

Question 7.d.

Law 184/1983 and Law 149/2001 "Right of the minor to a family" are a comprehensive regulation of the measures that can be adopted to protect the minor, in a situation of family disadvantage or prejudice within the family, including foster care and adoption. Foster care is aimed at protecting the child, it has an established duration, and it can end either in a return to the family of origin or in the declaration of the state of adoptability, when the parents are no longer able to fulfil the parental function. Foster care may not exceed two years, but it can be extended by the Juvenile Court, if the termination could cause harm to the child (the institute of foster care was reformed by Law 19 October 2015, n. 173 "continuity of family affections"). Foster care can also be part-time: in this case, the child spends only a few hours of the day with the foster parents, weekends, or short holidays. In this case the minor is not removed from his or her home, and the foster caregiver performs a support function for the family of origin in difficulty. The conditions of fostering are also clearly defined by law: a foster care procedure is opened when the family in difficulty is reported to the Social Services or when following the pronouncement of forfeiture of parental responsibility, issued by the Juvenile Court (article 330 of the Civil Code). The custody can be intra-familial or extra-familial. Parents can entrust their minor child to relatives up to the fourth degree, with no time limit. Art. 9 of Law no. 184/1983 imposes the burden, on those who are not relatives within the fourth degree and who permanently welcome a minor into their home, to notify the public prosecutor at the juvenile court, after six months. Failure to report may result in the ineligibility to obtain family or adoptive custody. Equally, the parent who permanently entrusts to someone who is not a relative within the fourth degree, the minor child for a period of not less than six months, must make a report to the Prosecutor. Failing this, such conduct may result in the forfeiture of parental authority over the child pursuant to art. 330 of the Italian Civil Code "Forfeiture of parental responsibility for children" and the opening of the adoptability procedure. Therefore, the rule does not apply if the minor is entrusted to relatives within the fourth degree (grandparents, uncles and cousins). The institution of intra-family custody is correlated to that of the obligation to lend alimony pursuant to art. 433 of the Civil Code "Persons obligated" to whom the closest relatives are required, in order: the spouse; children, even adopted, and, in their absence, the next descendants; the parents and, in their absence, the next ascendants; adopters; sons-in-law and daughters-in-law, father-in-law and mother-in-law; siblings who are siblings or unilateral, with siblings taking precedence over unilaterals. As regards custody to third parties, unlike adoption, cohabiting couples or single people can also be entrusted with a minor. The suitability of foster parents is established through a process of various interviews, based on the analysis of specific parameters such as age, psychophysical condition, housing, economic self-sufficiency and reasons for fostering. The fosteree exercises the powers associated with parental authority in relation to ordinary relations with the educational institution and with the health authorities. However, the foster parents undertake to respect specific conditions such as providing for the care, maintenance, education and instruction of the minor entrusted in respect of his cultural, social and religious identity; maintain, in collaboration with the Social Service, valid relations with the child's family of origin, taking into account any prescriptions of the same or of the Judicial Authority; carefully observe the

evolution of the foster child, in particular with regard to emotional, physical and intellectual conditions, promoting socialization and relationships with the family of origin; ensure maximum confidentiality regarding the situation of the foster child and his or her family; not requesting or accepting money from the foster child's family of origin; use the contribution disbursed by the Administrations for the maintenance of the minor.

With the primary aim of building a homogeneous system and providing more equitable and appropriate services to children from vulnerable households, and those placed outside their families of origin, Ministry of Labour and social policies has developed three soft law instruments consisting of special National Guidelines. The “Guidelines for Family Foster Care”, the “Guidelines for the assistance in residential services for children” and the “Guidelines for intervention with children and families in vulnerable condition” are the main national orientation tools for the care of children and families. These soft law instruments for the governance are the result of a collective and long-term work carried out within national institutional boards at the Ministry of Labour and Social Policies with the participation of all the stakeholders involved. Their aim is to build a uniform national system to offer fair and appropriate services to children, adolescents and families. The methodology lies in the definition of common guidelines on specific lines of action, concerning in particular the protection of children who enter the foster care system, the protection of children who are placed in residential services and the support to vulnerable families to prevent the removal of children from their family of origin. Therefore, the Guidelines cover the area of protection (Guidelines for Family Foster Care and Guidelines for the assistance in residential services for children) and the area of prevention (Guidelines for intervention with children and families in vulnerable condition). All the guidelines are addressed mainly to political decision-makers and administrators, but also to social workers and citizens.

