

## Child-Protection Systems – Slovakian Perspective

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### ABSTRACT

The protection of minors and the safeguarding of their best interests constitute a fundamental principle of family law in the Slovak Republic. This chapter examines the relevant substantive and procedural legal frameworks that embody this principle within the Slovak legal system. The analysis is primarily focused on the current legislative provisions governing the protection of minors and the family, with particular emphasis on the legal regulation of alternative care for minors, the institution of adoption, and the structural organization of the system of social and legal protection of children and social guardianship. Further attention is devoted to the system of state-provided support for children, families, and persons with disabilities, particularly in the form of financial allowances and benefits granted not only to parents and children but also to persons entrusted with the provision of alternative care for minors. The chapter concludes with an examination of the Commissioner for Children's Office, which serves as the institutional authority responsible for monitoring the observance and enforcement of children's rights within the Slovak Republic.

### KEYWORDS

the best interests of the child, alternative care, adoption, urgent measure, contribution

### 1. Introduction to the Issue and Primary Sources of National Legislation of Family Law

The Slovak Republic, recognising its commitments arising from international treaties and from its membership in international organisations, respects and protects children's rights, as evidenced by its legal regulation. The special importance of child rights protection is emphasised in Art. 41 para. 1 of the Constitution of the Slovak Republic, which declares the need for special protection of children and adolescents. In this context, Drgonec states that the Constitution of the Slovak Republic guarantees, in the relevant article, general protection to all persons who have not reached the age of majority in those legal relationships where there is a public interest in protecting

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individuals under the age of 18.<sup>1</sup> Concurrently, in Para. 4 of the same article of the Constitution, the legislator specifically states that the care and upbringing of children is the right of the parents to which children are entitled. However, it also adds that parental rights can be limited, and minors may be separated from parents by a court decision based on the law. Respecting the opinion of Drgonec, it can be agreed that such a separation may occur only due to the existence of a public interest and because it is, as a rule, necessary for the protection of the minor child himself or herself. The court may do so regardless of the parents' will, even if they disagree with such a decision. It is thus essential to highlight that the Constitution of the Slovak Republic allows for the separation of children from their parents against their will only based on a court decision. Considering the hierarchy of legal regulations and their legal force, it is necessary to bear this in mind, especially when analysing the provisions of individual acts that further specify the substantive and procedural prerequisites for separating children from their parents and for the subsequent implementation of alternative care for these children. The Constitution of the Slovak Republic also establishes that parents taking care of children have the right to state assistance. This provision of the Constitution clearly and expressly points to the importance of fulfilling the social function of the state of providing necessary assistance to parents taking care of their children to ensure the social or economic background of the family as the basic unit of society. Special state assistance is also provided to those who take care of children in cases where the parents are unable to do so, but this is stipulated by the provisions of special acts that, in accordance with the Constitution, establish details about the rights guaranteed and recognised by the Constitution.

The area of family law has been comprehensively regulated since 2005 by Act No. 36/2005 Coll. on Family, as amended, which includes both the definition of fundamental principles applicable to family law and the regulation of family law relationships. These fundamental principles essentially represent the pillars on which Slovak family law is built.<sup>2</sup> However, it this Act is not the only legal regulation that can and should be applied in analysing family law issues. The Family Act contains substantive legal regulation, followed by Act No. 161/2015 Coll., Civil Non-Contentious Procedure, as amended, which provides the procedural legal regulation of so-called non-contentious proceedings, among which some family law matters fall. The protection of the family and, particularly, of the rights of children is guaranteed by the legal regulation contained in Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship and in the amendments and supplements to certain acts. This Act is focused on the social and legal protection of children and social guardianship, primarily aiming to ensure the prevention of the emergence of crisis situations in the family, the protection of children's rights and legally protected interests and the prevention of the deepening and repetition of disorders in psychological development,

1 Drgonec, 2019, p. 859.

2 Pavelková, 2019, p. 2.

physical development and social development of children. The legal framework is supplemented primarily by Act No. 448/2008 Coll. on Social Services and on amendments to Act No. 445/1991 Coll. on Trade Licensing, as amended, which address the issue of providing social services aimed at assisting individuals and families and the issue of securing necessary care for a child due to adverse family circumstances. The organisation of public administration in the field of social affairs and the family is based on Act No. 453/2003 Coll. on Public Administration Bodies in Social Affairs, Family and Employment Services and on amendments to certain acts, as amended. It is also essential not to overlook Act No. 627/2005 Coll. on Contributions to Support Alternative Care for a Child, which regulates the provision of contributions by which the Slovak Republic supports alternative care for a child and ultimately contributes to the protection of children's rights and legally protected interests.

## **2. Fundamental Principles of Family Law Protecting Children and the Family**

Slovak family law is based on fundamental principles explicitly stated in the preamble of the Family Act. In this Act, the first five articles define the fundamental principles that must be applied cross-sectionally in addressing any family law issues. We agree with Pavelková, who believes that the purpose of these fundamental principles lies primarily in the fact that they serve as common interpretative rules of family law.<sup>3</sup>

Focusing on child protection, it is crucial to note that the legislator in the current wording of the Family Act highlights the special role of the family founded by marriage, which, according to Art. 2 of the Family Act, is the basic unit of society. However, the legislator emphasises in the same article that society comprehensively protects all forms of the family. This undoubtedly confirms that protection is not only accorded to families founded by marriage but to all its forms, regardless of their composition or the manner of their constitution. Therefore, the Slovak legal order does not exclusively recognise protection only for families legally established by marriage but also for all other forms resulting from the factual cohabitation of persons in a family bond without formal confirmation through marriage. Respecting Králičková's<sup>4</sup> assertion that, based on the case law of the European Court of Human Rights, it is necessary to guarantee protection not only to the family life founded on marriage but also to *de facto* unions and other forms of cohabitation, we are of the opinion that the relevant legal regulation of the Family Act is in accordance with international protection standards in this area. However, the legal order of the Slovak Republic does not recognise the legal regulation of unions other than marriage, with marriage being possible only between partners of different genders. In this context, we are of the opinion that the adoption of a law on registered partnerships or the adoption

3 Ibid.

4 Králičková, 2022, p. 25.

of another legal regulation governing the factual cohabitation of two persons of the same sex would contribute to the protection of the right to family life, which we perceive as a fundamental human value.<sup>5</sup> At the same time, in our view, the adoption of the proposed legal regulation would in no way represent a threat to the institution of marriage, which, according to the legal framework, could still only be entered into by persons of different sexes, as explicitly stipulated in the Constitution of the Slovak Republic.

Art. 3 of the Family Act further highlights the role of the stable environment of a family formed by the child's father and mother, considered most suitable for the child's comprehensive and harmonious development. It also emphasises the need to protect parenthood by society and the need to provide the necessary care for parenthood, particularly through support and assistance for exercising parental rights and responsibilities. This is reflected in the legal regulation, which modified several institutions aimed at protecting the family as a whole and its individual members, with special protection provided to minors. These institutions are regulated both by the Family Act and other legal regulations, such as the aforementioned Act on Social and Legal Protection of Children and Social Guardianship, which regulates the way of securing material assistance for the family through economic incentives in the form of financial contributions or control mechanisms that lead to direct intervention in the family's functioning and, if necessary, even to the removal of the child from the parents and securing his or her alternative care.

The institution of alternative care for a child and the need for its provision is justified by another principle of family law defined in Art. 4 of the Family Act. This article, among other things, states the parents' obligation to ensure a peaceful and safe environment for the family. If this obligation is not fulfilled by the parents, respecting the duty of society to provide the necessary care for the family, it is the task of society, represented by the state, to apply all legal mechanisms leading to the protection of the family and the child, which in some cases means removing the child from an unsuitable environment and securing care for the child by someone other than the parents.

The most essential from the perspective of protecting the rights of the child is Art. 5 of the Family Act, which, in accordance with international legal regulation and decisions of international courts, directs attention to the interest of the minor child, which must be the primary criterion in deciding in all matters concerning the child. This principle is most often identified with the general clause of the Convention on the Rights of the Child, specifically Art. 3 para. 1, which imposes an obligation, in all actions concerning children – whether undertaken by public or private social welfare institutions, courts, administrative authorities or legislative bodies – to take into account the best interests of the child as a primary consideration.<sup>6</sup>

5 On this, see: Bačárová, 2023, p. 146.

6 Pavelková, 2019, p. 6.

We can talk about the so-called best interest of the minor child, which must always be assessed considering the peculiarities and specifics of the circumstances under which decisions concerning the minor child are made, as these circumstances vary and differ in individual cases. The Constitutional Court of the Slovak Republic has repeatedly stated that the assessment of the best interests of a minor must be carried out by the deciding court regarding the specifics of a particular case. In ruling No. II. ÚS 101/2022 of May 10, 2022, the Constitutional Court of the Slovak Republic, among other things, noted that an objectively and explicitly established legal criterion for decisions regarding the regulation of parental rights towards minors is “the best interests of the minor child,” which the general court must evaluate and justify not merely mechanically and formally, but specifically, considering the circumstances of the case. It is thus possible to agree with Löwy, who argues that the concept of the best interests of the child is flexible and adaptable and, as such, it must always be defined according to the particular situation of the child concerned, considering the child’s personal context, circumstances and needs.<sup>7</sup>

For this reason, in our opinion, the legislator correctly provides only an illustrative list of circumstances that must be considered when deciding on matters concerning the minor and assessed so that the final decision is in the best interest of the minor. According to Art. 5 of the Family Act, it is necessary to consider and consider especially: the level of care for the child; the safety of the child, as well as the safety and stability of the environment in which the child resides; the protection of dignity, as well as the mental, physical and emotional development of the child; circumstances related to the health condition of the child or the child’s disability; threats to the child’s development from interventions into his or her dignity and threats to the development of the child from interventions into the mental, physical and emotional integrity of a person close to the child; conditions for maintaining the child’s identity and for developing the child’s abilities and talents; the child’s opinion and his or her possible exposure to a conflict of loyalty and subsequent feelings of guilt; conditions for creating and developing relational bonds with both parents, siblings and other close persons; the use of possible means to preserve the child’s family environment when considering intervention in parental rights and responsibilities.

