EDITURA LUMEN în elita editurilor românești

Available online http://lumenpublishing.com/journals/index.php/jls

e-ISSN: 2067-8509; ISSN-L: 1841-6195

Jurnalul de Studii Juridice

Year XVI, No. 1-2, November, 2021, pp. 24-38

CHILDREN'S ALLOWANCE - SOCIAL SECURITY RIGHT

Raluca Laura DORNEAN PĂUNESCU

DOI: https://doi.org/10.18662/jls/16.1-2/81

Covered in:
CEEOL, CrossRef, CrossCheck,
Index Copernicus, Ideas RePeC,
EconPapers, Socionet,
HeinOnline

©2021 The Authors & LUMEN Publishing House

How to cite: Dornean Păunescu, R. L. (2021). Children's allowance - social security right. *Jurnalul de Studii Juridice, XVI*(1-2), 24-38. https://doi.org/10.18662/jls/16.1-2/81

CHILDREN'S ALLOWANCE - SOCIAL SECURITY RIGHT

Raluca Laura DORNEAN PĂUNESCU [1]

Abstract

The present study aims to highlight the importance of the constitutional right of the state allowance for children, as a form of protection of all children, without discrimination.

The author reviews the beneficiaries of this right, the amount of the right, as well as the documents necessary to obtain the state allowance for children, emphasizing a series of proposals de lege ferenda that would lead to a correct interpretation of existing legislation and impose an applicability of law in the best interests of the child.

Keywords:

state child allowance, social security right, beneficiaries of the state allowance for children, the amount of the state allowance for children, the necessary documents, proposals of lege ferenda in the field of the applicability of the legislation on children's rights

[1] PhD assistant, Faculty of Law - West University of Timişoara; postdoctoral researcher at UVT - Faculty of Law; lawyer of the Timiş Bar; ralucalaura_paunescu@yahoo.com; raluca.dornean@e-uvt.ro

1. Brief introductory considerations

Law on state allowance for children no. 61/1993 entered into force on 01.10.1993 (Romanian Parliament, 2012) and represents the normative act by which the state allowance for children is established as a form of state protection, which is granted to all children, without any discrimination.

De lege lata, by Decree no. 195/2020 on the establishment of the state of emergency on the territory of Romania (Romanian Parliament, 2020a) issued by the President of Romania, a state of emergency was established for a period of 30 days [2], noting the evolution of the epidemiological situation and the public health risk assessment, which indicated a massive increase in the number of people infected with the SARS-CoV-2 coronavirus, in order to reduce the negative effects on the economy caused by national and international measures for combating the spread of this new virus.

Thus, the COVID -19 pandemic led to changes in the field of state allowance for children granted under Law no. 61/1993 regarding the state allowance for children, republished, with the subsequent modifications and completions, since according to art. III of the Government Emergency Ordinance no. 30/2020, starting with 21.03.2020 and based on Decree no. 195/2020 on the establishment of the state of emergency on the territory of Romania, the applications, declarations and proving documents for requesting the social assistance benefits granted from the state budget through the budget of the Ministry of Labor and Social Protection can be submitted in letter format or by e-mail.[3]

---

[2] According to the sole article of the Decision of the Romanian Parliament no. 3/2020, published in Romanian Parliament, Part I no. 224 of 19/03/2020, the state of emergency on the entire territory of Romania is approved, for a period of 30 days, from March 16, 2020, as an exceptional measure adopted by the President of Romania, Mr. Klaus-Werner Iohannis, by Decree no. 195/2020 on the establishment of the state of emergency on the Romanian territory, published in Romanian Parliament (2020a, 2020b).

[3]The submission by e-mail of the applications, declarations and proving documents for requesting the benefits is made at the local public administration authorities in whose territorial area the applicants have their domicile, residence or actually live.

The electronic submission of applications, declarations and supporting documents is optional and is done in the conditions in which the territorial agencies or local public administration authorities have developed electronic reception systems, in compliance with the provisions of Regulation (EU) 2016/679 of the European Parliament (Official Journal of the European Union, 2016)

Starting with 21.03.2020, for the period of applicability of Decree no. 195/2020 (Romanian Parliament, 2020a), the decision to grant / reject / terminate / suspend the right to social assistance for any of the social benefits provided in art. III alin. (2) of GEO no. 30/2020 can be sent to the beneficiary in letter format or by e-mail by the issuing territorial agency.

