **Representation:** the administrative or judicial authority, as the case may be, shall guarantee the representation rights of the minor. The respective authority shall always ensure that there is no conflicting interest.
- f) **Right to a hearing:** in all administrative and judicial processes related to the rights of this population, their opinion shall be heard.

Article 115°- **Duties of judges.** It shall be the duties of judges hearing matters involving a minor:

- a) To initiate ex officio the matters that correspond to it.
- b) To integrate the litisconsortium.
- c) To push the process through to the final judgment.
- d) Conduct the process in search of the real truth.
- e) Reinstate proceedings or correct, ex officio, actions that may violate the right of equality or defense of the parties.
- f) Resolve the claims of the parties and what it is required to do by the provisions of this Code.
- g) Avoid any delay in the procedure.
- h) Evaluate the evidence by means of sound criticism.
- i) Use of the precautionary power.
- j) Sanctioning procedural fraud.



Article 116- **Duties of the family judges.** In the judicial process, it will correspond to the family judges:

- a) To hear, process and resolve, through the special protection process, complaints or claims against any action or omission that constitutes a threat or violation of the human rights of minors and other rights recognized in this Code, except in criminal matters.
- b) To hear complaints about irregularities in public or private care entities, which cause or may cause harm to minors, and to apply or recommend the corresponding measures.
- c) Apply the sanctions established in this Code in cases of non-compliance with the rules for the protection of minors.

Article 117°- **Complaints for violation of this Code.** Any public official or private person may denounce, judicially, the violation of the rights enshrined in this Code.

Article 118°- **Prevention by the judge.** Ritualism shall be avoided in all procedural acts. The judge shall prevent the parties from complying with the procedural forms required in the cases expressly established in this Code.

Article 119- **Desertion and withdrawals.** In proceedings involving the interest of minors there shall be no room for desertion or abandonment. It shall be the judge's responsibility to push the process forward until the judgment is rendered.

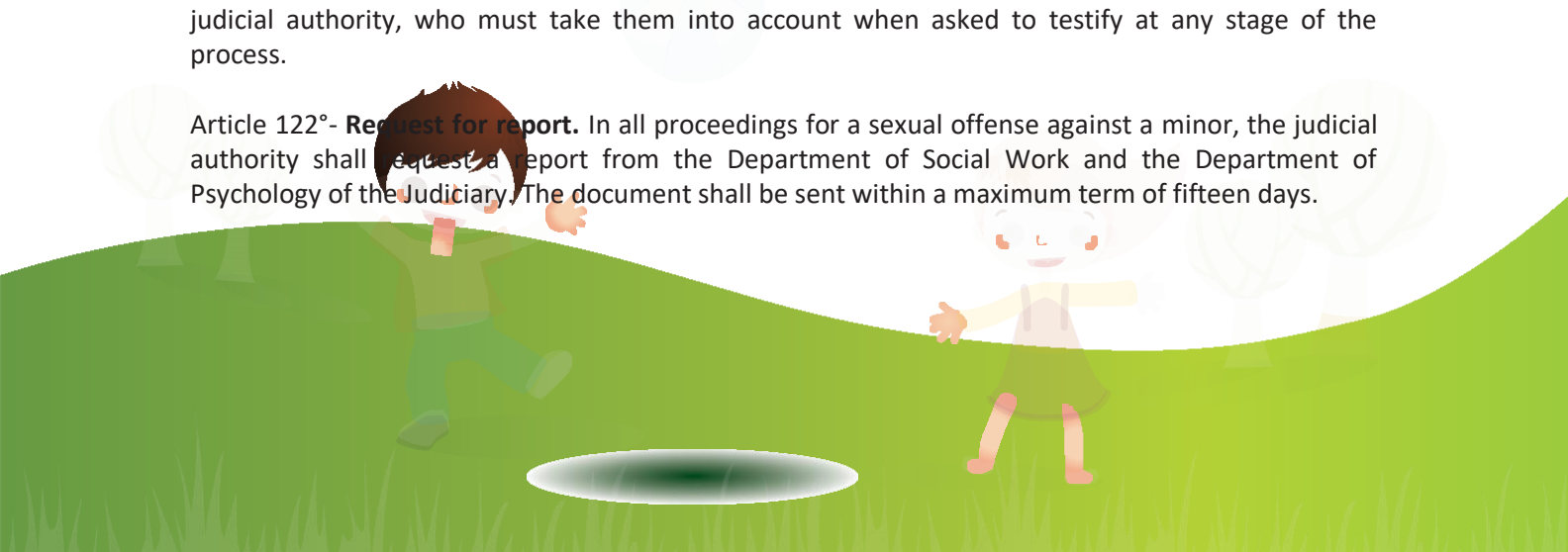
Article 120°- **Assistance to victims.** Minors who are victims of crimes shall always be assisted and recognized by experts in dealing with this group.

All judicial authorities or those who must collaborate in the processing of the process. The specialized professionals of the Legal Medicine Department of the Judiciary and the technical or administrative police auxiliaries must be previously trained.

Article 121°- **Professional services.** Medical personnel, professionals in psychiatry and forensic psychology shall be obliged to accompany underage victims, especially in the case of sexual crimes, as many times as the judicial authority deems necessary.

In order to avoid or reduce the risks that may be caused to the psychological health of the victims of the investigated act, the assigned professional will present the recommendations of the case to the judicial authority, who must take them into account when asked to testify at any stage of the process.

Article 122°- **Request for report.** In all proceedings for a sexual offense against a minor, the judicial authority shall request a report from the Department of Social Work and the Department of Psychology of the Judiciary. The document shall be sent within a maximum term of fifteen days.



Article 123°- **Assistance.** The Social Work Department and the Psychology Department of the Judiciary shall assist the offended minor and his family during the process. At the end of the process, the minor shall be referred to the corresponding institution for due treatment.

Article 124°- **Training for interrogations.** The officers of the Judicial Investigation Agency or the Administrative Police, as the case may be, shall be duly trained to interrogate minors. During the interrogations, they shall limit themselves to receive the minimum essential information to ascertain the facts and shall guarantee respect for their dignity, honor, reputation, family and personal life.

Article 125°- **Interrogations.** The judicial or administrative authorities shall avoid, as far as possible, repeated or persistent interrogations of minors who are victims of crimes and shall be reserved for the decisive stage of the process.

When a more extensive deposition of the minor is appropriate, his or her right to express his or her opinion shall always be taken into account.