These criteria will have to be assessed and considered also in cases concerning the minor, which also involve decisions on alternative care.

### **3. Temporary Alternative Care for a Child – Forms**

The Slovak legal order distinguishes, respecting the provision of Art. 44 of the Family Act, three forms of alternative care for a child, which are characterised as temporary measures substituting the personal care of parents for their minor child. Such substitute care is considered when the parents of a minor child do not provide the necessary

7 Löwy, 2022, p. 117.

care for the child despite the fact that they could objectively do so by fulfilling their legal obligations, as well as in cases where the child's parents cannot provide personal care for objective reasons independent of their will and effort. The Family Act differentiates between the following forms of alternative care: entrusting a minor child to the personal care of another physical person other than the parent – also known as substitute personal care; foster care; institutional care.

For each of these forms of alternative care, application can only occur based on a court decision<sup>8</sup> and does not lead to a complete severance of ties between the parents and the child. Indeed, a court decision to entrust the child to one of the above three forms of alternative care creates new legal relationships between the minor child and another person; yet, the relationship between the minor child and his or her parents remains preserved. As a result of entrusting the child to alternative care, parents lose part of their parental rights, especially the right to personally care for the child. However, some of their rights and obligations remain, particularly the obligation to contribute to the maintenance of the minor child. In the Slovak Republic, this obligation is limited only by setting a minimum amount of maintenance, which is determined by an amount corresponding to 30% of the subsistence minimum for a dependent minor child.

It is necessary to focus on the temporary nature of these institutions. Alternative care lasts only for the necessary time. As soon as the court finds that the continuation of any form of alternative care is no longer in the minor child's interest but rather his or her return to the care of the parents is in his or her best interest, it must decide accordingly. Such a procedure by the court presupposes regular verification of the factual situation and assessment of what is in the best interest of the minor and whether the condition requiring alternative care for the minor continues to exist. This demands cooperation between the courts and bodies of social and legal protection of children and social guardianship, whose scope will be the subject of analysis in a special section of this chapter.

The temporariness of the duration of alternative care is a fundamental distinguishing criterion compared to the institution of adoption, for example, which leads to the permanent replacement of previous family law relationships with new family law relationships between the adopters and the minor child. Of course, this applies provided that the adoption is not annulled, which is possible only within a certain

8 In this context, it may be noted that, in the past, there were legislative efforts to enable legal provisions allowing decisions on the placement of a child into temporary pre-adoptive care to be made by the authority for the social and legal protection of children. After the adoption of such a legal regulation, the Constitutional Court of the Slovak Republic ruled on its compliance with the Constitution of the Slovak Republic. By its judgment of October 18, 2006, ref. No. PL. ÚS 14/05-48, the Court decided that the legal regulation, as conceived, was not in accordance with Art. 41 para. 4, second sentence, of the Constitution of the Slovak Republic. This decision of the Constitutional Court of the Slovak Republic confirmed that the restriction of parental rights can, in accordance with the Constitution of the Slovak Republic, occur only on the basis of a court decision, not by any other authority.

time frame and under strict legal prerequisites, which will be discussed in the section dealing with adoption.

Before analysing the individual forms of alternative care for a minor child in Slovak legal order, it is necessary to add that the forms of alternative care are based on their hierarchical arrangement. Pavelková speaks of a systemic priority, by which she refers to the sequence of seeking an appropriate solution for substitute care, based on the order of its forms, as stipulated in the Family Act.<sup>9</sup> This means that, if the court concludes that it is necessary according to the law to entrust a minor child to alternative care, it must subsequently examine whether entrusting the child to substitute personal care is possible. If not, the court can decide on entrusting the child to foster care and, only if entrusting the child to foster care is also not possible, can the court decide on entrusting the child to institutional care. In our opinion, such a sequence of decision-making and the analysis of possible solutions to the negative life situation that the minor child and his or her family have encountered aims to preserve the best interest of the minor child. The legislator assumes that it is in the best interest of the minor child to grow up in an environment that is as familiar to him or her as possible or in an environment that mimics the environment of his or her family to the greatest extent possible. Therefore, according to the legal regulation, substitute personal care, usually provided by a close relative of the minor child, or foster care by a foster couple are preferred over institutional care provided in specially created facilities.

#### **4. Entrusting a Minor to the Personal Care of Someone Other Than a Parent**

A court can decide to entrust a minor child to the substitute personal care of someone other than a parent, according to Art. 45 of the Family Act, only if it is in the interest of the child. The interest of the minor child, with reference to the general provisions of the Family Act on substitute care, is considered when the parents do not provide sufficient care for the child or cannot provide care due to the existence of objective obstacles. In this context, the Constitutional Court of the Slovak Republic took a clear position, stating in its ruling of January 19, 2021, case No. I. ÚS 26/2021, that the necessity of ordering substitute care cannot be justified merely by the fact that the substitute parent has better qualifications for raising the minor child than the biological parent if there are no proven serious circumstances on the part of the biological parent that demonstrably exclude them from providing personal care. Moreover, the Constitutional Court of the Slovak Republic, in the cited ruling, stated that the inability or unwillingness of a parent to care for a minor child must be persistent or current at the time the court decides on placing the child into substitute care; thus, the court cannot justify its decision based on a situation established in the past. This position is fully agreeable and it is necessary to emphasise that it is desirable for general courts to decide with the utmost precision in such sensitive matters as proceedings on

9 Pavelková, 2019, p. 262.

placing a minor into substitute care. This is because reversing a final court decision by a ruling of the Constitutional Court of the Slovak Republic is usually associated with an inevitable time gap to the commencement of the substitute personal care arrangement.

In deciding to entrust a minor child to substitute personal care, the current legal framework gives priority to entrusting the child to a relative, if possible, and if there is no special reason why such a procedure would not be in the best interest of the minor. The legislator prefers the relatives of the minor child on the assumption that they would better care for the child. Additionally, close relatives are presumed to be sufficiently familiar with the child and having been in frequent personal contact before the child's entrustment to substitute personal care. This presumption also stems from geographical realities, considering the relatively small size of the Slovak Republic, where it is common for relatives to live in close proximity and have frequent personal contact.

Although the law explicitly prefers the relatives of the minor child, the child can also be entrusted to the substitute personal care of someone other than a relative. Typically, this would be a person who has a special relationship with the minor child and, thus, expresses interest in taking the child into their personal care. This person is not someone registered in a special registry with a general interest in taking any minor child into personal care. Such persons are classified as foster parents under the valid legal regulations and the entrustment of a child to their substitute care falls under foster care.

The legislator allows for the entrustment of a minor child to the care of one person or the joint substitute care of two persons, who must unequivocally be married. In Slovakia, it is not possible to entrust a minor child to the substitute personal care of two persons living together in cohabitation without these persons being married. If only one spouse is interested in taking over the responsibility for substitute personal care of a minor child, the legislator allows entrusting the child to the personal substitute care of one of the spouses, but the other spouse must necessarily consent. The consent of the other spouse can be omitted only if the spouses do not live in a common household, if the other spouse does not have full legal capacity or if obtaining their consent would involve insurmountable obstacles.

Regardless of whether a minor child is to be entrusted to the substitute personal care of a relative or another person, such a person must have full legal capacity, which in the Slovak Republic, according to Art. 8 of Act No. 40/1964 Coll., the Civil Code, as amended, arises with adulthood.<sup>10</sup> Adulthood is attained upon reaching the age of 18 or, before reaching eighteen, by entering marriage with the court's consent.<sup>11</sup>

Another prerequisite the court must examine is the permanent residence of the person to whom the child is to be entrusted with substitute personal care on the territory of the Slovak Republic. This condition is not required for grandparents, siblings

10 On this, see: Vojčík, 2021, pp. 127–128.

11 On this, see: Strapáč cited in Števček, 2019, p. 56.

of the minor child or siblings of the child's parents, provided they have permanent or other similar residence in a member state of the European Union.

Furthermore, the court must examine the personal prerequisites, lifestyle and life of the persons living in the household with the person to whom the minor child is to be entrusted with substitute personal care, to assess whether such a person will perform the necessary care in the child's interest in the event of entrusting the minor child to their personal care. The legislator specifies by demonstrative enumeration what is meant by personal prerequisites, specifically mentioning health, personality, and moral prerequisites. For personality and moral prerequisites, it is clear what qualities the person to be entrusted with the personal care of the minor child should have, but health prerequisites might not be as apparent at first glance. Respecting the opinions of the professional community and the jurisprudence of the courts, health prerequisites are understood as a health condition that would not directly endanger the minor child or a condition that objectively allows for physically providing personal care to the minor child. A serious illness in the terminal stage, which could lead to the person's death in the near future, can also be a barrier from a health standpoint. The reason why the existence of such a disease could be a barrier to entrusting a minor child to substitute personal care is both the fact that this could represent an increased psychological burden for the minor child in an already complex life situation when he or she is to be separated from his or her parents, as well as the fact that it is not in the minor child's interest to be potentially entrusted to the substitute personal care of another person in the near future. According to Pavelková, an applicant should document their state of health at least based on a preventive medical examination; alternatively, the court may request the applicant's health insurance records for a certain period, from which it will be evident what illnesses the applicant has been treated for, whether they are permanent or temporary, with what results and, based on this, evidence regarding the applicant's health condition can be supplemented.<sup>12</sup> We are of the opinion that, when there is no justified doubt about the applicant's health condition, requiring a preventive medical examination would represent an unreasonable burden on the applicant, imposing an obligation not explicitly provided for by the law.