2. Beneficiaries of the state allowance for children

The beneficiaries of this state allowance are all children up to 18 years old, but also young people who have reached the age of 18, assuming that they attend high school or vocational education courses, organized in accordance with the law, until their completion.

An important legal provision is that young people who have reached the age of 18 and attend high school or vocational education lose the right to the state allowance if they repeat the school year, unless this event occurs for health reasons, proven with a medical certificate.

According to this legal provision, *eo ipso*, through a *per a contrario* interpretation, it is undoubted that this right is regained at the beginning of the school year following the one that was repeated, the young person over 18 years of age showing motivation, efficiency skills and abilities, in order to complete his studies. [4]

Another irrefutable conclusion that emerges from these legal provisions is that children up to 18 years of age receive a state allowance even if they repeat the school year, as the rule refers strictly to young people who have already turned 18 and under certain subjective circumstances, repeat the school year.

Additionally, the law provides that children of foreign citizens and stateless persons residing, in accordance with the law, in Romania, if they live with their parents, benefit from a state allowance for children.[5]

This legal provision, inserted in art. 2 of Law no. 61/1993 (The Offical Gazette of Romania, 2012), must be corroborated with the provisions of the Emergency Ordinance no. 194/2002 on the regime of foreign citizens in Romania, which in article 2 provides that the terms and expressions used have the following meaning:

a) foreigner - the person who does not have Romanian citizenship, the citizenship of another member state of the European Union or of the European Economic Area or the citizenship of the Swiss Confederation;

[4] For example, a student who turned 18 at the end of the 11th grade, who repeats the 11th grade, will not receive a state allowance in that school year in which she/he has the quality of a repeater, but will receive a state allowance in the 12th grade, as she/he proves that he is attending high school.

[5] According to art. 1 para. 2 of the Methodological Norm for applying the provisions of Law no. 61/1993 on the state allowance for children (Romanian Parliament, 2012), as well as for the regulation of the modalities for establishing and paying the state allowance for children from 28.05.2008, children of foreign citizens, as well as of stateless persons resident/residents in Romania, in accordance with the law, if they live with their parents, benefit from a state allowance for children.

b) stateless person - the citizen who does not have the citizenship of any state.

In order to respect the best interests of the child, the expression „if they live with their parents" must be interpreted extensively and not literally, due to the fact that a child can live with a parent (with one of the parents) and not always with both parents.

Continuing the textual analysis, according to art. 4 of the law, the state allowance for children is paid to one of the parents on the basis of their agreement or, in case of disagreement, on the basis of the decision of the guardianship authority or the court decision, the parent to whom the child was entrusted for upbringing and education.[6]

As it results from the provisions of art. 1 of Law no. 61/1991, the state allowance for children represents a form of state protection granted to all children, until the age of 18. In such conditions, the state allowance is a right of the child, and not of the parent. Since the children do not have the full capacity to exercise, and the administration of their patrimony belongs to the parents, the legislator established, through art. 4 of the same normative act, the manner in which the payment is made, stating that in principle, until the child reaches the age of 14, the payment is made to the legal representative, and after the age of 14, the child, with the consent of his legal representative, or, as the case may be, to the legal representative. Or, the fact that until the full age the payment is made as a rule to the legal representative does not mean that he becomes the holder of the right. On the contrary, the right still belongs to the child, and only the payment is made through a legal representative. Equally, by the mention contained in par. 1 of art. 4, according to which "*the state child allowance is paid to one of the parents on the basis of their agreement or, in case of disagreement, on the basis of the decision of the guardianship authority or the court decision, the parent to whom the child was entrusted for upbringing and education*" excludes the possibility that the payment received by one of the parents during the marriage may be subject to repetition in the conditions in which it was collected without the right holder benefiting from it.

