



Number: 1133/11

Date: 08.16.2011.

Republic of Srpska Government
Ministry of Health and Social Protection
Attn / Minister, Mr Ranko Škrbić

Subject - Institutional care of children

Child's right to family life, as a fundamental right of every child, is guaranteed by all international documents.

Starting from the role and importance of family in the upbringing of each child, institutional care of a child is used only as last alternative, when all other possibilities are exhausted and when the competent authority has determined that child's growing up in the family is not in its best interest.

Each separation of a child from the family, especially in its earliest age jeopardizes its development, emotional and social. The physical separation of a child and parent, in the interest of the child and its safety, is the repressive measure which in the case of sending a child to Home brings social welfare center. This is also the only and most difficult measure which is not preceded by other measures of physical separation of a child from the family that should be implemented gradually and with less restrictive measures solve the existing problem in the family.

The Family Law foresees the possibility of deprivation of parental right in cases stipulated by law. However, these procedures are rarely initiated, such measures are rarely imposed, and children are still separated from the family for a period of time that is not determined in advance (children whose development is hindered by family circumstances, and parents are not deprived nor the exercise of parental rights is limited to them).

The Law on Social Protection stipulates that a minor without parental care is a person who has no parents, who is abandoned by parents or parents are unable to give him full custody because they are limited in the exercise of parental right or are deprived of that right. If a parent is limited in the exercise of parental right it must be proven and determined or such a measure must be imposed to a parent as well as a measure of deprivation of parental right.

The largest number of the children placed in institutional care are children whose development is hindered by family circumstances, the two-thirds of the total number of children - children placed in Home are usually primary school aged and boys are present in a greater number than girls.

For a guardian of children in nearly 70% of cases a person is appointed from social welfare center that placed the child in an institution.

The decision does not state legal basis for the appointment of guardian to a child nor the obligations and responsibilities of the guardians are stated, so that common situations are that a child has both parents, where parental right is not deprived or limited and at the same time has a guardian as well.

The decision on placement of a child in Home does not contain the explanation from which it would be obvious that the center promptly has taken all other measures of family - legal protection (supervision, enhanced supervision, etc.) and that these measures, by application over certain time period have not contributed to protection of the child in the family (decision on the placement of a child who has parents who are neither deprived nor limited in exercising parental rights).

From the decision it can not be seen that the center promptly investigated all other options to provide non-institutional form of placement of the child (extended family, foster care, adoption) and that this measure is used as a last solution.

The decision on placing a child in an institution does not contain an explanation which shows what are the problems in the family, how long they lasted, and whether and which consequences they left on the child. Family problems, as decision states, can be very different, illness, alcohol, violence, etc. and each of them distorts the normal development of the child in the family, but for the appropriate individual treatment in an institution, the reasons which led to it must be clearly identified and explained.

Bearing in mind the above stated, the Ombudsman for Children, in accordance with Article 9. of the Law on Ombudsman for Children, recommends to the Ministry of Health and Social Protection, who supervises the professional work of social welfare centers to:

- supervise and determine the reasons and legal basis for placement in Home of children who have parents and whose parental right is not limited or deprived, and particularly in terms of whether and what measures of family - legal protection preceded the placement of a child in

Home and whether and what measures are undertaken towards parents while the child is placed in an institution,

- establish appropriate record that would specifically record children without parental care (by definition stipulated by the law, and especially children at risk) whose development is hindered by family circumstances and by inadequate parental care,

- reassess the possibility of engagement of a doctor, full-time employed in an health institution, to work in Home for a certain number of hours, which would contribute to quality health care, because children would practically at all times be under the supervision of a doctor who would, by its presence first act preventively, and if necessary perform medical exams in the institution. Procurement of medicines, their use, control, alternative medicines and similar would be better organized.

I expect that, within 15 days, the Institution is informed on the measures taken.

Ombudsman for Children
Nada Grahovac LLM