The court decides on entrusting a minor child to substitute personal care by a judgment in which, besides entrusting the minor child to the substitute personal care of a specific person, it also decides on the obligation of the parents or other legally obliged persons to provide maintenance to the minor child to the extent of their maintenance obligation, which they must pay during the duration of substitute care to the office of labour, social affairs and family. The obligation to pay maintenance to the office of labour, social affairs and family lasts only until the child reaches adulthood, after which this obligation is fulfilled by paying maintenance directly to the child.

In the case of substitute personal care for a minor child, the person entrusted with the child's care has the obligation to perform personal care to the extent that parents

12 Pavelková, 2019, pp. 277–278.

usually do. The only limitation on performing such personal care concerns traveling abroad for a period longer than three months. In such a case, the person entrusted with the minor child's substitute personal care must notify the court of their intention at least 30 days before traveling and include in the notification the place, purpose and duration of the stay abroad. A particularity is that the person entrusted with the minor child's substitute personal care is entitled to represent the child and manage his or her property only in ordinary matters. Regarding representing the minor child and managing his or her property beyond ordinary matters, this right remains legally granted to his or her parents and the decision to entrust the minor child to the substitute personal care of another person does not change this. Therefore, if a situation arises where the minor child's parents cannot or are unable to not only personally care for the child but also represent him or her or manage his or her property, then the court must decide separately on appointing a guardian according to Arts. 32 and/or 33 of the Family Act or decide on appointing a guardian according to Art. 56 of the Family Act. If it becomes necessary to appoint a guardian for the minor child, it is, of course, possible for the court to appoint the same person to whom the minor child is entrusted with substitute personal care as guardian. However, according to the law, this is not a necessity, and the court may appoint another person as guardian if such a procedure would be in the best interest of the minor child. In this context, the legislator gives a special authorisation to the person who has the minor child entrusted into substitute personal care; if they believe that the decision of the minor child's legal representative is not in his or her interest, they can seek to have the court review this decision.

The parents of the minor child have the right to contact the child, the extent of which they can either agree upon with the person to whom their minor child is entrusted for substitute personal care or, if they cannot reach such an agreement, the court can decide on the arrangement of contact with the minor child.

In line with the previously mentioned temporariness of the duration of substitute personal care for a minor child, which lasts only for the necessary time, the law establishes the obligation of the court to examine at least once every six months whether the continuation of substitute personal care is necessary and in the interest of the minor child. The court determines this with the cooperation and assistance of the social and legal protection of children bodies, which will be the subject of analysis in a special section of this chapter. Similarly, at least once every six months, the court must examine and verify the quality of the care for the minor child and, if it finds that substitute care is not being carried out in the interest of the minor, it is obliged to decide on the cancellation of the substitute personal care of the designated person and on subsequently entrusting the minor child to the substitute personal care of another person, or consider entrusting it to one of the other two forms of substitute care.

The Family Act in Art. 47 lists the following reasons for the termination of substitute personal care for a minor child: the minor child reaching the age of majority; the death of the minor child; the death of the person to whom the minor child was entrusted with substitute personal care; legally binding court decision on the

cessation of the reason for which the minor child was entrusted to substitute personal care; legally binding court decision on the cancellation of substitute personal care, for example, due to deficiencies in carrying out personal care for the minor child or at the request of the person to whom the minor child was entrusted with personal care, in which case the court is obliged to always comply with the request of this person for the cancellation of the substitute personal care they are carrying out; the divorce of the spouses to whom the minor child was entrusted with joint substitute personal care, provided that neither of them requests the court to leave the child in their personal care after the divorce.

## 5. Foster Care

The legal framework for foster care in the Family Act aligns closely with that of substitute personal care for a minor child in many respects. The same applies when a minor child is placed in foster care, as there is an interference with the exercise of the parental rights and duties of the child's parents. Such an interference must be justified by the public interest in protecting the child and ensuring his or her best interests.<sup>13</sup> We agree with Polák and Westphalová, who emphasise that this should be an exceptional measure in situations where the private duty or right of the parents has failed or has not been exercised.<sup>14</sup> The most significant difference is that the child is not entrusted to a person who has a special relationship with the minor child or has expressed interest in being entrusted exclusively with this specific child. Instead, the child is entrusted to a foster parent who has previously shown interest in providing personal care to one or more minor children without preferring any child for any specific reasons. In Slovakia, a natural person can become a foster parent if they meet the following criteria: have permanent residence in Slovakia; possess full legal capacity; meet personal prerequisites, especially in terms of health, personality and morals, to the same extent as required for entrusting a minor child to substitute personal care of someone other than the parents; ensure through their lifestyle and the lifestyle of those living in their household that they will perform foster care in the interest of the minor child; are registered on the list of applicants managed according to the Act on Social and Legal Protection of Children and Social Guardianship, where registration presupposes meeting specific prerequisites defined by this Act.

The Act on Social and Legal Protection of Children and Social Guardianship governs the management of applications from individuals interested in becoming foster parents or adopters. The decision to register on this list, referred to in the law as the list of applicants, is made by a designated body of social and legal protection of children and social guardianship, which is the competent office of labour, social affairs and family located in the county seat, within 15 days from the receipt of the

<sup>13</sup> Zmenková cited in Löwy, 2022, p. 96.

<sup>14</sup> Polák and Westphalová, 2018, p. 242.

final report on the preparation of an individual for substitute family care. Substitute family care, according to this Act, includes both foster care and adoption. The conditions for registration on the list of applicants are the same for those interested in becoming foster parents and those interested in adoption.

A crucial and limiting condition for registration on the list of applicants and, thus, for entrusting a minor child to foster care, is the requirement of the individual's integrity. This requirement is not imposed on a person to whom a minor child is to be entrusted with substitute personal care. The law defines integrity for the purposes of registration on the list of applicants with a negative enumeration, outlining the conditions under which a person is not considered to have integrity. An individual is not considered to have integrity for the purpose of registration on the list of applicants if they: have been convicted of an intentional criminal act to an unconditional imprisonment of more than one year, even if the conviction for such a criminal act has been expunged or is regarded as if they had not been convicted according to a special regulation; or have been convicted of an intentional criminal act for any of the crimes against life and health, freedom and human dignity, against family and youth, against other rights and freedoms, against peace and humanity or have been convicted for any of the crimes of terrorism and extremism, even if the conviction for such a criminal act has been expunged or is regarded as if they had not been convicted according to a special regulation.

A prerequisite for registering an applicant on the list is the completion of preparation for substitute family care, which the applicant must finish within one year from the application for registration on the list of applicants. This preparation lasts at least 26 hours according to Art. 38 para. 3 of the Act on Social and Legal Protection of Children and Social Guardianship and can be conducted in individual, group or combined forms. The preparation provides basic information about substitute care for a child, child development and his or her needs, the rights of the child and the rights and obligations of his or her parents. The law also emphasises information about the child's rights to maintain and develop sibling bonds, which in the case of substitute care that leads to the separation of siblings protects family bonds. The outcome of the preparation is the drafting of a final report, which includes a characterisation of the individual interested in being listed as an applicant, an assessment of their potential to raise a child and their motivation to become a foster parent. This final report is part of the documentary evidence based on which the suitability of the individual of performing substitute family care for the purposes of registration on the list of applicants is assessed. The body of social and legal protection of children and social guardianship also evaluates the health report of the applicant and reports on their housing, family and social conditions when deciding about the registration on the list of applicants. Therefore, even at the stage of registration on the list of applicants, the criteria that must subsequently be verified by the court before deciding to entrust a minor child to foster care are assessed.

An individual cannot be registered on the list of applicants if a court decision has limited or deprived them of the exercise of their parental rights and obligations

according to Art. 38 of the Family Act or if, at the time of the proceedings for their registration, the exercise of their parental rights and obligations is suspended by a court decision.

Just as in the case of substitute personal care for a minor child, only a court can decide on entrusting a minor child to foster care. It must be established that the parents of the minor child do not or cannot provide personal care for their minor child and that it is in the child's best interest to be entrusted to foster care. Foster care can be performed by a single individual or one spouses provided the other spouse has given written consent to undertake personal care of the minor child to be entrusted to them by a court decision. The consent of the other spouse is not required if they do not live in the same household, if the other spouse does not have full legal capacity, or if obtaining consent would be associated with insurmountable obstacles. It is also essential to note that foster care can be performed as joint foster care by the spouses.

The obligations and rights of a foster parent towards the entrusted minor child are the same as those of a person to whom a minor child is entrusted for substitute personal care. Therefore, a foster parent is obligated to provide personal care to the minor child to the extent that parents usually do. They have the right to represent the minor child and manage his or her property only in ordinary matters and have a notification obligation to the court in case of traveling abroad for more than three months, at least 30 days before departure, and inform the court of the place, purpose and duration of the stay abroad, or other significant circumstances related to the trip. Similarly, a foster parent has the right to submit a proposal to the court to decide whether the actions of the minor child's legal representative in substantial matters are in the best interest of the minor child. A foster parent is also entitled to receive a foster care allowance, as provided by Art. 53 of the Family Act, which refers to the provisions of a special regulation – the Act on Contributions to Support Substitute Care for a Child.