On this subject, according to the Decision of the Constitutional Court no. 345/2020 regarding the rejection of the exception of

[6] *Ab initio,* we make a brief statement according to which until the date of entry into force of the new Civil Code on October 1, 2011, the notion of entrusting the minor to one of the parents was regulated in the provisions of the Family Code. Following the abrogation of the latter code, the institution of entrusting of the minor was abandoned and a new legal institution was introduced, namely the parental authority. The entrusting of minor presupposed that the parent individually exercised all parental rights in respect of the person and the child's property.

unconstitutionality of the provisions of art. 4 para. (1) of Law no. 61/1993 (The Offical Gazette of Romania, 2012) regarding the state allowance for children - pronounced in the meeting of June 16 and published in the Official Gazette no. 1082 of November 16, 2020, the constitutional forum mentioned that given its lack of capacity or, as the case may be, restricted capacity, the criticized text of the law regulates a practical aspect, regarding the collection of sums of money corresponding to the allowance. Specifically, the Court states that the general rule is the situation in which the state child allowance is paid to one of the parents on the basis of their agreement. The second thesis of the criticized text establishes the solution for the hypothesis in which the parents do not agree on this aspect, the payment of the allowance will be made to the parent to whom the child was entrusted for upbringing and education, based on the decision of the guardianship authority or the court decision.

In its argument, the Constitutional Court noted that the authors of the exception of unconstitutionality started to criticize the fact that the text of the law subject to control would not circumscribe the situation in which children are entrusted to one parent but they actually live with the other parent and legal maintenance is granted by the parent to whom they actually live, and not by the parent to whom they have been entrusted. Thus, the Court finds that in the manner in which it was formulated, the respective exception of unconstitutionality is inadmissible, because it concerns a legislative omission, which the court of constitutional contentious does not have the competence to fulfill by means of a constitutionality control, taking into account the provisions of art. 2 para. 3 of Law no. 47/1992.

Moreover, the Court notes that the motivation of the alleged unconstitutionality of the criticized text of law is based exclusively on the concrete situation existing in the case, being presented in the light of particular factual aspects of the case in which the exception was raised, related to the application of the law, thus the situation in question and whose clarification is up to the court. In this context, the Court recalls that the application and interpretation of the law in specific cases is the prerogative of the courts, and cannot be achieved through constitutional review (Staicu, 2020).

In the same register, in one case, the court found that, starting with January 2017, the state allowance for minors was, according to Law no. 61/1993 (The Offical Gazette of Romania 2012), in the amount of 84 lei, and according to GEO no. 9/2019, the amount of the allowance was increased to 150 lei per month, this allowance was collected by the defendant father and there was no proof that it was returned to the minor. Thus, the court finds an increase in the defendant's assets to the detriment

of the minor without any justification in this regard, since although the defendant was the person who had previously received the minor's state allowance, he no longer lived with him but with his mother, the plaintiff, and it was necessary to reimburse the amount received monthly to the minor for use for his benefit (Decision no 248/2021).

In another case, having as object a presidential ordinance, the court held that regarding the supplementing of the father's consent for the modification of the bank account data in which the minor's allowance is transferred, the court holds that according to the provisions of art. 4 para. 1 of Law no. 61/1993 (The Offical Gazette of Romania 2012), the state allowance for children is paid to one of the parents on the basis of their agreement or, in case of misunderstanding, on the basis of the decision of the guardianship authority or the court decision, to the parent to whom the child was entrusted for upbringing and education. As the parties have indicated that the minor currently lives with the mother, it is necessary to amend this measure in accordance with the best interests of the minor. It is necessary to take this measure even if there is no decision to entrust the minor, as the allowance is a form of state protection, from which the child must benefit immediately, without waiting for the final settlement of relations between the parties (Decision no 248/2021).

Regarding the statement that the state child allowance is paid to one of the parents on the basis of their agreement or, in case of disagreement, on the basis of the decision of the guardianship authority or the court decision, the parent to whom the child was entrusted for upbringing and education, it necessitates some clarifications.

Thus, *de lege lata*, the notion of minor entrusting is obsolete as the institution provided in the civil code is regulated as parental authority, which represents the set of rights and duties concerning both the person and the child's property and belongs equally to both parents (art. 483 Civil Code).

The same code stipulates in art. 486 that whenever there are misunderstandings between parents regarding the exercise of rights or the fulfillment of parental duties, the guardianship court, after listening to the parents and taking into account the conclusions of the report on psychosocial investigation, decides according to the best interests of the child.

In such a situation, the following questions are raised: the request for the state allowance for children by the legal representative is a parental duty or a parental right, respectively it is constitutional, *de lege lata*, to resolv disagreements between parents regarding the payment to one of the parents by decision of the guardianship authority?