Article 126- **Conditions of the hearings.** When an offended minor must attend a debate, the judicial authorities will take the necessary measures to ensure that this takes place in a private hearing, if in the opinion of the court it is necessary to guarantee his emotional stability, or so that his spontaneity is not altered at the moment of giving evidence. This hearing may only be attended by the persons indicated by law; when the presence of the father, mother or caregivers of minors may affect them, the judge may prevent them from remaining in the premises.

Article 127°- **Use of media in oral hearings.** When oral hearings are to be held, the authority in charge of the case shall use technological means or others within its reach, to avoid direct contact of the offended minors with the person to whom the criminal act is attributed. Due process shall be guaranteed at all times.

Chapter II

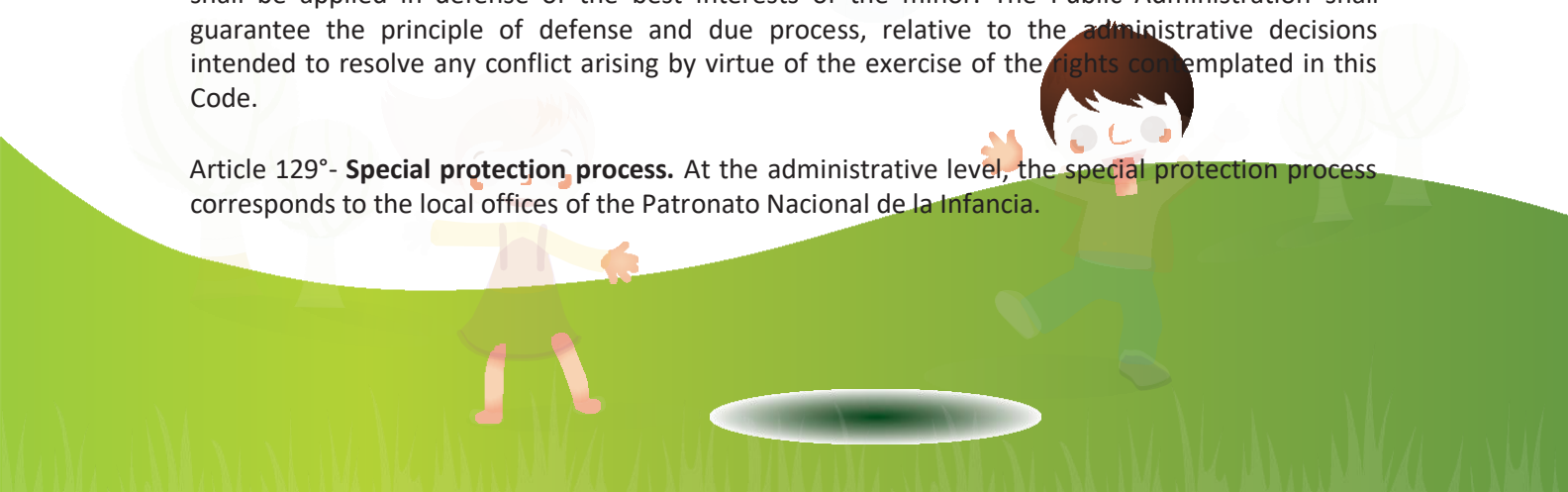
Special Protection Process

Section One

Special Administrative Protection Process

Article 128°- **Guarantees of the administrative process.** The principles of the administrative process shall be applied in defense of the best interests of the minor. The Public Administration shall guarantee the principle of defense and due process, relative to the administrative decisions intended to resolve any conflict arising by virtue of the exercise of the rights contemplated in this Code.

Article 129°- **Special protection process.** At the administrative level, the special protection process corresponds to the local offices of the Patronato Nacional de la Infancia.



Article 130°- **Causes for protective measures.** Protection measures for minors shall be applicable whenever the rights recognized in this Code are threatened or violated for one of the following causes:

- a) Action or omission of society or the State.
- b) Fault, omission or abuse of parents, guardians, caregivers or responsible persons.
- c) Actions or omissions against themselves.

Article 131°- **Other matters.** In addition to the provisions of the preceding article, in all cases in which there is no judicial pronouncement on these matters, the following shall be processed through the special process provided for in this section:

- a) Suspension of visitation.
- b) Suspension of care, guardianship and temporary custody.
- c) Provisional suspension of the administration of property of minors.
- d) Any other measure that protects the rights recognized in this Code.

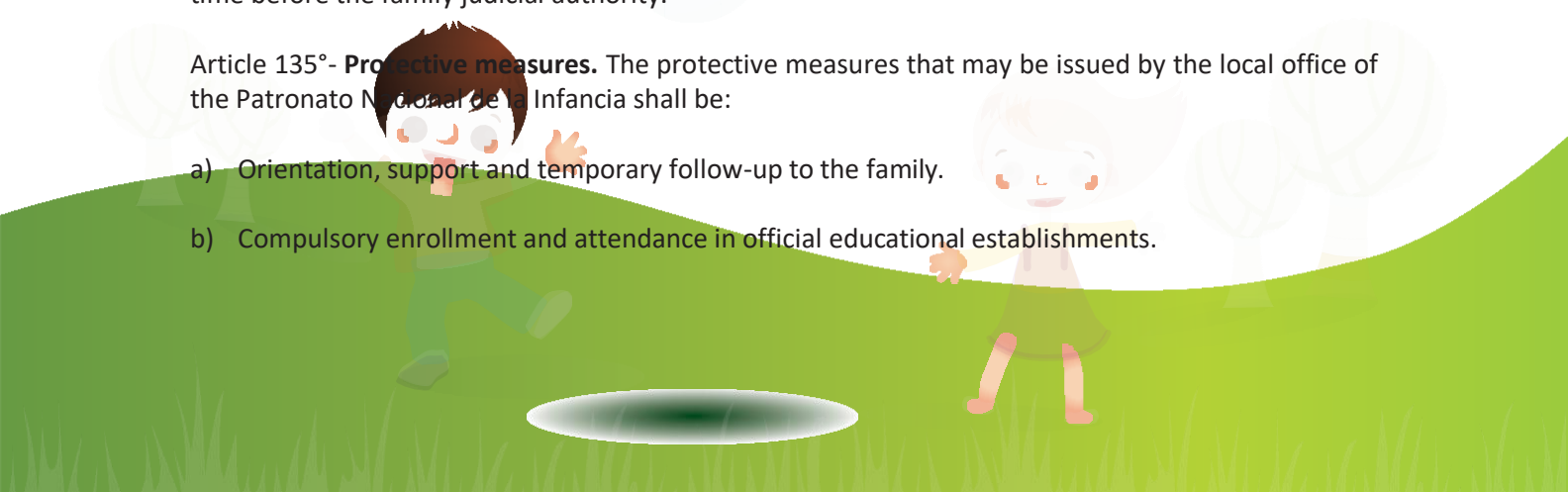
Article 132- **Initiation of the process.** In cases of serious threat or violation of the rights recognized in this Code, the special protection process may be initiated ex officio or by complaint filed by any person, authority or human rights organization.

