

1. System Description

A. Legal Structure (Description of Laws and Regulations)

Social and legal child protection is **the safeguarding of a child's right to life, to positive development, to parental care and to life in a family, the identity of a child, the freedom of thought, conscience and religion, the right to education, employment**, also including **protection of the child from any physical or mental violence, neglect, abuse and/or exploitation**. Child protection and the safeguarding of the child's rights are reflected in family, social, educational, health, tax, civil, criminal, etc. legislation, and this also encompasses a number of entities that implement it. This fact makes it clear that child protection legislation cannot be included in a single legal regulation. The fundamental documents are:

- The Declaration of Rights of the Child, adopted by the United Nations General Assembly on November 20, 1959
- The Convention on the Rights of the Child, adopted in 1989
- The Charter of Fundamental Rights and Freedoms, which forms part of the constitutional order of the Czech Republic (hereinafter referred to as "the Charter"), which deals with the children and family in Article 32 by placing parenthood and family under legal protection, granting special protection to children and adolescents

The law respects one of the basic principles of family functioning, namely the right and duty of parents to raise and care for children together and, if necessary, to seek assistance. Any intervention into privacy and family life is only possible if parents or persons responsible for a child's upbringing explicitly request help or cannot or do not want to care for the children.

Other fundamental laws governing child protection are listed below:

- **Act no. 359/1999 Coll. on Social and Legal Protection of Children**, which defines the social and legal protection of children as follows:
 - a. Protection of the child's right to positive development and appropriate education
 - b. Protection of the legitimate interests of the child, including protection of his/her assets; and
 - c. Actions aimed at restoring disrupted family functions
 - d. Providing a substitute family environment for a child who cannot be permanently or temporarily raised in his/her own family
- **Act no. 89/2012 Coll.** Civil Code
- **Act no. 99/163 Coll.** Civil Procedure Code
- **Act no. 141/1961 Coll.**, Penal Code
- **Act no. 218/2003 Coll.** on Juvenile Justice
- **Act no. 109/2002 Coll.** on Provision of Institutional or Protective Education
- **Act no. 65/2017 Coll.** on Protection of Health from Harmful Effects of Addictive Substances

and other laws.

From the above listed fundamental legal documents, **the main principles of the legal regulation of social and legal protection of children** can be derived:

- **Children's best interest, benefit and well-being**, parenthood and family protection as well as the mutual right of parents and children to parental education and care are

the primary reason for providing social and legal protection of children. This also takes into account the wider social environment of the child.

- Social and legal protection **is granted to all children** without any discrimination on account of their race, skin colour, gender, language, religion, political or other opinion, ethnic or social origin.
- Social and legal protection is provided **free of charge**.
- **The state is responsible** for the protection of children, however, it is neither to replace the fulfilment of parental duties and responsibilities nor to interfere with their status as bearers of parental responsibility unless the rights or development of the child are compromised.
- The guiding principle for the activities of social and legal protection offices is the principle of **preventive action**.
- Emphasis is also placed on the protection of children from socially pathological phenomena (i.e. the prevention of children's endangered development and the minimization of the effects of social pathogenic effects).
- Children temporarily or permanently deprived of their family environment have the right to special protection and assistance provided by the state in the form of one (or more) of **the forms of substitute care**.
- When selecting a solution, it is necessary to take into consideration the desirable continuity in the child's upbringing and its ethnic, religious, cultural and linguistic origin.
- The aim of social and legal protection of children is also **the rehabilitation of families**.
- On the principle of voluntarism, both natural and legal persons may also participate in the performance of social and legal protection of children in the activities defined by the law, but they must have been granted an authorization to do so.

The execution of care for vulnerable children is ensured by a combination of state administration and self-government activities, which operate both independently and in delegated powers.

The Ministries

Compared to other countries, our current system of care for vulnerable children continues to be very complex and confusing. The lives and fates of children in need are in the hands of five ministries, and at least two other ministries are of great importance in this field. Each institution is in charge of other institutions, types and forms of care. There is almost no coordination of the activities of all the ministries and the entities run by them. Currently, the activities on a ministerial level are rather deepened and improved, while inter-ministerial cooperation has yet to become sufficiently effective.