In our opinion, compared to the lack of capacity of the minor up to 14 years of age, as well as the fact that the holder of the right to the state allowance for the minor is the minor himself, requesting the payment of the state allowance is a real parental duty, and in case of misunderstanding, the guardianship authority would not have the legal leverage to be able to oblige one of the parents to repeat the unduly collected state allowance or to give the permission granted to one of the parents in order to obtain the payment of the state allowance, this attribute being the sovereign attribute of the court.

From another perspective, regarding the effects of divorce on the relations between parents and their minor children, according to art. 398 para. 1 of the new Civil Code, in the event that there are good reasons, taking into account the best interests of the child, the guardianship court decides that parental authority be exercised only by one of the parents and establishes, with the divorce, the residence of the minor child at the parent with whom he lives permanently. In such a case, the parent who obtains exclusive parental authority will request the payment of the state child allowance, without the need for the consent of the other parent.

Depending on the specific situation, the state child allowance is also paid to the guardian, curator, person to whom the child was placed in foster care, including the foster carer or the person to whom the child was entrusted for adoption, in accordance with the law.

In relation to the age of acquiring the restricted capacity to exercise, after reaching the age of 14, the payment of the state allowance for children can be made directly to the holder, with the approval of his legal representative (ING Romania). [7]

However, is such a legislative provision unconstitutional or not? Is legal the necessity of the approval by the legal representative in order for the payment of the state allowance for children to be made directly to the minor who has reached the age of 14 or 16? Is this consent of the legal

[7] According to ING Romania, the parent is the holder of the "Savings for Children" account opened in the minor's name, but the card can be issued in the minor's name, with the restriction that the minor will not be able to make online payments with that card, but will only be able to withdraw money from the ATM. Specifically, the 14-year-old minor will not be able to open an account in his name in which to personally request the receipt of the state allowance for children.
Mutatis mutandis, BT (Transilvania Bank) has the same policy, to allow the legal representative of the minor to open an account in the name of the minor with a related card also in his name, a card that can be used by the minor. The legal representative still retains all rights and decisions related to the banking relationship.

representative not to the detriment of the recognition of the rights of the child?

In order to be able to answer these questions, it is necessary to clarify what type of act is the application for granting the state allowance for children[8], respectively if it represents a legal act of disposition, administration or conservation.

Ab initio, we specify that according to art. 37 of the Civil Code, the capacity to exercise is the aptitude of the person to conclude single civil legal acts, and according to art. 40 of the same code, it is shown that for good reasons, the guardianship court may recognize to the minor who has reached the age of 16 the full capacity to exercise. For this purpose, the parents or guardians of the minor will also be heard, taking, when appropriate, the opinion of the family council.

Art. 41 of the Civil Code, which regulates the restricted capacity, stipulates that the minor who has reached the age of 14 has a restricted capacity, respectively that the legal acts of the minor with limited capacity are concluded by him, with the consent of the parents or, as the case may be, of the guardian, and in the cases provided by law, and with the authorization of the court of guardianship. The approval or authorization may be given, at the latest, at the time of concluding the act. The last paragraph of art. 42 of the Civil Code provides the following: "however, the minor with limited capacity may exercise acts of preservation alone, acts of administration that do not prejudice him, as well as acts of disposition of low value, of current character and executed at date of their conclusion".[9]

---

[8] Much more legally correct would be the expression "the application for the payment of the state allowance for children" and not "the application for the granting of the state allowance for children", as it is not necessary for the public authority to express agreement to this right, but to order the actual payment to the legal representative, the right to the allowance being born at the time of the child's birth, without the need for an additional agreement.

[9] Thus, the patrimonial legal acts that can be concluded by the minor over 14 years of age without the parents' consent are the preservation legal acts, such as summons, sealing, inscription of a privilege or a mortgage in the advertising documents, interruption of a prescription. Specifically, the possibility of the totally deprived of civil capacity to exercise personally and alone such legal acts of conservation is justified by the fact that such an act aims to prevent the loss of a subjective civil right, always in question profitable acts to the holder of the respective subjective right.

Minority deeds, which are frequently concluded for various common needs, may be, for example, the purchase / purchase of sweets, school supplies, the conclusion of transport contracts with public transport companies through the purchase of tickets, the purchase of theater tickets / movies. The explanation of the valid conclusion by the one lacking the civil capacity to exercise the small patrimonial legal acts is in the current character of such acts, in the nature of these legal acts. Specifically, they can never harm the interests of their author, in which sense there is no need for a representation from the legal representative.