Article 133 - **Procedures at the local office.** Once the fact is known or the complaint is received, the local office of the Patronato Nacional de la Infancia shall verify the situation, hear the parties involved, receive the evidence presented by them and immediately issue the corresponding protective measures. The procedure followed by the local office will be summary and informal and will guarantee the hearing of the minor involved.

Article 134°- **Criminal complaints.** Once the existence of signs of mistreatment or abuse to the detriment of a minor has been proven in an administrative venue, the criminal complaint shall be filed immediately. The person or institution acting in the protection of minors may not be sued, even if the accused is not convicted in this venue. If the denounced person has any direct relationship of care or representation with the offended minor, the pertinent action shall be brought at the same time before the family judicial authority.

Article 135°- **Protective measures.** The protective measures that may be issued by the local office of the Patronato Nacional de la Infancia shall be:

- a) Orientation, support and temporary follow-up to the family.
- b) Compulsory enrollment and attendance in official educational establishments.



- c) Inclusion in official or community programs to help families and children under the age of 18. age.
- d) Order for medical, psychological or psychiatric inpatient or outpatient treatment in a hospital or clinic outpatient treatment.
- e) Inclusion in official or community assistance programs involving counseling and treatment for alcoholics and drug addicts.
- f) Interim care in foster families.
- g) Temporary shelter in public or private entities.

Article 136°- **Measures for parents or guardians.** The following measures shall be applicable to parents or guardians of minors:

- a) Refer them to official or community-based family protection programs.
- b) Refer them to official or community support, counseling and treatment programs for alcoholics and drug addicts.
- c) Refer them for psychological or psychiatric treatment.
- d) To compel them to enroll in and monitor their school attendance and achievement.

Article 137°- **Other measures.** Measures applicable to employers, public officials or any other person who violates or threatens to violate the rights of minors:

- a) Written warning about the violation or threat against the right in question in the particular case, with summons to be duly informed about the rights of the minor.
- b) Order for the immediate cessation of the situation that violates or threatens to violate the right in question, when the summoned person does not appear within the term granted for such purpose, or when the summoned person has appeared but the minor continues in the same harmful situation.

Article 138°- **Conditions for applying measures.** In applying the measures set forth in Articles 135 and 136, the needs of those affected shall be taken into account and those aimed at strengthening family and community ties shall prevail.

The measures provided for may be adopted separately or jointly and may be substituted at any time. In the case of temporary care in a substitute family and temporary shelter in a public or private institution, the measure may not exceed six months.

Article 139 - Appeals. **An appeal** may be filed before the Executive President of the Patronato Nacional de la Infancia against the decision of the local office of the Patronato Nacional de la Infancia, which shall exhaust the administrative channels. The appeal may be filed orally in writing, within forty days of the date of the appeal.

eight hours following its notification. The filing of the appeal will not suspend the application of the measure.

Article 140°- **Non-compliance with measures.** If any of the measures provided for in Articles 135 and 136 are not complied with, the local office of the Patronato Nacional de la Infancia may adopt an alternative measure, extend the term of compliance with the previous one or refer the matter to the judge, for the suspension of parental authority.

If the measure not complied with is one of those provided for in article 137, the local office of the Board of Trustees shall file a complaint with the administrative authority responsible for taking the appropriate coercive actions.

Section Two

Judicial Protection Process

Article 141- **Knowledge of special proceedings.** The family judges of the jurisdiction of the domicile of the minor involved in the process shall be competent to hear the special protection process.

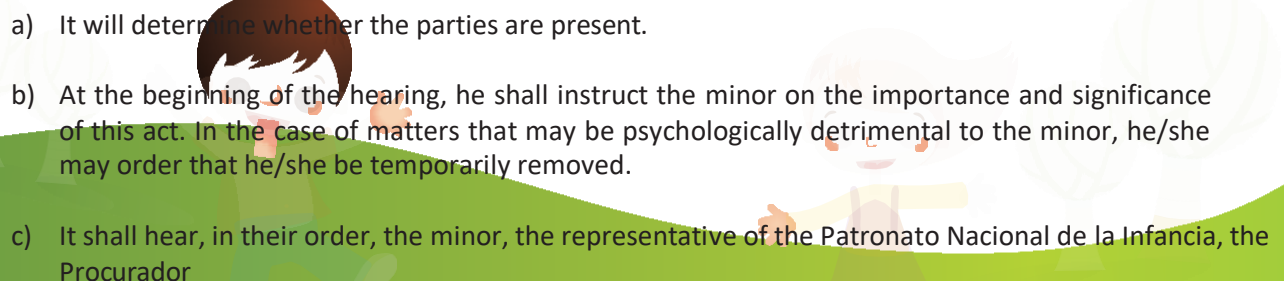
Article 142°- **Situations to be processed in special proceedings.** By means of the special protection process provided for in this section, situations arising from the issuance of protection measures by the local offices of the National Child Welfare Agency, according to articles 135, 136 and 137 of this Code, shall be processed. In order to resort to the special protection process in the judicial channel, this administrative channel must be previously exhausted.

Such proceedings shall not suspend or replace judicial proceedings in which filiation or parental authority is in dispute.

The process may also be initiated by a complaint from a local office of the Board of Trustees.

Article 143°- **Appointment of hearings.** Once the process has been initiated, the judge shall review the results obtained with the measures dictated in the administrative venue and shall set the date and time for the hearing, which must be held within a maximum period of five days. In the case of a crime, the judge will certify what is appropriate and refer it to the Public Prosecutor's Office or to the juvenile criminal jurisdiction, as the case may be.

Article 144- **Order of the hearing.** On the day and time set for the hearing, the judge shall proceed as follows:

- 
- a) It will determine whether the parties are present.
 - b) At the beginning of the hearing, he shall instruct the minor on the importance and significance of this act. In the case of matters that may be psychologically detrimental to the minor, he/she may order that he/she be temporarily removed.
 - c) It shall hear, in their order, the minor, the representative of the Patronato Nacional de la Infancia, the Procurador

The following persons shall be present in the process: representatives of other institutions, third parties involved, doctors, psychologists and other specialists who have knowledge of the event and the parents, guardians or caregivers.

