



Number: 1070-UP/12

Date: 08.02.2012.

Social welfare center

Attn / Director,

Subject - Recommendation,

- Treatment of center in cases of violence against children

Under Article 81. of the Family Law¹, parents have duty and right to protect their minor children and to care for their life and health. To a parent who abuses a child, abuses parental right or has abandoned a child, neglected the care of a child and neglected its parental duties, the court will, in non-contentious procedure, take away parental right (Article 106).

Parent abuses parental rights and duties if, among other things, conducts physical or psychological abuse of a child and sexually exploits a child.

The procedure for termination of parental right is initiated by guardianship authority, a parent or adoptive parent (Article 107).

Guardianship authority is obliged to initiate the procedure for termination of parental right also in case where in any way comes to knowledge that there are circumstances that a parent abuses a child and misuses parental rights.

Regarding the case of violence against a child in family and in particular sexual abuse and exploitation, the situations are noticeable in which social welfare center fails to comply with obligations stipulated by Article 107. of the Family Law.

In one number of cases in which the Institution has acted, and in which criminal procedure was initiated against the parents because of sexual violence against a child, social welfare centers did not take legally established measures of family legal protection within their jurisdiction, but were waiting for the outcome of the criminal procedure. Even in the case when the first

¹ Family Law of Republic of Srpska, Official Gazette of Republic of Srpska No. 54/02, 41/08,

instance decision was passed whereby the perpetrator-father was found guilty, social welfare center was waiting for the same to become final.

Social welfare center has the key role in protection of rights and interests of children. Precisely in order to protect children, the legislator has obliged social welfare center that whenever "in any way comes to knowledge" that a child is sexually abused in family, initiates the procedure to protect the child from the parent who in the crudest possible way abuses its parental rights.

Protection of children from a parent, guardian or adoptive parent who abused its parental right-sexually abused and exploited a child, obliges center to initiate procedure for termination of parental right, regardless of whether there are any and what kind of procedure initiated against the perpetrator of this act, and regardless of the outcome of such procedure.

Failure of social welfare center to take measures in accordance with the obligation stipulated by the law is contrary to the interest of the child and his/her right to protection from all forms of violence and abuse.

In order to prevent such conduct, the Ombudsman for Children in accordance with the powers stipulated by Article 9. of the Law on Ombudsman for Children,

to social welfare centers,

recommends taking measures to prevent harmful procedures that violate rights and interests of a child, and that in all cases of sexual violence, abuse and exploitation of children in the family, in accordance with their powers, take necessary measures in accordance with Article 107. of the Family Law and initiate procedure for termination of parental right.

Sincerely,

Sent to:

- All social welfare centers
- The Ministry of Health and Social Protection

Ombudsman for Children

Nada Grahovac LLM