Reported to the fact that the administrative act is that legal act by which a normal valuation of a good or a patrimony is achieved, the state allowance being an effective and not illusory right, which should be found in its materiality in the patrimony of the minor, the legal provision according to which after reaching the age of 14, the payment of the state allowance for children can be made directly to the holder, *with the consent of his legal representative*, is in our opinion deeply unconstitutional.

We make this statement as we consider it illegal to request the consent of the legal representative for the request to pay the state allowance for children (especially the 16-year-old), as this right of the child will allow him to make real acts of administration and disposition value. Once the 16-year-old has the right to conclude alone, without the consent of his legal representative, an employment contract, being remunerated for the activity performed, we ask another question: why do banking units accept the minor's request to open a bank account only with the approval of the legal representative?

In the corollary, we propose that *de lege ferenda* to be stipulated the right of the 16-year-old minor to request the granting of the state allowance directly to his account, without the consent of the legal representative, a mention that should lead to changes in banking legislation regarding the conditions applicable to the accounts opened in the name of the minor,

---

It should also be noted that these minors, respectively those with limited capacity to exercise, have the opportunity to conclude, without the consent of their legal guardians, a series of personal acts, such as:

• the employment contract, as the minor who has reached the age of 16 can conclude an employment contract and can dispose of the results of his work; only if he is 15 years old, the consent of the legal representative is required (art. 13 paragraphs 1 and 2 of the Labor Code);

• introducing an action in establishing the paternity of a child born out of wedlock by the minor mother;

• recognition of paternity by the minor father (Nicolae, 2020).

In support of our argument, we see that in the case of certain legal acts of a special nature, the legal guardian cannot represent the minor and cannot approve the documents, the law requiring the manifestation of the will of the minor:

• the 10-year-old minor must give his / her consent at the end of the adoption and at its dissolution;

• in the event of a divorce of the parents, the 10-year-old must be heard by the court;

• upon reaching the age of 14, the minor (assisted by the legal representative) may request the court to grant a maintenance pension by the parent to whom he was not entrusted.

In the not too distant past, the state allowance could also be collected by the minor with his identity card, from any post office or from state-approved banks in order to pay the state allowance for children.

which currently allows the opening of a bank account by the minor aged 16 only with the consent of the legal representative.

Returning to the legal provisions regarding the payment of the state allowance, we specify that for children for whom the special protection measure of placement in a residential service has been established, respectively a service that provides accommodation for more than 24 hours and is licensed in under the conditions of the law, the state allowance for children is paid only in a personal account, in the amounts provided by law, the payment of the allowance being made directly to them, on the basis of a request.

In this case, the state allowance is transferred to the personal accounts opened for them by the head of the general directorate of social assistance and child protection subordinated to the county council, respectively subordinated to the local councils of the sectors of Bucharest, hereinafter referred to as general directorate.

It is very important to mention that these amounts are capitalized until these children reach the age of 14. After the holder reaches the age of 14, the state allowance can be paid directly to him, with the approval of the head of the general directorate, or, depending on his option, can be further capitalized in his personal account until the age of 18 years, and upon reaching this age, it will be granted to the holder.

3. The amount of the state allowance for children

According to art. 3 of Law no. 61/1993 (The Offical Gazette of Romania 2012), the state allowance for children is established:

1. in the amount of 600 lei for children up to 2 years old or up to 3 years old, in the case of a disabled child,

2. in the amount of 300 lei for children aged between 2 and 18 years, as well as for young people who have reached the age of 18, who attend high school or vocational education courses, organized in accordance with the law, until their completion, respectively

3. in the amount of which 600 lei for children aged between 3 and 18 years, in the case of a disabled child (The Official Gazette, 2019).

We note, therefore, that for the disabled child, the legislator stipulates that the state allowance is in the amount of 600 lei not only until the age of 3, but also until the age of 18.

The law stipulates that this amount, mentioned above, applies starting with the rights related to July 2022. Moreover, starting with the money rights related to August 2020, the amount of the state allowance is increased by 20 percentage points, applied to the amount resulting from the

difference between the amount provided above and the amount previously granted, in July 2020.

It is also seen that between January 1 2021 and July 1, 2022, the increase by 20 percentage points is applied twice a year, respectively starting with the rights related to January and the rights related to July of each year. At the same time, starting with the rights related to January 2023, the amount of the state allowance for children is indexed annually, *ex officio*, with the average annual inflation rate.