- d) Having heard the parties and according to the seriousness of the case, he may propose a definitive solution; in case it is not accepted by the parties, he shall proceed to the reception of evidence.

Article 145- **Collection of evidence.** At this hearing the parties may propose evidence of any kind.

The procedural guarantees set forth in this title shall be applied in order to evacuate them.

On his own motion or at the request of a party, the judge shall order the proceedings to gather any other information necessary to resolve the case.

Article 146°- **Final resolution.** Once the evidence has been received and evaluated according to the rules of sound criticism, the judge shall issue the final resolution within a maximum period of five days. In said resolution, the judge may confirm the measure ordered by the local office of the Patronato Nacional de la Infancia, extend it for an equal period, replace it with another or revoke it. In any case, the judge may initiate, ex officio, the corresponding process of definitive suspension of custody, guardianship or parental authority, as appropriate.

Article 147°- **Delegation of execution.** The judge shall ensure the effective enforcement of the resolution issued. In the case of any of the measures provided for in Articles 135 and 136, he may delegate the execution of what has been agreed to protect the minor to the competent local office of the National Child Welfare Agency, and every two months he shall request reports on such compliance.

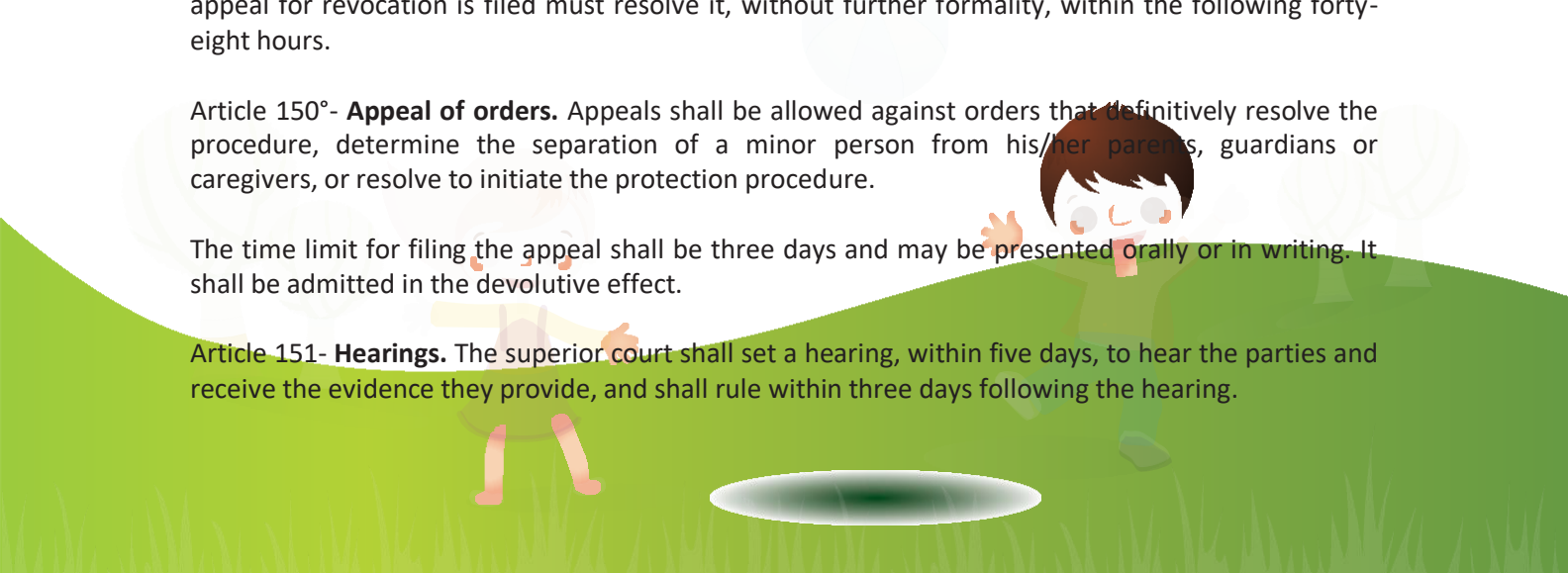
Article 148- **Confirmation of measures.** If the measure agreed upon is one of those provided for in article 137 and the judge confirms it, in the same act he shall order the initiation of the corresponding process to resolve the situation presented in a definitive manner.

Article 149- **Revocation of resolutions.** The judge may revoke, ex officio or at the request of a party, all resolutions issued in the proceeding, except those that put an end to the procedure. The appeal may be filed orally or in writing within three working days of notification. The judge before whom the appeal for revocation is filed must resolve it, without further formality, within the following forty-eight hours.

Article 150°- **Appeal of orders.** Appeals shall be allowed against orders that definitively resolve the procedure, determine the separation of a minor person from his/her parents, guardians or caregivers, or resolve to initiate the protection procedure.

The time limit for filing the appeal shall be three days and may be presented orally or in writing. It shall be admitted in the devolutive effect.

Article 151- **Hearings.** The superior court shall set a hearing, within five days, to hear the parties and receive the evidence they provide, and shall rule within three days following the hearing.



Article 152°- **Modification of resolution.** Once the decision has been appealed, the superior court shall confirm, modify or revoke only the part that is the object of the appeal, unless, as a consequence of the decision, it is required to modify other points.

Article 153°- **Appeal for inadmissibility.** When the judge of first instance has denied the appeal, the interested party may appeal for inadmissibility within three days of notification of the denial before the court of second instance, according to the Code of Civil Procedure.

Chapter III

Conciliation and Mediation

Article 154°- **Judicial conciliation.** Judicial conciliation in matters involving children and adolescents may be held when a proceeding is pending or as an act prior to it. In both cases it shall be governed by the procedure established in this chapter.

(*)Article 155°- **Impediments.** Matters in which there are unwaivable rights of the parties, those related to domestic violence, those of suspension or loss of parental authority or those that may constitute crimes may not be subject to mediation or conciliation.

(*) By resolution of the Constitutional Chamber **No. 2002-07362** of 15:53 hours of 07/24/2002, it is stated that this article **is not unconstitutional**, as long as it is interpreted that conciliation may be carried out when the accused and the offended party are minors.