Over the duration of foster care, the parents of the minor child exercise their parental rights and obligations to the extent that they do not belong to the foster parent or the appointed guardian or custodian. During the foster care of their minor child, the parents have the right to contact the child to the extent agreed upon with the foster parent or determined by the court. During foster care, the parents or other legally obligated individuals are required to provide maintenance for the minor child, which is also paid to the office of labour, social affairs and family in this case.

The Family Act specifically regulates the obligation in relation to a minor child in foster care, who, according to Art. 50 para. 4 of the Family Act, is required to contribute personal assistance and, if they have an income from work, must also contribute from this income to the common needs of the family. Such an obligation is not given by law to a minor child entrusted to substitute personal care.

Foster care also has the character of temporary substitute care for a minor child and thus the court, in cooperation with the bodies of social and legal protection of children and social guardianship, is obligated to verify at least once every six months

the necessity of entrusting the minor to foster care. With the same frequency, the court is required to verify the quality of foster care for the minor child.

The Family Act in Art. 52 lists the following reasons for the termination of foster care for a child: the child in foster care reaching age of majority, except in cases where, with the consent of the foster parent and the child, the court extends foster care for important reasons, for no longer than one additional year; death of the child in foster care; death of the foster parent; placement of the minor child in protective education or commencement of serving a sentence of imprisonment; legally binding court decision on the cancellation of foster care, for example, due to neglect of care by the foster parent or at the request of the foster parent for cancellation of foster care, in which case the court is obliged to comply with such a request; divorce of the spouses to whom the minor child was entrusted with joint foster care, provided that neither of them requests the court to leave the child in their personal care after the divorce.

Considering the above, only a minor child can be entrusted to foster care, but foster care can exceptionally continue even after the child reaches adulthood, for no longer than one additional year past majority. The Family Act does not allow for such an extension in the case of substitute personal care.<sup>15</sup>

## 6. Institutional Care

Institutional care represents the last form of substitute care delineated by the Family Act. It can be implemented only under the condition that the court concludes, prior to ordering institutional care, that the child cannot be entrusted to either substitute personal care or foster care. This rule means that institutional care serves as an option *ultima ratio*.

The court's decision to order institutional care presupposes the existence of a serious threat to the child's upbringing or the direct presence of its disruption, along with at least one of the following conditions: the child is eligible for adoption but cannot be entrusted to prospective adopters or to the care of an individual according to a special regulation; the child's parents are deceased or are facing a significant obstacle that prevents them from caring for the child; the child's parents have been deprived of parental rights; the child was previously subjected to a corrective measure according to Art. 37 para. 3 of the Family Act, but this measure did not lead to improvement.

Regarding the mentioned corrective measure under Art. 37 para. 7 of the Family Act, for protecting the minor child, it presupposes his or her temporary removal from the personal care of his or her parents or other persons to whom it was entrusted for substitute care, with the aim of conducting professional diagnostics in a designated facility, securing professional assistance in a facility for up to six months or ensuring the resocialisation of drug and other dependencies by staying in a facility

15 On this, see: Pavelková, 2019, p. 333.

conducting resocialisation programs. This indicates that institutional care, ordered after previously imposed corrective measures failed to reform the child, primarily has an educational function. Issues related to, for example, drug use by minors may relate to or result from their improper upbringing. However, situations may arise where, despite parents' appropriate attention to upbringing, their child still faces behavioural problems such as substance abuse. In such cases, respecting the conditions for placing a child in institutional care, the temporary removal from the parents' care and placement in institutional care may be justified by arguing that the child's behaviour threatens or disrupts his or her upbringing. Therefore, when formulating the legal prerequisites for entrusting a minor child to institutional care, the legislator considers two scenarios. The first is that the child's upbringing is seriously threatened or disrupted due to negative behaviour by his or her parents. The second scenario assumes a series of events indicating that the upbringing of the minor child is threatened or disrupted due to the child's own negative behaviour, which could not be corrected by the parents and previously applied corrective measures according to Art. 37 para. 3 of the Family Act. If the court orders institutional care according to the second scenario, it must set an appropriate deadline for the parents to adjust their family and social circumstances, so that the ordered institutional care can be terminated after the deadline expires and the child can be returned to the personal care of his or her parents.

The Family Act includes another crucial provision intended to clearly define the rules and limits for removing a minor child from his or her family environment and subsequently entrusting it to institutional care. Art. 54 para. 3 specifies the conditions that cannot be considered grounds for a court to declare a serious threat or significant disruption to the upbringing of a minor child. These conditions cannot include inadequate housing or the financial circumstances of the parents.

If the court decides to order institutional care without appointing a guardian for the minor child, the child's parents continue to be obligated and entitled to represent their child as legal representatives and manage his or her property.

The court's decision to order institutional care must specify the particular facility where the child is to be placed, ensuring, as far as possible, that this facility is located as close as possible to the minor child's residence and his or her family members. These requirements aim to maintain the familial and emotional relationships between the child and his or her close relatives, confirming that the purpose of institutional care is not to sever family bonds but to secure the possibility of remedying the family environment and/or the minor child himself or herself.

To fulfil the purpose of institutional care and protect the minor child subjected to such care by a court decision, it is essential for the court's decision to be reassessed at regular intervals to reevaluate the necessity of its continuation. According to the law, the court must do this at least twice a year for evaluating the effectiveness of the ordered institutional care. However, the legislator explicitly requires the court to continuously monitor the execution of institutional care, thus obligating it to intervene if the manner of its execution contradicts the best interest of the minor child. The court

assesses the execution and effectiveness of institutional care in collaboration with the social and legal protection of children bodies, the municipality and the facility where the minor child was placed by the court decision. Therefore, in the case of institutional care, the legislator formulates the obligation to reassess its decision to order institutional care slightly differently compared to the other two forms of substitute care. Specifically, the legislator mentions explicitly monitoring and evaluating the effectiveness of institutional care and sets the interval for such monitoring at least twice a year, not once every six months.

The reasons for a court to terminate the ordered institutional care are not exhaustively listed in the Family Act. Art. 55 para. 3 of the Family Act provides an illustrative list of cases in which the court will cancel institutional care. Considering the Family Act as a whole, especially when the reasons for ordering institutional care, it can be concluded that it will be terminated if: the parents fail to rectify their family and social circumstances within the deadline set by the court, and the child can be entrusted to substitute personal care or foster care; the child, due to a change in circumstances, can be entrusted to prospective adopters; the child, due to a change in circumstances, can be entrusted to substitute personal care or foster care, especially when institutional care was ordered because the child could not be entrusted to substitute personal care or foster care; the reasons for its ordering cease to exist, for example, if institutional care leads to the reform of the minor.

Institutional care terminates by law, without the need for a court decision to cancel it.

This occurs if the child, who was subjected to institutional care, reaches adulthood or dies.

## **7. Urgent Measures of the Court Entailing the Placement of a Child Into Temporary Substitute Care**

The Family Act does not specifically address urgent measures. This topic is regulated in the Civil Non-Litigious Procedure, which includes some provisions on urgent and other court measures in its third part. The concept of urgent measures issued by the court is based on the provisions of the Civil Litigious Procedure,<sup>16</sup> which must and necessarily be applied whenever the legal regulation of the Civil Non-Litigious Procedure is not comprehensive. We agree with Čollák in that, even in the case of urgent measures under the Civil Procedure Code, the speed and effectiveness of judicial protection take precedence over other elements of non-contentious proceedings such as the proper establishment of the actual state of affairs or the hearing of the case in a court session.<sup>17</sup> At the same time, such decision-making places high demands on the court, which must, within a short period and based on a limited amount of evidence,

<sup>16</sup> In this, see: Števček, 2022, p. 444.

<sup>17</sup> Čollák, 2024, p. 72.

decide on the need for an urgent adjustment of circumstances that directly affects a minor child. We believe that it is essential that, when issuing urgent measures in family law matters, the court acts with emphasis on the protection of the minor and, at the same time, strives – despite the short procedural deadlines – to ascertain the actual state of affairs as thoroughly as possible before making a decision.

In general, the court can order an urgent measure even when required by public interest, such as when protecting a minor child. The Civil Non-Litigious Procedure specifies two types of urgent measures in protecting a minor child, resulting in entrusting the minor child to substitute care by someone other than his or her parents. The first type is an urgent measure in the matter of protecting a minor and the second is an urgent measure in matter of personal care for a minor.

In the case of an urgent measure in protecting a minor, the court can order the temporary entrustment of the minor child to the care of an individual or legal entity, specified in the ruling part of the court's decision. The court can only issue such an urgent measure if it is proven that the minor child is without any care or that his or her life, health and favourable development are seriously threatened or disrupted. Additionally, it must be necessary to issue the urgent measure, and the situation cannot be resolved otherwise. Temporary entrustment of the minor child to the care of a specific person designated by the court can last up to six months based on the urgent measure. This time limit does not apply in cases where the proceedings on the matter itself were initiated within six months from the urgent measure's ordering, if a decision was made to entrust an unaccompanied minor child or if it was not possible to reunite a minor child, who is not a citizen of the Slovak Republic, with his or her family within the six-month deadline. Procedurally, it is essential that the court must decide on the proposal to issue the urgent measure no later than 24 hours from the receipt of the proposal for issuance. Within the same timeframe, the court is obliged to issue the urgent measure if it concludes that the proposal is justified. The legislator protects the minor child and his or her interests by making the court-issued urgent measure executable upon its issuance or declaration, should the court opt for declaration. To prevent the urgent measure from lasting unreasonably long due to the original petitioner's inactivity, the law stipulates that the court can initiate proceedings on the matter itself without a proposal if no proposal for such proceedings has been submitted within six months from the urgent measure's ordering.