Finally, given that the state budget can support a higher amount of the state allowance for children, a higher level than the one provided can be established by a Government decision.

Specifically, the Government adopted a series of measures in order to gradually increase the state allowance for children, which led to the increase of 57,8 lei in the state allowance in August 2020 for children up to the age of 2 years for children with disabilities, respectively at the amount of 369 lei, and in January 2021 the allowance was set at 427 lei. Regarding the state allowance for children aged between 2 and 18, it increased from 156 lei (July 2020) to 185 lei (August 2020), respectively to the amount of 214 lei (January 2021) (Şomănescu, 2021).

A very important provision is that the state child allowance is not taxable and cannot be forcibly pursued except for the recovery of amounts unduly paid under this title. (art. 8 of Law 61/1993.)

In another order of ideas, the appeals formulated against the way of establishing and paying the state allowance for children are solved according to the Law of administrative contentious no. 554/2004, with subsequent amendments and completions.[10]

---

[10] According to Annex 5 a) of the Methodological Norm, the Decision has the following content:

DECISION on approving the granting of the state allowance for children

Nr. ..... from .....

Considering:

- art. 7 para. (1) of the Methodological Norms for the application of the provisions of Law no. 61/1993 on the state allowance for children, as well as for regulating the methods of establishing and paying the state allowance for children, approved by Government Decision no. 577/2008;

- The application for granting the state allowance for children registered with no. ....;

- the organization and functioning regulation of the labor and social protection directorate ....

and on the basis of the powers conferred by law,

the executive director of the Directorate of Labor and Social Protection ...., appointed by Order of the Minister of Labor, Family and Equal Opportunities no. ....., decide:

4. Necessary documents in order to obtain the state allowance for children

In accordance with art. 6 of Law no. 61/1993, the establishment of the state allowance right for children is made on the basis of the application, the content of which is found in Annex 1 to the Methodological Norms and of the acts from which results the fulfillment of the conditions for granting this right.

The request is made by the parents, or by the guardian, curator, the person to whom the child was placed in foster care, including the foster carer or the person to whom the child was entrusted for adoption, and after reaching the age of 14, the request can be made and by the child, with the consent of his legal representative.

The right to the state child allowance is established starting with the month following the month in which the child was born, and the payment of the rights is made starting with the month following the submission of the application and in case the application is registered after the month the child was born, the allowance can be made for previous periods, but not more than 12 months.

Naturally, the right to the state allowance for children ceases from the month following the month in which the conditions for granting are no longer met.

If the payment of the state allowance rights for children is made by postal order, its payment is suspended if for 3 months the legal representative of the child has not collected the rights as a state allowance. The resumption in payment, including the payment of the outstanding rights, is made on the basis of a written request prepared by the legal representative of the child, who registers with the territorial agency.

Article 1. -

Approved for Mr./Mrs. ....., as the legal representative of the child / holder ....., granting the state allowance for children in the amount of .... lei.

Article 2. -

(1) The rights provided in art. 1 is granted starting with the month ....

(2) The payment of the rights provided in art. 1 is performed during ..... of each month , by money order / personal account.

The decision can be challenged within 30 days from the communication, to the Directorate of Labor and Social Protection .....

If you are dissatisfied with the resolution of the complaint, the decision may be appealed to the County Court ....., within 30 days from the communication of the settlement of the complaint, according to the provisions of the Law on administrative litigation no. 554/2004, with subsequent amendments and completions.

Executive Director, ...

The standard application, found in Annex no. 1a) **) of the Methodological Norm for applying the provisions of Law no. 61/1993 on the state child allowance, as well as for the regulation of the methods for establishing and paying the state child allowance from 28.05.2008, must be accompanied, as the case may be, by the following documents: copy of the child's birth certificate, copy the identity document of the legal representative, the family booklet, the court decision entrusting the child in case of divorce, the court decision entrusting the adoption, the court decision approving the adoption, the court decision or, as the case may be, the decision of the child protection commission the special placement protection measure, the order of the director general / executive director of the general directorate of social assistance and child protection or, as the case may be, the court decision for the special projection measure of the emergency placement, the court decision establishing guardianship or, after case, the disposition of the guardianship authority issued until December 31, 2004, the disposition of the guardianship authority establishing the guardianship, the death certificate of one of the parents, the certificate of classification of the child in a degree of disability, in case the child is declared disabled.