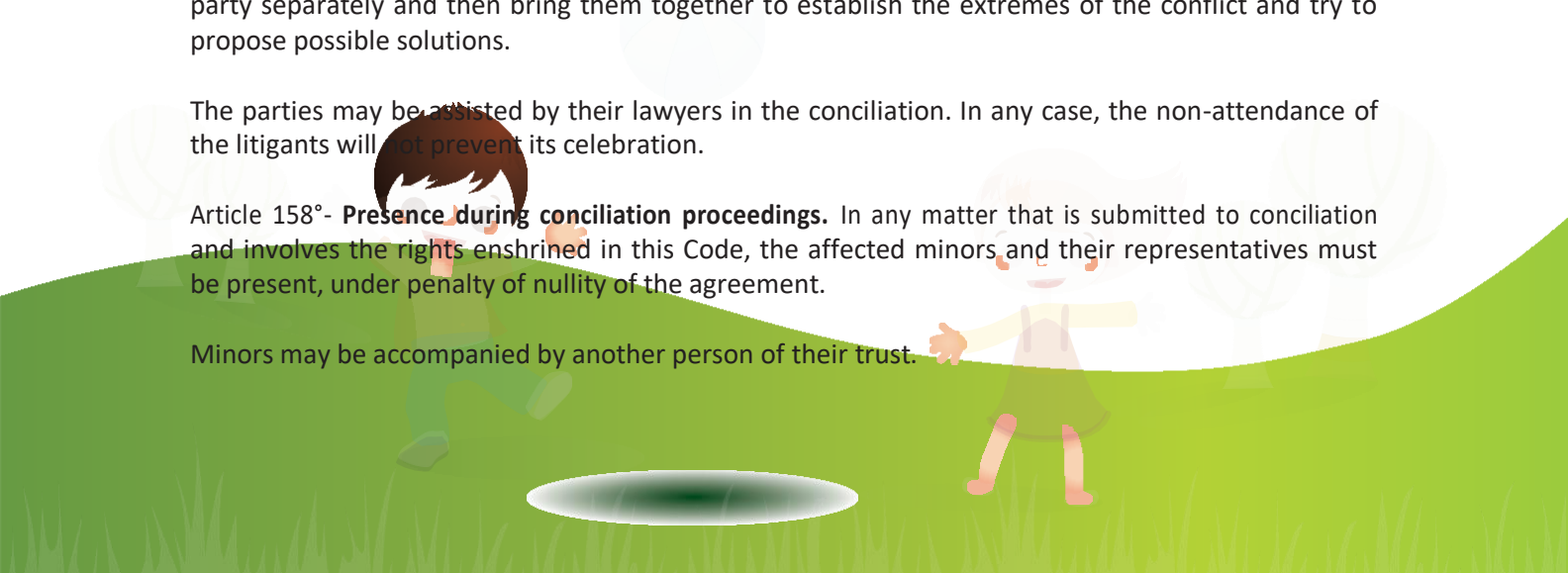
Article 156°- **Conciliatory process.** The judicial conciliation process shall be initiated, ex officio at the request of the parties, at any stage of the proceedings, even at the hearing or without the need for prior proceedings. The nature of the conflict and the points on which the conciliatory agreement shall be based shall be established. In any case, the conciliatory agreement shall guarantee the protection of the rights of minors. The judge will summon the parties to the appearance and will summon them personally.

Article 157°- **Appearance for conciliation.** The appearance at the conciliation shall be personal. It shall begin with an interview of the parties by the conciliator. In this first stage the conciliator shall try to inform both parties about the elements that characterize the conciliation process and shall warn them about the convenience of reaching an agreement. If he deems necessary, he may interview each party separately and then bring them together to establish the extremes of the conflict and try to propose possible solutions.

The parties may be assisted by their lawyers in the conciliation. In any case, the non-attendance of the litigants will not prevent its celebration.

Article 158°- **Presence during conciliation proceedings.** In any matter that is submitted to conciliation and involves the rights enshrined in this Code, the affected minors and their representatives must be present, under penalty of nullity of the agreement.

Minors may be accompanied by another person of their trust.



The conciliator shall listen to the opinion of minors, taking into account their emotional maturity. When the opinion of an adolescent concurs with that of his representative, it will be binding to establish the agreement.

Article 159- Conciliatory agreement. The conciliatory agreement shall be recorded in minutes signed by the conciliator and the parties, and shall have the effect of an enforceable judgment.

The minutes of conciliation agreements shall contain:

- a) The indication of the data necessary to identify the parts and the process.
- b) The nature of the matter.
- c) A succinct account of what took place at the hearing.
- d) The agreements reached by the parties.
- e) The signatures of the parties, the judge and the clerk of the office.

Article 160- Partial conciliation agreements. If the agreement is partial and there is pending litigation, the process shall continue with respect to the points not conciliated and this shall be stated in the conciliation agreement. If the conciliation is requested by the parties, without there being pending litigation, the right of the parties to ventilate the non-conciliated points in the corresponding judicial proceeding shall remain unaffected.

Article 161°- Homologating resolution. In order to approve the agreement, the judge shall issue a homologating resolution which shall not contain the formalities of a judgment; but it shall have the same effects. In it, the nature of the matter, the agreements entered into and the reason or basis for homologating the agreement shall be laconically stated; likewise, the judge's legal grounds for rejecting those that violate the rights of minors. The homologation will then be read to the parties at the same hearing.

Article 162°- Enforcement of conciliation agreements. The enforcement of conciliation agreements entered into before a judge shall be processed before the same conciliating judge through the procedure for the enforcement of a judgment.

Article 163°- Effect of the conciliation procedure. The conciliation process may not exceed three months from the date of the request of the parties. The conciliation process shall suspend the time limits of expiration of the action. The conciliation out of process may be requested again by the parties when the first appearance has failed. However, the conciliator may refuse the request if he deems that the action should be deemed to have been exhausted. Likewise, the conciliator shall have the duty to refuse the conciliation process when, in his opinion, the subject matter of the conciliation cannot be resolved in this way due to a legal impediment. If the conciliation fails, the judge will continue the process.

Article 164°- Procedure for mediation. Mediation shall be carried out at the administrative headquarters, through the centers established for this purpose. The administrative procedure for mediation

will be based on the same principles as conciliation: confidentiality, impartiality and equality of the parties. It will be a self-managed, voluntary and optional procedure; likewise, as far as compatible, the procedure for conducting mediation will be applied.

Article 165°- **Alternative resolution centers.** Public or private institutions in charge of the care or protection of minors shall create the necessary alternative dispute resolution centers to carry out mediation in this matter.

Article 166°- **Mediation.** Mediation is an autonomous and independent process from the judicial conflict. What is resolved by the mediation centers will be enforceable for the parties involved in the settlement; but the right to discuss it in court remains unaffected.