In the second case, the court can order, by an urgent measure in matters of personal care for a minor, that whoever has the minor child with them temporarily should hand over the child to the exclusive or alternating care of the person designated by the court. This person can also be a legal entity – a special facility, in which case the urgent measure can last a maximum of six months. In the case of a proposal to issue this urgent measure, the court must decide on the proposal within seven days from the receipt of the proposal. Similarly, if the court agrees with the proposal, it is obliged to issue the urgent measure within the same seven-day period. Additionally, in the case of this urgent measure, the court can initiate proceedings on the matter without

receiving a proposal for initiating proceedings if no proposal for such proceedings has been submitted within six months from the urgent measure's ordering.

The Constitutional Court of the Slovak Republic addressed the legal question of whether the procedure of a court is in accordance with the law when it decides to modify a previously ordered urgent measure, instead of first deciding on the cancellation of the previously issued urgent measure and subsequently ordering a new urgent measure.

In this context, the Constitutional Court of the Slovak Republic, in its Resolution of April 14, 2022, case No. I. ÚS 213/2022, stated that

‘the special regulation of urgent and other court measures concerning minors is contained in §§ 360 to 369 of the Civil Procedure Code; however, it is not entirely exhaustive. (...) The appellate court has full decision-making power; it can change, confirm, or annul the resolution. Therefore, if the regional court, in a family matter where the best interests of the minor child are the central focus, prioritised changing the decision over annulling it, its procedure, based on the relevant legal provision, cannot be considered arbitrary, unlawful, or contrary to the applicable legal framework. On the contrary, its procedural approach demonstrates a clear effort to effectively achieve the purpose of the urgent measure, which is to swiftly and flexibly resolve the situation concerning the regulation of the parties' relations.’

This decision of the Constitutional Court of the Slovak Republic highlights that, when ruling on applications for urgent measures, courts are obliged to act quickly and efficiently to fulfil the fundamental requirement of protecting the interests of the minor. This view is agreeable.

## **8. Permanent Substitute Care for a Child – Adoption**

In the Slovak legal system, the institution of adoption is not regulated within the second part of the Family Act, which includes the regulation of substitute care in its third chapter. Instead, the legislator incorporated the legal regulation of adoption into the fourth part, addressing the determination of parenthood and adoption simultaneously. By choosing this structure for the Family Act, the legislator emphasises that adoption creates legal relationships between the adopters and the adopted minor child equivalent in content to those between a parent and a child. Indeed, as a result of adoption, the original legal relationships of the adopted minor child with his or her previous parents and other family members cease to exist, and new relationships with the adopters, who become his or her new parents, are established. At the same time, adopters' relatives become relatives of the adopted minor child. For this reason, it is logical to include the regulation of the adoption institution in the part governing the determination of parenthood, as it determines the creation of other kinship

relationships. However, it can also be stated that, by its nature, adoption represents a form of permanent substitute care for a child in the Slovak legal order, considered when the child's previous biological parents, for various reasons, are unable or unwilling to personally care for and remain the child's parents. Adoption cannot be annulled after a period of six months from the legal validity of the court's decision on adoption. Before the expiration of this period, the annulment of the adoption is possible only for serious reasons that are in the child's interest.

Only a physical person with full legal capacity, who also meets personal prerequisites, especially health, personality and moral conditions, including the existence of an appropriate age difference between the adopter and the adopted minor child, can become an adopter. This person must also be registered on the list of applicants for adoption, managed according to the Act on Social and Legal Protection of Children and Social Guardianship. The applicant for adoption must guarantee through their lifestyle and the lifestyle of those living in their household that the adoption will be in the minor child's interest. The applicant must also meet the condition of integrity, meaning they have not been previously convicted of an intentional criminal act to an unconditional imprisonment of more than one year and have not been convicted of crimes against life and health, freedom and human dignity, against family and youth, against other rights and freedoms, against peace and humanity or for any of the crimes of terrorism and extremism. The Slovak legal system does not require the adopter to be in a marital union, but from the wording of the Family Act, it can be inferred that the legal regulation prefers the adoption of a minor child either by a married couple or by one of the spouses, assuming this spouse adopts the child of the other spouse. The Family Act does not exclude the adoption of a minor child by a single person, but explicitly states that such adoption can occur exceptionally, provided it is in the best interest of the minor child.

The Family Act specifically regulates the situation if a minor child is to be adopted by adopters abroad, in which case the consent granted by the Ministry of Labor, Social Affairs and Family of the Slovak Republic or by a state administration body designated by this ministry is a necessary prerequisite for a valid adoption. The Act on Social and Legal Protection of Children and Social Guardianship further specifies the conditions for inter-country adoption, which proceeds with the assistance of the Center for International Legal Protection of Children and Youth.

According to the legal order of the Slovak Republic, only a minor child in whose best interest it is to be adopted can be adopted. A minor child is adoptable provided his or her parents have given explicit consent to the adoption or if the granting of such parental consent is not required according to the Family Act. Parental consent for the adoption of their minor child is not required under the conditions specified in Art. 102 of the Family Act, such as if the parents have not shown interest in their minor child for at least two months from his or her birth, unless a serious obstacle prevents them. The situation differs if the minor child's parents are deceased; in this case, the minor child must have an appointed guardian who subsequently must consent to the child's adoption by the adopters.

The adoption must be preceded by pre-adoption care, as decided by the court. Specifically, the court entrusts the minor child to the prospective adopters for pre-adoption care, intended to provide an opportunity for getting to know the minor child, deepening mutual relationships with the minor child and gradually leading the prospective adopters to submit a proposal for the child's adoption to the court. However, a proposal for adoption can only be submitted after nine months of pre-adoption care, during which time the prospective adopters personally care for the minor child. During this time, they have the same rights and obligations as a person to whom a minor child is entrusted for substitute personal or foster care. The law also recognises an exception where it is not necessary to undergo at least nine months of pre-adoption care before adopting a minor child. This applies if the minor child is to be adopted by a person who has had the child in foster care for at least nine months.

The Family Act allows for the adoption of a minor child abroad; however, in this case, a necessary condition for adoption is the prior consent of the Ministry of Labour, Social Affairs and Family or a state administrative authority designated by the Ministry of Labour, Social Affairs and Family of the Slovak Republic. According to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, this procedure also applies in cases where the prospective adoptive parent is a citizen of the Slovak Republic but has his or her habitual residence abroad.<sup>18</sup>

### **9. Protection of the Interests of the Minor Secured by a Guardian and Custodian While Maintaining the Personal Care of the Parents for the Child**

In the interest of protecting a minor, the court may appoint a guardian. The court will delineate the scope of rights and duties of the guardian based on the circumstances justifying the appointment. Parental rights and duties determine the legal relationships between parents and their minor children.<sup>19</sup> As a result of appointing a guardian for a minor child, there is necessarily a change in the scope of parental rights and duties. However, the appointment of a guardian does not infringe upon the rights of parents to personally care for the minor child. Therefore, a guardian does not perform personal care for the minor, allowing for a legal entity such as the municipality where the minor resides to act as a guardian. The appointment of a guardian for a minor child is mandatory in cases where the court decides to restrict the parental rights and duties of either or both parents, or the sole surviving parent. The appointment of a guardian can also serve as a temporary measure for the minor child until a custodian is appointed or until the previously appointed custodian assumes their role.

The Family Act specifically regulates the institution of property and conflict guardian, where the legislator defines the conditions under which these guardians are appointed in the text of the law. Their role is not personal care and upbringing

<sup>18</sup> Pavelková, 2019, p. 606.

<sup>19</sup> Cirák, Pavelková and Števíček, 2010, p. 95.

of the minor but rather the fulfilment and execution of other tasks that, for various reasons, cannot be ensured by the parents within the exercise of their parental rights and duties.

A property guardian may be appointed for a minor child by the court in cases of endangering the minor's interests related to the management of their property. A property guardian is appointed under the assumption that the parents are incapable of taking the appropriate measures to protect the minor's property or refuse to do so for various reasons. While the appointment of a so-called general guardian was previously mentioned to be occurring in connection with the restriction of parental rights and duties, it a property guardian can be appointed for a minor child even without the parents' parental rights and duties being restricted by a court decision. Therefore, a property guardian can manage the minor's property even when the parents have full parental rights and duties but the appointment of a property guardian *de facto* limits their exercise.

The property guardian has the duty to manage the minor's property without taking on undue property risks. The imposition of this legal duty is significant, considering that the property guardian is motivated to generate profit from managing the property as they are entitled to a reasonable remuneration from the proceeds of the minor's property after their role concludes. The property guardians are subject to court supervision, which assesses their performance, and may even require the court's consent for the validity of the property guardians' actions. If a breach of duties is discovered, they are liable to the minor for any damage caused according to the general provisions on compensation for damage under civil law regulations. To assess the conduct of the property guardian, they must submit a final account of the minor's property management to the court within two months of concluding their role. The court may also specify any special duties beyond the law, such as the obligation to submit interim reports on their role or limit the role of the property guardian to a specific part of the minor's property. This may be considered, for example, in cases where there is a need to manage the property of the minor that requires specific knowledge or experience, such as owning a business share in a company, which also involves decision-making rights regarding the company's operations.