Recently, by Order no. 1098/C/2021 (Minister of Justice 2021), it was established in article 26 (1), that the following acts drawn up for the purpose of capitalizing certain rights provided by special laws and social protection are exempted from the payment of fees:

c) statements regarding the obtaining of the state allowance for children.

5. Conclusions

Childhood must be protected by the state, and one of the forms of state protection granted to all children is the state allowance, a constitutional right established without discrimination, which provides families with children additional income that can ensure the upbringing and care of children, in an environment of life as appropriate as possible for their harmonious growth and development.

The state allowance for children implicitly targets the general public interest, as it has an overwhelming influence on increasing the living standards of children who benefit from this right, which is why it must be a constant concern of public administration.

References

ING Romania. *ING Economii pentru copii* [ING Savings for children]. https://ing.ro/persoane-fizice/economii-si-investitii/ing-economii-pentru-copii#faq

Nicolae, I. (2020). *Capacitatea - condiție de fond pentru validitatea testamentului* [Capacity - condition of the fund for the validity of wills]. *Revista Universul Juridic*, *3*, 28-38. http://revista.universuljuridic.ro/wp-content/uploads/2020/04/02_Revista_Universul_Juridic_nr_3-2020_PAGINAT_BT_I_Nicolae.pdf

The Offical Gazette of Romania (2012, November 14). *Legea Nr. 61/1993 din 22 septembrie 1993 privind alocația de stat pentru copii Republicată* [Law on state allowance for children no. 61/1993 Republished in the Official Gazette, Part I no. 767]. https://www.mmanpis.ro/wp-content/uploads/2020/02/L-61-1993.pdf

Official Journal of the European Union. (2016, May 4). *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC* (General Data Protection Regulation). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679

The Official Gazette. (2019, February 19). *Ordonanță de urgență nr. 9/2019* [Emergency Ordinance no. 9/2019]. http://legislatie.just.ro/Public/DetaliiDocumentAfis/211123

Staicu, E. (2020, November 17). *Alocația pentru copii: cum se acordă când părinții sunt separați* [Child allowance: how it is granted when parents are separated]. Legestart no. 11/2020. Retrieved July 6, 2021 from https://lege5.ro/App/Document/gm4temzxgezq/alocatia-pentru-copii-cum-se-acorda-cand-parintii-sunt-separati?pid=327662796&expression=#p-327662796

Minister of Justice. (2021, February 1). *Ordinul nr. 46/2011 pentru aprobarea Normelor privind tarifele de onorarii pentru serviciile prestate de notarii publici* [Order no. 1098 / C / 2021 for the completion of the Norms regarding the fees for the services provided by public notaries].

Romanian Government. (2021 February 9). *Decision no. 1186/2021 of 09/02/2021 - Minors and family - presidential ordinance, Sector 3 Bucharest Court.* Retrieved June 6, 2021 from http://lege5.ro/Hotarare1186/2021

Şomănescu, C. (2021, February 10). *Alocaţiile pentru copii: cu cât s-au majorat, de fapt, în august 2020 şi în ianuarie 2021* [Child allowances: how much they actually increased in August 2020 and January 2021]. Economica.net. https://www.economica.net/alocatii-2021-cu-cat-cresc-alocatiile-2021_196839.html

Romanian Government. (2021, March 15). *Decision no. 248/2021 of 15/03/2021 - Minors and family - exercising parental authority; Corabia District Court - Civil - Criminal (C4)*. Retrieved June 6, 2021 from https://lege5.ro/Hotarare/248/2021

The Offical Gazette of Romania. (2020a, March 16). *Decret Nr. 195/2020 din 16 martie 2020 privind instituirea stării de urgență pe teritoriul României* [Decree no. 195/2020 of March 16, 2020 on the establishment of the state of emergency on the territory of Romania]. https://www.mmanpis.ro/wp-content/uploads/2020/04/decretul-195-din-2020.pdf

The Official Gazette. (2020b, March 19). *Hotarâre nr. 3 din 19 martie 2020 pentru încuviinţarea măsurii adoptate de Preşedintele României privind instituirea stării de urgenţă pe întreg teritoriul României* [Decision no. 3 of March 19, 2020 for approving the measure adopted by the President of Romania regarding the establishment of the state of emergency on the entire territory of Romania]. http://legislatie.just.ro/Public/DetaliiDocument/223917