The agreement resulting from a mediation shall have full value between the parties that enter into it, who may modify it by means of a new request for mediation.

Article 167°- **Conflicts that can be settled before mediation centers.** Conflicts over the custody of minors, visitation, alimony or any other that does not require judicial intervention, may be settled before mediation centers and may be asserted before the respective judge, provided that the rights of this group are not violated and that the rights are available between the parties with the procedural guarantees of defense, hearing and technical assistance for these persons.

Title IV

National Integral Protection System

Chapter I

System Conformation

Article 168°- **Guarantee of comprehensive protection.** The comprehensive protection of the rights of minors shall be guaranteed in the design of public policies and the execution of programs aimed at their care, prevention and defense, through the governmental and social institutions that make up the National System for the Comprehensive Protection of the Rights of Children and Adolescents.

Adolescence.

Article 169- **System for the Integral Protection of the Rights of Children.** The System for the Integral Protection of the Rights of Children and Adolescents shall be made up of the following organizations:

- a) The National Council for Children and Adolescents.
- b) Government institutions and civil society organizations represented in the Children's Council.
- c) Child Protection Boards.



d) The Committees for the protection of the rights of children and adolescents.

Chapter II

National Council for Childhood and Adolescence

Article 170°- **Creation.** The National Council for Children and Adolescents, attached to the Executive Branch, is hereby created as a space for deliberation, agreement and coordination between the Executive Branch, the decentralized institutions of the State and the representative organizations of the community related to the matter.

The Council shall be responsible for ensuring that the formulation and implementation of public policies are in accordance with the policy of comprehensive protection of the rights of minors, within the framework of this Code and in accordance with the principles set forth herein.

The governmental institutions that make up the Council shall retain their own constitutional and legal powers.

(The Constitutional Chamber by resolution No. 13583-2007, dated 15:10 hrs. of 19/09/2007, ruled that this article cannot be interpreted in such a way as to disregard, prejudice or diminish the constitutional powers of the Patronato Nacional de la Infancia).

Article 171- **Functions.** The Council shall have the following functions:

- a) Coordinate inter-institutional and intersectoral action in the formulation of policies and the implementation of programs for the prevention, care and defense of the rights of minors.
- b) To know and analyze the annual operating plans of each of the public institutions that are members of the Council, in order to ensure that the best interests of minors are considered in their formulation.
- c) To know and analyze the monitoring and evaluation reports prepared by the National Children's Trust, in compliance with Article 4, paragraph d) of its Organic Law.
- d) Evaluate the reports submitted by the National Children's Trust and issue the pertinent recommendations to the corresponding institutions and disseminate them by the most appropriate means.
- e) Submit for national discussion the annual status of the rights of children and adolescents. This study and the results of its discussion and consultation should be taken into account by the institutions in their annual planning activities.
- f) To hear and approve the reports of the special working commissions set up within it and issue the necessary recommendations to the pertinent institutions.



- g) Request technical and financial assistance from national and international cooperation agencies.
- h) Promote cooperation agreements between public institutions or between these and private institutions for better compliance with the agreements adopted.
- i) To issue the internal regulations to operate.

(The Constitutional Chamber by resolution No. 13583-2007, dated 15:10 hrs. of 19/09/2007, ruled that this article cannot be interpreted in such a way as to disregard, prejudice or diminish the constitutional powers of the Patronato Nacional de la Infancia).

Article 172- **Integration.** The Council shall be integrated as follows:

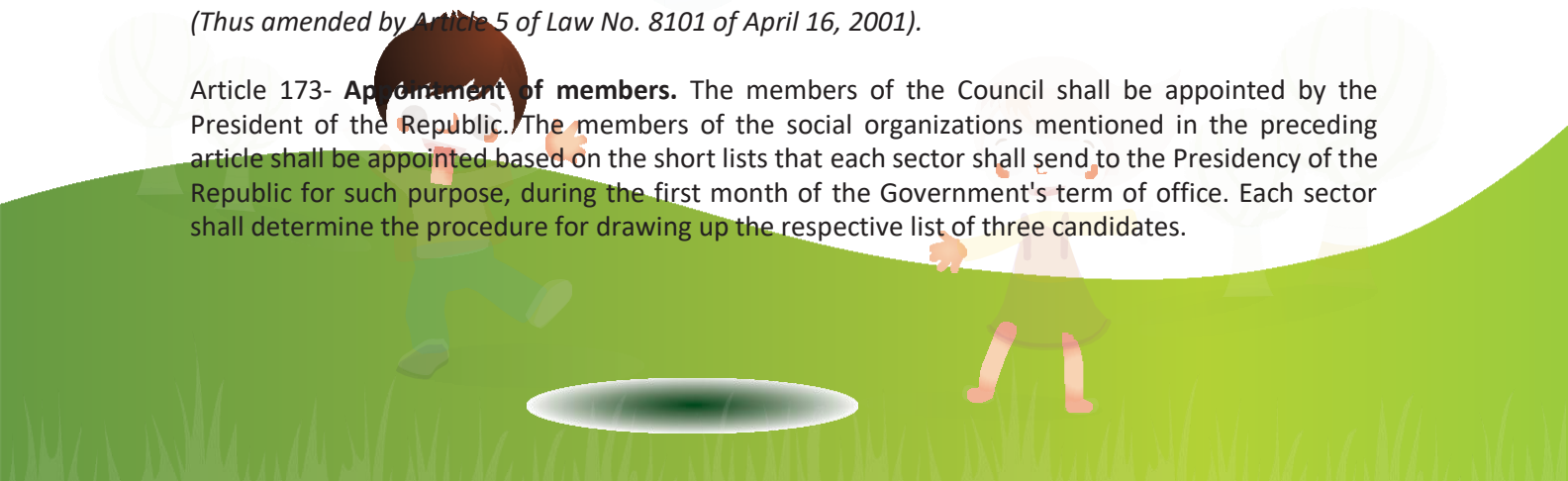
- a) One representative from each of the following ministries: Public Education; Public Health; Culture, Youth and Sports; Labor and Social Security; Justice and Grace; Public Security; National Planning and Economic Policy.
- b) One representative from each of the following autonomous institutions: the Patronato Nacional de la Infancia, the Instituto Mixto de Ayuda Social, the Caja Costarricense de Seguro Social and the Instituto Nacional de Aprendizaje.
- c) A single representative of the sector formed by associations, foundations or non-governmental organizations dedicated to the care and assistance of minors.
- d) A single representative of the sector formed by associations, foundations or any other non-governmental organization dedicated to the promotion and defense of the rights of this population.
- e) A single representative of the business chambers.
- f) A single representative of the labor organizations.