A property guardian can be either a natural or legal person who consents to being appointed as a property guardian. A condition for obtaining this role is full legal capacity and demonstrating that their role will be performed in the minor's interest.

The role of the property guardian terminates upon: the minor reaching the age of majority; the death of the minor; the death or dissolution of the property guardian; a final court decision on the cessation of the reason for the appointment of the property guardian; a legally binding court decision on relieving the property guardian of their role (initiated by the property guardian) or their dismissal.

Unlike the property guardian, whose role is to manage the minor's property and represent them to the necessary extent, the role of a conflict guardian, although also involving representation of the minor, aims to protect the general interests of the child, not just property interests. A conflict guardian may be appointed by the court

for a minor if their legal representative cannot represent them. Under Slovak law, the legal representatives of a minor are primarily their parents unless a different representative is designated by a court decision. The inability of the legal representative to represent the minor can be due to factual impossibility or when the legal representative could objectively represent the minor but would face a conflict of interest in doing so. A conflict of interest might not only involve the interests of the legal representative and the child but also any conflicts between the interests of different children represented by the same legal representative.

Therefore, the court can appoint a conflict guardian for a minor if: the minor has no legal representative; the minor's legal representative cannot represent the minor due to a serious reason; the interest of the legal representative conflicts with the interest of the minor; the legal representative represents several minors whose interests are in conflict.

A conflict guardian can be either a natural or legal person whose interests do not conflict with those of the minor and who has full legal capacity. If the court appoints the authority for the social and legal protection of children as a guardian ad litem, this authority is obliged to provide the parties to the legal relationship or the court proceedings with social counselling and assistance to eliminate or mitigate the consequences of the conflict of interests.<sup>20</sup>

In its decision on appointing a conflict guardian, the court must also consider whether it is necessary to appoint this guardian only for the purpose of a specific legal act or for representation in an ongoing proceeding that can be delimited or precisely identified. Depending on this decision, the role of the conflict guardian will also terminate, either by the conclusion of the proceeding in which the minor is to be represented by the conflict guardian or by the performance of the legal act for which the conflict guardian was appointed.

A minor child can be appointed not only a guardian but also a custodian by court decision. Therefore, with the exception of the legal regulation of property and conflict guardians, the Family Law allows the court to appoint a guardian for a minor child whenever it deems it necessary for the protection of the minor's interest. This implies that the appointment of a guardian can be and is a relatively universal option for addressing situations where there is a reasonable concern that the interests of the minor are at risk and a specifically designated entity needs to oversee his or her protection. At the same time, it must be true that the legal prerequisites for using another legal institution, that of custodianship, are not met.

The Family Act explicitly identifies cases in which the court must appoint a custodian for a minor child. This should occur if one of the following conditions is met: both parents of the minor child have died; both parents of the minor child have been suspended from exercising their parental rights and duties; both parents of the minor child have been deprived of their parental rights and duties; neither parent of the minor child has full legal capacity.

20 Jurčová, 2021, p. 150.

In principle, a guardian is appointed for a child when the child has no legal representative.<sup>21</sup> The duty of the appointed custodian is to ensure the upbringing of the minor child, represent them and manage their property. A guardian is responsible for the upbringing of the child to the same extent as the parents.<sup>22</sup> However, ensuring the upbringing of a minor child under the Family Law does not necessarily mean that the custodian has the minor in his or her personal care. The law allows this but does not mandatorily require it. Therefore, a situation may arise where a minor child has a custodian appointed but is entrusted to the personal care of a person other than the custodian. In such a case, the role of the custodian is to oversee the extent and manner of care provided to the minor.

As the Slovak legislation also anticipates a situation where the custodian provides personal care to the minor, it is logical that spouses who will perform the custodian role together can be appointed as custodians by the court. This possibility is not offered in the case of a guardian and thus the court, bound by the wording of the law, cannot decide on it. Similarly, it is stipulated that a legal person can be appointed as a custodian for a minor child, which logically occurs if the custodian does not provide personal care to the minor. We can summarise that, if the custodian also provides personal care to the minor, it ultimately leads to the provision of substitute personal care for the minor. This corresponds to Art. 56 para. 3 of the Family Act, according to which, in the case of personal care for a minor child, the custodian is entitled to contributions according to a special regulation provided for persons performing substitute care for a minor child.

Given the broad range of rights and duties of the custodian, they are required to submit reports to the court on the management of the minor's property and on the minor, with information about his or her education, health status, and special needs. The court reviews and evaluates the performance of the custodian at least twice a year, in cooperation with the municipality and the body for social and legal protection of children.

A significant difference compared to, for example, a conflict guardian, is that the custodian can decide for the minor only in ordinary matters. For decisions involving any significant matter of the minor, it is necessary for the custodian's decision to be approved by the court. Furthermore, regarding the management of the minor's property, the Family Act explicitly refers to the Civil Code regulation, according to which the court's consent is always required for dealing with the representer's property unless it concerns an ordinary matter. Moreover, unlike a property guardian, the custodian is not entitled to remuneration from the proceeds of the managed property of the minor after their role ends. However, they are liable for any damage caused to the minor during the performance of their role. For this reason, they are required to submit a final account of the property management to the court within two months of the termination of their role.

21 Pavelková, 2019, p. 360.

22 Jurčová, 2021, p. 145.

As the court appoints a custodian for a minor child also in cases when the parents are deprived of their parental rights and duties, it is necessary to emphasise that this does not terminate the parents' obligation to provide maintenance to the minor child. Therefore, this one obligation remains intact for the parents, and there is no room for considerations that someone else should fulfil the maintenance obligation towards the minor child. To eliminate any doubts, the legislator explicitly stated in the Family Act in the regulation of custodianship that the custodian does not have a maintenance obligation towards the minor child.

The custodianship of the appointed person terminates upon: the child reaching the age of majority; the death of the minor child; the death of the custodian if they are a natural person or the dissolution of the custodian if they are a legal person; the cessation of the reason for which the custodian was appointed (e.g. the cancellation of the restriction of the exercise of parental rights and duties of the parents of the minor child); a final court decision on relieving the custodian of their role or their dismissal; the reaching of the age of majority by the parent of the minor child, assuming that the custodian was appointed for the minor child due to neither of his or her parents being of legal age.

## **10. Contributions to Support Substitute Care**

Slovakia supports alternative care for minors not only through legal norms that set the conditions for alternative care, but also by providing economic incentives. These are ensured through a system of various contributions available to both minors and the individuals providing personal care for them. The legal regulation in this area is centralised in Act No. 627/2005 Coll. on contributions to support alternative care for children, as amended (hereafter, Contributions Act). According to this act, the state supports alternative care carried out based on a court decision by a physical person other than the child's parent. Contributions provided according to this act are considered social benefits.

For the purposes of the Contributions Act, alternative care includes: substitute personal care; foster care; custodial care, if the custodian personally takes care of the minor child and also if it is not personal care by a custodian for a child whose parents are minors; pre-adoptive care by prospective adoptive parents; personal care for a child based on an urgent court measure entrusting the child to the care of a physical person, which precedes a subsequent court decision on entrusting the child to substitute personal care, foster care, personal care by a custodian or to pre-adoptive care.

It is evident from the above list that the Contributions Act considers essentially any form of personal care for a child carried out by a physical person other than the child's parent, which is regulated or presupposed by the Family Act or the Civil Non-Contentious Proceedings Code, as a form of alternative care for the purposes of social benefits. However, some contributions may not be available to eligible individuals in some of the aforementioned forms of alternative care, especially care based on urgent

measures and pre-adoptive care. The Contributions Act specifically addresses this for each contribution.

According to the Contributions Act, contributions can be divided into those for which the child himself or herself is the eligible recipient and those for which the individuals providing personal alternative care for minors are direct recipients. The first group includes a one-time contribution to the child upon being entrusted into alternative care, a one-time contribution to the child upon the cessation of alternative care, a recurring contribution to the child entrusted to alternative care and a contribution to the child for covering increased expenses. The second group, for which the direct recipients are individuals providing alternative care, includes a recurring contribution to the substitute parent, a special recurring contribution to the substitute parent and a contribution for the education of the substitute parent.

The one-time contribution to the child upon being entrusted into alternative care is intended to support the provision of basic personal equipment for the child, primarily for securing clothing, footwear, hygiene products, necessary furniture and other essential items for the child. A child is entitled to this contribution if it concerns substitute personal care, foster care or custodial care, and if the child was in institutional care or protective upbringing before this care. The amount of this contribution is determined by reference to the amount of the contribution at the birth of a child for the first to the fourth births; in 2024, it amounted to 829.86 euros.

The one-time contribution to the child upon the cessation of alternative care is intended to support the child's independence and is conditional on the child having been in substitute personal care, foster care or custodial care for at least one year before reaching adulthood. The amount of this contribution is determined as 10.2 times the living minimum for an unsupported child, which was 1,252.25 euros in 2024. This contribution is not paid in cases of personal care based on urgent measures or pre-adoptive care.