The **Guidelines for Family Foster Care** are a relevant achievement of the national program “A path in foster care”, promoted by Ministry of Labour and Social Policies in 2009 with the aim to increase the availability of families and communities towards foster care, building and reinforcing care services to support families and children during foster care. The Guidelines aim to address, support and regulate foster care as a shared and uniform measure to protect and care for children; they contain recommendations to make the interventions of professionals and services more child-oriented, according to the principle of the best interest of the child. They cover topics such as the different kind of foster care, the organization of the services, the planning and regulation, the relationship with the judicial authority, the local best practices and the operative tools. The Guidelines have been approved by the Unified State-Regions Conference on 25th October 2012. The Guidelines address the problem of child abuse and neglect throughout the entire report. The definition of “child in foster care” states that the child has parents with difficulties in meeting his/her needs and he/she has experienced problems in his/her own family: neglect, rejection, physical and/or psychological abuse and harassment, relational isolation, break-ups, socio-economic difficulties, etc. Moreover, Recommendation 121.1 establishes and implements a regional system of interventions and responses to the needs of at-risk children that enables the implementation of appropriate care and protection projects. The Guidelines deals also with family foster care in emergency situations: it provides a foster

family to all those children involved in emergency and dangerous situations that require 'prompt intervention'.

The Ministry of Labour and Social Policies established in 2015 a national commission involving representatives of central, regional and municipal administrations, experts, associations and representatives of the networks of communities for children to define guidelines for children in residential care. The main aims were to promote the development of a national care system based on the respect of the fundamental rights of the child and their needs, to start a debate over possible answers to each need and to develop the multiple dimensions of care in residential services in the so-called "family-like" residential childcare. The commission adopted the "**Guidelines for the assistance in residential services for children**" as an updated tool of technical and political orientation in the field of residential services for children and adolescents. The three main aspects of the "Guidelines" are the meaning and implication of residential care; residential care conceived as a plurality of possible paths inside a shared frame and a necessary answer to the rights of the "growing citizens" that are temporary out of their own families; the description of an integrated system for the residential care for children and adolescents (with different services according to different needs). They have been approved by the Unified State-Regions Conference on the 14th of December 2017. The Guidelines provide for "Emergency residential care" for the instant protection of a child in a real state of danger and neglect as temporary accommodation service that addresses situations where the child's psychological and physical health is in serious danger or where the child is at risk of trauma, and therefore immediate or short-term external intervention is required. Particular attention is given to Children and adolescents who are victims of trafficking and sexual exploitation (The conditions of extreme violence they face call for special attention to the levels of risk and danger to which they are exposed) and to Children in mothers' shelters (the traumatic experiences of women and children who are victims of violence or witnessing violence require a residential response that can ensure protection and at the same time 'recover' and 'enhance' personal resources and skills to start an independent life.)

The "**Guidelines for intervention with children and families in vulnerable condition**", lie on the experience of the multiannual experimental program P.I.P.P.I. (Program of Intervention for Prevention of Institutionalization), with the aim to prevent institutionalization through parental support. The guidelines cover topics such as interventions for the care and for the protection of children inside their family environment, focusing on all the interventions aimed to prevent child removal from parents' care. The main objective is to draw up an operational tool able to coordinate models of interventions and to widen the opportunities to help children that live in vulnerable family environment. The structure of the guidelines includes an in-depth examination of the institutional actors and stakeholders involved, the path of support for families and children and the intervention tools. The "Guidelines for intervention with children and families in vulnerable condition" have been approved by the Unified State-Regions Conference on the 21st of December 2017. The Guidelines focus on promoting positive parenting and intervening with children and families in vulnerable situations, a socially determined condition that can generate parental neglect or negligence, lack of responsiveness

to children's developmental needs. Neglect may relate to the needs for health, education, psycho-emotional development, nurture, protection, a safe living environment, or the omission of necessary supervision, care, education and protection of children. The guidelines clearly distinguish ill-treatment and sexual abuse, which require early intervention in the area of protection and safeguarding from neglect, which is less visible and exposes children to the risk of situations of harm. The participatory and shared path that led to the drafting of the Guidelines involved the active participation of the beneficiaries of the interventions, specifically children and families, in order not to reduce them to passive beneficiaries, but instead to leading actors and stakeholders in social change. In this perspective, involving institutional and non-institutional stakeholders, the ETR (Easy to Read) version of the three Guidelines was drafted with the involvement and operational support of boys and girls in both the drafting of the texts and the evaluation of the effectiveness of the tool. This collective and long-term work carried out within national institutional and non-institutional stakeholders is constantly evolving, reaching relevant outputs such as the inclusion of PIPPI within the National Social Policy Plan as an essential level of provision (LEPS). Moreover, in 2021, the Ministry of Labour and Social Policies set up the Joint Review Board on the “Guidelines for Family Foster Care”, and on the “Guidelines for the assistance in residential services for children”, with the task of updating the documents on the basis of new legislation and in response to input from the territories and social workers. The updating process, which is still in progress, will be completed shortly.