With respect to the competencies of the central state administration bodies, it is mainly about the following agenda that falls under or is in some way related to the issue of care for vulnerable children:

The Ministry of Labour and Social Affairs

- The Ministry of Labour and Social Affairs (MLSA) has the largest share in activities related to the care of children in need; it is the central body of state administration for family and child care. As part of the social and legal protection of children, MLSA carries out mainly legislative, methodological and inspection activities, including the review of the legally effective decisions of regional authorities in appeal and review proceedings. In the area of family and child care, MLSA cooperates at an international level, monitors the rights of the child and coordinates the implementation of the Convention on the Rights of the Child.
- In the area of substitute family care, MLSA keeps the records of children for whom the regional authorities did not find suitable substitute family care. As part of this agenda, the Ministry performs consulting, methodical and inspection activities, performs statistical monitoring, and prepares statistics and forecasts.

The Ministry of Justice

- The Ministry of Justice is responsible for the family law agenda, the related agenda for the procedural rules and the agenda for the legal regulation of child and juvenile criminal protection, probation and mediation services, as well as juvenile detention facilities. The Ministry of Justice is the central state administration body for the courts and the public prosecutor's office.

The Ministry of Education, Youth and Sports

- The Ministry of Education, Youth and Sports (MEYS) is responsible for the agenda of children's homes, children's homes with schools, diagnostic institutes and educational institutions. MEYS prepares legal standards and methodological materials for institutional care, cooperates on solving the problems of children running away from educational institutions of institutional and protective care. It implements methodology and training on the issue of institutional and protective care. MEYS provides preventive care prior to ordering institutional care within the Centres of Educational Care, monitors cooperation with the families of children placed in such facilities and with the facilities, regularly inspects the requisite conforming to the rights of children placed in the facilities, provides care and education of children with special educational needs, etc.

The Ministry of Health

- The Ministry of Health (MH) runs the institutions for preventive care – infant institutes and children's homes for children under three years of age. Furthermore, it is mainly practical medicine for children and teenagers and social paediatrics. The Ministry of Health is also responsible for the prevention of violence against children, the prevention of juvenile risk behaviour, the use of addictive substances by children and

youth, the prevention of juvenile delinquency, the healthy and safe environment for children, etc.

The Ministry of the Interior

- The activities of the Ministry of the Interior are important in terms of personnel provision of social and legal protection of children – the execution of social and legal protection of children is ensured in delegated powers by municipal and regional authorities, of which employees are part of the public administration of the Czech Republic.
- Within the scope of its competence, the Ministry of the Interior focuses on the detection, investigation and clarification of the crimes committed by children and on children, on conceptual and methodological activities in the area of child crime prevention and crimes committed on children, on the creation of an early intervention information system, on information systems in the area of crime prevention and the issue of unaccompanied, single foreign children.

B. Philosophy of Law

The absolute priority of child protection is the concentrated concept of the "**best interest of the child**", or the "welfare of a child." However, our legal order lacks definition of the above concepts, so it is possible to have long expert discussions on the topic of the best interest of the child.

However, the child's right to family life, protection and safety of his/her home is by no means questioned, and the legal system's priority and effort is focused on securing these child's rights.

Lately, dilemmas and debates on the subject of the child's vs the parental rights could also have been observed. It is not always the case that the conformity between the needs and rights of children and the practices of parents and the emphasis on their parental rights visibly exists, which often leads to the fact that the fulfilment of parental rights gets into conflict with the legitimate interests of the child for their safe and healthy development, as well as for the fulfilment of their specific needs.

Unfortunately, the ban on placing children of a certain age (in the first phase of up to 6 year-olds) in institutional forms of care has not yet been enacted.

A persistent issue is also the fragmentation of child protection among several ministries, and even in this election period there has not been a step towards the unification of this area under one central state administration body – the ministry.

C. How Substitute Family Care (SFC, also referred to as Foster Care in a more narrow sense) is Organized

Several bodies of social and legal protection of children are involved in SFC.