The recurring contribution to the child entrusted to alternative care is primarily intended to cover the child's expenses for food, education and accommodation. Eligibility for this contribution is conditional on the child being an unsupported minor entrusted to substitute personal care, foster care or custodial care. An unsupported adult child, who was entrusted into any form of alternative care according to the Contributions Act before reaching adulthood and currently lives with a physical person who was their substitute parent until adulthood, is also eligible for this contribution, provided the unsupported child has no income or an income lower than the amount specified in Art. 5 para. 3 point a) of the Contributions Act. Income does not include wages, but court-ordered child support, substitute maintenance, orphan's pension, survivor's accidental rent and orphan's pensions or similar benefits paid abroad are considered income. The amount of the contribution is specifically determined by the law as a multiple of the living minimum for an unsupported child, differently for children under 10, between 10 and 15 and older than 15 years.

The contribution to the child for covering increased expenses is a special contribution intended to cover the increased expenses related to the child's health

condition and associated special needs or related to their artistic or sports activities. This contribution applies only to children entrusted to substitute personal care, foster care or custodial care; the child or their representative must objectively prove the payment of increased expenses for the above reasons. The amount of the contribution is determined as the amount of actual expenses for the aforementioned purposes, but the Contributions Act specifies its maximum amount at 500 euro per calendar year.

The recurring contribution to the substitute parent is intended to support the performance of personal care for the child. The condition for eligibility is the entrustment of the child to substitute personal care, foster care, or personal care by a custodian. Additionally, the substitute parent must have permanent residence in Slovakia and must not be providing alternative care in a foster care facility. Eligibility for the contribution is excluded if the substitute parent or their spouse/partner is entitled to maternity, parental contribution or a similar benefit abroad, as well as if the entrusted child is their relative in a direct line. The amount of the contribution depends on the number of minors the substitute parent has in personal care, with the contribution for one child set at 0.975 times the living minimum for an unsupported child per month. The highest contribution is for the care of seven or more children, set at 5.85 times the living minimum for a dependent child per month.

The special recurring contribution to the substitute parent is tied to alternative care for a child who is a citizen with severe disabilities. This contribution belongs to the eligible person who performs substitute personal care, foster care, personal care as a custodian, or to the person to whom the minor child was entrusted based on an urgent measure while proceedings for entrusting the child to one of the mentioned forms of alternative care are ongoing. In this case, the eligible person must have permanent residence in Slovakia. The contribution is incompatible with receiving a care allowance for the child, a contribution for personal assistance and performing a caregiving service. The amount of the contribution is set at 2.4 times the living minimum for an unsupported child per month.

The contribution for the education of the substitute parent is intended to support the lifelong education of the substitute parent aimed at supplementing, renewing, or expanding their knowledge about the needs of the child, his or her rights and conflict resolution in the family. Eligibility for this contribution requires proving the actual payment of expenses for the purpose of enhancing the education of the substitute parent, with the contribution for one calendar year set at a maximum of 100 euro. This contribution can be awarded to a substitute parent performing substitute personal care, foster care or personal care for a child as a custodian.

## **11. Additional Contributions Aiding the Protection of Children's Rights (Not Limited to Alternative Care)**

Act No. 571/2009 Coll. on Parental Contributions and the amendments to certain acts regulate the conditions for granting another state social benefit through which the

Slovak Republic contributes to ensuring proper care for a child. This pertains to the parental contribution eligible to the child's parent, as well as any natural person to whom the child has been entrusted in the of parental care, including the spouse of the child's parent if living with the parent in a common household. This contribution is disbursed for the care of children up to three years of age or up to six years for children with long-term adverse health conditions. For children placed in alternative care, the contribution may be paid for care up to the child's sixth year of age, albeit the payment period can last no longer than three years from the legal effectiveness of the decision by which the child was placed in alternative care. Only one of the parents can receive the parental contribution at any time, and eligibility does not arise during periods when one of the parents receives maternity benefits or a similar benefit in a member state of the European Union. The amount of the parental contribution depends on whether the eligible person was previously receiving maternity benefits. The amount of the parental allowance in 2024, in cases where it was preceded by the payment of maternity benefits, was 473.30 euros per month. The rate without prior maternity benefits in 2024 was 345.20 euros. The disbursement of maternity benefits is conditional upon the person being insured for sickness for at least 270 days in the two years preceding childbirth.

Upon the birth of a child, in specific cases stipulated by Act No. 383/2013 Coll. on the Contribution at Childbirth and the Contribution for multiple simultaneous births, a contribution is provided by the state to the mother to cover expenses associated with securing the essential needs of the newborn. According to this act, entitlement to a yearly recurring contribution also arises in cases of simultaneous birth of three or more children, or if two children are born to the same parents within two years. For this contribution covering the increased expenses related to the care of multiple simultaneously born children, not only parents but also the physical persons taking these children into care replacing parental care are eligible. For the purposes of this act, any form of alternative care according to the Family Act, guardianship in the case of personal care by a guardian, pre-adoptive care, care based on the court's provisional measure and even protective upbringing of the child imposed by the Criminal Code are considered as care replacing parental care. The contribution at childbirth was, in 2024, 829.86 euros for children born from the first to the fourth birth, and 151.37 euros for children born from the fifth birth onwards. The contribution for multiple simultaneously born children is 110.36 euros per child annually, with the law stipulating the contribution be granted until the fifteenth year of the child's life.

Furthermore, a special state contribution in the form of a social benefit is regulated by Act No. 600/2003 Coll. on Child Allowance and the amendments to Act No. 461/2003 Coll. on Social Insurance. This act distinguishes between providing a child allowance and additionally supplementing this allowance. The allowance is a state contribution towards the upbringing and nutrition of a dependent child and is intended to partially cover the school supplies of the child. For the purposes of this act, a dependent child is understood to be a child until the completion of compulsory schooling, up to a maximum of 25 years of age if the child is continuously preparing

for a profession through study, or if due to illness or injury, the child cannot prepare for a profession. A dependent child under this act also includes a child exempt from compulsory schooling, educated in a basic school for students with health disadvantages, or incapable of continuous preparation for a profession or performing gainful activity due to a long-term unfavourable health condition up to the attainment of majority. The eligible person to claim this allowance is the parent of the dependent child, as well as the person to whom the dependent child has been entrusted in care replacing parental care by a court decision and, under certain conditions stipulated by the law, also the dependent child themselves if of legal age. The current allowance rate is 60 euros per month, increasing by 110 euros from the calendar month in which the dependent child first attends the first grade of basic school.

The allowance to the child allowance, according to the specific law, serves to ensure the upbringing and nutrition of the dependent child for whom the application of a tax bonus according to Act No. 595/2003 Coll. on Income Tax is not possible, with the eligible person also needing to meet other criteria stipulated by the law, namely that they do not perform gainful activity. The supplement amount was, in 2024, 30 euros per month. For completeness, the tax bonus amounts to 50 euros per month in 2024 if the supported child has reached 15 years of age, or 100 euros per month if the supported child is younger than 15 years. Concurrently, the tax bonus can be claimed up to a maximum set percentage of the income tax base depending on the number of supported children, with this limit of the tax base determined from 20% for one supported child up to 55% for six and more supported children.

The protection of the dependent child from the perspective of public authority is ensured not only by the analysed legal regulation specifically providing the allowance but also by securing the disbursement of substitute maintenance in cases where the obligated person does not voluntarily pay maintenance. Act No. 201/2008 Coll. on Substitute Maintenance elaborates on the legal prerequisites for the claim to the disbursement of substitute maintenance, which is paid by the relevant Office of Labor, Social Affairs and Family. One of the possible prerequisites for the claim of the entitled person to substitute maintenance is that a proposal for the execution of enforcement to collect the claim for maintenance was submitted to court due to the fact that the parent of the entitled person or another physical person, who was obliged by a court decision to pay maintenance to the entitled person, does not fulfil this maintenance obligation in full amount, within the deadline and in the manner determined by the court decision. According to the currently valid legal regulations, the amount of the disbursed substitute maintenance is the amount of maintenance recognised by the court without any restriction as the upper limit of the substitute maintenance amount.

The contribution for care for a child up to three years of age or up to six years in the case of a child with a long-term adverse health condition can be requested upon fulfilling the conditions in Act No. 561/2008 on the Contribution for Child Care. The contribution is provided either to the parent or the physical person to whom the child has been entrusted in care replacing parental care. This contribution is intended to

cover the expenses incurred for securing care for the child at times when his or her parent or substitute parent is engaged in gainful activity or studies at secondary or higher education institutions. One of the conditions for granting this contribution is that the parent or substitute parent has at least a temporary residence in the Slovak Republic. A similar condition is required for the child's residence. The contribution is paid monthly, its amount depending on several case circumstances; however, in 2024, it could amount to a maximum of 280 euros.

The Slovak Republic provides special financial support to persons with severe disabilities. This support directly concerns not only minors with disabilities but also their families. The legal relationships for providing monetary contributions to compensate for the social consequences of severe disabilities are regulated by Act No. 447/2008 Coll. on Monetary Contributions to Compensate for Severe Disability. According to this act, a severe disability is considered to be a disability with a degree of functional impairment of at least 50%. Functional impairment is understood as a lack of physical abilities, sensory abilities or mental abilities of a physical person, which, in terms of the expected development of the disability, will last longer than 12 months. The act regulates the following repeatedly disbursed contributions serving to compensate for the social consequences of the person's disability: monetary contribution for personal assistance; monetary contribution for transport; monetary contribution to compensate for increased expenses; monetary contribution for care.

Additionally, it regulates the following one-time contributions serving the same purpose as the previously mentioned repeatedly disbursed contributions: monetary contribution for the purchase of aids; monetary contribution for training in the use of aids; monetary contribution for the adjustment of aids; monetary contribution for the repair of aids; monetary contribution for the purchase of lifting equipment; monetary contribution for the purchase of a personal motor vehicle; monetary contribution for the modification of a personal motor vehicle; monetary contribution for the adjustment of an apartment; monetary contribution for the adjustment of a family house; monetary contribution for the adjustment of a garage.