The members of the Board, formally appointed, shall have the capacity to deliberate and make decisions on the matters that correspond to them in said body.

- g) A representative of the National Women's Institute.
- h) A representative of the National Council of Rectors."

(Thus amended by Article 5 of Law No. 8101 of April 16, 2001).

Article 173- **Appointment of members.** The members of the Council shall be appointed by the President of the Republic. The members of the social organizations mentioned in the preceding article shall be appointed based on the short lists that each sector shall send to the Presidency of the Republic for such purpose, during the first month of the Government's term of office. Each sector shall determine the procedure for drawing up the respective list of three candidates.



Article 174- **Government representatives.** The government representatives to the Council shall be officials of trust and may be removed from their positions at any time by the President of the Republic. The representatives of the community organizations shall be appointed for a period of three years and may be reelected. Participation in this Council shall be ad honorem.

Article 175- **Internal organization of the Council.** Each year, the Board shall elect a Chairman and a Vice-Chairman from among its members, who shall replace the Chairman during their absences. Both may be reelected for an equal period.

Article 176- **Special working commissions.** The Board may set up special working committees, permanent or temporary, for specific purposes and with the participation of representatives of other public entities and non-governmental organizations, and may authorize their operation.

Article 177- **Meetings of the Board.** The Board shall ordinarily meet once a month and, extraordinarily, when called by its Chairman, at the request of one third of the total number of members. The Board shall meet with a minimum of eight members.

Article 178- **Functions of the technical secretariat.** The Council shall have a technical secretariat, whose functions shall be:

- a) Prepare a study on the monitoring and evaluation reports submitted for consideration by the Council.
- b) Execute, follow up and monitor compliance with the resolutions adopted by the Board.
- c) Formulate an annual study on the state of the rights of children and adolescents. To do so, it will seek the participation of other institutions dedicated to the study of this subject, especially universities.

Chapter III

Boards for the Protection of Children and Adolescents

Article 179°- **Integration and performance.** The Boards for the Protection of Children and Adolescents, attached to the National Children's Trust, shall make up the National System of Integral Protection and shall act as local bodies for the coordination and adaptation of public policies on the matter.

In addition to the members indicated in the Organic Law of the Institution, each Board shall have a representative of the adolescent population of the community, who must be over fifteen years of age and shall act with voice and vote. The rules for appointing such representative shall be established in the respective regulations.

Article 180°- **Other functions.** In addition to the specific functions indicated in the Organic Law of the National Child Welfare Agency, the Protection Boards shall:



- a) Promote respect for the rights of minors in the community by public and private institutions that carry out programs and projects of care, prevention and defense of rights, as well as respect for the procedural guarantees that correspond to them in the administrative proceedings in which they are involved.
- b) To be aware of the reports to be submitted quarterly by the local offices of the National Child Welfare Agency, regarding the situation of children and adolescents based on the cases handled and the programs developed by them. They shall evaluate said reports, issue recommendations and disseminate them in the respective community, through publications, public activities and other means deemed appropriate.
- c) To issue the recommendations and suggestions it deems necessary to guarantee respect for the rights of children and adolescents, both to local public and private entities, as well as to individuals who carry out care and defense programs and projects.

Chapter IV

Comités Tutelares de los Derechos de la Niñez y la Adolescencia (Guardianship Committees for the Rights of Children and Adolescents)

Article 181°- **Creation.** The committees for the protection of the rights of children and adolescents are hereby created as organs of the community development associations, which shall operate within the framework of the Law on community development, No. 3859, of April 7, 1967, with the following purposes:

- a) To collaborate with the development association in dealing with matters relating to individuals minors.
- b) To watch over the rights and guarantees of this population in their community.
- c) To function as a mediation center in the resolution of conflicts in this matter, in accordance with the procedures established in Chapter III of Title III of this Code.

Article 182- **Integration.** The guardianship committees shall be composed of a number of three or five members, as determined by the assembly of the development association, which shall make the respective appointment each year. The position shall be ad honorem.

Article 183- **Financing.** The constitution and operation of these guardianship committees may be financed by the Fund for Children and Adolescents.

Chapter V

Fund for Children and Adolescents

Article 184°- **Creation.** The Fund for Children and Adolescents is hereby created, the purpose of which shall be to finance, in favor of minors, projects that develop community-based comprehensive protection actions, and of exclusively community and inter-institutional execution.

Article 185- **Constitution.** To constitute the Fund created in the previous article, at least one eighth (0.5%) of the four percent (4%) of the resources of the Social Development and Family Allowances Fund assigned to the National Children's Trust by Law No. 7648 of December 9, 1996 shall be allocated. The Fund for Children and Adolescents shall be managed through a special account and may not be used for other purposes or for administrative expenses.

Article 186°- **Functions of the Board of Directors regarding the Fund.** In relation to the Fund, the following functions correspond to the Board of Directors of the Patronato Nacional de la Infancia:

- a) Promote the formulation of grassroots projects and community implementation for the comprehensive protection of minors.
- b) To know and approve the projects submitted to it.
- c) Issue guidelines for managing the fund and project requirements.
- d) Oversee the management of resources and the development and execution of projects.
- e) Report to the National Council for Childhood and Adolescence every six months on the investment of the Fund's resources.
- f) Such other functions as may be required to fulfill its duties.

Article 187°- **Functions of the Boards in relation to the Fund. The Boards** for the Protection of Children and Adolescents shall be responsible for the fund:

- a) Promote in the community, the formulation of special projects to support the rights of minors.
- b) Channel and recommend special projects for the comprehensive protection of the community to the Board of Directors of the Patronato Nacional de la Infancia.
- c) Monitor the implementation of special projects financed by the Fund for Children and Youth. adolescence.

Title V Final

Provisions Chapter I

Sanctions

Article 188°- **Misconduct of public officials.** Violations incurred by public officials by action or omission of the provisions contained in Articles 27, 32, 35, 41, 43, 46, 49, 50, 55, 56, 59, 60, 63, 67, 68, 69, 121, 122, and 123 shall be considered serious misconduct.



Article 189°- **Disciplinary proceedings.** Once a complaint has been filed against a public servant, the hierarchical superior shall apply the disciplinary procedure contained in numeral 211 of the General Law of the Public Administration or the corresponding measures of the regime to which the person denounced belongs, without prejudice to the pecuniary sanctions imposed by the competent judge according to the amounts established in the following article.

The application of these measures must be immediate, in order to prevent the penalty from becoming time-barred, under penalty of incurring the crime of breach of duty, if the superior fails to apply it. If it is found that the official repeats his misconduct, he shall be dismissed.