17 All entities involved in the system are supposed to search for candidates eligible to become substitute parents (for more information see the next section). In the situation where the candidate shows a determination to become a substitute parent, he/she becomes a substitute family care applicant and must submit an application for substitute foster care that corresponds with the relevant municipal authority according to his/her place of residence. The municipality receives applications from the applicants and ensures the first stage of their

comprehensive assessment, i.e. social investigation of applicants' conditions for the child's admission into SFC. Following this investigation, the applicant's files are submitted to the Regional Authority, which ensures further stages of comprehensive assessment of the applicants, that is, the health and the psychological assessment as well as the preparation of the applicants (a preparatory course, a training). The complex assessment process ends with the issue of the Decision. This decision is either positive, meaning that the applicants are included in the database of persons eligible to become foster (or substitute) parents, or negative, meaning that the applicants are not included in the database. In that case, however, they have the right to appeal against the Decision. This appeal is resolved by the Ministry.

Following the process of applicants' assessment, which ends with the issuance of a decision, a SFC matching for the children who need this form of care, is implemented at the regional level.

So it is the regions that keep records of both the applicants who may become substitute (foster) parents and the children who need such care. The region receives information about children from the municipalities.

After the foster care matching process is completed, a court decision – on adoption, on foster care, or on child custody must always be issued in order to confirm the given status.

The fact that substitute (foster) care applicants are in the position of applicants in our system (basically of the same sort as applicants for a building permit or issuance of a driving license) for whom the law a priori assumes that the application should be accepted we see as debatable and contributing to make the whole process more complicated. This is not, in essence, a selection procedure where the system could choose the most suitable foster parents but the system that must justify why the applicants cannot be suitable foster parents.

C. **Mission - Promotion of SFC** (Which authorities and organizations have the mission to promote family substitute care? How is this mission implemented? By what means and tools?)

As already mentioned above, all stakeholders involved in the system of protection of vulnerable children are required to seek and recruit potential foster parents. However, we cannot discuss the system at the moment. The reason is that the ministry has completely resigned from its coordinating role in this area and has repeatedly stated that recruitment campaigns are the responsibility of localized self-governments in the regions. While there are 14 regions in the Czech Republic, there could potentially be developed 14 different foster care recruitment strategies. However, this is not the case, because only some regions (e.g. the Moravian-Silesian Region implements targeted actions for the recruitment of new foster parents, especially for children with special needs – mental or physical handicaps, etc.). Private stakeholders (foundations such as J&T, Sirius, etc.), in particular, play a significant role in the promotion of substitute parenthood; they invest significant funds in promoting and recruiting parents. Thus, a clearly defined national strategy to recruit new people willing to help children in need is completely missing. Instead, a lot of energy has been invested in somewhat pointless discussions about the need for institutional facilities for children. The whole system would certainly benefit from a more consistent application of the PRIDE model in its entirety, that is, in this case especially the first 5 steps – defining objectives, clarifying team competences and team structures, and especially assessing local needs. However, the ministry mainly adopted from the PRIDE model the stage of preparation of future substitute (foster) parents, considerably omitting other components of the PRIDE model.

E. **Recruitment** - how it is organized:
See section **D** for more information.

F. Qualification:

a / Who can apply to become a substitute (foster) family?

b / Qualification process - Are there any standards? Are there any specific internal roles? (In the conclusions, we came to agreement that candidates' qualifications should be described in positive language).

There is no definition of a suitable, ideal substitute (foster) parent in the Czech Republic, and it is not known that such a definition exists abroad. It is certainly necessary to define the criteria to be met by the candidate for assistance to children in the form of SFC, however, both the needs of children and the life situations are so varied that the explicitly defined substitute (foster) parent profile has not been established. Nevertheless, the key criteria that are taken into account when assessing whether or not a candidate is suitable for the role of a substitute parent can be listed.

Here is a summary of the criteria that are assessed and evaluated provided that the pre-set criteria have not been fully satisfied:

- Personal character maturity and sufficient level of stress management
- Stability of the family system
- Positive parenting experience
- Pedagogical dispositions and/or skills
- Ability to identify the needs of children
- Ability to meet the children's needs and provide children with a wider social environment
- Teamwork readiness
- Capacity to manage the new situation after adopting the child in the sense of "opening the family system" to new situations and to new people
- Acceptance of the child's original (biological) family
- Good health
- Suitable financial situation

Currently, however, there is no completely uniform assessment framework for the above. Professionals discuss the use of psycho-diagnostic methods and the importance of the psychological assessment of the candidate. Here too, we must note that we feel the absence of the Ministry's coordinating role. Certain indications of the trend emphasizing the coordination of procedures are related to the implementation of the project by the Ministry, which should bring unification of the assessment (possibly also training) methods of working with the candidates.

