**The rights of the child and institutional care in Poland**

**Good practices, guidelines, conclusions**

The system of alternative care in Poland is regulated by the Act of 9 June 2011 on Family Support and Alternative Care (Journal of Laws, 2020, item 821). In principle the child should be placed in alternative care only temporarily, until it is possible for them to reunite with their biological family or, in case of children without parental care, to be placed with a foster family.

If parental care is limited it is crucial to start working with the biological family and a family assistant as soon as possible, therefore creating conditions for the child to be reunited with their family. Moreover, in the case of a court ruling ordering for the child to be placed in alternative care, efforts are always made to place them in kinship care. If this is not possible the aim is to find a foster family living as close as possible to the child’s biological family, so that appropriate cooperation between the two can start. Ultimately, if such a family cannot be found the child is placed in a care and education centre.

According to the data from 31 December 2020 there were a total of 16,029 children living in institutional care settings. Although the figure dropped by 3.76% in comparison to 2019, the number of foster families in Poland is still insufficient to provide care for – at least – children under the age of 10 who, according to the applicable law, should not remain in institutional care. The solution to this problem is deinstitutionalization, i.e. turning bigger facilities designed for 30 children into smaller ones – for 14 children per setting, resembling family environment as closely as possible (i.e. preparing meals, doing shopping, deciding on how to spend free time together, etc.). Pursuant to the provisions of the above mentioned Act, deadline for the implementation of the new standards in care and education centres (socialization, intervention and specialist therapy types) was 31 December 2020.

For poviats, which are responsible for organising alternative care on their territory, this change constituted quite a challenge but also a breakthrough moment in relation to the quality of care provided to children deprived of the possibility to be raised by their biological families. In case of many poviats it was a necessary impulse which changed attitudes towards children’s needs. Many new detached houses and flats in residential areas became welcoming and modern care and education centres for groups of 14 children. Their organization was transformed to resemble that of a big multi-children family.

A serious problem to tackle was the carer’s notion of how such a setting should in fact be run. A good example was the usual lack of the kitchen, with meals prepared by qualified staff. Now this role has been taken over by carers assisted by children. That is why many poviats decided to organize specialized home management courses (including preparing everyday meals for larger groups of people) for the facility personnel. Special emphasis was placed on building family-like relationships, facilitated by a smaller number of persons caring for a group of 14 children on a permanent basis. What can undoubtedly be considered a good practice in striving to provide the best quality of childcare is the introduction of regular supervision for facility personnel. It prevents professional burnout and helps raise carers’ qualifications, therefore helping to effectively solve problems which facilities and their wards regularly face.

An unquestionably positive trend which followed from the change in settings organization is an increasingly observed need to inform children about their rights and respect them in everyday life. In fact, in large institutional care facilities children used to be informed about their rights – the lists hanging on notice boards and walls – but less importance was attached to their practical implementation. Nowadays carers are aware that children should not only know their rights but also be able to describe them based on their everyday experiences. A child who feels that their rights are respected and protected by adults is more eager to accept the rules of a given facility and obey them. It is worth emphasising that children tend to follow adults’ lead and if they see their rights being respected by adults, they are in turn more likely to act similarly towards their carers and peers. In such atmosphere it is easier to respect the rights that children put at the top of their priority list – the right to voicing their opinions in matters which are important to them, the right to be listened to and the right to privacy.

SARS-CoV-2 pandemic has been a difficult time for the directors of care and education centres. On the one hand they need to protect children and personnel from getting sick, and on the other hand – alleviate emotional repercussions of isolation. The Ombudsman has received letters asking him to intervene in this matter. Acting in the best interests of children he started cooperation with voivodes responsible for the supervision of alternative care facilities as well as with facility directors, prompting them to respect children’s right to contact their family and offering good practices to help organize safe personal contacts between the children and their close relatives[[1]](#footnote-1). He also appealed[[2]](#footnote-2) to the Government Plenipotentiary for the National Vaccination Programme against SARS-CoV-2 to vaccinate the personnel of care and education centres at the earliest possible date. The Plenipotentiary acceded to the Ombudsman’s motion, which had a positive impact on the accessibility of facilities for the visitors.

Although the tendency to give recognition to children placed in institutional care is clearly visible, this type of alternative care still presents numerous weaknesses. On the basis of the analysis of interventions conducted by the Ombudsman for Children it can be ascertained that the most common problems in alternative care settings are:

* inappropriate upbringing process as well as insufficient specialist help offered to children with behaviour problems, resulting in placing them in a specialist facility, which constitutes another change of their upbringing environment and diminishes their sense of security;
* insufficient qualifications of carers working with children with behaviour problems – using forms of punishment which infringe upon the rights of the child, e.g. restricting contact with parents, reprimanding children in front of the whole group, using collective punishment (regarded by children as especially unjust), or even resorting to violence;
* carers not taking enough time to engage in work with children with behaviour problems which would concentrate on their potential;
* wrong assumptions held by adults, which make them feel as if they know children’s needs without asking for their opinion and involving them in the decision-making process. Carers incorrectly presume that the child should be grateful for living in better material conditions than they used to have before being placed in alternative care. They tend to forget that no material thing is able to replace love and sense of security, indispensable for the child’s full and harmonious development;
* the system of helping children leave facilities and start their new independent lives is still in need of improvement. There is not enough transitional housing and subsidized social housing. It is not uncommon for young people to come back to the social environment which they were taken out of because of its dysfunction.

Taking into consideration all the shortcomings of the manner in which alternative care is provided, the Ombudsman for Children during his interventions cooperates with facility directors, starosts responsible for the local organisation of alternative care, as well as voivodship offices which are in charge of both supervising facilities and the organisation of care. It is his task to emphasise the need to respect children’s rights and put their well-being first, e.g. by solving problems brought before him by children and adults alike.

1. Ombudsman for Children general address of 07.07.2020 to Voivodes concerning personal contacts of children placed in alternative care with their close relatives, ref. no. BRPD ZEW.422.7.2020.BS; Ombudsman for Children address of 08.12.2020 to Voivodes and facility directors concerning enabling children placed in alternative care to spend holiday time with their close relatives, ref. no. BRPD ZEW.420.10.2020.BS. [↑](#footnote-ref-1)
2. Ombudsman for Children general address of 08.01.2021 to the Government Plenipotentiary for the national vaccination programme against SARS-CoV-2 virus, ref. no. BRPD ZEW.422.15.2020.BS. [↑](#footnote-ref-2)