The financial support for persons with severe disabilities is complemented by providing social services aimed, among other things, at preventing the occurrence of an unfavourable social situation, solving it or mitigating it if it arises. An unfavourable social situation, according to the specific legal regulation of Act No. 448/2008 Coll. on Social Services, is a situation in which a physical person is endangered by social exclusion or limitation of their abilities to socially integrate and independently solve their problems, among other reasons, due to their disability, if it concerns a child up to seven years of age or in the case of older persons due to their severe disability or unfavourable health condition. Among social services, according to the specific legal regulation are, for example, nursing care in special facilities, stimulation of the comprehensive development of a child with a disability, as well as social counselling or professional assistance in exercising rights and legally protected interests.

## 12. Organisation of Social and Legal Protection of Children and Social Guardianship

The social and legal protection of children refers to a set of measures to ensure the protection of a child, which is essential for his or her well-being and respects his or her best interest, to ensure upbringing and comprehensive development of the child in his or her natural family environment and, lastly, to provide an alternative environment for a child who cannot be raised by his or her own family. Social guardianship, according to specific legal regulation, constitutes a set of measures to eliminate, mitigate and prevent the deepening or recurrence of disorders in the psychological, physical and social development of a child and an adult physical person, providing assistance depending on the severity of the disorder and the situation in which the child or adult physical person is found.<sup>23</sup>

The social and legal protection of children and social guardianship are ensured by the execution of measures of social and legal protection of children and social guardianship in the Slovak Republic by state administration bodies, municipalities, higher territorial units, accredited entities, social workers performing independent social work practice, as well as various legal and physical persons without accreditation in organising and mediating the various activities to support the suitable use of children's free time, or various programs and trainings aimed at supporting the fulfilment of parental rights and obligations.<sup>24</sup> The Ministry of Labour, Social Affairs and Family decides on the granting of accreditation after the prior expression of the accreditation commission. The decision of granting accreditation to a specific entity includes, in addition to the identification of the entity, the definition of measures, methods, techniques and procedures for which accreditation is granted, as well as the form and place of their execution. It also includes the determination of the target group of clients, the number of places in the facility designated for conducting activities in a residential form and the period of validity for the accreditation.

The state administration bodies in the sector of social and legal protection of children and social guardianship are the Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter, the Ministry), the bodies of social and legal protection of children and social guardianship, which are the central office of labour, social affairs and family, as well as individual offices of labour, social affairs and family. The last state administration body executing measures of social and legal protection of children and social guardianship is the Centre for International Legal Protection of Children and Youth, which has jurisdiction throughout the territory of the Slovak Republic, and whose director is appointed and dismissed by the minister of the aforementioned Ministry.

23 On this, see: Hovanová and Šlosár, 2020, p. 17.

24 On this, see: Pavelková, 2016.

The Ministry inherently leads, controls and methodically directs the execution of state administration in the field of the social and legal protection of children and social guardianship and the Centre for International Legal Protection of Children and Youth, decides on granting accreditation, as well as coordinates the activities of other bodies that operate in the field of the social and legal protection of children and social guardianship.

The central office of labour, social affairs and family leads, controls and methodically directs the execution of state administration in the field of the social and legal protection of children and social guardianship; the execution of counselling-psychological services carried out by offices of labour, social affairs and family; further develops the concept of ensuring the execution of measures according to this law in facilities; coordinates the provision of assistance to unaccompanied minors. Among other tasks, it also establishes centres for children and families, controls and methodically directs them and approves their internal organisational structure and controls and methodically directs the centre, which carries out measures based on the granted accreditation.

The offices of labour, social affairs and family decide on the imposition of educational measures according to the Law on Social and Legal Protection of Children and Social Guardianship, and performs, among others, the function of a guardian ad litem, guardian, as well as custodian for an unaccompanied minor or a guardian for a child in criminal proceedings. It also prepares physical persons who are interested in becoming foster parents or adopters, as well as counselling-psychological services for children, adult physical persons and families. A substantial task is also the authority to submit proposals to the court, for example, for ordering a provisional measure in matters concerning minors, proposals for ordering institutional care or its cancellation. Among the special functions of the offices is keeping records of persons interested in becoming foster parents and providing an overview of children who need to be provided alternative family care.

Municipalities primarily carry out measures aimed at preventing the occurrence of disorders in the psychological, physical and social development of children and adult physical persons, as well as cooperate with bodies of social and legal protection of children and social guardianship or participate in the execution of educational measures. Their obligation arising from the law is also to provide assistance to the child in urgent cases, especially if his or her life, health or favourable psychological, physical and social development are endangered.

Higher territorial units within the exercise of their self-governing competence ensure the creation and fulfilment of social programs aimed at protecting the rights and legally protected interests of children and preventing and limiting the increase of socio-pathological phenomena in their territory. They may also establish centres for children and families.

In the Slovak Republic, all aforementioned bodies execute measures of social and legal protection of children and social guardianship, so that these are carried out in the natural family environment, in the alternative family environment of the

person to whom the court has entrusted the child, in an open environment or in an environment created and arranged especially for the execution of these measures. An open environment is thereby understood as any public space, public object or communication that are natural social environments for individuals and groups, where they usually stay and mobile or permanent spatial backgrounds of individuals and groups.

Significant entities cooperating in the process of social and legal protection of children and social guardianship are centres for children and families, which are established as budgetary organisations by the Central Office of Labour, Social Affairs and Family. According to the law, they can be established by a municipality, a higher territorial unit or another legal or physical person. If established by a municipality or a higher territorial unit, they do not carry out residential measures of the court or outpatient educational measures. In case of establishment by a physical or legal person, the centres can only carry out measures according to the granted accreditation to the persons who established them.

The centres for children and families carry out individual measures in a residential form, outpatient form or field form. In the case of residential measures, these also include measures carried out based on the court's decision on ordering a provisional measure, on imposing an educational measure and on ordering institutional care as one of the forms of alternative care for a child. Residential measures are thereby carried out in a professional foster family, which provides care for a designated number of children and young adults in a family house or apartment provided by the centre or in a family house or apartment that the professional foster parent has a legal right to use. Alternatively, these measures are carried out in separately arranged groups established in a family house, apartment or another building of the centre with separate dining, economy and allocated budget. In a professional foster family, care for children and young adults is provided by a professional foster parent, who can be spouses, employees of the centre or a physical person who is an employee of the centre. The centre provides financial resources for the care of children and young adults to the professional foster family to cover expenses for the child, up to a maximum of three times the subsistence minimum for a dependent child.

The purpose of centres for children and families is mainly to carry out: measures temporarily replacing the child's natural family environment or alternative family environment based on the court's decision on ordering institutional care, ordering a provisional measure or imposing an educational measure; selected educational measures; measures to prevent the occurrence, deepening and repetition of crisis situations of the child in the natural family environment or in the alternative family environment; a re-socialisation program to support the social integration of the child or adult physical person dependent on alcohol, drugs or pathological gambling.

Measures of social and legal protection of children and social guardianship are executed by state administration bodies almost exclusively on a reimbursable basis; however, exceptions must arise from the law. As such, it is essential that measures of social and legal protection of children and social guardianship are financed from the

state budget, the budget of municipalities, the budget of higher territorial units and the budgets of accredited entities. The support of municipalities, higher territorial units and accredited entities is also ensured by subsidies provided directly by the Ministry. Financial contributions are also entitled to be provided by the Central Office of Labour, Social Affairs and Family, as well as individual offices of labour, social affairs and family. These contributions are provided to centres carrying out measures based on granted accreditation.

### **13. The Commissioner for Children’s Office**

Under law No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities, and on amendments to certain laws, the Slovak Republic established two independent bodies whose roles, separate from other bodies enforcing the protection of fundamental human rights, are to participate in supporting and promoting children’s rights, as well as to contribute to fulfilling the tasks of the national preventive mechanism according to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Pursuant to this law, the Slovak Republic has a Commissioner for Children and, simultaneously, a Commissioner for Persons with Disabilities.

The Commissioner for Children primarily assesses the observance of children’s rights, both of their own initiative and based on individual submissions. For this purpose, the Commissioner monitors compliance with the rights of the child, especially by conducting independent investigations into the fulfilment of obligations arising from international treaties to which the Slovak Republic is bound, performing systematic visits to special education facilities and facilities of social and legal protection of children and social guardianship or other places where children restricted in their freedom by public authorities may be found. Furthermore, the Commissioner collaborates directly with children or through organisations active in the field of children’s rights. This cooperation currently proceeds according to published memoranda of cooperation with the General Prosecutor’s Office of the Slovak Republic, the civil association Protect Me, Trnava University, UNICEF, and the organisation Smile as a Gift. Among the special rights of the Commissioner is the right to speak without the presence of third parties to a child placed in a location where detention, imprisonment, detention, protective treatment or educational measures are executed. The Commissioner also has the right to participate in court proceedings. A special obligation of the Commissioner for Children is the duty to submit an annual report on their activities to the National Council of the Slovak Republic.

The Commissioner for Children is elected for a term of six years by the National Council of the Slovak Republic from candidates nominated by its relevant committee. A proposal for a candidate for the Commissioner can be submitted to the relevant committee of the National Council of the Slovak Republic only by a member of the National Council of the Slovak Republic.

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