G. Candidate Training:

The content and duration of the training is determined by law. The law stipulates that the basic preparatory course (regardless of whether it is a foster care or an adoption candidate) is 48 hours and the temporary (short-term, emergency) foster care course is 72 hours. Likewise, there are mandatory areas of knowledge to go over during the training.

The training areas pursuant to the legal standard are listed below:

- a) Self-knowledge of natural persons suitable to become an adoptive parent or a foster parent as well as their family system and social contacts
- b) Learning about and fulfilment of the rights and needs of the child in substitute family care
- c) Learning to collaborate with other professionals
- d) Communication with the child and approach to the child while being aware of the child's dignity and human values
- (e) Development of the child's abilities and interests
- (f) Meeting the child's emotional, developmental, social and educational needs and the care

of the child's health

- g) Enabling contact of the child in substitute family care with his/her biological parents and other close persons
- (h) Working with children living in the candidate's family

There are some additional topics to cover with temporary (short-term) foster parents:

- (a) Skills of applicants required for cooperation with the child's biological family
- (b) Process of accepting the child
- (c) Content and form of regular assessment of the child's situation

The form of preparation should be organized both for individuals and in groups. Currently, the regions that are responsible for preparing future substitute parents, do not apply a unified training model. There are a number of trainings that vary in terms of quality. The only standardized and used model (although with a limited use) is the PRIDE model.

A psychologist or some other specialist with a university degree in social work, pedagogy or related fields is the lecturer, also called the preparation coach. The requirement for a lecturer's expertise is not clearly and strictly defined. Also, it is not strictly stipulated whether it is sufficient to employ one or two lecturers for such a task. Groups usually have between 10 and 20 participants. In some cases, the training is organized in the form of weekend meetings. As for the visits in families as part of the trainings, the PRIDE model includes them as a standard as well as the training organized by our institution. However, in general, it is not a regular part of trainings in the Czech Republic.

All persons involved in the care of a matched and placed child (also unmarried couples) are always included in the preparation training and assessment. However, due diligence is not always paid to the preparation of children living in the foster family, including assessment of the impact of the new situation on their position and status in the family. More recently, the children preparation models have been discussed in more depth. The law considers it obligatory to prepare children for living in a new family, but the form has not been unified. The Czech PRIDE-CZ Association, with the support of the Ministry, has prepared two models for the preparation trainings of children – aged 5-11 and 12-18, including guidance and instruction manuals for children and lecturers of these preparatory courses. It is probably an isolated case.

Outputs from preparation courses should be consulted with an assessing psychologist. However, this is not a common routine in the Czech Republic since some regions apply an initial psychological assessment procedure, which is followed by the training. The model in our institution is a model where the assessment process blends with the training process and where a consultation of an assessing psychologist and a lecturer of the training is viewed to be necessary. Frequently, the assessing psychologist is also a lecturer of the preparatory training. The output from the preparatory training is to be the final report used by the region as one of the elements in the candidate's comprehensive assessment before the decision is taken.

H. Certification: Who decides, on what basis – Are the results of trainings, home visits, analyses, psychological tests used for the purpose?

Regional offices have the competencies of the decision on inclusion in the register of applicants for the admission of a child substitutional family care. Regional office decides according to comprehensive assessment, which includes report from social inquiry, health assessment, psychological assessment, report from professional preparation and more information. Social inquiry contains visit in the home of applicants. Psychological assessment is worked out on the base of diagnostic examination. Applicants and their children, if they

have them, have to pass through diagnostics. Whole family system is judged. Preparation for adopters and foster parents takes 48 hours at least. Foster parents for transitional period have obligation to complete preparation, which takes 72 hours at least. Comprehensive assessment takes place differently in each regional office. Ministry of Labor and Social Affairs currently realizes project, which aims to unify different processes in regional offices more.

I. Matching: Is this standardized or random? Do candidates have the right to choose the child? What tools are used? (In Slovakia videos of children are used...). Do candidates have access to the child's health records? Does the child have a right to agree or disagree to the choice of the family? How is this right expressed?