Article 190°- **Violations by private individuals.** Infringement of the provisions of Articles 27, 35, 43, 43, 45, 49, 50, 50, 55, 56, 56, 59, 59, 60, 63, 64, 68 and 69 incurred by private individuals shall entail, in addition to the measure adopted by the judge, a fine according to the following regulation:

- a) The amount equivalent to three clerk's wages 1, when a provision is violated for the first time.
- b) The amount equivalent to five clerk 1 salaries, when the official repeats the infraction for which he/she had been sanctioned.

When the infraction is committed in a private establishment, the latter is jointly and severally liable for the civil consequences of the act.

Article 191°- **Imposition of sanctions.** Once the infringement has been established, the sanction imposed by the judge in accordance with the preceding article shall be established in the respective sentence, in the contentious process, or in the final resolution, in the other processes.

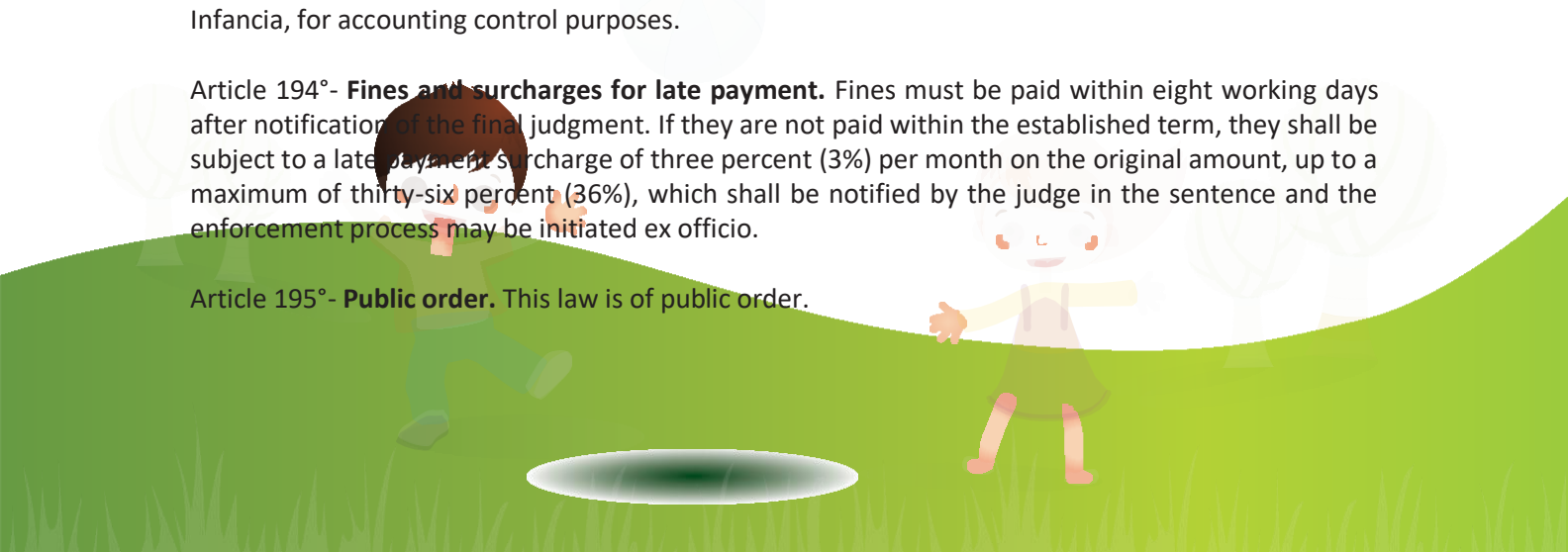
Article 192°- **Destination of fines.** The amounts collected from the fines applied shall be deposited in favor of the Fund for Children and Adolescents.

Fines imposed as a consequence of the infraction of this Code shall be cancelled in some of the authorized banks of the National Banking System.

Article 193°- **Payment voucher.** The bank office shall issue a payment voucher, which shall indicate the name of the depositor, the judicial file number to which the cancellation corresponds, the amount of the deposit and the name and account number of the Fund for Children and Adolescents. The banks shall be obliged to send a copy of the payment voucher to the Patronato Nacional de la Infancia, for accounting control purposes.

Article 194°- **Fines and surcharges for late payment.** Fines must be paid within eight working days after notification of the final judgment. If they are not paid within the established term, they shall be subject to a late payment surcharge of three percent (3%) per month on the original amount, up to a maximum of thirty-six percent (36%), which shall be notified by the judge in the sentence and the enforcement process may be initiated ex officio.

Article 195°- **Public order.** This law is of public order.



Effective as of its publication.

Chapter II

Transitory Provisions

Transitory I.- Judicial and administrative matters pending resolution at the time this law enters into force shall continue to be processed in accordance with the procedural provisions in force at the time they were initiated. In any case, the judicial and administrative authorities shall endeavor to apply the principles and new rules set forth in this Code, to the benefit of the minor.

Transitory II.- The Judiciary shall set up, as soon as possible, the disciplinary teams attached to the family courts and other judicial bodies that hear cases involving minors. After the first six months following the entry into force of this law, there shall be, as a minimum, an interdisciplinary team exclusively to attend to this population and provide support to the judicial authorities that may require it.

Likewise, it will seek to strengthen the family courts with personnel specialized in minors and will designate, on a preferential basis, a family court for children and adolescents in the province of San José.

Transitory III: Within a maximum term of one year as from the effective date of this law, the National Child Welfare Agency shall reorganize its local offices and install the boards for the protection of children and adolescents in all the places where they are located. Within the same term, the Committees for the Protection of the Rights of Children and Adolescents shall be appointed in the communal development associations.

Transitory IV.- The Patronato Nacional de la Infancia shall be responsible for adopting the budgetary and administrative provisions for the constitution and operation of the Fund for Children and Adolescents, within a maximum period of six months from the publication of this law.

Transitory V.- The National Council for Children and Adolescents shall be appointed and shall become effective within a maximum term of three months as of the effective date of this law.

Transitory VI.- Adolescents under fifteen years of age who are working when this law enters into force, may continue working, without the employer incurring in the liabilities provided herein, provided that the employer communicates the situation to the Ministry of Labor and Social Security within a maximum term of one month.

The Ministry of Labor will keep a record of cases and will give them special follow-up regarding the protection of the rights of the adolescent until he/she reaches the minimum working age, in accordance with Article 96 of this Code.