Regional office employee performs so-called pairing. The priority is that they are looking for a family for a child, not a child for a family. They take into account results of professional assessment of a child and applicants, also situation of child and his/her family evaluation, according to the law. The Regional Office informs candidates about all available information about a child, including health records. If biological parents don't allow, future foster parents won't be able to look into health documentation. Future applicants and foster parents can disagree with child adoption, but foster parents for transitional period have to be prepared for adoption of every child or children. Child has the law to disagree with family selection, but in practice they are not asked. Court decides on specific family selection for a child.

J. Placement: Who does this and how? Are there any procedures? Standards? Are child's rights respected? Are rights of biological families respected? Are the biological families informed about the address of the child's placement?

If replacement parents are receiving a child from institutional care, the child can be taken immediately. Older children have the opportunity to meet with more contacts. The law does not specify this process. The children's home decides on the transmission, with the SPOD worker's permission, the court is then requested to decide on placing the child in the family. Accompanying organizations have defined procedures for transmission of children, when children are transmitted from foster care for transitional period or from foster care. Transmission is realized with SPOD worker's permission. The need for the child to adapt to a new family is taken into account. Transfer plan is determined on the basis of all participants agreement in the Centre of psychological help. Biological families have the information about child's location address in the court judgment. Biological families rights are respected. Priority is to place child in the biological family, eventually he/she can come back to the biological family after conditions treatment.

K. Support What is available? Trainings? Consultations? Supervisions? Specialists' support? Self-support groups? Possibility of respite care?

SPOD's amendment to the Act brought adjustment in 2013, which consists in legal claim of foster families to have consulting and professional services. These services support foster care. Every foster family in the Czech Republic has to conclude an agreement with the accompanying organization. Foster has according to the Czech law right to help with personal care providement of the child, help with respite care providement, help during mediation of the professional help once per 6 months, has right to providement or mediation of the children raising and care section ranging 24 hours a year, and to has support to keep the child together with his family. Long-term and complex support to families with children in

foster care. Key worker, who works in accompanying organization, is in contact with the family once a two months at least. If it's needed, key worker's contact with the family is more common. Key worker helps the family with solving official matters, provides children raising support, helps mediate professional care for children, helps realize assisted contacts between child and biological family etc. Accompanying organization provides or mediate foster parents education as they need. So called foster weekends are favorite in the Psychological help center, where looking after children and foster parents education is ensured. Foster parents society or supervision takes place in some accompanying organizations. Realization of particular activities is different in each accompanying organizations. Psychological support (consulting and therapy) for both children and foster parents is offered to foster families in the Psychological help center. The accompanying organization helps with ensuring of short-term and long-term respite care. Foster has right to get respite care according to the law.

L. Monitoring: Who does this? What tools are used? Do foster families know what is monitored? How often? Where are reports sent?

SPOD worker performs monitoring twice a year. Accompanying organization has to send to the OSPOD message, which informs about the course of foster care, once a 6 months. Key worker of the accompanying organization finds out, if foster parents proceed at foster care according to Child protection individual plan and if family meets the needs of the child. If foster parents manner is contrary to the interest of the child, warns the family and helps arrange the correction. Key worker has obligation to report the office, if interest of the child is threatened in the family.

M. Reaction to a crisis: Are there any procedures? (I.e. to the dissolution of a foster family, death in a foster family, disease, violence, divorce, child's disorders etc.)

The law doesn't determine any procedures, every SPOD workplace and accompanying organization has own way to help. The psychological help center operates within the Moravian-Silesian region, which is a contributory organization. Center helps through six workplaces, which are Family and conjugal consulting room and Substitute family care consulting room. In case of crisis, center's psychologists can offer to foster families professional care. There also works trust line 24 hours a day.

N. How are biological families included in the foster care process:

a/ Is there an aim of family reunification in the law?

The target is not set out in the law.

b/ Who works with biological families of children placed in foster families?

SPOD has evidence of the families. There's no system of the care for biological families. Help is dependent on a local non-profit organizations activities.

c/ Are foster families involved in the work with biological families?

Foster families have to prepare child for the contact with biological family according to the individual child protection plan and they have to enable this contact.

d/ How are contacts organized?

SPOD worker is responsible for realization of the child contacts with the biological family, accompanying organizations with cooperation with foster parents realize them practically.

e/ Is there a coordinated plan of work with child's birth families?

This plan doesn't exist.

